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 III

The Particular Obligations of Laymen, Clerics, and Regulars · the Sacraments: Baptism to Order (nn. 1–918)

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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 III 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.* section 1. *Mandantis* = the *Institutes*, under the title *On Mandate*, section 1, beginning *Mandantis*.

L. 7. section 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.

On the Particular Obligations of Laymen

I. On Judges

1. What is a judge? - A judge, as regards his nominal definition, is the same as one saying the law. As regards his real definition, a judge is a public person, constituted by legitimate authority, so that according to the laws he may vindicate justice, by rendering judgment or sentence between two litigating parties, by an authentic declaration and application of the laws. By declaration and application, not merely speculative, which pertains to jurists, but practical and obligatory, and by compelling that it also be observed. S. Th. 2. 2. q. 60. a. 1, 6; q. 67. a. 3. "We think that he says sentence who pronounces something with that mind, that according to it he wishes them to depart from the whole controversy." L. 19. *de Receptis* etc. Dig.

There are several divisions of judgments, among which especially the following division is to be attended to: into civil, criminal, and mixed. Civil is that in which the plaintiff seeks what is of interest to himself. Criminal is that in which there is question of punishing a crime. Mixed participates in both, when, for example, by the crime of homicide or theft public justice is injured and damage is inflicted on private persons. Into petitionary and possessory. Petitionary is the judgment in which there is question of the property or ownership of a thing, or quasi-ownership, or of a right in the thing or to the thing. Possessory is the judgment in which there is question only of the possession or quasi-possession of a thing. Hence a twofold action is also distinguished, petitionary and possessory. Into summary and full or solemn. In a summary judgment only those things are to be observed which belong to natural law: namely that there be present a judge, plaintiff, and defendant, and that citation of the parties, necessary proofs, and legitimate defenses not be lacking. Clem. *Saepe contingit de Verbor. significatione*. But in a full judgment all formalities prescribed by positive law must be observed. Marchant, *Inst. Can.*, l. 2, t. 1, note 2; Barbosa, *de Iudiciis*, n. 7.

And thus the Apostolic Signatura proceeds in a criminal case, with procedural rules observed. "In other judgments it can proceed, the truth of the matter alone having been inspected, nevertheless always with the adverse or defendant party, or the party whose interest it is, cited, and with a suitable peremptory term fixed for the parties to present their rights." Constitution *Sapienti consilio*, canon 41, title 2.

2. What qualities are required in a judge? - In a judge there are required knowledge of law and prudence, by which he may know how to discharge his office rightly. The first reason is that anyone, generally speaking, is bound to know those things which pertain to his proper office, and without knowledge of which he cannot exercise it rightly. Besides, speaking in particular about a judge, it belongs to a judge to define and determine that which is just. But this cannot be done without knowledge of natural and positive law. The second reason is that it belongs to the judge to apply the dictum of the law to a particular business; and consequently, for his judgment to be right, it must be rendered "according to the right reason of prudence." S. Th. 2. 2. q. 60. a. 2 and 1 ad 1; Lugo, *de Iust. et Iur.*, d. 31, s. 1.

3. You will resolve: Not ordinary nor mediocre knowledge of laws and prudence is required in a judge, so that he may be able to weigh intricate cases and to examine by his consideration all circumstances both of law and of fact. One seeking or accepting the office of judge, the same is true of a physician, surgeon, etc., for which he is unworthy, so that it is probable that notable damage to the neighbor will follow from it, sins mortally. A judge lacking necessary knowledge ought not to be absolved, unless resignation of the office has been made, or unless he has a firm purpose of resigning, or at least of acquiring it by diligent study, and meanwhile abstains from judging, or at least uses the counsels and work of one more learned; for otherwise he would expose his neighbor to the danger of damage. But he must resign altogether if there is no hope that by studying he will ever become fit. He must diligently examine cases and weigh well the reasons of the adverse parties. L. 195; l. 1, n. 170.

4. How ought a judge to exercise his office? - A judge is bound to fulfill his office duly with incorruptible integrity, with no acceptance of persons. The reason is that one accepting the office of judge is obliged to this by quasi-contract with society. Wherefore, acting otherwise, he will be guilty of violated justice, both legal and also commutative. Eccl. 7, 6; Deut. 1, 16, 17; C. *Cum aeterni* 1. *de Sent. et re iud.* in the Sixth; R. 12 *de R. I.* in the Sixth; S. Th. 2. 2. q. 63. a. 4.

5. What must a judge furnish, so that he may fulfill his office duly? - He must furnish two things. The first is to judge cases and to expedite them quickly, nevertheless with the delay prescribed by the laws observed. For a judge is bound by office to render to each one his own right. But he rather injures right if he either omits to judge a case, or illegitimately hastens or delays sentence without a just and proportionate cause. Hence he sins mortally against his office by omitting the judgment of a case, or by very notably anticipating or delaying it without a sufficient excusing cause; and moreover he is bound to compensate the damages to the injured party which followed from the unjust omission, anticipation, and delay of judgment, because he is their unjust cause. C. *Iurgantium* 2. *de Sent. et re iudic.*; Trent, sess. 24, c. 20 *de R.*, sess. 25, c. 10 *de R.*; L. 196. The other is to render legitimate judgment. For a judge is the interpreter of justice and animated justice. But judgment is the definition or determination of the just, or of right. And in Deut. 16, 18 it is said: You shall appoint judges and magistrates in all your gates, that they may judge the people with just judgment. R. 26 *de R. I.* in the Sixth; L. 13 *de Iudic.* C.; L. ult. *de Iure Fisci* C.; L. 44 *de Decurion. et de fil. eor.* C.; L. 58 *de Excusat.* ff.; Nov. 83; S. Th. 2. 2. q. 60. a. 1, 2.

6. What is required for rendering a legitimate judgment? - Three things are required. The first is jurisdiction, without which, speaking in itself, there is mortal sin, and the sentence is null, unless there is a colored title and the error is common. But by canon law someone obtains an external forum by reason of domicile, thing, contract, or delict. C. *Licet* 20. *de For. comp.*; C. *Cum quidam* section 1 *de Except.* in the Sixth; C. *Novit de Iudic.*; C. 35 *Quicumque* cause 11, q. 1; C. 1 cause 3, q. 7; L. *Barbatius* Dig. *de Offic. praetor.*; S. Th. 2. 2. q. 60. a. 6; q. 67. a. 1; Lugo d. 37, s. 2, 3; Sanchez, *de Matr.*, l. 3, d. 22.

The second is right process, for example, that the defendant be cited and heard, unless perhaps sometimes it is expedient, when the crimes are public, atrocious, and there is danger in delay, to punish immediately those apprehended in the very act of crime. Testimonies and documents offered in judgment must be followed. Likewise all other formalities of public judgments established by the laws are to be observed. For as the judge proceeds by public authority, so also he proceeds by public knowledge. L. 193; S. Th. 2. 2. q. 67. a. 3; Lugo d. 37, s. 6, 7; C. *In causis* 19. *de Sent. et re iud.*; CC. *Si legitimus* 1, *Evidentia* 9 *de Accusationibus*; Clem. 2 *de Sent. et re iud.*; title *de Ord. iudic.* C.

The third is that he proceed from an inclination and intention of justice, according to the laws and the right norm of prudence. For if he does not proceed from an inclination of justice and according to the laws and prudence, the judgment is unjust and depraved. C. *Sententia* 1 *de Sent. et re iud.*; L. 14 *de Iudic.* C.; S. Th. 2. 2. q. 60. a. 2; L. 194; Decretals l. 2; Trent, sess. 13, c. 17 ff. *de R.*; sess. 24, c. 20 *de R.*; sess. 25, c. 6, 10 *de R.*

7. Note: Cases to be treated are some ecclesiastical, concerning sacred things or things annexed to them; others civil, concerning profane things; others are mixed. The former are directly of the ecclesiastical forum, the latter of the secular forum, unless they are cases of clerics, and indirectly also of the ecclesiastical forum, and the latter are of mixed forum, when the rights are at once civil and ecclesiastical; and in these there is place for the Rota. To the Rota are devolved all contentious cases, not greater ones, which are conducted in the Roman Curia, civil as well as criminal, with the judicial process observed. But cases are treated in a disciplinary manner by the Congregations themselves to which they pertain by reason of the matter. As regards ecclesiastical cases, once a supplicatory petition for obtaining a matter, whether pertaining to grace or to justice, has been brought and received by some office of the Roman Curia, no one for any reason is permitted of his own accord to approach another office for the same end; but the consent of the office itself with which business has begun is necessary, or a decree of the Consistorial Congregation, by which permission is given for transferring the business. Matrimonial cases pertain to the Church; and except in the case of the Church's toleration, lay judges cannot take cognizance of them.

The process concerning the validity of marriage must be instituted according to the Constitution *Dei miseratione* of Benedict XIV, November 3, 1741, and the Instruction of the S. C. C., August 22, 1840, unless the impediment is clear, for example, the impediment of bond; for then the Bishop, with the intervention of the defender of the bond, will be able to declare the marriage null. The tribunal in matrimonial cases is constituted of the judge, the chancellor, and the defender of the bond. Besides the plaintiff and the defendant, there are present witnesses of the seventh hand, indicated by the husband and wife, and they are seven persons joined to them by blood or affinity, if they can be had; or otherwise seven neighbors of good reputation who can testify, seven on the part of the man and seven on the part of the woman. Nevertheless others are not excluded who know the matter and are worthy of trust.

A dispensation from a ratified but non-consummated marriage is to be obtained exclusively from the Supreme Pontiff. In this cause the Bishop cannot, without a special faculty obtained from the S. C. of the Sacraments, institute the process in this cause. But in other causes the Bishop is the competent judge in first instance. Constitution *Sapienti Consilio*, A. A. S. v. 1, p. 7 ff.

Rota: To it are devolved all contentious cases, not greater ones, which are conducted in the Roman Curia, civil as well as criminal, with the judicial process observed. But cases are treated in a disciplinary manner by the Congregations themselves to which they pertain by reason of the matter. The Proper Law must be observed by the S. R. Rota, which is appended to the praised Constitution *Sapienti consilio*. In it are established the constitution of the Tribunal, its competence, and the mode of judging. Moreover, in judgments the Rules approved by the Supreme Pontiff Pius X on August 2, 1910, and promulgated on October 25 of the same year, are to be observed. Finally, those things also are to be observed which pertain to it in the Constitution *Sapienti consilio* and in the *Order to be observed in the Roman Curia*. "Each Auditor of the Sacred Rota, after nomination, before he undertakes

the office of judge, before the whole College, with one of the notaries of the sacred tribunal standing by, who will draw up the act, will take an oath concerning the office to be fulfilled duly and faithfully." "The same oath will be taken by each of the assistants of the Auditors and the ministers of the tribunal before the Dean of the Sacred Rota, with one of the notaries likewise standing by." Canon 7, title 1, Proper Law, A. A. S. v. 1, p. 21. "In a criminal matter, in spiritual causes, and in others, when from the revelation of some act prejudice can come upon the parties, or secrecy has been imposed by the tribunal itself, the Auditors, assistants of the Auditors, and ministers of the tribunal are held to the secrecy of office." Canon 8, title 1, ibid. "Auditors who have violated secrecy, or who from culpable negligence or deceit have brought grave detriment to litigants, are bound concerning damages; and at the instance of the injured party, or even by office, by judgment of the Apostolic Signatura, confirmed by the Most Holy One, they can be punished. "The ministers of the tribunal and procurators who have done similar things likewise are bound concerning damages; and at the instance of the injured party, or even by office, by judgment of the rotal College, according to the measure of damage and fault, they can be punished." Canon 9, title 1, ibid. Moreover, according to the Rules to be observed in judgments of the S. R. Rota: If it concerns a criminal case, the Promoter of justice must assist the Instructor.... But in causes regarding the bond of marriage, or the validity of religious profession or of sacred ordination, the intervention of the Defender of the bond is required according to the norm of the Constitutions *Dei miseratione* and *Si datam*.... It will belong to the Instructor in criminal accusations to assign to the accused a defender, who is to assist him even in the period of instruction, if he does not have an advocate, nor can sufficiently attend to his own defense by himself. Title 4, c. 1, sections 108, 109. From the same Constitution *Sapienti consilio*, the Proper Law of the S. R. Rota and Apostolic Signatura, if, after a case has been introduced, the plaintiff wishes to renounce the instance, or the lawsuit, or the acts of the case, this will always be permitted to him. Canon 34, title 1.

Sacred Congregations: "In cases to be conducted before the Sacred Congregations by the path of administration and discipline, the joinder of issue having been removed, the hearing of witnesses excluded, and no writings of patrons received, the question will be held; nevertheless the parties whose interest it is will always be heard, and the documents produced by them will be examined." *Order to be observed in the Roman Curia*, Special Norms, chapter 3, article 2, number 7.

Once a question has been instituted in a disciplinary manner before one Sacred Congregation, it is no longer lawful to institute a strictly judicial action. Pius X, Constitution *Sapienti consilio*, Order to be observed, special norms, c. 3, a. 2, n. 10.

Council of Trent: Council of Trent, sess. 25, c. 6 *de R.*, establishes that in exempt Chapters, at the beginning of any year, the Chapter is to choose two from the Chapter, by whose counsel and consent the Bishop, when he proceeds outside visitation, is bound to proceed both in forming the process and in the other acts against anyone from the capitulars. But one vote belongs to both adjuncts, and one of them can accede to the Bishop. Lugo, *Resp. Mor.*, l. 5, d. 23.

How one must proceed in causes of those defecting from Religion you have in the Council of Trent, sess. 25, c. 19 *de Reg.*; in causes of clerics who are concubinarians, ibid., c. 14 *de Ref.*; in causes of exempt persons, ibid., sess. 7, c. 14 *de R.*; in criminal and civil causes, ibid., sess. 7, c. 14 *de R.*, sess. 24, c. 5, 20. Cf. also various decrees issued concerning this matter, Ferraris, supplement, v. *Processus in causis clericorum*; E. M. "It is unlawful for clerics, even those having lay power, to condemn the guilty

to the penalty of death, from C. *Continentia* 2 *de Cler. percuss*. Yet the Pope can dispense in this. And Bishops themselves, or similar persons, having temporal dominion of some place, can licitly commit their power to laymen for cases of blood." L. 1. 3, n. 378; l. 7, n. 566; S. Th. 2. 2. q. 64. a. 4. A lay judge cannot drag ecclesiastical persons before his own tribunal unless this is permitted by Canonical Dispositions, Concordats, approved custom, or at least toleration. For this would be against the privilege of forum.

A judge sins by fraudulently inducing the defendant, or contrary to the order of law, to betray himself, or by using some knowledge unjustly extorted.

8. How must right process be instituted? - In a civil case the process must be instituted at the petition of the plaintiff. Plaintiff is so called from action. Action is the right of pursuing in judgment what is owed to oneself. Hence he who proceeds in judgment by actions is called plaintiff.

But it is necessary that he be able to stand in judgment; that he have an action in judgment according to the laws; that he manifestly prove what he seeks. Proofs are made by examination of laws and facts, by sentences given in other similar cases, by presumptions, by sworn witnesses, by writings, by the sworn confession of the party. C. I. 1312 ff., 2142; C. G. 1315 ff., 2275; C. L. 2404 ff. But actions are repelled on the part of the defendant by exceptions, which he himself likewise is bound to prove. "Exception is so called as a certain exclusion, which is customarily interposed against the action of any matter in order to exclude that which has been brought into the intention or condemnation." L. 2 *de Except*. Wherefore one exception is of fact, another of law. By the former the fact is excluded, for example, the loan received. By the latter the law is excluded, for example, if a homicide, not criminal, was committed in order to defend oneself.

Other proofs having been omitted, either an interrogatory or an oath can be tendered to the defendant. If an interrogatory is tendered, the defendant must answer, and if he has not answered, it will be taken as confessed. C. I. civil procedure 216 ff. But an oath is twofold, decisory and supplementary. A decisory oath is a certain species of settlement for ending a lawsuit, and therefore it is tendered by one party to the other. Hence, if the defendant does not furnish the oath, he is condemned; likewise, if the plaintiff does not furnish the oath tendered to him, he is condemned. But if the defendant furnishes it, even if he is perjured, he is absolved. C. I. 1364 ff.; C. G. 1358 ff. Namely, he is absolved, even if perjured, in the external forum, but he is not freed from obligation in the forum of conscience; for the settlement was made by oath, not by perjury. The oath is tendered concerning one's own fact, and also concerning the fact of another, if there is a presumption that it is known by the one swearing, and if it is necessary for expediting the case to know that fact. A supplementary oath is one which is tendered by the judge to complete proofs, but not to the defendant himself in a criminal case. C. I. penal procedure 232. Cf. L. 11 *de Act. rer. amot*. ff. As regards the forum of conscience, the judge cannot tender it to one who probably will perjure himself, without injuring charity and justice. For it is in his power to tender it or not. C. I. 1314 ff.; C. G. 1366 ff. Cf. Rules of the S. R. Rota, title 4; L. fin. *de Iureiur.* ff.; C. L. 2520 ff.

In a criminal case from Roman Law, and also from more recent law as regards the very substance of the matter, the process can be instituted in three ways: 1. By way of accusation, when there is some accuser who promises that he will prove the crimes objected. 2. By way of denunciation, when the one reporting the crime does not wish to assume the burden of proving. 3. By way of inquisition, which the magistrate institutes.

In the accusatory process the whole case is conducted between the accuser and the accused. The accuser objects the crime; the accused responds, denies or confesses the fact, and if he confesses he is as condemned. Witnesses are all examined before both, and orally. For no one is to be condemned unheard and without witnesses. Formerly the defendant was tortured on the rack, so that full proof might be made from his confession. But by present laws no one can be compelled to bear testimony against himself. Then the sentence of innocence or guilt is pronounced, and punishment is imposed by law on the guilty person. If the accuser has failed in proof of the crime and from malice has brought someone into danger of grave penalty, formerly he suffered a similar or talion penalty. Today an action of calumny and defamation is granted against the accuser. S. Th. 2. 2. q. 68. a. 4; Deut. 24, 19 ff.; Decretal *de Calumniator.*

The way of denunciation falls back into inquisition. For when the matter has come to the knowledge of the magistrate through denunciation, either from one lodging complaint, or from an informer, or from ministers of public order, then he begins to inquire into the delict and the delinquent. He can inquire into the delict from the slightest indications, but into the delinquent only from grave ones. Once the inquisition has been completed, the delinquent is subjected first to summary examination, then to ordinary examination. Then the criminal process is instructed before him, and witnesses are examined in it. If from it the defendant is proved guilty, he is condemned; if he is proved innocent, he is absolved; if neither is established from the acts and proofs, he is dismissed.

Moreover, inquisition is threefold. The first is general, namely when it is asked in general whether the laws are observed, whether there are transgressors. The second is special, when inquisition is instituted concerning a certain crime and concerning a certain person as its author. The third is mixed, when either the person alone or the crime alone is special, for example, whether Titius is guilty, or who killed Caius. L. 197; S. Th. *Quodl.* 11, a. 13.

Therefore by whatever way the process is instituted, there is always some accuser, whether a private or public person, whether physical or moral. Accusation can be both formal and virtual. Hence the evidence of the fact, public infamy, or notoriety of the crime supplies the place of the plaintiff or accuser. In judgments three persons are required: judge, plaintiff, defendant. For judgment is an act of justice, which is not toward oneself, as are the other virtues by which man is ordered in himself, but is toward another, ordering man to another. S. Th. 2. 2. q. 67. a. 3.

By canon law a previous admonition of the defendant is often required, for example, in causes of clerics who are concubinarians, and where excommunication is to be inflicted. Trent, sess. 25, c. 3, 14 *de R*.

Decretals l. 2; L. *Qui crimen* C. *de iis, qui accusare non possunt*; L. ult. C. *de Accusat. et inscript.*; Sanchez, *Cons.*, l. 6, c. 2, proem.; Lessius, l. 2, c. 29, n. 106; Lugo d. 27, n. 75; E. M.

The rack: It is a kind of torment, namely a wooden machine put together in the manner of a horse, *cavalletto*, upon which those concerning whom there was inquiry about some crime were stretched out and tortured, so that full proof might be made from their confession.

9. What concerning general inquisition? - A judge, without any special occasion having been given, from his office alone can institute a general inquisition, in which nevertheless his power does not extend to eliciting hidden delicts, concerning which there is no report, or which turn to the damage of no one. The reason for the former is that this is necessary for the republic, and no injury is done to

anyone. And although the crimes of some persons may be uncovered, this occurs accidentally, beyond intention, and the common good prevails over that inconvenience. The reason for the latter is that otherwise the reputation of the neighbor would be injured directly and in itself; and this right, speaking in itself, neither the judge nor society itself has. Then the greatest inconveniences of scandals, quarrels, etc., would follow, and public peace would be disturbed. Wherefore, for the common good of society itself, always speaking in itself, it is more profitable that delicts remain hidden than that they be made public, so that scandal may be removed, lest others be stirred up by the example of others to perpetrating similar crimes. Nevertheless always except cases of imminent danger of common or private damage, in which the judge can and must inquire even concerning secret delicts. C. *Perniciosa* 1. *de Off. iud. ord.*; L. 198.

199; Lugo d. 38, s. 6; Lessius, *de Iust. et Iur.*, l. 2, c. 29, dub. 13; S. Th. *Quodl.* 11, a. 13; 2. 2. q. 33. a. 7.

10. What concerning special inquisition? - "For a judge to make a special inquisition, there must, at least regularly, precede infamy, or something equivalent, which gives a just cause. The reason is both because otherwise he would defame without cause, and because a judge must proceed from public knowledge, which he does not have except through accusation, or the confession of the defendant, or evidence of the fact, or through infamy; for which two witnesses are not sufficient, who swear that they have seen the crime committed, because it is still hidden, but it is required that rumor be spread through the greater part of the community, that is, of the city, neighborhood, or monastery, and that it not have arisen from slanderers, although in this matter it is safe to follow the common practice of good men and republics." L. 801.

Regularly; for again there are excepted cases, namely if there is imminent danger of common damage, or of grave damage to another person, or if it concerns graver crimes, homicides, thefts, and other things disturbing the republic, and if there is some suspicion arising from indications not slight, lest delicts left unpunished provide occasion for wicked men to disturb the republic by their crimes and to injure the innocent. Wherefore the judge must then use great prudence, and have regard to persons, and until he sees whether the matter can be proved, he must take information in such a way that reputation is injured as little as possible. Hence, if he sees that it cannot be proved, he must desist. Lessius, l. 2, c. 29, dub. 15.

But lest meanwhile the defendant be able to corrupt witnesses or himself flee, the judge can command that he be enclosed in prison. But this cannot be done without grave delict and grave indications. Lev. 24, 12. Indeed by common Law it is provided that an innocent citizen not be enclosed in prison; and likewise to defendants the faculty is given, pledges having been furnished, of enjoying liberty until they have undergone judgment, unless they are accused of greater crimes with a great presumption of delict. S. Th. 2. 2. q. 14. a. 3; *Quodl.* 11, a. 13; Lugo, l. c.; CC. *Accedens* 23, *Qualiter et quando* 24, *Cum oporteat* 19, *Inquisitioni* 21 sections 1-2 *de Accusationibus*; Trent, sess. 25, c. 6 *de R.*; C. I. penal procedure, l. 1, title 1, c. 2, title 2, c. 1-4.

11. What concerning mixed inquisition? - Mixed inquisition also is licit; namely, when the crime is manifest and the author is unknown, it is lawful for the judge to ask in general who committed it; nevertheless not in particular, for example, whether Peter did it, unless some infamy and manifest indications have preceded. The former part is clear both from the practice of all even fearful judges and from the contrary inconveniences; for crimes and delicts would easily be multiplied. But the

latter part is established from this, that this would be to defame the neighbor without legitimate cause. L. 189, 200.

Hence the same Holy Doctor, 201, says that "it must be noted that prelates cannot inquire against religious in doubt whether sufficient indications are present... for inquisition, because in doubt their reputation possesses, which would then be stained by inquisition. Understand, however, unless danger of common damage is imminent; for then the right of religion prevails"; or also if grave damage of a private person is imminent, whose certain right prevails. This, as is clear, is general and not proper only to religion. Lugo, l. c.

12. Note: If it concerns inquisition that is not judicial, unto penalty, but paternal, unto the amendment of the defendant, there is indeed a broader faculty in this matter, as is established from common practice itself. For Bishops and regular superiors in visitation, which ordinarily they make only paternally, are accustomed to investigate even in particular concerning clerics and religious: how they conduct themselves, how they themselves are content with others and others with them, whether they observe the laws, etc. But even this paternal inquisition, if it is not made about all according to custom, but about one or another in particular, cannot be made unless some special reason is present and due caution is observed, lest anyone thereby be defamed. Otherwise an investigation of this kind becomes vicious and reprehensible, because it degenerates into detraction, "and because it generates scandals and provides occasion for hatreds and dissensions. For men bear it with difficulty when their deeds are scrutinized by others, and by its very nature such an inquisition inflicts injury on the neighbor, whose honor it opposes, and the estimation which all desire to have as best concerning themselves." Diana t. 7, tr. 4, res. 25, n. 3.

13. Can a judge condemn a defendant whom by private knowledge alone he knows to be guilty, or an innocent person who is juridically proved guilty? - R. To the first: Negatively. For a judge judges as a public person, and therefore he must follow public knowledge and proceed according to the things alleged and proved, especially in favor of the defendant. Besides, the judge would then proceed without an accuser, which is against justice and against the order of public judgments. S. Th. 2. 2. q. 67. a. 2, a. 3; L. 207. But, speaking not of an inferior judge, but of the Prince himself, and of civil causes and the removal of offices, etc., Lugo observes, d. 37, s. 5, n. 54: "perhaps the Prince has greater power for this, that from private knowledge he can sometimes condemn a defendant not convicted; for since the republic has greater dominion over these things and can dispose of them in order to the public good, it can more easily happen that it is expedient for the public good to take goods or an office from someone because of the testimony of the Prince alone. But an inferior judge cannot do the same; "for he cannot dispense in the law of a superior, especially in a matter of such great moment." Lugo, l. c., n. 50.

R. To the second: "One whom the judge privately knows to be innocent, if he has juridically been proved guilty, the judge is bound by every means to free, if he can, for example, by impeding the accusation, drawing out the judgment, opening the prison, if he can do so without a greater evil, or remitting the case to a superior." L. 208; S. Th. 2. 2. q. 64. a. 6 ad 3; q. 67. a. 2 c.

But if the judge by acting thus can accomplish nothing toward freeing the innocent person, then there are three opinions, all probable. The first opinion, of the Angelic Doctor, teaches that the judge can always in any case whatsoever render sentence according to the things alleged and proved. The reason is that the judge does not judge as a private person, but as a public person. Therefore in

judging he must follow not private knowledge, but public knowledge. "He must follow them (the proofs introduced) in judging." 2. 2. q. 67. a. 2 c. Moreover, the common good requires that the order of law be preserved intact in judgments. Finally, "if a judge knows that someone is innocent who is convicted by false witnesses... he does not sin by rendering sentence according to the things alleged, because he himself does not kill the innocent man, but those who assert him to be guilty." 2. 2. q. 64. a. 6 ad 3.

The second opinion, very probable to St. Alphonsus, denies that in any case whatsoever the judge can render sentence against him whom he certainly knows to be innocent. The reason is "because to condemn the innocent is intrinsically evil; just as it would be to compel a woman to live with him whom she privately knows not to be her husband." L. 208.

The third opinion, of Lessius and Lugo, distinguishes between criminal cases in which there is question of the penalty of life or mutilation, and civil cases or criminal cases in which there is question of a monetary penalty, or of simple detention, or of exile or deprivation of offices. In the former it denies that it is lawful for the judge to condemn the innocent. In the latter, however, it grants that this is lawful. The reason for the former part is that it is evil in itself to kill or command someone to be killed without authority. But the judge has no authority over the life of an innocent person, since society itself lacks such authority. The reason for the latter is "because the republic has authority of disposing concerning the fortunes of its citizens and transferring them from one to another, as it has been expedient for the public good; as is clear from the laws of usucaption. But here there seems to be a just cause, both lest the form of public judgments be perverted with scandal of the people, and because a reason does not offer itself for averting the inconvenience of this man. Therefore it can establish that the judge in such a case follow the public form of judgments, even if from this it happens that he must despoil of fortunes one whom privately he knows to be innocent or to have a good case." Lessius, l. 2, c. 29, dub. 10, n. 84; Lugo d. 37, s. 4, n. 42 ff.; C. *Inquisitionis suae de Sent. exc.*; Ithur. Cas. 34; L. 1. 6, n. 999, 1502; E. M.

Moreover, in modern Codes jurors judge concerning the crime, and the judge only renders the sentence of the law by which the penalty is sanctioned. If the judgment of the jurors does not rest upon the acts and proofs, Carriere, *de Iust. et Iure*, n. 2, n. 753, thinks that the judge can render sentence against the innocent man, "since he does not have to pronounce concerning the innocence or guilt of the accused, but only concerning the application of the penalty." But if the judgment of the jurors has evidently been rendered not from the acts and proofs, but rashly from malice or from ignorance, the judge cannot render sentence against an innocent man; for although he has been declared guilty, nevertheless he has not been proved guilty. C. Italian Penal Procedure, a. 509.

14. Does the sentence of a judge oblige in conscience; and to what is the judge bound who has rendered an unjust sentence? - R. To the first: Affirmatively, if it is certainly just. The reason is that a legitimate precept of a superior obliges in conscience. But the sentence of a judge is compared by law to the precept of a superior, commanding or prohibiting some matter in a certain particular case. "The sentence of a judge is as it were a certain particular law in some particular fact." S. Th. 2. 2. q. 67. a. 1 c. From this the Angelic Doctor deduces that "just as a general law must have coercive force... so also the sentence of a judge must have coercive force." Similarly, as a general law must have the force of obliging, so also the sentence of a judge must have the force of obliging.

R. Negatively, if it is certainly unjust. For just as one is not bound to obey him who does not have authority of commanding, so much more one is not bound to obey him who abuses authority by commanding unjust things. C. *Inter ceteras* 9 *de Sent. et de re iud.*; S. Th. 2. 2. q. 60. a. 6 c. ad 4. Wherefore someone can secretly compensate himself, unless the other has justly prescribed. It is said negatively, that is, not to oblige in conscience, "because in the external forum, where not so much the truth of the fact as juridical proof is regarded, the sentence pronounced is to be observed, in order to avoid scandals and inconveniences (if indeed they are present and cannot otherwise be avoided); nor, after the term has elapsed within which it was lawful to appeal, is an action granted to him, the law so establishing, both as a penalty for sluggishness and on account of the public good, that there be an end of lawsuits." L. 215.

R. Affirmatively, if it is doubtfully just. The reason is that presumption favors the superior or judge, and in practice there would be very grave inconveniences, and there would never be an end of lawsuits. Besides, obedience must be given to a superior legitimately commanding. But in the case of the aforesaid doubt and probability, the superior or judge still commands legitimately. Moreover, he certainly possesses the right of urging execution, of which he cannot be despoiled unless the opposite certainty of injustice is present.

But it is permitted to appeal from the sentence of an inferior judge to a superior judge, even if the sentence is only probably unjust; and once appeal has been interposed, the sentence rendered ceases meanwhile. The reason is that that inferior sentence of itself is neither absolute nor simply definitive, but only if it is accepted as such and no appeal is interposed. But after the sentence has passed into a matter adjudged, it is now absolute and definitive, and it must be stood by even in the forum of conscience, even in doubt whether it is just. C. *Cum super* 17 *de Sent. et re iud.*; C. L. 2502 ff.; Lugo d. 37, s. 15, n. 185 ff.; S. Th. 2. 2. q. 69. a. 3; *Quodl.* 4, q. 8, a. 14. Cf. n. 86.

The sentence of a judge is one thing when interlocutory, concerning an incidental question; another when definitive, concerning the principal controversial case. And one is a sentence of absolution of the defendant, another of condemnation of the defendant, another of dismissal because the crime has not been proved. But a condemnatory sentence is one thing simply condemnatory, another declaratory of crime and penalty.

The commands of the praetor, spoken between two parties, are called interdicts. In several cases interdicts were given by the Praetor, but especially the Praetor interposed his authority in ending lawsuits concerning possession or quasi-possession. Inst. 4 *de Interdictis*.

Generally speaking, appeal in suspensive effect is not given as regards merely disciplinary decrees, but only in devolutive effect. Benedict XIV, Constitution *Ad militantis*, March 30, 1742.

R. To the second: If the judge from inculpable error has rendered an unjust sentence, he is bound to revoke it, if he can do so without grave inconvenience. The reason for the assertion is that he is bound by office to impede the evil of the neighbor, "otherwise, if, while he can, he does not impede his error, that will now be imputed to him as conserving it, which before, because of inculpable inadvertence, was not imputed." Lugo d. 37, n. 3. Nevertheless he is not bound to sustain grave inconvenience, since justice was not formally injured, nor in the quasi-contract of accepting an office or munus is anyone judged to be obliged also that he correct inculpable errors with notable inconvenience to himself. R. 23 *de R. I.* in the Sixth. If by deceit, or by culpable great imperitia, he

rendered an unjust sentence, he must revoke it, if he can, even with grave inconvenience to himself; and he is bound to repair all damages coming from it to the injured party. For he is the unjust, efficacious, culpable cause of such damage, and therefore he is bound to reparation. L. 195, 214; C. *Tum ex litteris* 5 *de In integr. restit.*; C. B. 839; C. L. 2401 ff.

14 bis. Note: There are various grades of judgments. Three grades are regularly constituted in judgments: first instance, appeal, and recourse to the supreme Curia.

From the Constitution *Sapienti consilio*, the Sacred Roman Rota judges in first, in second, and in last instance. Cf. canon 14. Moreover, "it also sees concerning recourses for restitution in entirety from any sentences whatever which have passed into a matter adjudged and cannot find a remedy before the judge of second instance, according to the title *de Rest. in integr.*; provided nevertheless that it does not concern a matter adjudged from a sentence of the Sacred Roman Rota: and in these it judges both concerning form and concerning the merit." Canon 14, section 4, title 1.

Besides the Sacred Roman Rota there is the Supreme Tribunal of the Apostolic Signatura, which takes cognizance and judges concerning suspicion against some Auditor, concerning violation of secrecy, concerning damage inflicted by Auditors from an act of theirs null or unjust in judging, concerning a complaint of nullity against a rotal sentence, concerning a petition for restitution in entirety against a rotal sentence which has passed into a matter adjudged. Canons 35, 37, title 2.

15. Is a judge, gravely negligent or unjust in executing a case and rendering sentence, bound to restore not only to the injured party, but also to the treasury, for example, if without cause he remitted a monetary fine which by law he ought to have imposed on the defendant? - Busembaum and others probably affirm. The reason is that he is the unjust cause of the damage which the treasury suffers. But others also probably deny this, if the defendant has not yet been condemned to the fine. "The reason is that before sentence no right to the penalty is acquired by the treasury; hence, if the judge unjustly absolves the defendant, he sins against legal justice, not commutative justice." L. 196, 238. That is, the judge from his office must coerce the guilty, but so that others not offend, not so that the treasury or private persons may become richer. Except if from the unjust remission of penalty damage would come to a private person or to the republic; for by force of his office he is bound to impede that. S. Th. 2. 2. q. 67. a. 4 ad 3; L. l. c. and n. 237; Lugo d. 37, s. 8, n. 97. Cf. 61.

16. Must a judge judge according to written laws? - R. Affirmatively. "Augustine says: In these temporal laws, although men judge concerning them when they institute them, nevertheless when they have been instituted and confirmed, it will not be lawful for judges to judge concerning them, but according to them.... Judgment is nothing other than a certain definition or determination of that which is just. But something becomes just in two ways. In one way from the very nature of the thing, which is called natural right; in another way from a certain agreement among men, which is called positive right.... But laws are written for the declaration of each right, yet in different ways. For the writing of law indeed contains natural right, but does not institute it; for it does not have force from law, but from nature. But the writing of law both contains and institutes positive right, giving to it the force of authority. And therefore it is necessary that judgment be made according to the writing of law; otherwise judgment would fall short either of the naturally just or of the positively just." S. Th. 2. 2. q. 60. a. 5; Inst. l. 3, t. 17; L. *Rem non novam* C. *de Iudiciis*; C. 1 *de Sent. et de re iudic.*

17. You will resolve: An inferior judge, speaking in itself, ordinarily cannot relax or diminish a penalty, even if the plaintiff or accuser consents, unless sometimes epikeia dictates that something else is necessary for the good of the republic, or unless the judge justly interprets the will of the superior, or unless another just cause is present, in which the end of the law rather than the bark of the words is to be attended to. The supreme judge himself cannot do this without a just cause, whence, acting otherwise gravely, he would sin, because he would render delinquents more bold, and thus would concur in sin. Nevertheless in all things the chief account is of justice and equity rather than of strict law. L. 8 *de Iudic.* C.; S. Th. 2. 2. q. 66. a. 6 ad 2; q. 67. a. 4; q. 60. a. 5 ad 2; 4 d. 46, q. 1, a. 2, q. 2; Lugo d. 37, s. 8.

Speaking in itself; for practically today penalties are determined by the laws themselves, and their limits, of maximum and minimum penalty, are defined, which judges cannot exceed. C. I. penal 1.

A judge can supply those things which have been omitted by the litigating parties and their advocates, and which are of law. But those things which are of fact he regularly ought not supply, for otherwise he would assume to himself the office of the contending parties. But he can supply even these if the fact is known from the public acts of the judgment, or if the fact is both manifestly and publicly known, if it concerns public good, miserable persons, the good of the soul, or a pious and religious cause. L. 1 *Ut quae desunt adv. part.* etc. C.

18. What must the judge do when the law is not clear, but obscure, and on both sides there are opposed probable opinions? In criminal matters the defendant is to be favored, both as regards the existence of the crime and as regards the infliction of penalties. The reason is that according to the rules of Law: In doubt no one is presumed evil unless it is proved; when the rights of the parties are obscure, the defendant is to be favored rather than the plaintiff; hates should be restricted and favors should be expanded; in obscure things the minimum is to be followed; in penalties the more benign interpretation is to be made; it is more satisfactory that the crime of the guilty be left unpunished than that an innocent man be condemned. R. 49 *de Reg. Iur.* in the Sixth; L. *Absentem* 5 *de Poenis*; L. 25 *de Probat.*; S. Th. 2. 2. q. 60. a. 4; Elbel, *de Actib. human.*, 197 ff.; C. L. 2515.

In civil cases, probability of fact and probability of law must be distinguished. A doubt of fact, for example, is: whether the man was master of himself when he made the testament; whether Titius committed such a delict, falsified writings, etc. In such a doubt sentence must be rendered according to the Rules of natural and positive Law: In doubt a fact is not presumed, but must be demonstrated; in doubt the deed is presumed, or presumed to have been rightly done, which had to be done by law; in doubt one must stand for the validity of the act; in doubt one must stand for him for whom presumption stands; once evil, always presumed evil; ignorance of fact, not of law, excuses; in obscure things we inspect what is more likely, or what is usually accustomed to happen, etc., *de Reg. Iur.* in the Sixth.

A doubt of law is when it is doubted what the law commands in such a case, whether the law is extended or not extended to it, etc.; and on both sides there are probable opinions. In such a doubt of law, either no one possesses the thing, or someone is possessor of the thing.

In the first case, that no one possesses the thing, if it is doubtful to which of the parties the law favors more, or if, without doubt, the law equally favors the parties, there is a twofold opinion. The first opinion holds that the thing must be divided. The reason is that the judge is not the master of

things, but the declarer of law in a particular case, and consequently the distributor of things not according to his pleasure, but according to the rights of the parties; and therefore, if the rights are equal, he must divide the thing equally between them. The other opinion holds that "the judge indeed does better by trying to reduce the parties to concord, yet absolutely he can choose one from among them (equally more probable opinions)... because the judge by the debt of his office is bound only to investigate the truth diligently, so that he may judge according to it; but in our case he judges most probably that this is the truth, and that this man has right: therefore he can judge for him with that equal probability." Lugo d. 37, s. 10, n. 115. And indeed, since each party then has, according to a probable opinion, an entire right to the thing, the judge will well be able to conform himself to one of these opinions, and he inflicts no injury on the other party. Nor is it valid to object that by judging the truth to be for one party the judge exposes himself to the danger of deviating from the truth and of depriving the other party of his right. For the judge cannot avoid this danger. For the danger is equal if he judges for the other party. But if he divides the thing, "then the danger will be more certain; for then it will be not only probable but most certain that the true owner is deprived of his thing as to the half part: therefore it is better to undergo that probable danger with a probable judgment concerning the justice of him for whom sentence is rendered, than most certainly to deprive the owner of his thing as to the half part." Lugo l. c. n. 118. This latter opinion is consonant with present laws and practice, and is confirmed by canon law and Roman law, so that in equal right the causes of marriage, dowries of widows, wards, and other pious causes always prevailed. L. 1. 4, n. 410.

But if, in the same case, that no one possesses the thing, a truly more probable opinion in a question of law favors one party, and a less probable opinion favors the other party, the common opinion holds that the judge must render sentence for that party for whom the more probable opinion stands. The reason is taken, first, from proposition 2 condemned by Innocent XI: "I probably judge that a judge can judge according to an opinion even less probable." But from this condemned proposition it follows only that the judge cannot render sentence for the less probable opinion, but by no means that he must render sentence for the more probable opinion and cannot divide the thing among the parties according to the proportion of probability. The reason is taken, secondly, from this, that the judge is constituted by the republic so that he may define the matter according to the merits of the case and according to the opinion which seems to him more conformable to law; for otherwise he would be an accepter of persons. But neither does this reason truly prove the assertion.

For if he must judge according to the merits of the case, he must divide the thing according to the proportion of greater or lesser probability. But that he is constituted by society so that he may render sentence for the more probable opinion, by ascribing the whole right to that party, is indeed asserted, but it is not established. Only this can be asserted, and is established in itself: namely, if the thing cannot be divided according to the proportion of greater or lesser probability, but the whole is ascribed to one party, because this is, for example, the practice of tribunals, then surely it is to be attributed to him who has the greater probability. But this practice of tribunals could be rendered honorable under a twofold head: 1. if it concerns a far greater probability, because then moral certitude is almost had, which often is difficult to distinguish from great probability; 2. if, while the judge ascribes the whole thing to one party, he frees the other from all expenses of the judgment and from reparations of damages, because then an equitable compensation is had. Therefore the better reason seems to be that which was just brought forward for the case of equal probability, namely

because there is less danger of injustice, and the judge, as interpreter of justice, is bound to choose an opinion at least less dangerous, since a certain one cannot be had.

And this opinion again corresponds to present laws and practice.

In the other case, that someone possesses the thing, while equal probability of right stands on each side, the thing is to be adjudged to the legitimate possessor; for by reason of possession his right prevails absolutely. This is confirmed from R. 65 of Law in the Sixth: "In equal delict or cause, the condition of the possessor is the stronger." But if unequal probability is had, the first opinion holds that the judge is bound to adjudge the thing to him who has the greater probability for himself, although he is not the possessor. For first, possession in itself does not bestow a right of property, but only detention of the thing, until someone is legitimately despoiled; but the right of property is greater for the other party. Moreover, the dispute is about the property itself, not about the simple detention of the thing, which is extrinsic to it. Therefore, as in the case of greater probability, with no one possessing, greater probability prevails, so also it prevails in the case of possession. For that presumption of property which arises from possession is destroyed by greater probability of right. Besides, R. I. 65 in the Sixth evidently has force in an equal case, not in an unequal case. The other opinion holds that the judge cannot despoil the possessor. The reason is that legitimate possession, with human morals considered, speaking in itself, argues a morally certain right, even of property itself; for men are not accustomed to be negligent in guarding their own things. And upon this reason the law of prescription is founded, which is had by the very possession of the thing. Legitimate possession; for it would be otherwise if the possession itself were not certain, or not certainly legitimate. Moreover, legitimate possession, besides the very fact of possession, requires two things: title and good faith. Title is donation, inheritance, purchase, and similar things, through which ownership of some thing is customarily acquired. This title must be at least reasonably presumed. But good faith is the judgment by which, on account of such a title, someone prudently believes the thing to be his own. "And therefore judges commonly adjudge things to those having the more probable right, because in the external forum the good faith of the possessor can be proved only with difficulty." L. 210; l. 1, n. 47. Lugo d. 37, s. 10; Ithur. Cas. 34; Viva on proposition 2 condemned by Innocent XI; E. M.

19. Can a judge render sentence when the law itself is certainly unjust and inequitable? - If it concerns a civil law contrary only to ecclesiastical laws in which the Supreme Pontiff can dispense, as, for example, is the law of ecclesiastical immunity, the judge can and must, if judgment must be rendered, speaking in itself, seek the due faculty from the Holy See, or from the Bishop of the place, according to the various laws and various cases that occur. But he will easily obtain this faculty, since it is especially expedient for the good of society that there be honest judges in it. The reason for seeking the faculty is the usurpation of the rights of the Church which otherwise would be had, and the public scandal to be guarded against.

If it concerns a civil law contrary to divine and natural laws, then either the judge must command something directly against this right, or he must only apply some penalty. The first is evidently not lawful, and thus he ought rather to relinquish his office than to oblige by military force a concubine to remain at home with her lover. Thus also it is not lawful to render a sentence of divorce according to the law, namely, by which the bond of marriage is dissolved, power being granted to the spouses to enter new nuptials. For this is openly against natural, divine, and ecclesiastical right. For as it is

inequitable to execute an inequitable matter, so it is inequitable to command its execution. S. Th. 2. 2. q. 60. a. 5.

The other seems to some also altogether illicit, because it is intrinsically evil to condemn an innocent person, namely when the law itself is evidently unjust, whose transgression is punished. But to others it seems that it can be excused. For to decree some temporal penalty is not always evil in itself; and there is present a most grave reason on the part of the judge, lest he be compelled to renounce his office, and on the part of consenting society, for which it is better that judges be good rather than bad, scandal always having been removed, either from approved custom and the practice of the fearful, or from due faculty previously sought. And thus he can decree a fine because of the omitted formality of civil marriage, which the Church tolerates in this sense, scandal always having been removed, as was said.

But although there is question only of decreeing a penalty, one must distinguish between penalty and penalty. For if it concerns the penalty of death, for example, mutilation, etc., since neither the person himself can yield his right, nor can society by its authority sanction such a penalty, it is altogether inequitable to impose it. "For positive right has place where, as regards natural right, it makes no difference whether it is done thus or otherwise." S. Th. l. c.

But if it concerns some monetary penalty, or another similar one, since anyone in this matter can yield his right, and society can consent, the judge surely can impose some slight penalty of this kind, lest he be compelled to renounce his office with grave damage to himself and to society itself. Consent is then reasonably presumed. Yet this also seems to be limited to the case in which it does not concern a law directly against nature, although it is rather harsh and not sufficiently just. For since the sentence of a judge is not any declaration whatever, but an authoritative one, authoritatively to confirm a law against nature, even by determining a monetary and slight penalty, is against nature. It is against nature to condemn to death a Christian who refuses to adore idols; it is against nature to condemn him to a penalty and fine, even of only five small coins, because he did not wish to genuflect before an idol. Certainly of such a judgment it cannot be said that it is a "definition or determination of the just or of right," nor can it be said of the judge that he is "interpreter of justice" or "animated justice." S. Th. 2. 2. q. 66. a. 1; a. 5 ad 1; q. 67. a. 3; E. M.

20. Can a judge licitly receive gifts? - It is wicked for a judge to receive gifts of grave moment, which indeed seem at least indirectly in some way to be exacted, or in which some danger of corruption is to be seen. But it does not seem that receiving only slight little gifts, offered altogether spontaneously, in which there is no danger of corruption, and which are not even indirectly exacted, can be reproved. The reason for the first part is that it is wicked to receive those gifts for a just sentence; for this must be rendered from office.

Likewise it is wicked to receive them for an unjust sentence, because this is not to be rendered. Besides, this is positively prohibited in Deut. 16, 18, 19, and in Canon Law, C. *Statutum* 11 *de Rescriptis* in the Sixth, section *Insuper*. It is also prohibited by Civil Law, by which every corruption of magistrates through gifts and promises is punished with grave penalties, both in those corrupted and in those corrupting. L. 18 Dig. *de Offic. praesid.*; C. I. penal 171-173. The reason for the second part is that, since they are offered from courtesy alone, they would be refused almost discourteously. This is confirmed by Canon and Roman Law, ll. cc.; for it is said that perhaps food or drink offered by mere

liberality can be received, which can be consumed in a few days. Cf. also C. *Cum ab omni* 15 *de Vit. et honest. cler.*; C. I. 1458; Lugo d. 37, s. 11; S. Th. 2. 2. q. 71. a. 4 ad 3. Cf. n. 40.

21. If against the prohibition made a judge has received gifts, is he bound to restitution? - If the judge received gifts from litigants by donation, he is probably not bound to restitution before sentence. For "the aforesaid laws and others are understood either only for the external forum, or concerning restitution as a penalty of crime, for which a sentence is always required, even if not one inflicting the penalty, at least one declaratory of the crime." L. 216. But if he received by agreement for rendering a just sentence, that is, for furnishing that which by justice he owed, he is bound to restitution. The reason is that whatever is already owed by office, and therefore by justice, cannot be the matter of a contract. Much more, however, is he bound to restore those things which he extorted by force, threats, or unjust vexation. Likewise, if he received by agreement for rendering an unjust sentence, he certainly is bound to restitution before he renders such a sentence; but once the sentence has been rendered, he can retain it, since the sin has already been committed, and there is no sin in retaining the thing received; but since what had been promised and was not owed has been furnished, then the innominate contract is verified: I give so that you may do. And thus also "on account of fornication... a woman can retain for herself what has been given to her." S. Th. 2. 2. q. 62. a. 5 ad 2; Lugo l. c.; C. I. penal 171-174.

22. Can a judge at least receive money for expediting someone's case before another's? - "Laymann says that, considering natural law, he does not dare condemn this, because that new obligation which he undertakes is worthy of a price. But the Salmanticenses, n. 66, more truly contradict, because a judge from justice is bound quickly to expedite the cases of those who have equal right to expedition; unless he should undertake an extraordinary labor, to which by force of his office he would not be held." L. 196. Lugo also absolutely reproves this, d. 37, n. 136, for "whenever from justice he is held disjunctively to do something gratis, he cannot receive anything for the election of this part."

23. When litigants have for themselves equally probable opinions, can a judge receive money for rendering sentence in favor of one rather than the other, according to the opinion reported above? Cf. 18. - R. Negatively; for this proposition is proposition 26 condemned by Alexander VII. The reason is that "he would receive a price for a thing not worthy of a price; for from justice he owed to render sentence for one: but the determination to that part, although it makes the sentence more useful to me, nevertheless does not add labor, or anything on the part of the judge worthy of a price. Just as, if someone from justice owed to give a dowry to one of two virgins, he could not ask anything from her for choosing her. But the reason a priori is that it is repugnant to owe from justice to give an entire thing to one of two, and yet to be able to ask a price for it; for then it would not be given entire to one of the two, although from justice he is held to give it entire. Therefore he cannot, with justice preserved, subtract anything; otherwise he could receive as price half of the thing to be given, which would be manifestly against justice." Lugo d. 37, n. 119.

II. On Arbiters

24. What are arbiters? - Arbiters are said to be those who are spontaneously chosen or admitted by both opposed parties, after the manner of judges, for settling some lawsuit. The pact by which the faculty of settling the lawsuit is attributed to them is called a compromise. By this pact the adverse parties by mutual consent promise that they will execute whatever shall be established by the

arbiters. But from the sentence of arbiters, according to C. I., it is lawful to appeal, otherwise than from common Law, S. Th. 2. 2. q. 69. a. 3 ad 2. But the compromise can be drawn up either by public act or by private writing, according to C. I.; otherwise it is null. Dig. l. 4, title 8; Decretals l. 1, title 43; C. I. civil procedure, preliminary title, c. 2; Lugo, *Resp. Mor.*, l. 6, d. 21.

Women are prohibited from being chosen as arbiters, because it befits them to be mindful of their modesty, and therefore they ought not to mix themselves in manly offices. L. fin. Cod. *de Recept. arb.*; C. Proc. I. 10. They are excepted if by law, custom, or privilege they obtain some civil jurisdiction. C. 4, l. 1, title 43 of the Decretals.

Commitment to arbiters cannot be made by private persons in those causes which directly pertain to the right of a Superior, as criminal and penal causes, or to the public good, as, for example, a cause of invalidity of marriage, of religious profession, etc.

Arbiters according to the Italian Penal Code 207 are held as public officials as regards the effects of penal law.

The sentence of arbiters, in the common tongue, is called a *lodo*. "If someone has been made arbiter concerning his own matter, he cannot say sentence, because he would order himself to do something, or prohibit himself from seeking something; but no one can command himself or prohibit himself." L. 51 *de Receptis arb.* Dig.

25. What is the office of arbiters? - Arbiters, whoever they may be, once admitted by the different parties, properly enjoy the office of judges, and carry out all their functions, just as if they had been designated by public authority. The reason is that someone can subject himself to the judgment of another, although that other is not his superior. If this is done by two litigants, so that the lawsuit may be settled, an arbiter is had, who therefore, although not from public authority, nevertheless is constituted judge from a private pact. But private pacts, like public laws, oblige in conscience. C. H. 1820; S. Th. 2. 2. q. 67. a. 1 ad 2.

26. You will resolve: Since arbiters fulfill the offices of judges, they have almost the same rights and the same obligations. Wherefore they can instruct the case brought before them, defer the matter to another more opportune time, hear witnesses, and finally, after sentence has been rendered, settle the lawsuit absolutely. They ought not undertake a lawsuit for judging which they do not have sufficient learning; otherwise they sin against commutative justice and contract an obligation of restitution, if in fact by erring they inflict damage. Arbiters are bound to judge according to the laws of the region, because they are assumed after the manner of judges, unless the parties have granted them the faculty of composing the matter according to equity and the good. For then, according to natural equity, they must promote the advantage of each party. They must take the greatest care against acceptance of persons, namely lest, abstracted by hatred, aversion, or excessive affection, they render sentence against the rules of equity. C. B. 319.

27. Note: For the sentence of arbiters to have force in the external forum, it is necessary to fulfill the conditions placed in the Codes of various nations. C. I. civil 1742, 1764 ff.; civil procedure 8 ff.; C. G. civil 1989, 2044 ff.; civil procedure 1003; C. H. 1821; C. A. 1391.

III. On Jurors

28. What are jurors? - Jurors, so called because of the oath which they furnish concerning rightly exercising the office entrusted to them, are men selected from the foremost citizens to undertake some part proper to judges. They are employed only in criminal causes, and their office is to pronounce judgment concerning the existence of the fact and the culpability of the accused; but then the judges decree the penalty according to the law. C. I. penal procedure 493 ff.; C. G. criminal instruction 337 ff.

29. What are the obligations of jurors? - Jurors contract the same obligations as the judges themselves, while nevertheless staying within the limits of their office. The reason is that they exercise the office of judges in great part. Yet they ought not furnish all things to which judges are held, but only pronounce concerning the existence of the fact and the culpability of the accused. C. I. penal procedure 493 ff.; C. G. criminal instruction 337 ff.

30. Can a juror give a vote against the accused, juridically indeed convicted, but whose innocence he knows certainly by private knowledge? - R. Negatively. The reason is that he must pronounce only concerning the existence of the fact, according to his intimate conviction, nor in any way is he bound to give the legal reason for his own sentence. C. I. penal procedure 495, 498; C. G. criminal instruction 342. Even while juridical proof of the crime stands, if someone is certain from elsewhere of the innocence of the defendant, it is altogether impossible to have an intimate conviction of the delict committed. Nevertheless a juror cannot affirm a defendant to be guilty whom he knows as such only by private knowledge, but who has by no means been juridically proved. For the defendant, as long as he is not juridically proved to be such, has a right to be absolved; but the juror acts the person of judge, not of witness, and otherwise witnesses in the case would be used uselessly, and the whole form of judgment would be useless. The private intimate conviction of a juror for condemning, and not derived from juridical proofs, is against the whole tenor of the law; for a broad way would be opened to arbitrariness, and the form of judgment would be only for a certain exterior appearance. And this is openly established from C. I. penal procedure 437; C. G. criminal instruction 312.

Nor indeed is it valid to object what was just being said, that a juror must absolve a defendant proved guilty, but innocent by his own intimate conviction. For evidently the law condemning a defendant juridically proved guilty rests upon presumption of truth; but if, on the contrary, the contrary is evident and certain, that presumption must yield to evident truth, which the juror certainly knows.

31. Is it lawful for jurors to render sentence in a judgment in which the tribunal does not have authority over the defendant, if namely, for example, it concerns an ecclesiastical person? - If his intervention would be altogether useless, for example, when the greater part or almost the totality of the jurors is prepared to condemn the defendant, he can abstain from intervening in such a judgment. The reason is that, on one side, no one is bound to do a useless thing; and on the other side, absence is a certain protest against the abuse of justice. In the same hypothesis he must besides abstain. The reason is that his presence would be useless, and his absence necessary, lest he cooperate in the usurpation of justice, and so that he may protest against that abuse of justice. If the juror can bring forward no cause why he should abstain from judgment, and if he is punished by civil law, he can indeed, even in the same hypothesis, intervene in the judgment, seeking the due faculty, or if this cannot be done, favoring the defendant insofar as is in him. The reason is that, since he comes compelled by necessity and has previously sought the faculty, or, in impossibility, attempts to

favor the defendant as much as he can, all scandal is removed, and a sufficient protest is had against the abuse of justice. Moreover, in these circumstances of affairs, he can reasonably presume the consent of ecclesiastical authority.

If his intervention would be altogether useful for absolving an innocent person, for example, because the greater part of the jurors is known to favor justice, it seems that the natural law of charity obliges him to intervene in the judgment, so that he may assist a neighbor gravely needing help. But for impeding scandal or wonder, it suffices to seek the due faculty, or, if this cannot be done, to declare his intention, if it is not established from elsewhere, that he comes not as judge, but as patron and advocate of an innocent person. The same resolution seems also to be given in the same case, if there were an express law or censure against those who undertake the office of juror. The reason is that, since laws and censures generally are unto edification, and in particular laws and censures of this kind are for protecting ecclesiastical persons and the dignity of their state, they do not seem in such a case to wish to impede the safety of those same persons from being protected. Wherefore they then cease contrariwise.

IV. On Advocates, Procurators, and Referendaries

32. What is an advocate, a procurator, a referendary? - An advocate is he who gives his assistance to litigants by counsel and by defense undertaken before the judge. But a procurator is he who, by mandate and in the name of the litigant, prosecutes the case in judgment. Finally, a referendary, or relator, is he to whom the acts of litigants are committed to be discussed, so that afterward he may report their foundations to the judges as if reduced into a compendium. L. 14 *de Advoc. divers. iudicior.* C.; L. 1 *de Procur.* ff.; L. 18 *de Procur.* C.; S. Th. 2. 2. q. 71. a. 1, 2. "To undertake the defense of another is a manly office, and it is established that it is beyond the female sex." L. 18 *de Procurator.* C. "Women will sometimes be permitted to act for parents, the cause having been known, if perhaps sickness or age impedes the parents, and they have no one who may act." L. 41 *de Procurator.* ff.

The procurator concerning whom we are treating here is an office well distinguished from a public or fiscal procurator, who is a person legitimately deputed to defend rights concerning the public good. Hence he acts sometimes for the plaintiff, sometimes for the defendant, sometimes for both. Such a procurator is, in matrimonial causes, the Defender of the bond; in causes of ordination and religious profession, the Defender of the validity of each; in causes of Saints, the Promoter of the faith.

The proper and native advocates of the S. Rota are consistorial advocates. Cf. Proper Law of the S. R., canon 44. Advocates of the S. C. of Rites for causes of Saints must be endowed with the regular title of rotal advocate, and are subject to other formalities prescribed by the same S. C.

33. What are the obligations of advocates in the defense of cases? - Advocates are bound first of all to have competent knowledge of laws, of the form of judgments, and of the manner of preparing instruments. Then they must diligently examine the case, manifest its justice or injustice and the certitude or probability of winning or losing it, guard against damaging delays, preserve fidelity, and finally defend the case, and only a just one, without lies, frauds, or other unjust means. The reason is that by legal justice toward society, and by commutative justice toward the client, they are obliged to defend his rights and guard against his damage, but toward the contrary party, lest they become

cooperators in injustice. Wherefore, acting otherwise, they are held concerning damages. C. *Si culpa* ult. *de Iniur.*; L. 14 *de Iudic.* C.

S. Th. 2. 2. q. 71. a. 3.

34. You will resolve: Advocates sin against justice toward the client if, when they do not have due knowledge of the laws, they undertake cases to be defended; if they reveal the foundations or secrets of the case to the adverse party, or if they serve both parties; if, because they seem to themselves to bring forward peremptory arguments, they neglect others not to be despised, because perhaps the judges would be moved by those neglected motives; if they do not sufficiently prepare themselves to plead the case, etc. The same persons sin against justice toward the adverse party if they cite false or abrogated laws, or turn them aside into a foreign sense with damage to the adversary; if they use deceit or lies, from which judges or jurors are drawn away into an unjust sentence or vote; likewise if they impose false crimes or vices on the adverse party, etc. Wherefore they do not seem to sin if they ingeniously twist laws from their obvious sense so that the defendant may escape punishment. L. 226; S. Th. 2. 2. q. 71. a. 3; Kenrick 144.

35. Note: St. Thomas, l. c. ad 3, teaches that "it is lawful for an advocate defending a just case prudently to conceal those things by which its process could be impeded," because this would not be to deceive the adversary, but to allow him to deceive himself.

36. Is it lawful for an advocate to defend an unjust case? - In civil matter an advocate cannot licitly sustain a certainly unjust case. Wherefore if the laws favor one doing injustice, on account of some defect, for example, of a document or instrument, the advocate cannot patronize him, unless perhaps so that he may free him from useless and damaging vexation, for instance if a debtor cannot pay, nevertheless with him warned that for this reason he is not released from the natural obligation, and unless for that reason he is no longer going to fulfill it.

Much more, in criminal matter he cannot undertake the parts of an evidently unjust accuser. The reason is that, as St. Thomas says, 2. 2. q. 71. a. 3, "it is unlawful for someone to cooperate in doing evil, whether by counseling or by helping, or by consenting in any way whatever; because one counseling and aiding is in some way doing. And the Apostle says, Rom. 1, 32, that they are worthy of death, not only those who do sin, but also those who consent to those doing it. Hence all such persons are bound to restitution. But it is manifest that an advocate furnishes help and counsel to him whose case he patronizes. Hence, if he knowingly defends an unjust case, without doubt he sins gravely and is bound to restitution of that damage which the other party incurs against justice through his help. But if he ignorantly defends an unjust case, thinking it to be just, he is excused according to the mode by which ignorance can be excused." L. 14 C. *de Iudiciis*; Kenrick 141.

37. You will resolve: An advocate who, after the case has already been undertaken, notices that it is unjust, must at once warn his client concerning the injustice of the case and abandon it. Otherwise he will be held for all damages coming to either party. If nevertheless the client is in bad faith, this client is bound first to restore, as commanding. But if he does not restore, then in the second place the advocate is bound to restore, namely as executor. "Nevertheless he ought not betray it, namely so that he helps the other party, or reveals the secrets of his own case to the other party." S. Th. l. c. ad 2. The first is against fidelity, the other against the strict obligation of secrecy. They except: unless for that reason the other party would have to suffer grave and unjust detriment. Cf. La-Croix l. 3, p. 2, n.

1231; Lugo d. 37, n. 183. But the advocate can induce his client to a settlement, yet, as St. Thomas says, l. c., without damage to the adversary. Wherefore he would sin gravely if he should induce him whose case he notices to be evidently unjust to a settlement. For in such a case no place is given to settlement. A general procurator sins against justice if from negligence, from precipitation or prejudice, from hatred or acceptance of persons, etc., he drags an innocent person into detention, into judgment, and into undergoing an unjust sentence. Likewise if he sustains an accusation after, in the course of the case, he has recognized innocence, or has gravely doubted concerning it; hence he is held concerning all damages subsequently coming to the accused.

38. Can advocates defend cases, even less probable ones, both of defendants and of plaintiffs? - R. Affirmatively in civil cases; because, as matters of this kind are litigious, there can reasonably be hope that the truth may shine forth. Besides, since the judge can divide the thing according to the proportion of greater or lesser probability, it is lawful for advocates to urge the probable reasons of clients, so that he may decree what is just according to the things alleged and proved. Cf. 18. Nevertheless the client must be warned of the doubtful outcome, lest perhaps he make the expenses of the lawsuit uselessly.

In criminal cases the defendant can always be defended, even if his culpability is established. The reason is that an advocate defending a defendant inflicts injury on no one, and from his office he protects the right of the defendant, lest he be condemned before the crime has juridically been fully proved, and at least so that the Prince may be moved to mercy. "In a doubtful criminal case it is not lawful to protect the parts of the plaintiff, who in such a case sins gravely against the defendant, therefore also the advocate; nor when the plaintiff acting against the possessor knows that he can prove nothing, but that the matter will always remain doubtful, because then the possessor is unjustly vexed, for whom the judge at last will have to judge." L. 220. Hence, if he patronizes the defendant, it suffices that the exception be just in the exterior forum; but if he patronizes the plaintiff, the case must be just also in the forum of conscience. Kenrick 145 judges otherwise, namely that he can defend the plaintiff if the matter is doubtful; but with no reason brought forward.

39. Whether and how does an advocate sin who defends a just case by unjust means, for example, if he substitutes a new promissory note in place of an earlier one that has been lost, etc.? - He sins against fidelity and truth. For it is an officious lie. And this lie is grave, because it is to the grave damage of public order, public faith, and security. Hence notaries who prepare such a document also sin gravely. "To say grave lies in judgment is against the common good, since it is to pervert the whole order of justice." L. 1. 5, n. 277. In itself he does not sin against justice if the right of the client is certain. For no injustice appears as to the substance of the case. Certain; for if that right is doubtful, and through the promissory note it is rendered certain, namely because a promissory note is supposed which never existed, he would indeed sin against justice. For since every probability is destroyed by certitude, the right of the adverse party would be injured. But accidentally he can sin against justice if from this damage comes either to the adverse party or to his client. Sometimes he can sin gravely against charity toward himself, if he exposes himself to proximate danger of the gravest penalties because the falsity is discovered. S. Th. 2. 2. q. 71. a. 4 ad 3.

40. To what is an advocate bound by reason of the honorarium or stipend? - An advocate, as also a physician and others, can licitly and justly exact an honorarium or stipend for his work. "Augustine says that an advocate licitly sells just patronage, and a jurist true counsel.... It must be said that those

things which someone is not bound to furnish to another, he can justly receive compensation for furnishing them. But it is manifest that an advocate is not always bound to furnish patronage, or to give counsel to the cases of others. And therefore, if he sells his patronage or counsel, he does not act against justice. And the same reason holds concerning a physician bringing help for healing, and concerning all other persons of this kind, provided nevertheless that they receive moderately, with the condition of persons, and of affairs, and of labor, and the custom of the country considered. But if through improbitas they extort something immoderately, they sin against justice. Hence Augustine says to Macedonius that things extorted by these persons through immoderate improbitas are customarily demanded back, but things given through tolerable custom are not customarily demanded back." S. Th. 2. 2. q. 71. a. 4 c.

Moreover, generally speaking, he can receive nothing beyond the just honorarium, which is determined either by law, or by custom, or by the judgment of prudent men, or by agreement of the parties, with account had of the business, labor, and skill of the advocate. If he has an annual stipend, he can receive it, although lawsuits do not occur in that year. For it is as it were an aleatory contract, whether the lawsuits are many or none. If during the time of the lawsuit he is sick for a longer time, unless he substitutes another, he must renounce part of the stipend which was established by agreement. Those who make an agreement with clients that they will ask nothing beyond the expenses made, unless they win the case, and that a greater fee is to be given to them if they win, can exact this, especially if the case is of a very doubtful outcome, by reason of the aleatory contract. If, after agreement has been made concerning the stipend, the client abandons the case begun, the advocate can exact the whole, if it does not stand through him that he does not prosecute the lawsuit; not otherwise than one renting his work for some fee can exact this, if it stands through the hirer that the work is not completed. Except, however, if a just cause intervened for abandoning the lawsuit, since this condition is always understood in the agreement.

By positive Roman Law he cannot, while a case is being treated, establish a fee, nor establish as a fee a proportional part, for example, a third, a half, of the goods concerning which the lawsuit is conducted. This prohibition rests upon a presumption, not of fact, but of danger of fraud, namely of procuring victory even by illicit means. Hence it obliges even if the contrary has been done. But if injustice and fraud are absent, if there is an urgent and just cause for such an agreement, and if the advocate has asked an unjust fee, he is not obliged to restitution.

According to C. I. 1458, "judges, public officials of the ministry, chancellors, ushers, advocates, procurators or patrons, and notaries cannot be assignees of lawsuits, of reasons, and of litigious actions of the competence of the court, tribunal, or praetorship of which they are part, or in whose jurisdiction they exercise their functions, under penalty of nullity, damages, and expenses. Excepted is the case in which it concerns hereditary actions among coheirs, or assignments in satisfaction of creditors, or for defense of goods possessed. Moreover, advocates and procurators can neither by themselves nor through an interposed person establish any agreement with their own clients, nor make with them any contract of sale, donation, exchange, or another similar contract concerning the things comprehended in the cases in which they furnish their patronage, under penalty of nullity, damages, and expenses." C. G. 1597; C. H. 1459.

Although he spontaneously offers himself to treating the lawsuit of a relative or friend, nevertheless he can exact a just remuneration. Yet, if from charity he is bound to assist the poor, he is especially

bound toward those joined to him, according to that saying 1 Tim. 5, 8: If anyone does not have care of his own, and especially of those of his household, he has denied the faith. As regards the poor in particular, he is bound to assist gratuitously, even with grave inconvenience to himself, those who are in extreme necessity. Likewise he is bound to patronize gratis those who are in grave necessity, and indeed under mortal sin, yet not with notable inconvenience to himself. Finally, even in common necessity he is bound from charity to protect the cases of the poor, yet not with grave inconvenience; namely, it suffices that he bestow something of his work on them when he is free from others. Then the judge provides for the defendant by commanding one of the advocates who act in that tribunal to defend the accused gratis. But the aforesaid necessity is present when the defendant, unless aided by patronage, is going to lose the case, or be punished with an unjust death, or be despoiled of his goods and reduced into grave poverty. The same also holds concerning physicians, notaries, procurators, and others who discharge a public office of this kind. L. 53 *de Pact.*; C. I. 1458; Lugo d. 41, n. 12; L. H. A. tr. 13, n. 69, 70; S. Th. 2. 2. q. 71. a. 1, 4; q. 32. a. 5.

Advocates before the S. Rota and the Apostolic Signatura are bound to furnish gratuitous patronage or gratuitous assistance to those to whom the S. Rota or Apostolic Signatura has granted this benefit. It is wicked for the same persons to buy a lawsuit, or to bargain concerning an extraordinary emolument or an immoderate part of the litigious thing vindicated to themselves. If they have done these things, besides the nullity of the agreement, they can be punished by the S. Rota with a suitable penalty. They can be marked with a note of reprehension, punished with a monetary penalty, suspended, or even struck from the register of advocates. Proper Law of the S. R. R., canon 45.

41. What are the qualities and obligations of a procurator? - As in an advocate, so also in a procurator there is required, besides knowledge, due diligence in the treatment of affairs, fidelity, and justice, which is also to be observed in exacting an honorarium. The reason is that, as the office of procurator is almost equated with the office of advocate, so also are the obligations.

42. You will resolve: Procurators of the parties sin against justice if they prolong cases, if they unduly obtain delays, if they do not procure in the first place the case previously accepted, if they lead the parties to an inequitable settlement, etc.

43. If a procurator has an advocate or a tabellion who serves him gratis, can he retain for himself the just stipend owed to them? - R. Negatively, if he serves for the sake of the client; affirmatively, if for the sake of the procurator himself. The first reason is clear, because he has no just title of acquiring that stipend. The second reason also is clear, because to do by oneself or by another is morally the same thing: if he did by himself the useful thing, he could indeed retain the just stipend; therefore also if he does it through friends. L. 239.

44. What are the qualities and obligations of relators? - Relators must first rightly know the things which pertain to their proper office; then they must apply the necessary diligence, so that they may satisfy them. Otherwise the damages that will come will deservedly be imputed to them, since they voluntarily undertook so great an office while unskilled, or exercised it negligently.

45. You will resolve: "A relator sins 1. if from lack of study or through carelessness he reports badly, or omits something substantial; 2. if he is partial and attempts to explain the justice of one party more than that of the other; 3. if he manifests the sentence to either party before it is published, from which grave inconveniences can follow, for example, the judge may be rejected, etc." L. 238.

V. On Notaries, Scribes, Apparitors

46. What is a notary, a scribe, an apparitor? - A notary or tabellion is said to be one who is constituted by legitimate authority for preparing and preserving acts or public instruments, which produce faith both in judgment and outside judgment. Hence he is also called an actuary. A scribe or secretary is one who from office reports in writing testimonies, documents brought forward, sentences of judges, and all other things which are transacted in tribunals. An apparitor is one who from office brings pledges and commands of justice, and completes executions decreed by the judge. But a lictor is said to be one who executes a sentence either of capital punishment or of lashes.

47. What are the qualities and obligations of a notary? - A notary must be experienced, diligent, faithful, and tenacious of justice. But especially he must know well those things which are required for the proof of contracts in the external forum. Cf. C. I. 1312 ff.; C. G. 1315 ff. The reason is that his office necessarily requires this. And especially for him "imperitia is numbered as fault." R. 132 *de Reg. Iur.*; Trent, sess. 22, c. 10 *de R*.

48. You will resolve: Notaries are unjust especially in the following cases: If they are ignorant of the things which pertain to their office, and for that reason do not rightly prepare instruments; if, with detriment to contracting parties or others, from negligence they omit necessary solemnities, for example, to use suitable witnesses, to place signatures, to indicate day, month, year, etc. If they prepare a false, usurious, or unjust instrument; if, to the damage of another contracting party or of a third party, they feign in the instrument those things which are not; if they put false notes of the day, or change true ones, even if they do not intend damage; likewise if they counsel such things; if they prepare acts which exceed their office, or if they exercise their ministry outside the territory assigned to them; for then their acts are by that very fact void. If they do not describe faithfully the wills of the contracting parties, or through ambiguous drafts provide place for lawsuits and injustices; if they do not warn the parties concerning clauses which can harm them, or concerning difficulties which can arise from them. For they are held to these things from quasi-contract with the parties. If they falsely write that the sum has been paid before them, or already before, with damage to the other party or to a third party; likewise if they easily write such things, gravely suspecting that they are being deceived by the contracting parties; for then they cooperate in their sin. If they guard acts and instruments negligently, with danger of damage to the parties; if they delay the expedition of instruments so that they may extort money; if they commit something to a copyist with danger of error. If they change anything in the protocol, from which some right is violated or impeded; if they admit false witnesses; if they do not exhibit, conceal, or deny a transcript of some necessary testimony to their client. If they communicate acts to others than the parties; if by their fault they lose protocols; if they violate oaths or secrets; if they add anything to, or subtract anything from, the sayings or deeds of the parties, or from the testimonies of witnesses; if they do not transcribe all things sincerely, as they stand. If they neglect to watch over their ministers, and because of this instruments are badly prepared; for notaries are bound to answer for all ministers whom they use. If they sign instruments, whether prepared by other notaries or by their own ministers, not duly prepared, before they have diligently reviewed them and have had perfect knowledge concerning the things which are contained in them; likewise if, where several notaries are required, they declare absent ones as present.

If they exact a stipend beyond what is just, or if they seek beyond the tax or approved custom, or if they amplify writings, or write with a larger or more extended character, so that the number of pages

is notably increased; if they draw out affairs to be treated for the sake of increasing salary. In all these and similar matters notaries are held in themselves under grave obligation, and to restitution as unjust damagers or cooperators. L. 230, 231; C. B. 841; C. *Si culpa* 9 *de Iniuriis*. Cf. n. 39.

49. Is a notary bound to restitution toward the treasury, if in preparing an instrument of sale or of inventory, at the request of the parties, or even with himself hinting at it, he does not inscribe the true price of the thing, but another lesser one, so that the tax may be diminished? - It is controverted. Some affirm, because he lies and thus cooperates in the defrauding of taxes, which is inequitable and unjust on the part of a public official.

Others deny, provided at least the lowest price, or the middle, or a little less than above half, is reported in the authentic writing. The chief reason of these is that this is the common usage of paying taxes. And equity does not permit that the good be burdened more than the bad. Wherefore, if private persons can effect this, notaries can also prepare the act, and use a restriction not purely mental, namely of declaring the price which by received custom is subject to tax. Finally, others excuse him totally. The reason is likewise: 1. the custom even of fearful persons; 2. because if the parties are not held by dissimulating the true price, neither is the notary held from cooperation; for although he is a public official, nevertheless he is not constituted as superintendent of taxes for exacting taxes, but for preparing instruments. Cf. vol. 1, n. 234. But he can sin gravely against charity toward himself. For penal Codes decree grave penalties against public officials who act fraudulently. C. I. penal 275 ff. Likewise he can easily sin by a lie against truth. Cf. n. 39. Nor indeed can mental restriction be understood in a public official fulfilling his office; nor can that mental restriction be understood in a public document which ought to serve not only for the payment of taxes, but for several other effects of commutative justice. Wherefore a broadly mental restriction cannot have place in this sense, that this is the price liable to tax. Nor indeed can there be mental restriction in this other sense, that, since in the present matter taxes are unjust, this is the price liable to just tax. This second explanation also cannot be admitted, because the injustice of the law, since the matter is not clear and evident, cannot be affirmed, and anyone in the case would become judge of that justice. Justice at least, from the general rule, is presumed, when injustice is not clear. But a manifest lie is had when in truth there is no sale, but a mere donation. And indeed the lie is often, if not always or almost always, damaging to others.

50. Does a law establishing a tax for honoraria or stipends to be received oblige in conscience? - This question has place for all those to whom a fee is owed for some office which they carry out in judgments. Now Navarrus and others affirm, since it is a just law. But Lugo and others deny, because since the notary and other ministers of justice must live from the stipends of their proper office, and with the passage of time the prices of things and expenses increase, according to custom, concerning food and clothing, but those ancient laws remain always the same with the passage of time; therefore they themselves do not unjustly exact something above the tax, especially if the circumstances of labor and skill are attended to. "And the Salmanticenses say that this opinion of Lugo seems more conformable to equity in these times." Indeed they add that a tabellion can receive an extraordinary stipend if he furnishes extraordinary labor. L. 231. Cf. l. 3, n. 180, 181.

51. Does a notary sin who prepares instruments on Sunday or a feast day? - By custom now general, they can prepare any instruments whatever, provided they do not pertain to contentious jurisdiction, that is, to forensic business. Thus they can prepare instruments of contract, testaments of the sick,

matrimonial agreements, processes of elections to public office, and other similar things. But writings pertaining to the contentious forum they can by no means prepare on feast days. This is prohibited not only by canon law, but by civil law itself. But if a notary prepared such acts on a feast day and affixed a different assignment of day, he would sin against ecclesiastical and civil law, and would write a false instrument. Yet nothing prevents the whole context of the writing from being drawn up on a feast day, to which afterward, on a legitimate day, signatures and the other solemnities are added.

52. What are the qualities and obligations of secretaries? - A secretary himself also must be skilled in his office, faithful, diligent. The reason is that this is necessarily demanded by his office.

53. You will resolve: A scribe can commit various injustices, especially: If he does not apply due diligence to reporting into writing exactly all things heard and established or decided; for omission in matters of this kind can easily become grave. If he does not use serious and constant attention for reporting into authentic books all things brought forth and transacted in the tribunal; for very easily a defect of attention in a scribe can induce grave fault and obligation of restitution, unless it is altogether involuntary. For who does not see how great damages can follow from even a slight defect on the part of secretaries?

If from malice he omits something in writing, or if he adulterates or badly guards public tablets committed to him; if he does not place or take care that due formalities and signatures are placed; if he does not faithfully transcribe testimonies, whether by exaggerating, or diminishing, or inverting. If in distributing lawsuits he obeys favor rather than order; if for increasing salary he makes the acts to be distributed greater, for example, by writing on two pages the things which could have been reported on one. If he betrays a secret committed to him; if he manifests a sentence not yet published; if he shows completed processes to the parties without the judge's prescription. If he hands over acts of the judge to the parties before they have been signed according to the legal forms. For then he exhibits a defective and false instrument, whose expedition is considered of no value. L. 229.

54. What are the qualities and obligations of an apparitor? - An apparitor himself also must be sufficiently instructed concerning all things which pertain to his office. He must furnish fidelity and charity in executing the commands of the tribunal. The reason for the first is that it especially falls to him not to omit any necessary formalities in his acts; otherwise he would often injure justice, and would be bound to repair the damages arising from it. The reason for the other is that he must beware equally both of negligence and of rigor and vexation toward those whom public justice pursues.

55. You will resolve: Apparitors conduct themselves unjustly especially: If they allow themselves to be corrupted by price or favor to the prejudice of the client, for example, by neglecting denunciations of sentences, or by doing other things from which they are the cause why the creditor cannot receive payment. Likewise by favoring certain debtors in solidarity, so that they do not comprehend them in executions. If they adulterate juridical acts; if they do not execute them at the prescribed time, and from delay or acceleration damage follows for the plaintiff or defendant. If, while searching houses, they act more harshly so that they may extort some gift; if they inflict unjust force or another injury. If they exceed the mandate of the judge or the statutes of the law in seizing the things or goods of private persons; if they do not preserve a just price in the sale of seized things, if they retain part of this price for themselves, etc. C. I. Civil Procedure 41, 42.

The things said concerning an apparitor are applied in due manner to other public ministers.

56. Are apparitors bound to restitution if they have received a stipend above the tax determined by law under the title of donation? - R. Negatively, if it concerns a tax determined by ancient laws, remaining the same. Cf. 50. But otherwise affirmatively in itself. The reason is that such a donation generally cannot be called spontaneous. Hence, if the excess of price is something grave, they can be obliged under mortal sin to restore it. Generally; for in many circumstances the donation can and must be considered entirely spontaneous. They can; for not every less spontaneous donation is to be judged to lack that consent which suffices for transferring ownership. For not rarely occasions offer themselves even to the unwilling, which import a certain necessity of giving, and yet no one thinks that the burden of restoring should be imposed on the donees.

Moreover, to receive gifts, after an oath has been furnished, is prohibited to ministers of any order in the Roman Curia from the Constitution *Sapienti Consilio*, Order to be observed, Common Norms, chapter 3, and also to synodal examiners.

57. Can an apparitor exact multiple salary if he brings different summonses on one and the same occasion? - From natural law considered in itself alone, it seems that it must be affirmed, because he furnishes the same utility to each one requiring him, as if for one alone he undertook the journey and work. Thus St. Liguori, H. A. tr. 13, n. 68, etc. From civil law this is prohibited. Yet usage has prevailed, with the Government knowing and seeing, that advocates and procurators arrange the matter thus, that for each summons apparitors have almost the same price. Lugo d. 37, n. 138.

58. Must lictors and apparitors execute a sentence if it is unjust? - Affirmatively, if they themselves only think the sentence to be unjust. For they themselves are not judges, and by acting otherwise they would usurp the office of the judge to themselves. Besides, this would be to the very grave detriment of the public good. R. Negatively, indeed they cannot, if the sentence is evidently unjust and to execute it is intrinsically evil, as to kill a man who is innocent and not proved guilty. It is controverted if, although the sentence is unjust, nevertheless to execute it is not intrinsically evil, as to extort goods from one condemned, so that they may be made public. It seems that it must be denied, because as a judge cannot condemn one innocent and not proved guilty, so neither is it lawful for an apparitor to execute his unjust sentence. But he affirms D'Annibale, 3rd ed., p. 2, n. 592, because the damage of the republic prevails. This indeed has force when the sentence, although materially unjust on the part of the thing, is nevertheless at least formally just on the part of the judge, because namely he observed judicial form and right process.

The Angelic Doctor has these things concerning the present question, 2. 2. q. 64. a. 6 ad 3: "The minister of a judge condemning an innocent man, if the sentence contains an intolerable error, ought not obey; otherwise executioners who killed martyrs would be excused. But if it does not contain manifest injustice, he does not sin by executing the precept, because he himself does not have to discuss the sentence of the superior; nor does he himself kill the innocent man, but the judge, to whom he furnishes ministry." C. *Pastoralis* section *Quia vero de Off. et pot. iud. deleg.*

VI. On Accusers

59. What is an accuser? What is a denouncer? How many kinds of denunciation are there? - An accuser is said to be one who in criminal causes reports a crime to the judge, and from him demands

vindication on account of the common good, and at the same time undertakes the obligation of proving the crime objected. But in civil causes, he who as the injured party compels the adversary to the judge is not called accuser, but plaintiff. An accuser differs from a denouncer, who reports a crime to a superior or judge, and nevertheless does not undergo the obligation of proving it.

Denunciation is twofold: one juridical, another evangelical. The former is a report made to a superior as to a judge, so that, once the case has been known, he may proceed from judgment; and its scope is the punishment of the delinquent and the good of others, especially the common good, which redounds from the punishment of the wicked, and also the good of the denouncer himself. The latter is a report made to a superior as to a father; and its scope is not punishment, but the amendment of the neighbor, or the good of the one denounced, through the paternal admonition of the superior intervening, from which, on account of his authority, a more certain amendment is hoped for. When denunciation is made to a Superior as to a father, he cannot himself proceed as judge.

Juridical denunciation can be made judicially, the due forms having been observed, and extrajudicially, by simply manifesting the matter to the superior and committing to his prudence what ought to be done. It pertains to the same virtue to which the vindication of the judge belongs, namely to legal justice.

L. 235; S. Th. 2. 2. q. 68. a. 1, 2 c. ad 3; s. q. 62. a. 3 ad 6; *Quodl.* 1, a. 16; *Quodl.* 11, a. 13.

60. Who are prohibited from accusing? - From natural law, regularly speaking, infamous persons, stained by greater crimes, are prohibited from accusing; for their testimony can be of no authority. Enemies; because accusation is reasonably presumed to proceed from an affection of vengeance. Children against parents, a wife against a husband; for this is repugnant to piety, unless it concerns imminent common damage, or one's own or another's damage which cannot otherwise be avoided. These also are repelled from bearing testimony. L. 236.

From Canon Law clerics are barred from the office of accuser in secular judgment, especially in a case of blood. Except, however, if they accuse the defendant for this end, that they may guard against their own damage, or that it may be repaired to them; then a cleric and religious can accuse the malefactor even before a lay judge. This is lawful not only in one's own case, but also in the case of one's own church, or of relatives to the fourth degree, or even of domestics. Likewise, if common evil or the evil of others cannot otherwise be impeded, they must denounce the delict, even if it is worthy of death. Nevertheless, to avoid danger of irregularity, the cleric and religious must first make protestation before the judge that he does not act unto vengeance, nor unto penalty of blood, but rather for the defense only of himself or his own and for the triumph of justice. If this protestation is omitted, even through inculpable forgetfulness, irregularity is still incurred; because forgetfulness excuses from fault, not from this irregularity, which was introduced by reason of gentleness. C. *Praelatis* 2 *de Hom.* in the Sixth; L. 1. 7, n. 468.

Laymen cannot accuse clerics, unless the cleric is a dissipator of the goods of the church, or a heretic, simoniac, sacrilegious person, etc.; or unless the layman prosecutes his own case, or the case of his own, or if damages are to be inflicted on others in the future in such a way that they cannot otherwise be impeded. Likewise clerics cannot accuse religious, who can be accused only by religious of the same Order. L. 238; l. 7, n. 468. Non-tolerated heretics and excommunicated persons cannot be accusers with respect to the faithful. L. 238. "Children are commonly prohibited from accusing

parents, subjects prelates, servants masters, likewise public sinners, as is gathered from various Decrees.... Yet all these can denounce when the crime is pernicious to the republic.... For one's own injury anyone can accuse. Moreover, as regards this, an injury is reputed one's own which pertains to himself or to his own." Lugo d. 38, n. 7, 10. Decretals *de Accusationib*.; S. Th. 2. 2. q. 68. a. 1 ad 1, 2; q. 70. a. 1 ad 3, a. 3.

From Roman Law, wards, those below puberty, women, magistrates, infamous persons, those closely joined, that is, children with respect to parents, brothers with respect to brothers, a wife with respect to her husband and conversely, are prohibited from accusing. L. 1 ff. *de Accusationibus et inscriptionibus*. "It is not permitted to a woman to make anyone a defendant in public judgment." L. 1 *de Accus. et Inscript*.

From C. I. penal procedure 41, 42, 98, 422 ff., denunciation of a crime can be made by anyone to the General Procurator, the royal Procurator, or another official of judicial police. But the accusation in judgment is sustained by the General Procurator. The same is had from C. G. criminal procedure 22, 29, 30, 271, 284, 315.

61. When is someone bound to accuse or denounce? - He is bound to accuse or denounce, whether judicially or at least extrajudicially, even without fraternal correction having been sent beforehand: 1. When it concerns avoiding common damage. But crimes against the common good are heresy, rebellion, falsification of coinage, homicides and thefts committed by assassins or highway robbers, subornation of votes in elections to public chairs, offices of magistrates, etc., the sin of a religious bringing damage to religion, etc. "If the crime," says the Angelic Doctor, 2. 2. q. 68. a. 1 c., "has been such that it turns to the detriment of the republic, a man is bound to accusation, provided that he can prove it sufficiently, which pertains to the office of an accuser; for instance, when someone's sin turns to the bodily or spiritual corruption of the multitude." Lugo d. 38, n. 2, 14; L. 236.

2. If grave damage is imminent to an innocent person. For charity obliges us to impede the damage of the neighbor. But by hypothesis this can be done either by accusing or by denouncing. Therefore there will be a grave obligation of making accusation, or at least denunciation. Eccl. 4, 9; L. 236.

Note "nevertheless, that there is not always an obligation of impeding the damage of an innocent person through denunciation of him who inflicts the damage, if this latter person would have to suffer equal damage, because since he is a neighbor, there is no source from which an obligation arises to damage him so in favor of the other; not always, for there is an obligation if the innocent person is very joined to you, for example, if he is your father or your son, or if it would redound to common damage, or if the damager of himself ought to undergo that damage to free the innocent person." La-Croix l. 2, n. 2, n. 219.

3. If someone receives a stipend for this from the republic or from private masters, as do fiscals, or guards of houses or fields, superintendents of customs, etc.; and they are held even with grave inconvenience to themselves. For they are obliged from quasi-contract and from justice, not from mere charity.

Otherwise they are bound to restitution of the damages which come to the republic or masters because of the omission of accusation or denunciation. L. 236. Indeed more than this, these are often held even from office to seize the guilty and hand them over, once seized, to the magistrate to be punished. But whether these are also bound to restore the value of the penalty or fine, if they do not denounce, some from St. Alphonsus 237 "affirm very probably... because, by omitting denunciation, to which they were held by reason of office, they are the cause that the treasury or master does not exact the penalty to which he had a right. But others deny this sufficiently probably... because penal law does not intend that the treasury or masters be enriched by fines, but that they themselves be preserved unharmed, and that transgressors be punished. But indirectly and accidentally the law furnishes a right that fines be exacted from it, but after sentence; for before it neither the treasury nor masters have any right to the penalty. Hence, although fiscals by not denouncing sin against legal justice, nevertheless they do not sin against commutative justice with respect to the fine; and therefore they are bound only to repair the damage of revenues which merchants ought to have paid." Cf. 15.

4. "Someone is sometimes bound to denounce, indeed even to accuse, a delinquent, if this is necessary for avoiding or repairing the damage of his own family, which otherwise would remain dishonored, or destitute of support." L. 237. For this is owed not only from charity but from piety.
5. There is an obligation of denouncing from the precept or edicts of prelates and superiors. Not only ecclesiastical prelates, but also secular Princes can command under various penalties that those who know such and such a delict manifest it at once. And thus Pontifical Constitutions command denunciation of heretics, or of those suspected of heresy; of those soliciting in Confession, or asking the name of an accomplice, with absolution denied unless it is revealed; of hidden leaders of sects; of superiors of lay Institutes, or religious superioresses, daring to induce religious or nuns or sisters to the opening of their own conscience; of those violating the oath prescribed by the Motu Proprio *Sacrorum Antistitum* and unwilling to sign the formula of the same oath; of those injuring or terrifying those who denounce to the Holy Office; of Bishops absent from their dioceses; of impediments of marriages and sacred orders; of pernicious books. Yet where heresies rampage with impunity, this obligation of denouncing heretics is not very urgent, unless the destruction of others were feared and could be impeded by denunciation. L. 1. 6, n. 993; l. 7, n. 214-217; Lugo d. 38, n. 17 ff.; Lehmkuhl, 8th ed., v. 1, n. 812.

Without fraternal correction having been sent beforehand, namely unless perhaps someone firmly judged that by a secret admonition immediately he could impede evils of this kind. S. Th. 2. 2. q. 33. a. 7. Indeed, by the Lord's precept concerning admonition to be sent beforehand, the question is chiefly of a sin which harms only the delinquent, or has been committed against us, not of sins to the detriment of the community, or to be punished in judgment for preserving justice. S. Th. 4, d. 10, a. 3, q. 1 ad 4; Sanchez, *Cons. Mor.*, l. 6, c. 2, dub. 14. But no admonition need be sent beforehand whenever it is prudently feared that the defendant, having been warned, may sin more secretly and with greater destruction of the civil or Christian republic. C. I. penal procedure 98, 101, 162, 172, 179, 286, 288; C. G. criminal procedure 29, 30, 317, 321.

62. When is someone not bound to accuse or denounce? - You are not bound, even with the precept of a superior posited, to accuse or denounce a crime: 1. If the delinquent has been amended, without danger of relapsing, and full satisfaction has been made to the injured party, nor is any danger imminent to others, nor is the crime notorious. The reason is that the infamy of the neighbor would follow without cause. L. 239, 244; Lugo d. 38, n. 23; S. Th. *Quodl.* 4, a. 12; *Quodl.* 11, a. 13.

2. If you know the crime under a natural secret committed to you, as counselor, advocate, physician, etc.; unless nevertheless he who committed the secret should unjustly vex an innocent person or the republic and be unwilling to desist. L. 239, 248; S. Th. 2. 2. q. 70. a. 1 ad 2; q. 68. a. ad 3; *Quodl.* 1, a. 15.

3. If from it grave danger to your life, honor, and goods is imminent, unless the crime redounds to common damage to be averted. The reason is that neither charity nor a positive precept obliges with so great an inconvenience. L. 236, 239, 248; Lugo d. 14, n. 117; d. 38, n. 36; Sanchez, *Cons. Mor.*, l. 6, c. 2, d. 22, n. 2.

4. If you would also be compelled to prove and could not. "But if the sin has not been such that it redounds into the multitude, or even if he cannot adduce sufficient proof, he is not held to attempting accusation; because no one is held to that which he cannot complete in the due manner." S. Th. 2. 2. q. 68. a. 1 c.; L. 239.

5. If the delict is altogether hidden, and does not turn in any way to the common damage, or to the private damage of anyone, but harms only the delinquent; for his right to reputation would be injured. L. 248; S. Th. *Quodl.* 1, a. 16; *Quodl.* 4, a. 12. Likewise if the criminal action has been prescribed. Cf. *Enchir. Mor.*, 4th ed., p. 172.

6. "It must be said that a man ought not proceed to accusation unless concerning a matter altogether certain to himself, in which ignorance of fact has no place." S. Th. q. 18, a. 3 ad 1.

7. Whenever the delinquents are sufficiently known to the superior and no fruit is hoped for from denunciation, denunciation can licitly be omitted. The reason is that no one is bound to do a useless thing. Likewise denunciation can be omitted when the delict is indeed against the common good, yet not so gravely harmful that it obliges to accusing; when an injury was brought upon you or your own, which you are not bound to prosecute. Lugo, *de Iust. et Iur.*, d. 38, n. 5; Sanchez, *Cons. Mor.*, l. 6, c. 2, d. 17, n. 2; S. Th. q. 3 *de Virtute*, a. 2 ad 7. But no one is bound to denounce himself, since this obligation is had by no law; nor the companions of his crime, since this would be the same as denouncing himself. But if someone is legitimately interrogated by the judge concerning a crime, he is bound to denounce both himself and his associates. L. 254, 238; C. I. penal procedure 288-290.

8. But someone can licitly accuse and denounce whenever some delict is public, although by reason of itself it brings damage neither to society nor to another private person, but harms only the delinquent. The reason is that in such a case no right of the delinquent to his own reputation is injured, and denunciation in itself is always useful for the common good by reason of the scandal which is present in that publicity of the delict. And, if "scandal of many arises, now the sin harms not only him, but many." Wherefore the superior can then command that that sin be manifested; and with a just precept of the superior intervening, someone not

only can but also must disclose the crime and obey the superior. S. Th. *Quodl.* 4, a. 12. Someone can also denounce a hidden delict already committed, if it would probably be foreseen that the delinquent would bring damage to others, or that his crime would soon become public. And therefore it is lawful to denounce a thief, murderer, etc., even if his delict is hidden. S. Th. ibid. The same must be said if denunciation is necessary so that you may recover your thing, although you can yield your right. C. I. penal procedure 288-290; S. Th. 2. 2. q. 33. a. 7; Roncaglia tr. 6, q. 4 *de Eleemos. spirit.*, rule in practice, observation III; L. 245; l. 6, n. 1000.

63. Whether, if someone knows the sin of the neighbor, he sins mortally by reporting it at once to his prelate? - The Angelic Doctor, *Quodl.* 11, a. 13, says: "I say that in these matters one must distinguish concerning the conditions of the subject and of the prelate. For if I know that a brother will be corrected by me, then I ought not denounce this to the prelate. But if it seems that this will be done better through the prelate, and the prelate nevertheless is pious, discreet, and spiritual, not having rancor or hatred against that subject, then this can licitly be denounced to him; and then he does not tell the Church, because he does not tell it to him as prelate, but as to a person profiting toward the correction and amendment of the neighbor. But because, on account of the diverse conditions of prelates and subjects, a general judgment cannot be given in this, because sometimes the prelate is moved to hatred against the subject, or the subject would not bear well the words of the prelate, therefore this must be held as a rule, that in all these things charity must always be preserved, and what seems better and more expedient; and if he intends this, namely the amendment of the neighbor, and preserves the good of charity as much as he can, then by denouncing he does not sin; but if he denounces this to any person from malice, and so that the neighbor may be confounded or oppressed, then the one denouncing or accusing sins mortally.... It must be said that if someone immediately reports to the prelate, applying due circumstances and considering that it is more expedient, he does not act against the precept of the Gospel, because he does not tell this to the Church, but to a person profiting, as was said, and therefore he does not sin mortally." Suarez, *de Carit.*, d. 8, s. 6, n. 7; Lugo d. 14, n. 117 ff.

63 bis. Whether a subject is bound to reveal to a commanding prelate the hidden crime of a brother? - "It must be said that sin can be hidden in two ways. In one way simply; namely in such a way that it has in no way come to the knowledge of many; and such a hidden sin harms only the one doing it. And therefore he who knows such a hidden sin of a brother ought to intend only this, that he procure the salvation of the sinning brother; whence the order of fraternal correction was instituted by the Lord, Matt. 18: that first someone correct a brother sinning secretly between himself and him alone; afterward he should bring two or three witnesses; and then at last, if he is not corrected, tell the Church. If a prelate commands against this order, that the hidden sin of a brother be told to him, he is not to be obeyed, and he himself sins by commanding, because one must obey God rather than men, Acts 2. But if the sin of the brother is not so hidden that it does not come to the knowledge of the multitude through some suspicions, whence scandal of many arises, now the sin harms not only him but many. And because the good of the multitude is preferred to the good of one, therefore the prelate ought to investigate the truth concerning the fact, so that the scandal of the multitude may cease either through the punishment of the sinner or through his excuse. And therefore in such a case he can command one knowing the crime of a brother to manifest it; and he to whom it is

commanded is bound to obey the prelate. For thus, since the crime is not altogether hidden, it pertains to the judgment of the prelate; and in this case the Decretal speaks, but not in the first." *Quodl.* 4, a. 12. Cf. C. *Accepimus* 16 *De Purgatione Canonica*.

VII. On Witnesses

64. What are witnesses, and of how many kinds are they? - Witnesses in general are suitable persons who are used to establish faith concerning some matter. Suitable by natural law and by positive law, namely having the conditions required by the laws. For not all can testify by the laws. Some witnesses are testamentary, who are used in a testament; others instrumental, who are used in an instrument; others judicial, who are used in judgment. Witnesses are called co-witnesses if they depose concordantly concerning the same fact; singular if they do not agree in testimony, because they testify concerning a diverse fact. Decretals *de Testib. et Attestationib.*; C. L. 2506 ff.; S. Th. 2. 2. q. 70. a. 2 ad 2; Lugo, *Resp. Mor.*, l. 1, d. 41.

A witness can be from his own knowledge, by sight, by hearing.

From the Rules to be observed in judgments of the S. R. Rota, title 4, c. 2, section 114, as regards the persons of witnesses, there are no absolute disabilities. From the Italian Code of Civil Procedure, art. 236, criminal 285, 286, strict blood relatives and relatives by affinity are excluded from bearing testimony, and also minors under fourteen years.

Witnesses of the seventh hand, in matrimonial causes, are seven relatives from either side. Each party indicates seven persons joined to him or her by blood or affinity, if this can be done, otherwise seven neighbors of good reputation. These fourteen witnesses are to be interrogated by the judge, whether they have the religion and honesty of that spouse known to them, so that for this reason it is likely to them, and they believe, that he has said true things. S. C. C. Instruction, August 22, 1840, 1034.

65. What is the obligation of testifying? - No one is bound from commutative justice spontaneously to offer himself for testifying, unless the discourse is about those who are held from office to accuse. The first reason is that not any citizen has a contract with society of testifying. The second reason is that these, by reason of the office assumed, enter as it were into a quasi-contract with society. Hence a witness who hides himself lest he be cited by the judge, or who after citation flees, or who appearing conceals the truth by silence, saying that he does not know it, when in reality he knows it; although he can sin, and gravely in a grave matter, against charity, legal justice, and obedience, as will be established from the things to be said, nevertheless by no means sins against commutative justice, and therefore by no means is held to restitution. L. 270.

Someone can be held to testify from charity, from legal justice, from obedience. The first reason is that, if it concerns the good of a private person, someone is held from charity toward the neighbor, so that grave injustice may be impeded if he can easily free an innocent person by his testimony. The second reason is that, if it concerns the common good, since any part is bound to look out for the safety of the whole, there is an obligation from legal justice of accusing and denouncing a crime pernicious to the republic, if public damage cannot be impeded by another way. Moreover, a crime pernicious to the republic is one which is directly and immediately against the common good, as heresy, betrayal of a city, etc. The third reason is that, if there is a precept of the superior or judge,

someone is held to obey a superior legitimately commanding, unless there is a reason sufficiently excusing. Hence a witness legitimately cited is bound to present himself before the judges, to emit the oath prescribed by law, to say the truth completely and nothing besides the truth, and then to respond simply to the questions according to conscience. Wherefore a witness bearing false testimony, since he is perjured, and acting against justice, and lying, sins mortally. S. Th. 2. 2. q. 70. a. 1, 4; L. 264; Decretals *de Testib. cogend. vel non*; C. I. penal procedure 172, 292, 295, 305, 312; C. G. criminal instruction 317, 319, 321.

66. Testimony concerning what matter must be brought forth? - No one is understood as a witness except of that fact which he himself knows. Wherefore he must bring forth only those things which he himself has perceived by his senses, for this is to know; not the things which he himself thinks or believes, nor the things which he received from others, unless he is interrogated expressly concerning these. S. Th. 2. 2. q. 70. a. 2 ad 2; a. 4 ad 1; L. 268.

67. When does the judge not interrogate legitimately? - The judge does not interrogate legitimately, so that someone is not bound to manifest the truth: 1. When someone has not been cited by a legitimate precept, with the order of law observed, as a witness, or the judge is not legitimate, as is clear in itself. L. 273; S. Th. 2. 2. q. 70. a. 1. 2. When he does not observe the judicial form, as if he interrogates without previous accusation, at least virtual, etc. The reason is that he has no other power of interrogating except according to the prescriptions of law. But virtual accusation is had when notoriety of the crime is present, or such indications of the crime that it cannot probably be denied. L. 199, 266, 267, 272, 273; S. Th. 2. 2. q. 70. a. 1. 3. When in a criminal case the delict in reality was not present, or is altogether hidden, or as yet there is not half-full proof of the delict, and no common or private damage of another is imminent from reticence of the delict. The reason is that otherwise he would defame the defendant without any right; for the judge in instructing a judgment can proceed only from public knowledge of the delict. L. 199, 201, 273; S. Th. 2. 2. q. 70, a. 1. But half-full proof is present when there is, says St. Alphonsus 266, "one witness by sight or by his own hearing, or if there is notoriety or infamy of the crime, or evident indications, or if the accuser offers himself to prove the delict by several witnesses (otherwise, even if several witnesses are present concerning some crime, none of them would be held to reveal the crime); for all these things are equivalent to half-full proof; and when this intervenes, the delict is no longer called secret, and therefore the judge then has a right that the witness manifest the truth.... But for the witness then to be held to respond, it is required that infamy, or half-full proof, or indications, as above, be already proved and manifested by the judge to the witness; unless it is established that the judge is upright and asserts that he interrogates legitimately." S. Th. *Quodl.* 4, a. 12; 2. 2. q. 33. a. 7; C. I. penal procedure 85, 286, 288; C. G. criminal instruction 322; C. G. penal 378.

These things, as regards substance, have the same force in more recent Law. For at present no one is condemned and cited unless at least several indications are present; and several witnesses regularly are accustomed to be present, although their number is not determined, and one witness alone suffices.

In a criminal case; for in a civil case, in which there would be question of merely civil fault, a witness would then be legitimately interrogated, and would be bound to tell the truth concerning the committed fact, containing juridical fault, if indeed it truly had been committed, although without any theological fault.

68. What are the reasons sufficiently excusing from testifying, even if the judge legitimately interrogates? - They are the following: 1. If you know the matter from confession, and not from elsewhere. 2. If you have received it under an entrusted natural secret, as a counselor, advocate, physician, etc., provided however that it is not necessary for averting a great evil of the republic or of the neighbor; for then it is lawful to disclose such a secret, even if you had sworn that you would tell it to no one, because such an oath does not bind, since by natural law you are held to the contrary.

S. Th. 2. 2. q. 68. a. 1 ad 3, q. 70. a. 1 ad 2. 3. If notable damage threatens you or your own from the testimony, unless however public damage or another's private damage prevails. Hence commonly you are not bound to testify against a blood relative. Struggl, on the Fourth Precept, q. 2, n. 3; *de Virt. Relig.*, q. 3, n. 16 ff. From the law itself, strict blood relatives and those who from office are held to secrecy are not bound to testify. 4. If you have received it from men not sufficiently worthy of faith; for then you can hold yourself as if you knew nothing. 5. If you understood the fact through an injury, for example by opening letters, by compelling another to revelation, etc. Except, unless the circumstances are such that even by force you could procure knowledge for yourself. 6.

If the other did not sin in the fact, either because of ignorance, or because he received something in hidden compensation of a debt, concerning which he is inquired into as if concerning a thief. The reason is that the mind of the judge is to inquire concerning a delict. The same holds for the defendant. Cf. n. 61. L. 248, 268, 273; l. 3, n. 161, n. 334; C. I. penal procedure 287, 288; C. G. criminal instruction 322; C. G. penal 378; C. L. 2511.

69. Is a perjured witness held to reparation of damages? - He who knowingly has testified falsely, through which he was the efficacious cause of damage to another, is held to the prevention or reparation of all the damages which are caused. Likewise he is held to revoke his testimony with equal damage to himself, and with danger even of life, if the defendant is in peril of it, and it is thought that by revoking he will effect something. The reason is that in equal damage, account is rather to be had of the innocent person. Knowingly; because, if from inculpable ignorance, inadvertence, or forgetfulness he has testified falsely, although he is held to prevent damage if he can, nevertheless he is not held to restitution, even if the defendant is condemned. The reason is that he is held neither from a thing received nor from a delict. The same more probably would have to be said even if he had sinned venially. Efficacious cause; because, if on the part of the matter that false testimony had effected nothing, for example because by the false testimonies of others the whole cause of the damage had already been given, so that the judge was moved in nothing by this testimony, he will be held to nothing. L. 269.

Whether he is also held to reparation of damage toward the treasury, which is deprived of the revenue of the fine because the defendant is absolved by false testimony, is disputed. There are those who deny it, because the judge is not held to repair that damage. Therefore neither is the witness. But others affirm it, because the treasury is deprived of the revenue of that fine by an iniquitous and unjust means, a damaging lie.

70. Is a witness bound to reveal an altogether hidden crime, which he alone knows? - Reply: Negatively, speaking in itself, and abstracting from other circumstances, if there is question truly of a crime altogether hidden, or secret. The reason is that the judge cannot inquire against the defendant unless at least some infamy, or public rumor, or other indications have preceded. S. Th. *Quodl.* a. 16, *Quodl.* 4, a. 12, *Quodl.* 11, a. 13. Therefore a witness is not held to manifest an altogether hidden

crime which he alone knows. But the fact that modern laws require necessarily not two witnesses, as the ancient Law did, L. 9 *de Testib.* C., but only one witness, proves nothing to the contrary; for laws of this kind always suppose a crime harmful to society, a continuing danger for the future, etc. Very clear in this matter is the opinion of the Angelic Doctor, 2. 2. q. 70, a. 1: "If the testimony of some subject is required by the authority of a superior... there is no doubt that he is bound to bear testimony in those things in which, according to the order of law, testimony is received from him; for example in manifest things, and in those concerning which infamy has preceded. But if testimony is demanded of him in other things, for example in hidden things, and concerning which infamy has not preceded, he is not held to testify." And 2. 2. q. 33, a. 7 ad 5: "A prelate is not judge of hidden things, but God alone; whence he does not have power to command anything concerning hidden things, except insofar as they are manifested through some indications, for example through infamy, or through some suspicions, in which cases the prelate can command in the same way as a secular or ecclesiastical judge can demand an oath about telling the truth." Roncaglia tr. 15, q. 1, c. 1, question III, r. III; S. Th. 2. 2. q. 68, a. 1 ad 3; C. I. penal procedure 60, 84, 85, 98, 101, 172, 179, 288.

Speaking in itself; for "there are certain hidden sins which are to the hurt of neighbors, either corporal or spiritual... (In these) one must at once proceed to denunciation, so that a hurt of this kind may be impeded." S. Th. 2. 2. q. 33, a. 7. "It must be said that concerning those things which have been committed to a man in secret through confession, he ought in no way to bear testimony, because he does not know such things as a man, but as a minister of God; and the bond of the sacrament is greater than any precept of man. But concerning those things which are otherwise committed to a man under secrecy, one must distinguish. For sometimes they are such that as soon as they come to the knowledge of a man, the man is bound to manifest them; for example if they pertain to the spiritual or corporal corruption of the multitude, or to the grave damage of some person, or if there is anything else of this kind which one is bound to disclose, either by testifying or by denouncing. And against this debt he cannot be obligated by an entrusted secret, because in this he would break the faith which he owes to another. But sometimes they are such things as one is not bound to disclose. Hence he can be obligated from this, that they are committed to him under secrecy. And then he is in no way bound to disclose them, even from the precept of a superior; because to keep faith is of natural law. But nothing can be commanded to a man against that which is of natural law." S. Th. 2. 2. q. 70, a. 1 ad 2. "It must be said that to reveal secrets unto the evil of a person is against fidelity, but not if they are revealed for the common good, which must always be preferred to private good. And therefore it is not lawful to receive any secret against the common good. Nor, however, is that altogether secret which can be proved by sufficient witnesses." S. Th. 2. 2. q. 68, a. 1 ad 3. And in the quodlibetal questions the Angelic Doctor likewise has these things, especially as regards religious: "For there is some secret which it is unlawful to conceal; such as that which tends to the danger of others, whom someone is bound to guard; whence also in the oath of fidelity it is contained that servants ought to reveal secrets of this kind to their lords. Therefore, at the precept of the prelate, a religious is bound to disclose such a secret, even if he promised not to reveal it, according to Isidore saying: In evil promises break faith; unless perhaps he heard it in confession, because then it would in no way have to be revealed. But there is another secret which of itself can be concealed without sin, and such a secret a religious ought in no way to disclose to a commanding prelate, if it has been committed to his fidelity; for he would sin by breaking faith in the committed matter." *Quodl.* 1, a. 15.

VIII. On Defendants

71. What is a defendant? - A defendant is so called from the thing owed: in civil matters, from the thing which is sought and owed, commonly called the one sued; in criminal matters, from the penalty to be paid, commonly called the accused, who has committed a crime. He, moreover, is the one who is summoned into court. As the plaintiff, by offering a petition, sets forth the matter which he seeks, so the defendant responds to him; and, once a negative response has been given by the defendant with the intention of litigating, the suit is said to be joined. If the defendant exhibits contumacy, the suit is held to be joined without any response from him. And then the judge hears the witnesses and proofs. The acts of the defendant by which he excludes the action are called exceptions.

72. Is the defendant bound to confess his crime? - The judge is bound to manifest to the defendant the state of the cause, and what the indications are, how the delict is proved, etc., so that it may be clear to the defendant whether he is legitimately interrogated, because otherwise the defendant is not bound to respond and to despoil himself of honor or other goods which he possesses in good faith. L. 273; S. Th. 2. 2. q. 69, a. 2; *Quodl.* 5, a. 16. The defendant, if he is not interrogated legitimately, is not bound to confess his crime, but can elude the judge either by ambiguous words, or even by denying, with some restriction and in a good sense, so that lying may be absent. The reason is that then the judge does not have the right of interrogating, or of imposing an obligation on the defendant. But otherwise, if he is interrogated legitimately, and therefore in an inquisitorial process under Roman Law, provided that the delict has been proved at least half-fully, and the accused knows this from the procedural records. L. 272; S. Th. 2. 2. q. 69, a. 1. Hence defendants ordinarily are not held at present to manifest their crime, because interrogations are made before juridical proof. Moreover according to modern Codes no one juridically can be compelled to bear testimony against himself in a matter of crime. Hence an oath is not tendered to the defendant. Moreover that certainly ought not be done in the accusatory process which is observed at present, with the public magistrate accusing. And although the crime has been sufficiently proved, as long as the jurors have not delivered sentence, the defendant can always hope that his denial of the crime will have force upon the mind of the jurors.

Nor is he bound if he doubts whether the judge legitimately interrogates; because he is not bound to obey with grave damage to himself, unless it is established that the superior can command. The reason is that the defendant possesses his life and reputation; whence in doubt he has a right to preserve it, until it is established concerning the legitimate interrogation. L. 273. Cf. 67; Decrees, *de Confessis*.

73. Note: That response, "I am not guilty," is not a lie; for by the consent of all it signifies that the defendant is unwilling to confess the crime. L. l. 3, n. 156.

74. Is the defendant bound to confess his crime to a judge legitimately interrogating, with fear of a great penalty? - S. Th. 2. 2. q. 69, a. 1 ad 2 affirms this, which opinion S. Alphonsus calls the more common and more probable. But the opinion is sufficiently probable which "denies that the defendant is bound to reveal his crime.... It is otherwise in causes in which there is question of an ecclesiastical penalty, which is medicinal." L. 274; l. 4, n. 156. Except also, provided grave public damage or another's private damage is not imminent from the silence. L. 274. Here it must be observed that damage of the republic, if there is question of danger of undergoing death, must be understood not as any sort whatever, but as the greatest. For, as Lugo says, "human law only very

rarely and on account of the greatest damage of the republic can bind a subject with danger of life; but in the present case that danger is most certain."

The reason of this second opinion is that he is compelled to confess neither by natural law, nor can he be compelled by human law to betray himself and, as it were, hand a sword to the adversary by which he may be killed, since in the case he is not obligated to a heroic act, although from another source he may be legitimately interrogated. Nor in fact is such a law present today. The reason of the former opinion, on the contrary, is "because when someone according to the order of law is interrogated by a judge, he does not betray himself, but is betrayed by another, while the necessity of responding is imposed upon him by him whom he is bound to obey." S. Th. l. c. According to the order of law; whence it is clear that this opinion proceeds according to Roman Law, by which the defendant was interrogated after indications of the crime had been given which constituted half-full proof, and then he was bound to respond by confessing the crime. Cf. 67.

75. Note: "The rule that the defendant is not bound to confess a hidden truth to a judge interrogating without half-full proof runs only in criminal causes, not in civil causes." L. l. 3, n. 388; S. Th. 2. 2. q. 69, a. 2; *Quodl.* 5, a. 16. A defendant interrogated by a judge can manifest the companions of his crime; because this, speaking in itself, is always expedient for the public good. And when he himself is bound to confess his crime, he is also bound to manifest the companions of the crime. And the defendant is bound to denounce accomplices, even if he is not interrogated, when there is question of a delict which demands that denunciation, even with grave damage to himself. Cf. Frassinetti, *Comp.*, ed. 6, n. 304.

76. Must the defendant confess a crime after sentence has been passed, which before he unjustly denied? - Reply: Negatively, because, once the judgment is ended, the obligation of the defendant is ended. Indeed it is probable that he is not bound to this even before sentence, even if he is still in the power of the judge, until he is again interrogated. The reason is that legal justice obliges only when the judge interrogates, unless the judge prescribes a time for responding, namely if he commands, for example, that the defendant tell the truth within a month, and the month is still lasting. L. 274.

Nor, after sentence has been passed, is the defendant compelled to offer himself for paying the penalties, nor to cooperate of his own accord in executing it. For it is alien to natural equity that the same one be both defendant and avenger. And this would be altogether harsh and useful only for ensnaring souls.

77. Does he sin gravely who, to avoid grave torments, lies by imposing on himself a false crime, through which he is to be punished with death? - Reply: Probably it is not mortal. The reason is that no one is bound to preserve life with so great a torture, which may seem harsher than death itself. L. 274, 275.

78. Note: "If from that confession of a false crime grave damage follows to others, for example the good of the republic, or the reputation of religion or of a family would be notably harmed, or some would for that reason fall into heresy, any torments whatsoever would rather have to be endured." Nevertheless, if from that false confession of crime there would follow only the infamy of another, after the fact he would not be held "to retract himself for repairing another's infamy, by exposing himself again to sustaining those grave torments, because no one is bound to restore reputation with so much greater damage to himself." L. 276, 275.

79. Is it lawful, either for the plaintiff or for the defendant, to disclose hidden crimes of witnesses in order to weaken their credibility? And does he sin gravely if he imposes false crimes on them? - Reply to the first: Negatively, if this is useless for defense. The reason is that this can be lawful only from the right of defense. Affirmatively, if this is necessary and useful for defense and they testify falsely. The reason is that the right of defending one's own reputation prevails over the right of another's reputation.

If this is necessary and useful for defense, but they testify truly, some affirm, others deny. The reason for affirming is that each person has the right to show that the witnesses acting against him are less suitable; and the defendant can always hope for success before jurors. No one, moreover, is bound to preserve the reputation of the neighbor with grave damage to himself. S. Th. 2. q. 73, a. 2. The reason for denying is that the defendant would not be using a just defense, since the witness must bear testimony unless he is voluntary. Cf. Lugo d. 40, n. 23; Lessius l. 2, d. 31, c. 1. S. Alphonsus 272 affirms that it is lawful, "provided this is absolutely necessary for the defense of his innocence; likewise provided that otherwise the defendant is going to suffer not slight but grave damage, even if greater damage comes to the accuser or witness."

Reply to the second: Affirmatively, and this is established from proposition 44 condemned by Innocent XI. The reason is that to tell such lies in judgment is against the common good, since it is to pervert the whole order of justice; and therefore everyone must prefer that common good to private good, even to his own life. L. ib.; S. Th. 2. 2. q. 69, a. 2; Lugo d. 40, n. 26.

80. Can an innocent person under inquiry defend himself against those who wish to apprehend him? - The practical case can exist especially in a time of anarchy or tyranny, and it is commonly answered affirmatively, since it is a just defense of oneself, if the mandate of arrest is truly unjust, and consequently there is no danger of hallucination, and danger of scandal or public disturbance is absent.

And the same is commonly affirmed also after sentence has been passed, if the sentence is unjust either formally or, more truly, only materially, provided again that the injustice is manifest and the danger of hallucination and scandal is absent. For if the sentence is formally unjust, it is not a judgment; if materially, it is not justice, for justice is in the thing, not in appearance. In the first case the judge does not pronounce the sentence as judge, because he exceeds the limits of the mandate. In the other, innocence itself protects the condemned man.

But, with the order of law preserved, in the external forum, speaking in itself, the sentence must be observed; for as far as it pertains to the judge it is just, nor is it violated without contempt of public power. S. Th. 2. 2. q. 69, a. 4; S. Alph. 279, 281; Kenrick tr. 3, n. 112; Frassinetti, *Comp.*, etc., ed. 6, note 98; D'Annibale ed. 3, p. 2, n. 601; Lugo d. 40, n. 38 ff.; cf. 81-83.

81. Is it lawful to kill false accusers and witnesses, and also the judge from whom an iniquitous sentence threatens, if there is no other way of avoiding the damage? - Reply: Negatively. This is proposition 18 condemned by Alexander VII. The reason for this condemned proposition is that it is too general. In it there is question of any iniquitous sentence whatever, which does not always bring damage which can deservedly be compared with the death of a false accuser, witness, or judge. Nor is a distinction made between injustice and injustice: because the person is innocent; because the legitimate process was not observed; or because of both. There is question of any judgment whatever,

whether legitimate or usurped, in a time of tyranny, anarchy, etc. There is question of a sentence to be given, not one already given. Moreover discretion is left to each person to judge that there is no other means, and each person would pronounce law for himself. Hence on account of the danger of hallucination and on account of scandal, or on account of either one, it is never lawful to kill the aforesaid persons. Nor in the case would bloody defense be against an actual aggressor, against whom alone it is lawful, since there is in no way question of the actual execution of an unjust sentence. L. 279.

82. Can a defendant who has truly committed a delict flee from prison? - Reply: Affirmatively, if the defendant has not yet been condemned by sentence to the penalty, because no one before sentence is bound to pay the penalty; and because then he himself is not commanded to remain in prison, but the ministers are commanded to detain him in prison. Reply: Affirmatively, even if the defendant has already been condemned by sentence to death or another grave penalty, provided that prison has not been assigned to him as penalty, but for custody. "The reason is that the sentence does not condemn the defendant to not fleeing, but only to not resisting the ministers when they execute the sentence." L. 280. If prison has already been assigned as a penalty by sentence, Busembaum and others affirm it; and certainly the defendant is not so much condemned to remain there of his own accord as to be detained. S. Th. 2. 2. q. 69, a. 4 ad 2. More commonly, however, they deny that it is lawful for the defendant to flee from prison, even perpetual prison, because in the execution of a just sentence the defendant is indeed bound to obey. Yet many except the case if the penalty were very harsh, because it seems above human powers for someone to be bound not to free himself when he can do so without any force and resistance against the ministers of justice. L. 279-282.

Certainly, although the defendant is bound to undergo a just penalty, which the judge has justly decreed on account of the crime committed, and cannot decline it without sin, nevertheless all penalties are so established by law and decreed by the judge that they are to be inflicted by the ministers of justice. Therefore, with no force applied to them, and public order in no way disturbed, it is lawful for the defendant without sin to withdraw himself from the penalty.

83. You will resolve: "Regularly it is lawful for a defendant to flee, even if the prison guard is going to suffer grave damage from this, because he uses his own right and does injury to no one; unless however charity suggests otherwise because of the preponderating damage of the guard. Much more is it lawful to flee lest he be captured, or also to shake himself free from the minister apprehending him; but not to inflict force on him by wounding, striking, etc. It is also lawful, at least in the forum of conscience, to deceive the guards, by giving, for example, food and drink so that they may be put to sleep, or by procuring that they be absent; likewise to break chains and prisons, because when the end is lawful, the means also are lawful. And although other captives may slip away at the same time through the broken wall, he will not be held for the damage, because he is only its cause per accidens, since he uses his own right." L. 281-282; l. 2, n. 380; Struggl tr. 3, q. 2, n. 45. Yet it is not lawful for the defendant to corrupt the guard with money, because he would cooperate in his sin, namely in the betrayal of his office. L. 282.

84. Is it lawful for others to advise flight to the defendant; to arrange it; to supply instruments by which the defendant himself may arrange it for himself, excepting guards, apparitors, etc.? - If this is going to be harmful to another, it is not lawful even to advise it; otherwise it is lawful to advise it, and to instruct the defendant with counsel, whenever it is lawful for him to take it up. To arrange it is

altogether unlawful. Wherefore it is not lawful to break open a prison. For it is against the public order and quiet of things. There would be continual contention between citizens and the executors of public justice. To supply the things which are necessary so that the defendant himself may arrange it for himself is probable to S. Alphonsus 283, more probable to Lugo d. 40, n. 56. For that is licitly given by others which they licitly use. Struggl l. c. n. 46; Elbel *de Legib.* 311, 313; Kenrick tr. 8, n. 136; Frassinetti, *Comp.*, ed. 6, n. 304. Cf. here 83.

85. Is a defendant justly condemned to death bound to flee from prison if he can? - The first opinion affirms it, because otherwise he seems to be a murderer of himself. The second opinion, far truer and to be held, denies it. The reason is that although the defendant cannot do an act immediately tending to death, and mutilate his own members, throw himself from the gallows, drink poison, etc., nevertheless mediate acts are lawful to him, such as to ascend the ladder of the gallows, to extend his neck to the gibbet, and thus to remain in prison, especially if he has a just end, that he may satisfy for the crime, that his punishment may serve others as an example. L. 281; Struggl l. c. n. 43.

86. What is an appeal; when must it be interposed; and is it always lawful to appeal to a superior judge? - Reply to the first: An appeal is a recourse from an inferior judge to a superior judge on account of a grievance inflicted or to be inflicted. It must be interposed within the time defined by the laws. Once an appeal has been interposed, the sentence that has been passed is suspended by the law itself.

Reply to the second: From C. I. civil procedure 585, C. G. civil procedure 443, the term of appeal is two months. If an appeal is not interposed within the established time, the sentence passes into a matter adjudged, nor can it any longer be impugned by appeals. A matter adjudged is accepted as truth. L. 207 D. *de Reg. Iur.*

From the proper Law of the S. R. Rota, Canon 33: "If a Rotal sentence is confirmatory of another sentence, whether Rotal or of another tribunal, it is held as a matter adjudged, against which no remedy is given except by a complaint of nullity, or by a petition for restitution in full, before the supreme tribunal of the Apostolic Signatura. If a double conforming sentence has not been had, from a Rotal sentence rendered by one turn, an appeal is given to the next following turn, according to canon 12, within the useful time of ten days from the notification of the sentence, according to the course of common law." A. A. S. v. 1, p. 29.

Reply to the third: Kenrick tr. 8, n. 135 affirms it, because the defendant can use every aid and support of the law by which he may escape, with truth preserved. But it is commonly denied if the defendant knows that the sentence is just and that the process has proceeded justly (it is lawful, however, to supplicate), because this would be to impose calumny on the judge. And how then will truth be able to be preserved? Hence one appealing unjustly is held for the damage. But if he thinks that the sentence is iniquitous, or that the process has proceeded unjustly, or if opinions are diverse, or new proofs are present, he can appeal. L. 285; S. Th. 2. 2. q. 69, a. 3. Cf. n. 14, 38; Lugo d. 37, n. 172 ff.; E. M. 8.

87. Note: It is expedient that the confessor not admit the defendant to sacramental Confession until after matters are clear in the profane forum; for he will scarcely be able to be compelled to confess all things because of the fear that he may either be denounced or be compelled to confess the same things to the judge. Beforehand, however, one must deal with contrition. L. 286.

88.

88. Is a defendant absolved in judgment bound in conscience not only to restore the thing, but also to compensate the expenses of litigation? - Reply: Negatively as regards the expenses only, if apart from legitimate interrogation he is silent or denies, and therefore is absolved, although by being silent he sins against charity, and by denying against truth. The reason is that he is not absolved from his silence or denial, but from the defect of proofs. Affirmatively even as regards the expenses, if he is legitimately interrogated and is silent or denies, and therefore is absolved. The reason is that he uses an unjust means, to which he has no right, for his own defense. Negatively as regards the expenses only, if he acts altogether in good faith, and the judge according to what has been alleged and proved renders sentence in his favor. For he is not theologically a culpable cause of that damage. But by no means "will he be excused from the obligation of restoring (the thing), because the other party consented to the sentence and did not appeal; for all this is judged involuntary, nor is he presumed to have wished to renounce his right in the interior forum." Lugo d. 37, s. 15, n. 187. Cf. here 67, 72.

IX. On Physicians, Surgeons, and Pharmacists

89. What are the obligations of physicians, surgeons, and pharmacists? - Physicians and surgeons are bound: Under grave obligation to have sufficient knowledge, so that they know how to prescribe suitable remedies for ordinary illnesses, and at least to doubt concerning other extraordinary diseases, so that a more skilled physician can be called. To apply diligence proportioned to the gravity of the matter which is committed to their care. To preserve fidelity, lest they reveal the secrets committed to their trust and abuse them; but if they fail in these things, they are held for all damages which follow from this. To preserve a just stipend, which is owed to them, as was said concerning advocates. To provide their labor gratuitously to the poor who are in necessity, as was also said concerning advocates. Cf. 40. In applying remedies they must observe the following rules:

They must altogether abstain from prescribing any medicine which directly and of itself is ordered only to evil. Cf. La-Croix, l. 6, p. 3, n. 795, 796. Ordinarily they must follow the safe and secure opinions of physicians. The reason is the danger and damage of the neighbor. When there is some certain medicine, namely one which certainly is going to benefit the sick, they are bound to apply it, omitting that concerning which there is doubt, because otherwise they would imprudently leave the neighbor in danger. If there are no certain medicines, they must apply the more probable and safer ones, both because otherwise they would bring the health of the neighbor into danger, and because they are bound to discharge their office, as much as they can, with the least danger and damage to the neighbor. If it is probable that a remedy will be beneficial, then they can, indeed they are bound, to apply it when they do not have a more certain one. If a remedy is doubtfully going to be beneficial, and certainly will not harm, it must altogether be applied to the sick person. The reason is clear: for some hope shines forth of rescuing the sick person from death, and no danger threatens. When the health of the sick person is despaired of, and both things are probable, namely that the remedy could benefit and could harm, there is a twofold probable opinion. The first denies that it can be applied, because it is never lawful to expose a sick person to the danger of death, nor even of hastening it. The other affirms that it is lawful, because, when the sick person is despaired of, it is more conformable to prudence and to the will of the sick person (especially if he himself expressly consents to this) to

apply to him a doubtful remedy than to omit it with certainty of death. The remedy then has at least this good effect: for it now renders doubtful the certain death of the sick person.

Therefore it cannot be called evil. Tamburini has these things as regards this question: "Both opinions are probable, and from the affirmative it follows that the physician ought to apply it, because since he can, he also ought to consult for the one lying sick by every better way." *Expl. decal.* l. 1, cap. 3, par. IV, n. 17. When the health of the sick person is despaired of; for outside the case of a despaired-of sick person, it is not to be offered, but one must wait for nature, with God's help, to lift itself up. S. Antoninus p. 3, tit. 7, cap. 2. It is not lawful to apply to a sick person, even a despaired-of one, a remedy concerning which it is unknown whether it is healthful or harmful, for making an experiment. The reason is that it is altogether unlawful to make an experiment with the risk of another's life. L. 291; l. 1, n. 46.

Pharmacists are held to the same obligations as physicians, with due proportion. Especially, however, they are held to supply exactly the medicines prescribed by the physician. Nor can they, if they themselves do not have the prescribed medicine, substitute another.

90. Does a physician sin gravely who in a time of plague deserts the sick lest he contract the infection? - Reply: Negatively, speaking in itself, if the physician has not been constituted by the community, nor receives any stipend from it; for then he is held only from charity, which certainly does not oblige with grave risk of life. Speaking in itself; for if there were no other physicians, or those who are present do not suffice, he would be bound from charity itself to consult for the common danger altogether. Affirmatively, if the physician has been constituted by the community and receives a stipend from it. The reason is that then from the pact entered into, and therefore from justice, he is bound to consult for the common danger.

91. To what is the physician especially held as regards the soul of the sick person whose care he has undertaken? - The physician is bound in itself under grave obligation to warn the sick person concerning the grave danger in which he is placed, and concerning the necessity of receiving the sacraments, lest he depart without absolution, Viaticum, and extreme unction. This is established from the natural law of charity. It is sufficient, however, that he take care that the sick person be warned by relatives or friends, so that he may kindly admit the priest and be induced to receive the sacraments. This warning is also necessary so that the sick person may dispose concerning his affairs, if he has not already done this before, lest damage then follow. L. l. 3, n. 182.

92. Note: There is a precept in this matter of Innocent III, C. *Cum Infirmitas* 13 *de Poenit. et remiss.*, and of S. Pius V, C. *Super gregem*, March 8, 1566, at least in part abrogated by contrary custom. Physicians of bodies, before all things, had to warn and induce the sick person to call physicians of souls; and after provision had been made for the sick person concerning spiritual health, one would proceed to the remedy of bodily medicine. Physicians to be promoted to the doctorate had to swear that they would warn the sick, laboring under grave disease, concerning confession before they undertook their care, and that they would no longer visit them if within three days they had not confessed. L. l. 3, n. 182; *Prax. conf.* n. 57; Ithur. *Cas.* 49, n. 8, 9.

93. You will resolve: A physician sins gravely: If without sufficient capacity he undertakes to cure a grave disease. If, when a grave and unusual disease occurs, he does not devote special labor. If he applies untried medicines for the sake of trying them. If, when the nature of the disease has not been

well ascertained, he rashly prescribes dangerous remedies, especially with risk of life or grave injury. If, once the danger of the sick person has been recognized, he is not present at the opportune time, visiting him day and night if need be, and does not apply all remedies apt for driving away the disease. If he does not permit other physicians to be called where this would be fitting, or if, calling others for the sake of counsel, he attends rather to friendship than to skill. If, on the contrary, without necessity he calls other physicians, with useless expenses for the sick person, or adheres against his own conscience to their counsels. If he prolongs the cure for the sake of gain, uselessly multiplies visits where a fee is demanded for each one, or if he demands an excessive stipend. If, to favor pharmacists who are friends, he prescribes superfluous medicines. If he advises abortion, or means of procuring it, or himself executes it. Finally a physician sins gravely, indeed most gravely, if he does not forewarn concerning the grave danger of the sick person, so that the sacraments may be conferred on him. L. 291 and l. 3, n. 182.

Pharmacists, if you except a few things, sin almost as physicians do in the cases just set forth, especially by applying old medicines, selling useless ones, supplying pregnant girls with remedies for expelling the fetus, not faithfully executing the commands of the physician, for example by presenting one medicine for another, etc. L. ib.

X. On Guards, Merchants, and Artisans

94. What are the obligations of guards, merchants, and artisans? - Guards are those who are set over the custody of woods, fields, etc., by the Prince or by a private master. Merchants are all those who exercise commerce by buying and selling goods. Artisans, moreover, are all those who give their labor to some mechanical art for a received stipend. Guards, besides the sin which they commit against religion by guarding negligently, if they have taken an oath, also sin against commutative justice toward those damaged, and in defect of the damagers are held for damages culpably not impeded. Probably, however, they are held only by reason of the damage, not by reason of the fine. L. 237; H. A. 73; Lugo d. 37, n. 99 ff. Merchants are unjust by buying and selling goods at an unjust price, by not manifesting hidden defects of things, by mixing new and old things together and selling both at the same price, by not observing the conditions of contracts, etc.; in which cases they are held to restitution, according to the things said under the seventh precept of the Decalogue. Artisans are unjust by hiring out their labors at an unjust price, by not manifesting defects of works, by wasting time through culpable negligence, by not observing the conditions of contracts, by turning other workers away from labor, with damage to the association and to masters, by turning other workers away from labor and taking away from them the freedom of working, by turning other workers away from labor with force and violence applied against them and against masters, by turning other workers away from labor when they are content with a smaller stipend. "This kind of cessation (from labor) harms not only the employers and the workers themselves, but it hurts commerce and the interests of the republic; and since it is not far from violence and disturbances, it very often brings public tranquility into danger." Leo XIII, Encyclical *de Condit. opific.* In these cases they themselves also are held to restitution according to the things said under the seventh precept of the Decalogue. E. M.

Manual labor is useful for removing idleness, for subduing the body, for seeking sustenance. It is under precept when by it someone must come to the aid of the neighbor's necessity or his own. S.

Th. *Quodl.* 7, a. 17.

On the Particular Obligations of Clerics

I. On the Positive Obligations of Clerics

95. What about the holiness of life of clerics? - The life of clerics ought to be strong in internal holiness and external edification, not only negatively as regards immunity from sin, but also positively as regards the exercise of virtues. This is established: 1. From Sacred Scripture, from the Councils, from the Fathers, from Trent s. 22, c. 1 *de R.*, s. 23, c. 4 *de R.*, from the Letters of Pius X, *Haerent animo*, to the Catholic Clergy, August 4, 1908. 2. From the very excellence of the state and the office which they profess. But whether the clerical state strictly taken, insofar namely as it is distinguished from the state of Religious and of Bishops, is or is not a state of perfection, is disputed among doctors. Nevertheless it does not seem able to be denied that it is at least in some way a state of perfection. Suarez *de Relig.* t. 3, l. 1, c. 17, n. 2-4; S. Th. 2. 2. q. 184, a. 8; Suppl. q. 36, a. 4; L. l. 6, n. 803; E. M.

96. Note: In order that they might promote this interior holiness of life and exterior edification in clerics, the Supreme Pontiffs very greatly commended spiritual exercises. Cf. 220; A. S. S. v. 37, p. 422 ff.

The Council of Trent, moreover, exhorts deacons and subdeacons to receive Communion at least on Sundays and feasts, s. 23, c. 13 *de R.*, and priests at least to celebrate Mass on the aforesaid days, ib. c. 14.

97. Are clerics bound to preserving celibacy? - In the Latin Church all clerics, from the episcopate to the subdiaconate inclusive, are held under a most grave precept to preserve perpetual chastity, so that they neither can licitly use a marriage contracted before sacred ordination, nor licitly nor validly afterward contract it. This is established from several chapters of Canon Law, especially C. 1, Dist. 28; C. unic. *de Voto* in 6; Trent s. 24, c. 9.

In the Latin Church. For some exception is given by tolerance of the Church among the Orientals. In the Oriental Church priests can never enter marriage after priestly ordination, nor deacons after the diaconate; but those married before the diaconate can be promoted to further orders, and nevertheless live with their wives. Bishops are excepted, all of whom must constantly preserve perfect chastity. Hence among the Greeks the subdiaconate is not numbered among sacred orders; and upon unmarried clerics in the ordination of the diaconate the precept of chastity is imposed. In some provinces, in which the ancient discipline of the Western Church has been restored, the same obligation is imposed in the ordination of the subdiaconate. Cf. 1015. L. l. 6, n. 806; S. Th. Suppl. q. 53, a. 3; C. *Ut Clericorum* 13 *de Vit. et honest. cler.*, C. *A crapula* 14 e. t.; C. 1, 2 *Qui cler. vel vov.*; C. 1, 4 *de Cler. coniug.*; Benedict XIV, C. for the Italo-Greeks *Etsi pastoralis*, May 26, 1742, § 7, n.

26; Instruction for the Copts *Eo quamvis tempore*, May 4, 1745, § 30 ff.; E. M.

Ruthenian clerics in the Canadian region cannot be admitted into the Seminary unless they have promised before the Bishop that they will preserve celibacy perpetually; and only celibates will be able to be promoted to sacred orders in the Canadian region. For exercising the sacred ministry

among the faithful of the Ruthenian rite, none can be admitted except celibate priests, or at least widowers and without children. S. C. de P. F., August 8, 1913, art. 10, 11; A. A. S. v. 5, p. 395. Celibacy is prescribed in the very same way for the Ruthenian clergy in the United States of North America by Pius X, C. *Ea semper*, XVIII Kal. Jul. 1907, c. 2, art. 10, 12; *Supplem.* 369.

During the first five centuries in the Western Church the obligation of preserving continence attached to the order of subdiaconate is not found. The first to command subdeacons to preserve it was St. Leo the Great, around the year 440, as is clear from his Epistle 84 to Anastasius, Bishop of Thessalonica. But since St. Leo's precept was no longer being sufficiently observed, D. Gregory the Great renewed it, around the year 581, further declaring that the subdiaconate is a sacred order and aggregated to the major orders. And then it is expressly and determinately established in the Decretals of Innocent III, C. *Miramur* 7 *de Serv. non ordinandis*. De Iustis *de Dispens. Matrim.* l. 3, c. 15, Appendix n. 11.

98. Is the obligation of celibacy of divine law? - Reply: Negatively; for if this law were of divine law, it would not vary concerning it between the Latin and Greek Church, since divine law does not vary according to diversity of places. It is therefore from the ordinance of the Church. Therefore the Church can dispense from that obligation.

Whether that obligation is immediately from a precept of the Church, or immediately from a vow to be emitted by precept of the Church? Trent s. 24, c. 9 refers to both, but does not define. There are those who teach that those ordained in sacred orders are held to chastity not from a vow, but from the sole ordinance of the Church, both because no mention of a vow is made, and because a precept of the Church is sufficient for this. But others commonly, with S. Th. 2. 2. q. 88, a. 11, derive this obligation immediately from a vow of chastity, which is emitted in the very fact of ordination according to the mind of the Church, and this is expressly had in the Law. C. *Cum olim de Cler. coniug.*; Benedict XIV, C. *Inter praeteritos*, December 3, 1749, § 41. And Boniface VIII declared this vow to be solemn. C. un. *de vot. et vot. redempt.* in 6. Wherefore a cleric initiated into sacred orders, sinning against chastity, sins also against religion by acts both external and internal. Therefore the obligation of celibacy extends to preserving all chastity. Cf. L. l. 6, n. 807, 808; Albit. *de Inconst. in Fide* c. 36, n. 132 ff.

99. What if someone were promoted to sacred orders either invincibly ignorant of the obligation of chastity attached to them, or expressly unwilling to vow that obligation itself, or if he were compelled to this by grave fear, or if he were ordained in the very age of infancy? - Reply to the first: Some probably say that he is held to chastity, namely by force of the universal law itself of the Church. Others "probably judge that if the ignorance had been altogether invincible, the ordained man would not be held to chastity, neither from a vow nor from a precept of the Church, because the Church would not intend to oblige such a one; but otherwise if the ignorance had been culpable, or if someone intended to receive the order with the same obligation with which others receive it." Ignorance of this kind is not presumed in the external forum, since it concerns a law so clear and most commonly handed down.

Reply to the second: "In such a case he would be held to chastity not from a vow, but from the precept of the Church, which from a motive of religion would bind him to chastity, the vow being absent."

Reply to the third: One must distinguish: If he did not have the intention of receiving sacred ordination, he is not held, as having been invalidly ordained. If he had the mind of receiving sacred orders, and the fear was just, more probably he is held, because since he is unwilling unreasonably, such fear neither exempts from law nor invalidates the vow. If again he had the mind of receiving sacred orders, but the fear was unjust, more probably he is not held, because of the opposite reason. Wherefore he can validly contract marriage, "but he cannot minister in the order while the marriage stands, nor enjoy clerical privileges." But the nullity of the ordination must be established in the external forum by canonical process. Cf. 106.

Reply to the fourth: "It is certain that he who is ordained before the use of reason, although the ordination is valid, nevertheless is not held to chastity; whence he can validly and licitly enter marriage." Benedict XIV, Bull *Eo quamvis tempore*, May 4, 1745, commands that in the sixteenth year of age an option be given to them; and, if they wish to preserve chastity, they are admitted to the exercise of the order; otherwise, if they do not wish. And he adds that after ratification they invalidly contract marriage and are held to the divine office. If after the use of reason, but before puberty, some probably say that he is held, others not improbably deny it. The reason is that such a vow, from which this obligation more probably comes, "constitutes a man in an irrevocable state, in which the Pontiff never or rarely dispenses; whence such a vow requires a mature and perfect use of reason." L. l. 6, n. 80, 781, 809-811; S. Th. Suppl. q. 39, a. 2; Sanchez *in Dec.* l. 5, c. 6, n. 5-8.

100. What about tonsure and habit? - Clerics are obliged to wear the tonsure and clerical clothing. This is established from various places of Canon Law, especially Conc. Tr. s. 14, c. 6 *de R.*, s. 22, c. 1 *de R.*, s. 23, c. 6 *de R.*; L. l. 6, n. 825; S. Th. 4, d. 24, q. 3, a. 1, q. 1; Suppl. q. 40, a. 1.

101. Do clerics sin gravely who outside their own house do not wear the habit or crown? - Reply to the first: Those clerics are either simply clerics, or beneficed, or constituted in sacred orders. If the first, they more commonly teach that, speaking in itself, they do not sin, not even venially, since by common law this grave obligation has been imposed only on clerics in sacred orders and on beneficed clerics. But they lack the privilege of the forum. Cf. Trent s. 23, c. 6 *de R*. Speaking in itself, for particular laws and customs of places must be attended to. If the second, it is certain that they sin mortally, unless there is a just excusing cause or smallness of matter; for grave penalties are imposed on them in Canon Law. But what span of time is required for mortal sin cannot be determined in general, but only from the circumstances. They commonly admit that it is venial to put aside the habit only once or again. La-Croix l. 1, n. 672 extends a brief time to five or six days. Nevertheless they also commonly admit that clerics sin gravely if even for a brief time they lay aside or conceal the clerical habit for an evil end. Benedict XIV *de Syn.* l. 11, c. 8; Trent s. 14, c. 6 *de R*.

Reply to the second: Clerics who are not constituted in sacred orders and are not beneficed never sin gravely. Thus most commonly. But again, do they lack the privilege of the forum? Cf. Trent s. 23, c. 6 *de R*. Even clerics, beneficed or initiated into sacred orders, at least do not sin gravely unless they omit wearing the crown, without a grave excusing cause and for a notable time, such as in this matter is not a time of one or another month. But whether it is grave not to wear the crown for an entire year is not clear. Theologians more commonly affirm it; but it is not clearly proved, because here doctors easily mix the crown with tonsure. L. l. 6, n. 825-827; La-Croix l. 1, n. 672; l. 4, n. 1372; E. M.

102. What properly are tonsure, crown, and clerical habit? - Tonsure, to be worn by clerics, insofar as it is distinguished from crown, is the prohibition made to clerics of nourishing a beard, which today by custom must be altogether shaved, unless some necessity is present; and of letting the hair grow long, which is grave unless the hair is moderate, C. 4, 5, 7 *de Vit. et honest. cler.*, or the custom of the region bears otherwise and scandal is absent. Nor indeed can they use artificial hair without the command of the bishop, S. C. C., December 9, 1690, unless custom obtains otherwise. The crown today is the tonsure on the top of the head in the manner of a crown. The crown must be broader or narrower according to order and dignity. La-Croix l. 4, n. 1373; Benedict XIV, Notification 96; *de Syn.* l. 11, c. 9; L. l. 6, n. 826; Clem. 2, C. 4, 5, 15 *de Vit. et honest. cler.*; Trent ll. cc.

Clerical habit is a cassock, and other things congruent to the order in the judgment of the Bishop, Trent s. 14 *de R.*, c. 6; s. 22 *de R.*, c. 1; s. 24 *de R.*, c. 12 in fine; therefore they vary according to various places. A cassock is said to be a garment which flows down to the ankles, or at least to the knees, which by a certain epikeia and the custom of certain places has been received in towns and villages; and in the cities themselves also it is permitted outside sacred functions and the celebration of Mass. C. *Clerici* 15 *de Vit. et honest. cler.*; Sixtus V, C. *Cum sacrosanctum*, January 9, 1589; Benedict XIV, Notification 71, n. 9; S. Th. Suppl. q. 40, a. 1; E. M.

103. Note: Since many things, especially as regards the exterior attire of clerics, are by no means determined in particular by common law, but are various according to various regions, one must stand by the Statutes of each diocese, which a confessor of clerics must altogether not be ignorant of. In many dioceses it is altogether prohibited to admit to the celebration of Mass priests not wearing clerical habit, cassock, and tonsure. The penalties, however, laid down against those not wearing habit and tonsure do not seem to affect those who do not wear tonsure only.

Clerics are prohibited from wearing a ring, unless it belongs to them from the office of dignity, as are Bishops, Abbots, etc. C. 15 *de Vit. et hon. cler.*

104. Who are obliged to the recitation of the canonical hours? - The canonical hours are public prayers, which its ministers pour forth in the name of the Church in the form prescribed by the same Church. Hence the fruit of these prayers is from the work of the minister working and from the work of the Church working; and it redounds to the minister himself, to those for whom they are specially applied, to the founders of benefices, and to all the faithful, for whom the Church prays.

In the Western Church the following are obliged to recite the canonical hours daily: 1. All clerics constituted in sacred orders, even those suspended and excommunicated. This is established from various places of Canon Law, from the Lateran Council of 1215, from the Bull of S. Pius V *Quod a nobis*, from the Constitution of Pius X *Divino afflatu*, Kalends of November 1911. 2. All beneficed persons who have right in the thing and full dominion of the benefice. It is drawn from the Lateran Council under Leo X, and also from the Bull of S. Pius V *Ex proximo*. 3. All religious of both sexes professed in an Order approved by the Church and destined for choir. This is clear from custom, and also from the Decree of Gregory X, etc. Cf. the Works of S. Peter Damian, Migne vol. 145, col. 222 ff.; Lugo, *Resp. Mor.* l. 5, d. 5, 6.

In the Western Church; for, as Benedict XIV says, C. *Eo quamvis tempore*, §§ 44, 45, "deacons, subdeacons, and priests of the Eastern Church are compelled by no express law... to the recitation of the divine office." Nevertheless, "even among the Orientals the laudable custom of reciting the divine

office has prevailed." And indeed this has the force of law; whence "the discipline of the Eastern Church subjects generally all those constituted in sacred order to the obligation and precept of reciting the divine office, according to the custom of the nation." L. 140 ff.; S. Th. 4, dist. 15, q. 4, a. 1, q. 3; E. M.

105. You will resolve: Those who are constituted in minor orders are not held to the hours, or to another determined prayer. A cleric begins to be obligated from the hour of receiving the subdiaconate, and indeed to the hours corresponding to the hour at which he is ordained. Wherefore one ordained at midday must begin from Sext, and cannot begin from Vespers. But whether a subdeacon who recited that part before ordination has satisfied his obligation, some deny, while others probably affirm. The reason is that that debt can well be paid in anticipation which certainly is to be contracted morally. L. 140. As regards beneficed persons, the obligation begins from the day of entering into possession of the benefice, and therefore they must begin from Matins. They are not held before accepted possession, nor if without their fault they receive no fruits and are not going to receive them, because they do not have the benefice according to every effect. This is certain. But it is probable that one who does not reside by legitimate permission or dispensation, and therefore does not receive fruits, is not held to the hours, because this obligation is on account of the sustenance given. On the contrary, he is held who, although he does not receive all his fruits, nevertheless receives so great a part as suffices for sustenance. Nor is he excused, if he is not constituted in sacred orders, because he has proposed to himself not to receive the fruits of the benefice; because benefices have been instituted not for the advantages of private persons, but for divine worship. Cf. Trent s. 21, c. 6 *de R.*; Lugo, *Resp. Mor.* l. 5, d. 6, 2; Viva on Alexander VII, prop. 21, § ult.; L. 144 and l. 3, n. 664 ff. As regards religious, the obligation begins from the hour of profession made, from the hour of the day, not of choir.

Novices, lay brothers, religious of the Society of Jesus, military religious, hospitallers, and the rest not destined for choir are not held to the hours. L. 141.

106. Is one who received sacred order through fear unjustly inflicted held to recite the office? - More probably they deny it. The reason is that although fear does not remove the voluntary, nevertheless the Church is not reasonably judged to wish to oblige to the burden of the office except those who receive the order altogether spontaneously. And therefore such persons ordained through grave fear are not even held to chastity. In the external forum, however, they are held to both until the fear has been established before the S. C. of the Sacraments. L. 144; A. S. S. v. 1, p. 330; v. 2, p. 443; v. 6, p. 85. Cf. here 99.

107. Are religious men and nuns, if for a just cause they do not come to choir, held to recite the office privately? - Reply: Negatively, if they have only simple vows. If for a just cause; for unless they are legitimately impeded, they too are held to be present at choir. S. C. of Bishops and Regulars, March 24, 1882; May 2, 1883; May 3, 1902; July 28, 1902. Affirmatively, if they have solemn vows. The reason is that the principal obligation for a religious man and a nun does not fall upon choir, but upon recitation of the office by reason of Religion, which undertook that burden from its institute. This obligation is established besides from the universal custom of nuns and religious, who, when they cannot be present at choir, believe themselves bound under grave obligation to recite the office privately. But a universal custom which was constantly observed with great inconvenience provides a

sufficient argument concerning a grave obligation undertaken. S. Penitentiary to the Bishop of Perigueux, November 26, 1852.

From a privilege conceded by Innocent IV, regulars and nuns can for a reasonable cause satisfy by reciting the prayers of laymen and laywomen; for example, if a nun is scrupulous, extraordinarily weary, or occupied in useful ministries; if a religious is weakened from a journey or from preaching. Likewise prelates, even inferiors, can for a cause, for example studies, dispense with their subjects, as in other observances, so that they do not recite. L. 62, 142; Pellizzar. *de Monialib*. c. 6, n. 12 ff.; De Alexandris, *Confess. monial*. c. 8, q. 5; E. M.

108. Does a religious man or nun sin gravely who recites the office privately while he or she could easily be present at choir? - Reply: Negatively. For the obligation of choir, although it is grave for the community, is nevertheless held to be light for individual private persons, provided the choir is not entirely removed. But for choir four fit persons suffice, that is, those valid and free to sustain choir. But if the religious are fewer, they are in no way obliged to recite the office in choir; yet they are not exempted from private recitation, as was just said. Four fit persons, "for if they are sick, or legitimately occupied, they are not obliged to choir even if they are four. But Viva, etc., probably think that it suffices for satisfying choir that novices alone be present, because in favorable matters they are reckoned as religious." L. 143. A moderate cause, however, will be able to excuse from the light obligation of coming to choir. Clem. *Gravi de Celebr. missar.*

109. Note: That prelates sin gravely who from negligence permit a notable part to be omitted from being recited in choir. That those are not held to supply in choir what is omitted who, while others sing, prepare or transfer books, search out the psalms, strike the organ or bells, or perform other things necessary for choir, because while someone is occupied in matters pertaining to the solemnity of the office, the whole choir supplies for him, and all constitute one moral body. But he who responds alternately to choir by playing the organ, without pronouncing the versicle of his own part, does not seem to satisfy, because the organ does not pronounce words, and the office is not recited integrally. L. 143, 156; La-Croix 1300.

110. What specifically must be noted as regards recitation in choir or with a companion? - He who recites the office in choir or with a companion must recite integrally those things which are said secretly; hymns, psalms, and versicles by alternate, not by third, turns. But it suffices to hear, while another reads them, the antiphons, brief responsories, chapters, and lessons. As regards those things which the companion recites or reads, so that someone can satisfy, it is necessary that he pronounce all things duly and correctly, and that the person himself hear these things, although the companion may not be obliged to recite the divine office, indeed although he may be distracted; because these things do not impede someone from reciting according to the custom of the Church and communicating with a companion. Although, if the companion is obliged and does not attend, he does not satisfy, since he does not communicate with another. But because all those reciting constitute as it were one body, and because those things which they recite or read in turn are communicated, if someone is not at fault for not perceiving by ear those things which the other part of the choir or the companion recites, it is probable, provided he attends as much as he can, that he satisfies.

Hence one who is somewhat deaf and hears in confusion also satisfies, for example because there is noise, because the companion recites in a low voice, or because of the ineptitude of the reader. "For

this precept of the office, from the benignity of the Church, must be interpreted benignly. On the other hand, it will be very liable to anxieties that companions in the office must always be solicitous as to what quantity the omission of hearing has reached, so that they are held or not held to repeat." L. 163.

Somewhat deaf; and also the deaf? If he recites with a companion, whom he is not compelled to use, doctors commonly deny it. If in choir, still more deny; but many also affirm, and not undeservedly, for the obligations and rights of choir must be measured by an equitable reason. Kenrick tr. 8, n. 16; D'Annibale ed. 3, p. 3, n. 151; La-Croix 1295; L. 162, 163; Laymann *de Orat. et Hor. Canon.* c. 5, n. 7; S. Jerome, Epist. 108, n. 19, Migne vol. 22, col. 896.

Outside choir, if only one or two recite the office, and in the choir of nuns, the Confiteor is recited only once and by all at the same time, with those words omitted, *tibi pater*, or *vobis fratres*; *te pater* or *vos fratres*; and then it is said: *Misereatur nostri, peccatis nostris, perducat nos*.

The reading of the Martyrology, which is read daily in choir at Prime before the verse *Pretiosa*, except the triduum before Easter, is part of the divine office; and it is established from the Rubrics of the same Martyrology that the memorial of the Saints must be read on the day preceding their feast. Lugo, *Resp. Mor.* l. 5, d. 17.

111. Note: "It is the common opinion that he satisfies well who hears from a companion the lessons, responsories, chapters, prayers, and antiphons. And probably he still satisfies who alone says the psalms and hears the lessons; or who says part of the psalms alone and part with a companion, because he sufficiently communicates in that part which he hears, and which by received usage is already satisfied by hearing." L. 162. "But it is certain that in choir it is not necessary to hear all, but it suffices to hear one, and it suffices to hear in confusion at least part of the other choir, although you cannot hear distinctly." L. 163. He satisfies choir who recites the psalms quietly, hearing the other part, since one part constitutes one body with the other and they communicate mutually; nor is it necessary that those reciting in one choir hear all those reciting in the other. As regards canons, cf. 220; L. 163; La-Croix 1298.

112. Are religious, living outside the cloister by permission, fugitive religious, those cast out by sentence, and those condemned to the galleys, held to the office? - Reply to the first: S. Alphonsus affirms it with others, adding: "as also those detained in prison." But Busembaum with others denies it concerning a religious "who has obtained a dispensation to live perpetually outside the monastery, because although he remains a religious he is nevertheless not regular." L. 141, 142.

Reply to the second: Bonacina denies it and Tamburini thinks it probable, but Lessius and Concina better teach that they are held. The reason is that just as they do not lose the religious state, so they are not exempted from its burdens. L. 142. And the same must be said of the excommunicated, even those to be avoided.

Reply to the third: "Not improbably they deny it with Busembaum, etc., with Scotus and Laymann, who call this opinion safe. The reason is that in them the essence of the religious state has now been extinguished, since they are no longer held to the vows, as Sanchez supposes as certain, nor is it in their power to return to religion." L. 142. But Sanchez *de Matr.* l. 8, d. 8, n. 11 speaks of one professed and dispensed for marriage. As regards one cast out, he brings forward another reason, "because since he is now justly outside the monastery and the monastic life, he is exempted from its burdens."

Reply to the fourth: The S. C. C., on August 13, 1707, and afterward when interrogated, was unwilling to decide the matter, and Clement XI also abstained from a decision. Doctors, however, rather excuse. "Cabassutius more commonly denies it, who nevertheless says that clerics constituted in sacred orders are held; but concerning both, Sporer, Lessius, etc. deny it. The reason is that such recitation would seem to yield to the disgrace of the religious order," and of the clerical state, namely if they live together with other condemned men and not in separate cells. And Kenrick tr. 8, n. 6 says, "from equity, the obligation seems remitted." L. 142; D'Annibale ed. 3, p. 3, n. 153; E. M.

113. How great is the obligation of the divine office? - The obligation of the divine office is grave in itself. Wherefore he sins gravely who, having this burden, omits the hours or a notable part of them. The reason is that he violates a precept in a grave matter, pertaining to the virtue of religion. C. *Presbyter* 1 *de Celebr. miss.*; L. 146; l. 3, n. 663; E. M.

114. Note: "That universally is judged small matter which does not reach the quantity of one complete hour." Thus most commonly. "He who omits the whole office is more truly to be said to commit only one sin, because the whole office of one day falls under one precept." L. 143, 147, 148.

115. Is it grave to omit Vespers on Holy Saturday? - Reply: Negatively. The reason is that the matter is light, both in itself and with respect to the whole office.

116. Are nuns who recite only the office of the Blessed Virgin bound to it under grave obligation? - Reply: In Orders in which only the office of the Blessed Virgin Mary is recited, this recitation does not oblige under grave obligation, although solemn vows are emitted in those Orders, for example, in the Order of the nuns called of the Visitation, as was decided several times. Moreover in communities in which, besides the office of the day to be recited, there also had to be recited the office of the Blessed Virgin, or of the Dead, or the seven penitential psalms, the obligation has altogether ceased from the Rubrics of C. *Divino afflatu*, title VII, n. 2. And if they were held from a peculiar constitution or from a legacy, they must seek commutation from the Holy See. Cf. 129; Gury-Ballerini 146; Bizzarri ed. 1885, p. 72; E. M.

117. Are beneficed persons who omit the divine office held to restitution? - So great is the obligation of the divine office that it induces for him the burden of restitution of the fruits, in proportion to the omission of the office, who by title of benefice is held to the hours, if, six months having elapsed after obtaining possession, he culpably has not recited the office. After: wherefore he does not make his own fruits, not of the prior and posterior time, but only of the posterior time. This is clear from the Lateran Council under Leo X. S. Pius V then issued a Bull by which he confirmed this decree. And he declared that one who on one day omitted the whole office is held to restore all the fruits corresponding to that day; for example, he who receives annually 365 florins is held for one day to restore one florin; but he who omitted Matins only, half the fruits of one day; he who omitted the remaining hours, also half; but he who omitted one of them, the sixth part. And that restitution is to be made either to the fabric of the church in which the benefice is, or to the poor. Bull of Leo X *de Reform. Curiae*, chapter *Reform. Curiae et aliorum, § Statuimus*; S. Pius V, C. *Ex proximo*, September 22, 1571; L. 151 and l. 3, n. 663, 666, 672, 673; E. M.

118. Note: Those are not obliged to restitution who from natural forgetfulness, just impediment, good faith, invincible ignorance, or otherwise without fault have omitted the hours. The reason is that in conscience a penalty is not owed where there is no fault. L. 151; l. 3, n. 665. "That a beneficed

person can sometimes be excused from restitution for neglected hours by title of money spent, understand after the omission of the hours; for if before the omission, he is not excused, since proposition 33 was condemned by Alexander VII...; although not with this intention, for the poor or other pious uses.... And it is probable according to the opinion which Sanchez holds," etc. L. 153; l. 3, n. 700; La-Croix 1215. Under the name of the poor the beneficed person himself also is contained, provided he truly needs, and did not omit the office fraudulently, namely so that he might assign the fruits to himself as poor. Likewise whatever is spent on repairing or increasing the properties of the benefice is understood to be expended on pious causes. Suarez *de Relig.* t. 2, l. 4, n. 18, 19; L. l. 3, n. 672; E. M.

119. How many sins does one commit who is held to recitation of the office by title of benefice, by omitting it? - If one omitting it is unwilling to restore the fruits, he sins both against religion and against justice. The first reason is that the Church obliges to reciting the hours from a motive of religion. The second reason is that from the Lateran Council, he who does not say the office does not make the fruits his own. If one omitting it has the mind of restoring the fruits of the benefice, he indeed does not sin against justice, but he sins against religion. The first reason is that the Church confers the benefice under an obligation of justice, so that he does not make the fruits his own if he does not recite, but by no means under an obligation also of justice that he recite. Wherefore the obligation of the office does not arise immediately from the accepted benefice, but from the precept of the Church, imposed by reason of the benefice, from a motive of religion. The second reason is that, as is established from what has just been said, there are two grave precepts: first, by which beneficed persons are obliged to the office, for this was the end of the Church in the institution of benefices; second, by which one omitting the office is to restore the fruits. L. 145; l. 3, n. 663.

120. Can a beneficiary omitting the office on one day supply it on another day? - He is not excused from mortal sin, as all teach, and as is established from the cited Bull of S. Pius V. As regards restitution of the fruits, the first opinion, which Bonacina calls probable, affirms it. The reason is that in such a case this man has now repaid an equal thing, just as if a chaplain omits Mass on one day, he can well supply it on another. The second, most common opinion denies it. The reason is that S. Pius V, C. *Ex proximo*, sanctioned that one does not make the fruits his own who "has interrupted" the canonical hours "on one or several days." Here it must be noted that the Pontiff did not say "has omitted," but "has interrupted," by which word he sufficiently signified that one who interrupts the office on one day does not gain the fruits, even if he supplies on another day; because although he can be said not to have omitted the hours, nevertheless he cannot be said not to have interrupted them. L. l. 3, n. 667; S. Th. *Quodl.* 3, a. 29.

121. Is one who omits a part smaller than a complete hour held to restitution? - "If the omitted parts do not constitute grave matter, it is common that no restitution is owed, not even under venial sin, even if the fruits corresponding to that part would reach a great quantity." L. l. 3, n. 668.

122. Must a beneficiary omitting the office restore all the fruits of the benefice? - Reply: Sanchez, Soto, etc., probably say from benign interpretation that they are not held to restore all the fruits, but only those which correspond to the burden of the omitted office. The reason is both because the Bull of S. Pius was thus received and thus explained by usage, as being more conformable to natural equity; and because it seems harsh that Bishops, pastors, and chaplains, who bear other burdens,

should be obliged in the same way as simple beneficiaries, because all these receive fruits not only for the office, but also for other burdens. L. l. 3, n. 673.

123. Is he held to recite the office again who doubts whether he has said it? - If the doubt is positive, that is, if some reason or probable conjecture is present that he recited it, although a reason also is not lacking for the opposite, he is not held; for he probably satisfied, and, with the probability of satisfaction of the law standing, the law in the case becomes of doubtful obligation. La-Croix 1235, 1237; and S. Alphonsus 150, who handed down this opinion as most common, citing several theologians for it; but afterward he withdrew from this opinion. If the doubt is negative, that is, if no reason or probable conjecture is present, then he is held to the recitation of the breviary. For then the law cannot prudently be called of doubtful obligation, since there is no probable motive suggesting its satisfaction. La-Croix l. c.; L. l. c.

At the end of the cited number this Holy Doctor has the following observation, useful for practice: "If you doubt whether you have said the whole hour or not, the Salmanticenses judge that, if you often labor under such doubt, you are not held to repeat, because then such doubt is easily presumed to arise from scruples; otherwise if rarely." Hence, they say, one is well excused from repeating the office if you do not remember having said something, and you have a just conjecture for believing that you said it; for example, if you remember that you began a psalm, or some lesson, or an hour, and afterward, distracted, reached the end of the psalm, lesson, or hour, without remembering whether you recited the whole; for presumption favors you, because you are accustomed to recite integrally those things whose recitation you began. But if you have reached some hour, for example Sext, and you doubt whether you recited the preceding one, you can hold the same decision, because you are not accustomed to recite a later hour unless you first sent the prior one before it; therefore you can prudently believe that you omitted nothing. La-Croix 1236; L. 150.

124. In what rite must the office be recited? - The canonical hours, from the preceding law, had to be recited according to the prescription of the Roman breviary issued by order of S. Pius V and afterward corrected by order of other Pontiffs, so that all obliged to the hours would not satisfy their duty if they used another breviary, and therefore a beneficed person would not make the fruits his own. Cf. Suarez *de Relig.* t. 2, l. 4, *de Hor. Can.* c. 11, n. 3, 4. Religious are excepted who have the peculiar breviary of the order; the Milanese Church, which uses the Ambrosian rite, and the Chapels of Toledo, which use the Mozarabic rite; likewise Churches which for 200 years before the institution of the breviary by S. Pius V had a peculiar one. Those, however, could change their breviary into the Roman one, if the Bishop and the whole chapter consented. But once they used that faculty, they remained bound to the Roman breviary. Likewise they lost their privilege if they made any additions or changes in their liturgy. The Bishop can in these excepted churches prohibit the use of the Roman breviary; but if no such precept is present, whether someone privately can recite the Roman breviary is disputed. The same must be said of the missal. This is established from the Bull of the same S. Pius V *Quod a nobis*, July 7, 1568, and from C. *Ex proximo*; S. R. C., January 10, 1852, Cenomanen., n. 1993; Bouix *de Iure Liturg.* p. 4; L. 160; Lugo, *Resp. Mor.* l. 5, d. 7; E. M.

From the preceding law. For a new form of reciting the divine office was introduced by the Constitution of Pius X *Divino afflatu*, November 1, 1911, which is altogether preceptive. For in the aforesaid Constitution it is said: "In all churches of the secular and regular clergy, in monasteries, orders, congregations, and institutes of religious, by all and each who from office or from custom pay

the canonical Hours according to the Roman Breviary issued by S. Pius V and revised by Clement VIII, Urban VIII, and Leo XIII, we command that the new order of the Psalter, such as we have approved with its Rules and Rubrics and have decreed to be published by the Vatican presses, be religiously observed. At the same time we announce the penalties established in law to those who have failed in their duty of paying the canonical Hours daily; and they indeed should know that they will not satisfy so grave a duty unless they use this order of Our Psalter."

The print's appendix has more on this paragraph: Reform of the Divine Office. (ed.)

125. Note: Those who are not bound by reciting the office of the Blessed Virgin are not prohibited from using any formula of this kind of office, provided it is Latin, unless there is a legitimate custom of reciting it in the vernacular idiom. S. Pius V, C. *Superni*, March 11, 1571; S. R. C., January 15, 1897. Both breviaries and missals, and other liturgical books, cannot be printed without the attestation of the Ordinary, by which it is declared that they agree with those which have been printed at Rome. Liturgical books with Gregorian chant, also as regards the several Propers of churches, must be approved by the S. R. C. according to the Decree of November 27, 1908, A. A. S. v. 1, p. 159, 293. Clement VIII, Decree *Cum in Ecclesia*; Urban VIII, Decree *Divinam psalmodiam*; S. R. C., April 26, 1834, n. 2716; February 16, 1834, n. 2855; August 4, 1877, n. 3427. Cf. here n. 1306; E. M.

126. Do those satisfy who recite another breviary preserved from a custom of the place, introduced after the time determined by S. Pius V? - Reply: Negatively. S. R. C., January 10, 1852.

127. Does a priest need the permission of the Bishop to recite the Roman breviary in the aforesaid place where another is recited? - Reply: Negatively. This is established from the cited response of the S. R. C. "Privately," says Busembaum apud S. Alphonsus 160, "it is probable that it is lawful for all, even regulars, from custom to use the Roman, as Lessius, Rodriguez, Sa, Bonacina teach." Cf. n. seq.; for excepting custom, if there is any, the same reason in this case seems to be present. L. 161. Cf. also A. S. S. v. 1, p. 240.

128. Are clerics obliged to the breviary held to use the proper office of the diocese? - Reply: Affirmatively, provided that that proper office has been recognized and approved by the S. R. C. The reason is that although the concession of proper offices has the nature of a privilege, nevertheless all private persons are bound to use a privilege conceded to the whole community. The case is excepted, as is clear, in which private persons, by force of an Apostolic Indult, could not use the proper office of the diocese. Cf. n. 167.

129. Is there still an obligation of reciting the gradual psalms, the little office of the Blessed Virgin Mary, and the office of the Dead, which are noted in the rubrics of the breviary? - Reply: "The obligation ceases of reciting in choir, on the days prescribed hitherto by the Rubrics, the little office of the Blessed Virgin Mary, the office of the Dead, and also the gradual and penitential psalms. But chapters which are held to these additional offices from a peculiar constitution or legacy will obtain their commutation from the Holy See." C. *Divino afflatu*, Rubr. title VII, n. 2.

130. Note: "Since through the new disposition of the Psalter the causes of the General Indult of July 5, 1883, for votive offices have ceased, these very offices, and other similar ones conceded from particular Indults, are altogether removed and declared removed." C. *Divino afflatu*, Rubr. title VII, n. 1.

In the Ambrosian Liturgy, according to the custom which has prevailed up to this time, all clerics ordained in sacred orders through the whole of Lent, except Sundays and Major Week, are held to recite the entire Office of the Dead; and on not a few ferial days through the year, part of the same Office. But from the Indult granted on February 23, 1897, by Leo XIII through the S. C. R., "all clerics constituted in sacred orders who follow the Ambrosian rite, outside choral officiation, on each day of Lent, except Festive days and Major Week, are to recite only Vespers of the Dead, and on the second day of November the entire Office for the Dead."

131. Must those obliged to the office recite under grave obligation the office of the Dead on the day of the Commemoration of all the Dead, and also the Litanies on the feast of S. Mark and during the triduum of the Rogations? - Reply to the first: "On the Commemoration of all the Faithful Departed, the office and Mass of the current day being omitted, only the office with Mass for the Dead is done, as is prescribed in the Appendix of the new Psalter. If on November 2 a Sunday or some double of the first class occurs, the Commemoration of the Dead is celebrated on the next following day, similarly not impeded; on which, if perhaps a double of the second class occurs, this is transferred according to the rule handed down title III, n. 3." C. *Divino afflatu*, Rubr. title XIII.

Reply to the second: "On the feast of S. Mark and in the triduum of the Rogations, the burden remains entire of reciting the Litanies of the Saints, even outside choir." C. *Divino afflatu*, Rubr. title VII, n. 3.

132. In what order are the canonical hours to be recited? - A twofold order is to be observed in the recitation of the breviary, namely the order of offices and the order of hours. The order of offices is described in the calendar of feasts and in the rubrics for their translation, where several concur at the same time. The order of hours is that which is set forth in the breviary, namely that Matins with Lauds is recited in the first place, then the little hours are added, that is, Prime, Terce, Sext, None, and finally Vespers with Compline follow. As regards the Saints concerning whom the canonical hours are to be recited, the office must be recited according to the calendar of one's own diocese, that is, of that in which someone has domicile or quasi-domicile, or a residential benefice. S. R. C., May 14, 1672, n. 1445. Pastors and their coadjutors are held to recite the offices of their own church, but not other priests who celebrate Mass in it or hear confessions. Masters and students of a seminary, living in it, are held to recite the offices proper to the church of the seminary, although they celebrate elsewhere. S. R. C. n. 2872, 2980.

On a journey: "When someone, for the sake of a journey, or study, or for other reasons, is outside his homeland or diocese, beneficed persons are always held to the office of their own Church; but simple priests can conform themselves to the office of the place where they stay." S. R. C., November 12, 1831, ad 46, n. 2682. But a regular "on a journey should follow the calendar of the divine office of the monastery from which he departed; when he arrives and remains in another monastery, even for a time, he should follow its calendar." S. R. C., August 31, 1839, n. 2801; "because everywhere he is held to be present at choir," S. R. C., September 25, 1852, n. 3001. One reciting privately is held to observe the calendar of the monastery from which he departed, S. R. C., June 27, 1896, ad 13, n. 3919. During Lent, regular preachers of the divine word, staying outside the monastery, must conform themselves to the Calendar of the Province, extended without any diversity for all in each year. S. R. C., August 31, 1839, n. 2801.

The print's appendix has more on this paragraph: Decree Concerning Local Feasts Which Must Be Kept by Religious. (ed.)

133. What if someone recites another office for the office of the day? - He who deliberately recites one office for another, if it is both of a plainly diverse rite and notably shorter, does not satisfy, as on Palm Sunday the office of Easter or Pentecost. If indeed it is not shorter, but only of a plainly diverse rite, it is probable that he satisfies, as for example if on the Nativity of the Lord he recites the office of the Passion; but he certainly does not lack light fault. But if it is of the same rite, but notably shorter, he does not satisfy. If under both heads it is nearly equal, he satisfies, although likewise he does not lack light fault; and this not only if he has done it three or four times in the year, but also if more often, which is the opinion of many and sufficiently probable, because the substantial form of the office seems to be quantity; but quality is only an accidental form. Indeed he does not even sin lightly if he has done this from some just cause, for example from devotion, or so that he may recite with a companion, or without reflection; and then, if after a small part of the office has been recited he notices that he has erred, it will be in his power either to pursue the one begun or the proper office. But it is better to recite the proper office, lest he persevere in error.

Hence, if someone, deliberately or without reflection, has recited an office notably shorter, he must supply what was more in the proper one. Likewise, whether someone did this deliberately or without reflection, on the day on which the recited office then occurs, this same office must more probably be recited again, not the one which he omitted, lest he err twice. Alexander VII, condemned proposition 34; S. R. C., June 17, 1673, n. 1474; January 27, 1899, n. 1011; L. 161; Lugo, *Resp. Mor.* l. 5, d. 8; La-Croix 1237, 1250, 1255; E. M.

134. What kind of sin is it to invert the order in recitation of the hours? - In private recitation, it never exceeds venial sin, because such inversion of order does not contain grave deformity; for the order to be observed is only under a secondary precept and as a circumstance of lesser moment. But if from some just cause you change the order, you will be altogether free from every fault. Some say that inversion of order is a mortal sin if it is done frequently; but this must more probably be denied with S. Ligorius 169. "The same must be said if the order is inverted in the same hour." L. 170, 161 in fine. But he who so disturbs the parts of the office that scarcely the species of the office remains does not satisfy. Suarez d. 11, c. 7.

In public recitation it is disputed whether it is a grave sin or not to invert the order or to change the time of the hours. Some affirm it, if the inversion or change of time is notable and there is no excusing cause. The reason is that the canons repeat several times that the hours are to be recited at the stated times. Clem. *Gravi* 1 *de Celebr. missar.* But others deny it, because a circumstance of this kind does not pertain to the substance of the precept, but is merely accidental. Each opinion is probable; but the second is more probable, because a grave precept is not established. L. 171.

135. What is a cause for inverting the order of the hours? - Any reasonable cause excuses. But the following can be assigned, namely: If you are invited by a friend to recite some hour with him, and you have not yet recited the preceding hour or hours. If in the morning you do not have the breviary at hand, nor can conveniently wait, then you could from the diurnal, which you have, recite the daytime hours, intending afterward to recite Matins. If you do not have the lessons at hand, you can recite the psalms of Matins and Lauds, indeed also the rest, with the lessons deferred. If you come to choir when the hour has already begun, you can go on with the others, and afterward supply what was omitted. Likewise, if you come to choir when one hour has already been completed, you can sing the later one with the choir, and afterward supply the former. La-Croix 1309, 1311; L. 170.

136. Is it a sin to say Matins of the following day before the office of the present day has been completed? - It is indeed a sin, says La-Croix 1315, but only venial, if it is done without cause. But neither is it established to be venial, since the office of one day seems to have no order with the office of another day. According to the opinion, however, which holds that it is a venial sin, a sufficient cause of beginning Matins of the following day before you have completed the office of the present day is present if you are asked by another to recite Matins of the following day with him; and generally every cause sufficient for an inversion of order among the hours of the same day would suffice also in the present case.

137. Does he sin who does not recite commemorations according to the order assigned by the rubric? What about suffrages? - Several deny it, because that rubric seems merely directive, like those which regard the posture of the body or signs of the cross. Indeed they say the same concerning the order to be observed among commemorations in Mass. But at least this last must be denied, because, according to the more probable and more common opinion, all rubrics to be observed in Mass are preceptive, as S. Ligorius says, l. 6, n. 399. E. M.

When several commemorations to be made from the same common occur, unless otherwise noted in the Breviary, at Vespers, after the antiphon and versicle have been said from first and second Vespers, the other commemoration is made through the antiphon from Lauds and the versicle from the second Nocturn; the last through the first antiphon and versicle of the third Nocturn. At Lauds, after the antiphon and versicle from Lauds have been said, the first commemoration is made through the antiphon and versicle from first Vespers; the second through the antiphon from second Vespers and the versicle of the second Nocturn; the third through the first antiphon and versicle of the third Nocturn. S. R. C. in one of the City, ad 5, June 27, 1899, n. 4042.

In the Ordinary of the new Psalter at Lauds, at their end, it is said: "Afterward commemorations are made if they occur. Then, outside Paschal time, in the Office both of the season and of Saints, except however the time of Advent and Passiontide, and excluding days on which a double feast occurs, even simplified, or a day within an Octave or the Octave day, even commemorated, the suffrage of all Saints is made. In the appointed Prayer at the letter N., the name of the Titular Saint of one's own Church is expressed. But during Paschal time, from Monday after Low Sunday until the Vigil of the Ascension inclusive, in the Office both of the Season and of Saints, in place of the preceding Suffrage, a Commemoration of the Cross is made." And similarly at Vespers, as is repeated in the same Ordinary, at their end, after them the Suffrage of all Saints and the Commemoration of the Cross are made.

138. What kind of pronunciation ought there to be? - Pronunciation ought to be vocal, integral, continued. Vocal. The office must be recited by voice, and indeed by a distinct voice; but it is not sufficient that it be read only in the mind, or merely run through by the eyes; nor is it enough if it is recited in the throat or between the teeth. The reason is that properly vocal prayer is prescribed; moreover it is not judged properly vocal unless it is done by a distinct voice. Integral. The office must be recited integrally, not by syncopating or by abbreviating with a stammering tongue. To integrity, moreover, pertain the *Pater*, *Ave*, and *Credo*, at the beginning and at the end of the hours, as is noted in the Rubrics. Nevertheless the prayers *Aperi Domine* and *Sacrosanctae* do not pertain to the integrity of the office, but are only laudably recited by counsel. Continued. Any notable interruption within one hour, if done without any cause, is not free from fault; but it does not exceed venial sin. L. 166.

139. Must one reciting the office hear himself in order to satisfy? - Reply: More probably negatively. The reason is that hearing is not prescribed, but only recitation, that is, the pronunciation of words which is called vocal. Therefore it suffices if he who recites is conscious to himself that he pronounces the words; and S. Ligorius 163 says that this is sufficiently probable.

140. What are the just causes of interrupting the office? - Any reasonable cause suffices for interrupting any hour whatever. The matter is in itself light. Wherefore the following suffice: any utility of oneself or another which cannot be deferred without some inconvenience; the reason of executing commands of superiors; the reason of courtesy or charity, for example, if the confession of someone who would not gladly wait is to be heard; if you wish to do or note something so that you may remove distraction or solicitude, for example lest you forget, etc., provided however that this is not done frequently, because frequent interruption for this cause is not without some irreverence. L. 168.

141. Can Matins be separated from Lauds? How are Lauds to be concluded? How are the individual Hours to be concluded? - Reply to the first: Affirmatively, according to common custom and opinion, although they constitute one hour. For thus S. Ligorius 167: "It is common that Matins can be separated from Lauds without any cause."

In the Ordinary of the divine office at Matins, at the end, it is said: "In private recitation Matins can be separated from Lauds; in which case, after the hymn *Te Deum*, or after the last Responsory, there is said: *Dominus vobiscum*, etc., or, by those who are not priests nor deacons, *Domine exaudi orationem meam*, etc.; *Oremus*, and the Prayer is said as at Lauds. After the Prayer there is added: *Dominus vobiscum*, etc.; *Benedicamus Domino*, etc.; *Fidelium animae*, etc. Then the whole *Pater noster* is said secretly. But in public recitation Matins in Choir cannot be separated from Lauds except on the night of the Nativity."

Reply to the second: In the aforesaid Ordinary at the end of Lauds it is said: "After the last Prayer there is added: *Dominus vobiscum*, etc.; *Benedicamus Domino*, etc.; *Fidelium animae*, etc. Then the whole *Pater noster* is said secretly. Finally in public recitation of the office, if there is to be departure from choir, and likewise in private recitation if the office is then ended, otherwise at the end of the last Hour, after the *Pater noster* secretly recited, there is added: *Dominus det nobis suam pacem*, etc. And immediately one of the final antiphons of the Blessed Virgin Mary which are assigned after Compline is said, with its Verse and Prayer. Afterward it is concluded: *Divinum auxilium*, etc."

Reply to the third: In the same Ordinary, at the end of Prime, it is said: "Then only the *Pater noster* is said secretly, unless another Hour follows." And the same is repeated at the end of Terce, Sext, and None. At the end of Vespers it is said: "If Compline immediately follows Vespers, after the Verse *Fidelium animae* has been said, at once the Verse *Iube Domne* is begun, as at Compline; but otherwise, if the Office is then ended, only the *Pater noster* is said secretly." After Compline, after the Blessing *Benedicat et custodiat nos* has been recited, the Verse *Fidelium animae* is not said, but one of the final antiphons of the Blessed Virgin Mary is immediately added. Afterward *Divinum auxilium*, etc., is added, and secretly *Pater*, *Ave*, *Credo* are said.

142. Can the nocturns be separated without cause? - Reply: Affirmatively. This is established from universal custom, to which no law can be opposed. Indeed formerly, as several assert, from the practice of the Church they were separated, since they were accustomed to be recited at various

hours of the night, or vigils. Indeed not a few say that even without a special cause an interval of three hours can be interposed between the individual nocturns. But if there is a just cause on account of which the nocturns must be separated, that interval can also be prolonged according to the measure of that cause. L. 167; Kenrick tr. 8, n. 10; Bona, Treatise *de Div. Psalm.*

143. Whether or in what way does he sin who, having recited one or another nocturn on the vigil, recites the remaining part of Matins after the whole night has intervened? - He must always be exempted from mortal sin, because he satisfies the substance of the precept. For from the general rule, the substance of the precept is satisfied whenever the office is recited integrally in the natural or ecclesiastical day, so that then venial sin is never exceeded, however great an interruption intervenes even without cause. Therefore the present case must not be excluded. He also will be excused from venial sin who does this for a reasonable cause, for example if, after the first nocturn has been recited, he is very weary, or overcome by sleep, etc., since any interruption for a just cause is lawful. L. 168.

144. Whether or to what extent must some hour be repeated because of a notable interruption interposed? - An entire hour is never to be repeated, even if the interruption was interposed without a just cause. The reason is that individual psalms, and individual lessons or prayers, have their own complete signification, and are sufficiently united by the intention of continuing. Indeed, speaking in itself, nothing is necessarily to be repeated, even if the interruption is made in the middle of a psalm, provided it is not in the middle of a versicle or in the middle of a prayer, because even individual versicles have their own particular signification. L. 168.

145. Is it lawful in recitation of the office to mix in or add something from devotion? - Reply: Negatively. The reason is that since the form of the divine office has been determined and prescribed by the Church, nothing is to be added, subtracted, or changed, unless it has been conceded by the Apostolic See. E. M.

146. Are you held to repeat those things which you recited with imperfect or mutilated pronunciation? - Reply: Affirmatively, if the mutilation is very notable, so that the sense of the words is corrupted and destroyed; and this holds even if you did it involuntarily, because the defect affects the substance of recitation. Except unless impossibility stands in the way, for example stammering. This also holds if not you, but the companion with whom you recited, by chopping off syllables, notably changed the sense of the words. Negatively, if you so mutilate syllables that the sense of the words is not corrupted, or if you mutilate in a small quantity; for then the fault does not affect the substance of the obligation, and therefore it does not exceed venial sin. Indeed you in no way sin if you do this involuntarily on account of inadvertence, or stammering, or an inveterate custom which can be overcome only with difficulty; for the rest, suitable study must be applied to correcting this custom.

147. Before Lauds separated from Matins, must the *Pater* and *Ave* be said, as before the other hours? - In the Ordinary of the divine Office of the new Psalter at Lauds it is said: "If Lauds outside choir are separated from Matins, before them *Pater noster* and *Ave Maria* are said secretly; otherwise they are begun absolutely, as follows, V. *Deus in adiutorium*, etc." S. R. C., May 18, 1883, ad II, n. 3574; La-Croix 1305.

148. At what time are the canonical hours to be recited? - The obligation of reciting the hours is affixed to the day, so that in no way can it be satisfied on another day; therefore the obligation according to the mind of the Church ceases with the day assigned to it, and hence it is customarily called the burden of the day. The time prefixed for fulfilling the entire recitation of the office begins from midnight and ends at the following midnight, so that whoever recites the whole office within this time must always be exempted from grave sin, at whatever hour he satisfies such duty. The reason is that by reciting the whole office in the natural day, he satisfies as regards substance. But it is free to each one to follow true time, or mean time, or legal time, S. Penitentiary, November 23, 1882; S. C. C., July 23, 1893. And this holds also for other laws of this kind, for example fasting. Matins and Lauds, by privilege introduced by custom, can be recited on the preceding day toward evening. Matins and Lauds must be recited by priests before celebration of Mass. This is established from the rubric of the missal, title 1 *de Praeparat. sac.*, where it is read: "The priest about to celebrate Mass, at least Matins with Lauds having been completed," etc.

All the little hours can be recited in the morning time; and indeed the first two are to be recited before noon; but the later two can be said throughout both the morning and evening time. Vespers and Compline are recited from noon until midnight. In Lent from the first Sunday, Vespers can be recited before the meal on account of the ancient discipline, according to which the fast was not broken before the recitation of Vespers. On Sunday, however, Vespers cannot be anticipated, because the fast is not observed on that day.

In choir, Matins of the following day regularly cannot be recited the evening before after Vespers and Compline by canons and other beneficed persons, unless from a just cause and from the Bishop's dispensation for a time. For this to be done habitually, an apostolic indult is needed. Benedict XIV, Instruction 107, § IV, n. 22. Sext and None regularly cannot be recited before conventual Mass in choir, S. R. C., March 4, 1901, ad 2, Senogallien., n. 4067.

Formerly the hours were recited thus: Matins after midnight, Lauds at dawn, Prime after sunrise, Terce at the ninth morning hour, Sext at midday, None at the third afternoon hour, Vespers at sunset, Compline at the twilight of night. S. Th. *Quodl.* 3, a. 29; E. M.

149. Can the little hours be recited even before dawn without any cause? - Reply: More probably affirmatively. The reason is that from the fact that the ancient custom of reciting those hours at a determined time has been removed, no other law or new custom has imposed an obligation of paying them only in the time following dawn. Indeed grave theologians expressly assert that these hours can be recited throughout the whole morning time, or from midnight to midday. L. H. A. Appendix 3, n. 74.

150. Does the obligation of reciting Matins and Lauds before Mass press under grave obligation? - Reply: Negatively, at least more probably. The reason is that there is no connection between the office and Mass, and therefore the recitation of Matins does not seem a necessary disposition for celebrating, since a priest can also dispose himself piously for the sacred action by praying otherwise. Nor does a grave obligation appear from the rubric reported above, nor is it generally apprehended under grave obligation. L. l. 6, n. 347; l. 4, n. 171; Benedict XIV, C. *Etsi pastoralis*, June 18, 1742; *de Sacr. Missae* l. 3, c. 13. Nevertheless it would be grave, from the common opinion, to sing the conventual and solemn Mass before Matins has been said in choir, unless a grave and public cause intervenes, scandal being removed. The reason is that such is the custom received in all Churches.

Wherefore, by acting otherwise, public worship of God, the common good, and the fitting governance of the Church would be gravely harmed, besides scandal of the people. L. l. 6, n. 348.

151. What cause can excuse from the light obligation in the preceding case? - Reply: S. Alphonsus says, more commonly and more probably, that venial fault is present in the omission of that recitation, because the aforesaid omission is numbered among the defects in the Missal, *de Defect. in minist.*, etc., par. 1. But any moderate reasonable cause will excuse from it, for example, if the time of celebrating has arrived and the celebration cannot be deferred without some inconvenience; if greater convenience of study, or greater usefulness to be obtained from studies, demands this; if some unexpected business has come up. L. ib.

152. At what hour is it lawful to begin the recitation of Matins in the evening of the preceding day, according to the privilege reported above? - It is lawful to begin when the sun holds the middle of its course between midday and sunset. For then the ecclesiastical day certainly begins, which according to all begins from Vespers, and at that hour first Vespers are accustomed to be sung. S. R. C., March 16, 1876, n. 3391; L. 174; E. M.

153. Must the recitation of Matins be repeated if it was had before the aforesaid time? - Reply: Negatively. The reason is that the ecclesiastical day, from S. Alphonsus himself and from S. Thomas, begins after Vespers, which from the present use of life are customarily said around the second hour after midday, and at the same hour indulgences can be acquired which begin from first Vespers. Wherefore then Matins and Lauds can be recited. And therefore the response of July 13, 1883, "Approved authors are to be consulted," was expunged from the new Collectanea of the S. C. R. as useless. And when the doubt was again proposed: "Whether in private recitation Matins for the following day can be begun at the second hour after midday, or whether one must stand by the table of the Diocesan Directory," the S. R. C. on May 12, 1905, again responded: "Approved authors are to be consulted." Certainly at present an Indult is conceded no longer for the second hour, but for the first hour after midday, or even immediately after midday. There is added the fact that in the sixth volume of the Authentic Decrees of the S. R. C. the preceding response was changed thus: "Affirmatively to the first part, Negatively to the second." N. 4158. S. Th. *Quodl.* 5, a. 28; La-Croix 1314; Giribaldi 192-194; D'Annibale ed. 3, p. 3, n. 150, 178; Gury-Ballerini 64; A. S. S. v. 12, p. 14; v. 36, p. 415, 419; E. M.

154. Can Matins of the office of the Dead and the litanies for the feast of S. Mark and the days of Rogation be recited on the preceding evening? - Reply to the first: Affirmatively. This is established from universal custom. Moreover previously in the Office of November 2, within the octave of All Saints, after Lauds it was said in the Rubric: "After *Benedicamus Domino* has been said, Matins of the Dead begins absolutely." Therefore, it was concluded, since Matins of the octave of the Feast of All Saints is accustomed, or certainly can, be anticipated, consequently Matins of the Dead also can be anticipated. S. R. C., July 9, 1895, General Decree n. 3864; L. 174. But now, since after the Constitution *Divino afflatu*, Rubr. title XIII, only the Office for the Dead is done, the custom remains unchanged, and as another Matins can be anticipated, so also that of the Dead, since nothing by the new Rubrics and Decrees has hitherto been changed.

Reply to the second: Negatively. The reason is that the litanies in themselves do not seem to be joined with Matins and Lauds, but are something altogether distinct. Moreover, if the feast of S. Mark is transferred, the litanies must not be transferred; therefore they do not strictly adhere to Matins,

indeed they have no connection with it. Finally, they are recited in place of assistance at the procession, which assistance is altogether affixed to the day. L. 174; D'Annibale ed. 3, p. 3, n. 147.

155. Is one foreseeing an impediment for recitation of the office on the very day of obligation held to recite Matins and Lauds on the evening of the vigil? - Reply: Negatively. The reason is that although Matins and Lauds by force of privilege can be recited the preceding day, nevertheless they must not. The general rule is that no one is held to use any privilege. Therefore the strict obligation does not press before the following midnight. Wherefore, an impediment standing from midnight to midnight, the obligation is removed. Nevertheless it is very fitting that the recitation be anticipated. Wherefore, on the contrary, one foreseeing at evening time an impediment in the morning is held to recite Sext, None, Vespers, and Compline. For the substance of the obligation is from midnight to midnight, as custom itself, the best interpreter of laws, interprets this law. Kenrick tr. 8, n. 10, 19.

156. At what hour can recitation of Vespers begin in the morning during Lent? - The general rule is that Vespers can be recited privately at the same hour at which they are accustomed to be recited in choir. But in choir they must be recited after conventual Mass and None. The hour of conventual Mass depends on the custom of places. Therefore they can be recited from around approximately the eleventh hour. According to Ferraris, v. *Indulgentia*, a. 3, n. 38, they can be recited at half past the tenth hour. For the rest, there is no obligation to recite Vespers before noon during Lent, but it is a mere privilege, which no one is held to use. Compline does not enjoy the aforesaid privilege; whence at every time it must be recited after noon. S. R. C., March 31, 1887, Cataren., n. 3672.

157. Note: "So that someone can licitly anticipate or postpone the due time of the hours, any useful or honest cause suffices, namely a sermon to be prepared or heard, danger of a supervening occupation or labor, greater devotion or quiet, a time more apt for studying, and the like." L. 173. Cf. here 134.

158. Is there in choir a grave obligation of reciting the office in due order and at the appointed hours? - Reply: More probably negatively. The reason is that a circumstance of this kind, of time or order, does not pertain to the substance of the precept, but is a certain accidental ceremony. Nor indeed is there evidence of a grave precept imposed concerning this matter. L. 171.

159. What must be observed as regards place and posture in recitation of the office? - As regards place: The office of choir must be recited in the very place destined for this, that is, in choir or in church. But if the office is recited privately, it can be said in every decent place, whether in an oratory, or at home, or in the country, or even walking on the road, or making a journey, provided the place is congruent with the required attention and does not impede devotion.

As regards posture: Privately the office can be recited in every decent posture, whether kneeling, standing, sitting, or walking. Thus universal practice and all theologians. L. 179.

160. Note: Those who are held to choir can for a just cause recite in the sacristy, L. 143, or in another place outside the church. L. l. 3, n. 675.

161. Is it lawful to recite the office lying down in bed? - Reply: Negatively, a reasonable cause being excluded; for such a posture has some savor of irreverence. The same also must be said concerning any other posture of this kind. Nevertheless this irreverence does not exceed venial sin, from which

any moderate cause excuses, for example illness, weariness, or if someone at night cannot sleep, he could recite the office without being held to get up. L. 179.

162. Is it lawful to recite the office in a carriage or on horseback? - Reply: Affirmatively. The reason is that this is prohibited by no law; nor from another source does it obstruct attention or the reverence due to prayer, even if others were traveling and conversing at the same time. This has obtained as the general custom even of the pious.

163. Is it a fault not to observe the rubric by which certain prayers are to be recited on bended knees? - Reply: Negatively, if there is question of recitation outside choir; since by custom and common interpretation this rubric regards only choir. The same must be said concerning other signs used in choir. These are indeed laudably done in private recitation, but they are omitted without fault. If there is question of recitation in choir, it is disputed. For some hold the rubric in this matter as preceptive, others as directive. Nevertheless such an omission can never exceed venial fault. L. 179.

164. Is it a sin to recite the breviary in an indecent place? - More probably it seems to have to be denied in itself, unless the place would harm due attention, for example because of a crowd of people, noise, etc.; otherwise it would be indecent to pray in an indecent place, which is false, since, because God is everywhere, he can also be prayed to and adored everywhere, 1 Tim. 2:8; L. 179; La-Croix 1320.

165. Whether and what kind of intention and attention is required in recitation of the office? - Intention is a willing to do something; attention, the application of the mind to that which is being done. One intention is express, another implicit. Express is that by which someone, taking the breviary at the beginning, says: I wish to pray. Implicit is that by which he indeed does not say this actually, but virtually intends it, while he wishes to recite the canonical hours according to the precept of the Church. Moreover, one intention is actual, which is; another virtual, which was and perseveres in some effect; another habitual, which likewise was, but remains in no effect. Likewise one attention is external, which namely excludes every external action physically incompatible with that which is being done; another internal, which consists in the interior advertence of the mind to that which is being done. Again internal attention is threefold, namely: 1. spiritual, which is toward God himself as the term of prayer; 2. literal, or toward the sense of the words and the signification of the things; 3. material, which is made toward the words only, or toward duly pronouncing them. L. 176; S. Th. 4, dist. 15, q. 4, a. 2, sol. 5.

Intention is necessary, because recitation of the office is a human act, which cannot exist without intention. "Concerning intention, it is certain that an actual explicit intention is not required, but an implicit virtual one suffices, namely, if according to custom you take the breviary so that you may fulfill the office, as you are accustomed, as Sanchez, etc., commonly teach. Indeed Croix rightly adds that there is no need to renew the intention at the individual hours, even if some interruption intervenes, even without cause; because that resumption is made from the first intention. Indeed I think that there is always present in exercise the actual intention of fulfilling the office." L. 176.

Concerning attention: In order to satisfy substantially the precept of the office, no other internal attention is required besides attention to duly pronouncing all things; and sufficiently probably the intention of reciting suffices, with external attention. The reason is that internal attention is not of

the essence of prayer; for prayer is nothing other than a petition of fitting things from God. But even with wandering of mind someone can manifest his desires to another. Wherefore external attention, joined with the intention of reciting, or of asking fitting things from God, effects that the recitation of the hours becomes, as regards substance, true prayer. And thus teach very many grave doctors: Lugo *de Euch.* d. 22, n. 25 ff.; L. 176, 177; S. Th. 4, dist. 15, q. 4, a. 2, sol. 4 ad 2. For the rest, for casting away scruples it is very helpful to note that which doctors commonly teach, even those who require internal attention, namely "that for someone to be said not to satisfy the office, it is required not only that he voluntarily distract himself, but also that he fully advert that he is being distracted; for otherwise, although he spontaneously diverts himself, nevertheless he does not spontaneously divert himself from recitation." L. 177. Moreover external attention, at least practically, is confused with the third internal attention, with which many of those who require internal attention are content.

166. Does he sin mortally who recites the hours while existing in mortal sin? - Reply: Negatively. The reason is that recitation of the office is not an act of sacred order; and although that man obtains nothing for himself, nevertheless, since he prays in the name of the Church, he can well obtain for others. But that he prays in the name of the Church while existing in mortal sin does not seem to be an irreverence to be condemned as mortal. And if he prays from devotion, he does not seem to have to be condemned of any sin, and the prayer will also be able to be useful to him. L. 178. Cf. v. 1, n. 455.

167. What are the causes excusing from recitation of the hours? - They are: impossibility; charity; dispensation.

Impossibility, whether physical or moral, which consists in a grave difficulty of reciting the office. Hence there is excused: 1. He who does not have a breviary, because, for example, he forgot it when undertaking a journey, or lost it on the journey, with inability to obtain another. If however through his own fault he forgot or lost or threw it away, he sinned gravely or lightly according as the cause of the omission exists as gravely or lightly culpable, and the omission of the hours is to be imputed to him according to the gravity of the fault admitted. "If you had the common office and not the proper office of that day, you are held from the common to recite the hours." L. 158. But he who would not have the Roman breviary, but for example the Benedictine, more probably is not held to recite, because from S. Pius V and from Pius X he could satisfy only by that form. But others hold that that other breviary is to be recited, because there are two precepts, one principal concerning reciting the hours, the other accessory concerning the form. Wherefore he who cannot observe the latter is still held to observe the former. L. ib.

2. He who labors under a grave illness, for example fever, pain of stomach or head or eyes; or who justly fears that from recitation a grave inconvenience would follow, etc. Hence he is sufficiently excused who prudently believes or fears that because of the recitation of the office there would come to him from it a notable heaviness of the head, or indigestion of the stomach, or weariness of strength, or another grave inconvenience. But he who cannot recite because of blindness of the eyes is not held to learn the hours by memory, because this would be an extraordinary means. 3. One convalescing from a grave illness can be excused for some days according to the judgment of a prudent man, until his strength is restored. "And this is probably admitted even if the sick man through a great part of the day were reading some book for soothing the mind. The reason is that although he could read a book of recreation, it does

not follow that he can and is held to recite the office, for which another and indeed greater attention is required, which brings greater difficulty." L. 154. The same must be said even if the sick man perhaps were to offer the Holy Sacrifice or hold conversations with others, because by these the illness is relieved, whereas by the recitation of the hours it would become heavier. 4. He is also excused who in a time of persecution fears lest by recitation of the breviary he be betrayed.

Charity toward the neighbor, that is, a grave occupation which cannot be omitted without scandal or notable detriment of the neighbor. Such an occupation excuses from recitation of the office, because the natural precept of charity prevails over ecclesiastical law. Hence you are excused, either totally or partially: 1. If at night, when about to recite the office, for example Vespers, you are called at once to a dying person, and neither time nor convenience is available to you for paying the obligation of the office. 2. If through the whole day you are occupied in hearing Confessions which, because of peculiar circumstances, cannot be deferred, for example in sacred missions. 3. If you could not omit a sermon without scandal or detriment to reputation, and yet time for preparing it would not be available if the office had to be recited. 4. If you are occupied through the whole day in calming quarrels, or assisting the sick, for example in a time of contagious disease, etc.

Legitimate dispensation, or one conceded by a legitimate superior. For the obligation of reciting the divine office, since it is of ecclesiastical Law, can be removed by ecclesiastical superiors. The Pope can validly concede this dispensation in every case, even without cause; licitly, however, from a reasonable cause, for example on account of excessive occupation, for quieting scruples, etc. A Bishop can dispense from this law, but not validly without sufficient cause, and only with someone in particular for a brief time, namely: 1. when recourse to the Pope is difficult; 2. when dispensation is sought on account of a cause which recurs frequently, for example on account of illness; 3. when there is doubt concerning moral inability, or concerning the gravity of the detriment to be feared. A regular prelate also dispenses with his subjects in nearly the same way as a Bishop. L. 154, 156-159.

168. What must be done in doubt whether illness suffices for excusing or not? - The sick man can commit himself to the judgment of a physician, C. *Fraternitatis* 6 *de Frig. et mal.* He can acquiesce in the judgment of the superior, who in doubt is also able to dispense. He can remit himself to the probable judgment of a prudent man. Indeed, probably he can also stand by his own judgment, if he himself can form such a judgment. L. 154.

169. To what is a sick man held if he is certain that he cannot pay the entire office, but doubts whether he is able to recite a part? - Probably he is held to nothing. For he is reasonably excused from the whole office, lest he be tortured by scruples, not knowing how far he can and is held to recite; and this anxiety would bring him great harm. L. 154 in fine.

170. Is one impeded in any way from reciting the whole breviary held to the part which he can recite? - Reply: Affirmatively. The reason is evident. For the obligation of the breviary falls upon its individual parts, since the thing prescribed is divisible. This is also established from proposition 54 condemned by Innocent XI. Therefore he who lacks a breviary and knows nothing else by memory except Lauds or Compline is held under grave obligation to recite those. L. 158; E. M.

171. Are you held to reciting the psalms if you have only these at hand, or know them by memory, the lessons with responsories being left aside? - Reply: More probably affirmatively. The reason is

that since you can recite a notable part of the office, there is no cause why you should be excused from it. But several say that you are held to nothing, because then the form prescribed by S. Pius V, and now by Pius X, is lacking. Nor does the cited proposition 54 condemned by Innocent XI stand in the way, because in that there is question of one who can complete whole hours. The following rule is handed down by S. Ligorius and others: If you can recite as much as is a little hour, you are held under grave obligation to recite it; but if less, you are not obliged to recite anything, not even under venial sin, because such a modest part, taken separately, is not judged appreciable for the end intended by the law. L. 153; La-Croix 1220.

172. Are you held to use a companion if you are not able to recite the hours alone? - Reply: Affirmatively, if you easily find him. The reason is: 1. because then there is not inability properly so called; 2. because the precepts of the Church require ordinary diligence for their fulfillment, and no means is more ordinary than using a companion in recitation. For reciting the office in choir is very consonant both with the first institution of the Hours and with the still-prevailing practice of the Church. L. 158.

173. Are you held to use a companion, with a stipend paid, if you do not conveniently find another? - Reply: Negatively. The reason is that the means is altogether extraordinary and is also full of inconveniences; whence the Church is not judged to oblige to it. Indeed, if a companion who will recite with you gratuitously does not promptly present himself, you are not held to seek someone with anxiety and solicitude, because this too would become an extraordinary means. And this also, at least probably from S. Alphonsus himself 158, holds for a beneficiary.

II. On the Negative Obligations of Clerics

174. Is it lawful for clerics to bear arms? - The bearing of arms, necessity being excluded, is prohibited to clerics by canon law. C. *Clerici* 2 *de Vita et honest. cler.* The reason is that the bearing of arms is unbecoming to the character of clerics, who after the example of Christ ought to be meek and humble of heart. Hence theologians with Benedict XIV, Notification 101, say that clerics in sacred orders who embrace military life sin gravely. Nevertheless those are not to be reprehended who cooperate in a just war by counsel, exhortation, or even help; and if they have temporal jurisdiction, they can declare war, enroll an army, provide arms, provided they do not bear arms nor discharge the office of commander. Necessity being excluded; because necessity has no law. C. *Dilecto* 6 *de Sent. excomm.* in 6; in Canon Law this is not repugnant by divine law. Hence even priests fought in the Old Law, 1 Macc. 10. Suarez *de Censur.* d. 47, s. 6; Lugo, *Resp. Mor.* l. 5, d. 14; S. Th. 2. 2. q. 40, a. 2. "The dispositions by which it is provided that clerics subject to military service not be promoted to major orders before that military service has been completed are preceptive." S. O., August 31, 1904. Cf. E. M.

As regards those, moreover, who are held to perform military service, the rules, precepts, and documents handed down by the S. O. on September 16, 1875, are to be observed.

Religious likewise bound to military service cannot be admitted to sacred orders and to solemn profession in regular orders. But in Institutes of simple vows, they will be able to be admitted only to temporary vows until the time of military service. When that is finished, the former must remain in simple vows at least for a year; the latter will emit profession again for a year. S. C. de Relig., January

1, 1911. Clerics who in any way bring aid to civil wars and political contentions, deserting their proper place of residence or clerical garments, immediately remain suspended from the exercise of orders and grades, and from any ecclesiastical office and benefice; and they become incapable of obtaining any ecclesiastical offices or benefices in the future, every faculty of dispensing being taken away from Ordinaries. Cf. here 1240. Clerics likewise generally are prohibited from involving themselves in political parties, which often is not without scandal of the people.

175. Are fishing and hunting prohibited to clerics? - Fishing is lawful, as something which by its nature is altogether quiet, nor is it read anywhere as proscribed. But frequent and clamorous hunts are interdicted, namely those which are done with great apparatus of men, dogs, hawks, nets, and arms. If they are done rarely, they lack grave fault; if they are quiet, they are lawful, unless they are positively prohibited by the Ordinary. But so that they can be exercised with arms, the permission of the Ordinary is needed. C. 1 *de Cler. ven.*; C. 1 *Ne cler. vel mon.*; Trent s. 24, c. 12 *de R.*; Benedict XIV *de Syn.* l. 11, c. 10, n. 6-10; L. l. 3, n. 606; S. Th. 2. 2. q. 168, a. 2.

176. Is the game of dice prohibited to clerics? - A game of dice is said to be one which is wholly situated in pure chance, and whose outcome depends on mere accident, without the skill of the player obtaining any part in it; such is, for example, the game of knucklebones. As regards inferior clerics, doctors commonly say that this is not positively prohibited, because as regards them, at least from custom, the canons have been derogated, just as regards laymen. But it is prohibited to clerics constituted in orders and to beneficed clerics. This is established: 1. from natural law, because, speaking in itself, it is unbecoming to a cleric and brings scandal; 2. from canon law. Lateran Council IV, can. 16; Trent s. 22, c. 1 *de R.*; Benedict XIV *de Syn.* l. 10, c. 2, n. 2; l. 11, c. 10; L. l. 3, n. 884, 895.

177. Do clerics playing dice sin gravely? - If there is question of a public gambler, all agree that he sins gravely if he exposes a large quantity of money in the game, or a modest quantity, but the game is not only frequent, but also for a long time. The reason is that the sacred canons prohibit games of chance to clerics, C. 15 *de Vit. et hon. cler.*; C. 11 *de Excess. prael.*, and because the game of dice notably dishonors the clerical state, drawing the mind too much away from divine things. Frequent, for a long time: "What sort of frequency is mortal? Bordon thinks it is to play once in a week, but Roncaglia deservedly thinks this too rigid. Indeed Lessius and Wigandt think that clerics playing for a brief time, even if often, for the sake of recreation, are not to be condemned of mortal sin, unless the proper statutes of the diocese prohibit it." L. l. 3, n. 896-898.

Here account must be taken of the reason of scandal and of custom. Wherefore there must be weighed "the quality of the person, whether he is of great or small estimation; for clerics who do not lead so exemplary a life in reality do not introduce grave scandal if they are seen even frequently to be occupied in such games, provided they do not neglect their own ministries. Indeed they provide no scandal if they do this merely for the sake of recreation. And this can truly be said to be excused by today's universal custom, which certainly differs from that ancient strict discipline of the primitive Church." L. l. c. n. 900. "Clerics who rarely, moderately, and privately, without scandal, play dice do not sin gravely. Indeed probably not even venially, if they play for the sake of recreation in a place where the aforesaid canons are not rigidly observed." L. l. c. n. 899.

As regards religious, they, because of their state and the scandal of others, can more easily sin gravely by playing dice or knucklebones. Nevertheless, scandal and a precept to the contrary being set aside, religious also are excused from mortal sin if they play for a small amount or not frequently; and they

are also excused from venial sin if they do it on account of a reasonable cause, for example to console a sick person or a sad companion. Indeed this is lawful even for the sake of recreation and with due moderation, where it is permitted by approved custom. L. l. c. n. 872, 873.

As regards Bishops, they, if they play dice, since this is very unbecoming to the episcopal state, can scarcely be excused from mortal sin. "A Bishop," says S. Alphonsus l. c. n. 902, "playing a game of mere chance even once, I think can with difficulty be excused from grave scandal; just as also I judge if they are frequently occupied in other games of cards not altogether fortuitous." L. l. c. n. 898-902; S. Th. 2. 2. q. 168, a. 3.

178. Is every game of cards judged aleatory? - One game of cards is of pure chance and altogether aleatory; but another is mixed, partly aleatory, partly depending on the skill and industry of the player. Concerning the former the same must be said as above concerning dice. But since by present custom the prohibition of the ancient canons seems greatly tempered, the reason of scandal must rather be attended to in practice. But the latter kind of game is not to be held as unlawful, if the reason of scandal and a special law prohibiting it are absent; for it is not properly an aleatory game.

179. Do clerics or religious sin mortally who, by being present, watch those playing dice? - "This indeed is prohibited by C. *Clerici* 15 *de Vita*, etc., where they are commanded not to be present at games of this kind. Commonly, however, doctors deny that they sin mortally in this, unless they were the cause of a mortal game, or negligently corrected the players, or unless they took complacency in such a game insofar as it is mortal; otherwise if they were present only for the sake of delighting themselves in the skill or fortune of those playing.... Bishops, however, who are present at these games deliberately and frequently can with difficulty be excused even from the sin of grave scandal." L. l. 3, n. 903; Sanchez, *Cons. Mor.* l. 1, c. 8, d. 29.

180. Do clerics sin mortally by being present at bullfights? - S. Pius V, by a motu proprio of November 1, 1567, prohibited the aforesaid agitation of bulls and other wild beasts to all, and brought excommunication upon clerics, both secular and regular, obtaining ecclesiastical benefices or instituted in sacred orders, who were present at it. Gregory XIII, on August 2, 1575, by another motu proprio moderated the former. Finally Clement VIII, on January 3, 1596, moderated still more the motu proprio of S. Pius V. Gutierrez apud Sanchez, *Cons. Mor.* l. 1, c. 8, d. 31, teaches that through the Constitution of Clement the prohibition made to secular clerics constituted in sacred orders or obtaining benefices, of being present at the agitation of bulls, was not taken away. But this is not sufficiently established from the words of the Pontiff. Nevertheless the S. Penitentiary, on September 19, 1893, responded that it cannot be tolerated that a priest be present at the circus, even by force of custom. Regulars, moreover, were positively and clearly excepted by the Pontiff himself from his limitation, and therefore they are prohibited from being present. Villada, *Cas.*, etc., p. 1, p. 344; S. Th. 4, d. 16, q. 4, a. 2, q. 3; E. M.

181. What about entrance into taverns; about dances and comedies; about dwelling with women? - Entrance into eating-houses and taverns outside necessity is altogether forbidden to clerics, C. *Clerici* 15 *de Vit. et honest. cler.* And certainly this is too opposed to clerical modesty and gravity.

To be present at dances, both public and private, and at public comedies, synods everywhere, after Trent s. 22, c. 1 *de R.*, s. 24, c. 12 *de R.*, prohibit clerics under the precept of obedience, as Benedict XIV notes, *de Syn.* l. 11, c. 10, both because of the grave disgrace of the clerical state which usually

arises from this, and because of the danger to which the holiness of clerical life is exposed, and because of the grave scandal of laymen. C. 15 *de Vit. et honest. cler.*; L. l. 3, n. 427, 429.

Nevertheless this does not prohibit clerics, for the sake of honest recreation and exercise, from acting in those representations or being present at them which are held in communities, with the rules of modesty and temperance, however, observed. There are also certain public spectacles which do not seem so unbecoming to clerics, such as military exercises, horse races, enclosures of wild beasts, feats of jugglers, extraordinary musical gatherings, etc. Here the whole matter must be judged from the nature of the thing itself, from the custom of the region, from the place, from the frequency, from the quality of the person, and the like. And it must be observed that vain and lascivious music is also prohibited in Churches, but by no means pious music, which by its harmony can excite to devotion. Trent s. 22 *de Observ. et vit.*, etc.; Benedict XIV, encyclical Epistle *Annus qui*, February 21, 1749, § 3 ff.; Notification 37; S. R. C., July 7, 1894, n. 3830.

By Decree of the Vicariate, July 15, 1909, the clergy, both secular and regular, are prohibited at Rome from being present at public Cinematographs, without any exception. A. A. S. v. 1, p. 600.

Dwelling under the same roof with women is prohibited to clerics, unless they need them and they are free from every suspicion. Such are presumed to be blood relatives in the first and second degree and relatives by affinity in the first; but not likewise in the second, unless one owes reverence to the other, as the widow of an uncle or of a nephew; nor likewise strangers, unless they are both of proved virtue and regularly of advanced age. All these things must be in the estimation of the Ordinary. Advanced, that is, they must be at least forty years old. Regularly; for it is lawful to dwell with younger women, the wives of one's servants, or maidservants or attendants of those who are of the household. C. 1, 9 *de Cohabit. cler.*; C. 27, d. 81; Trent s. 22, c. 1 *de R.*, s. 25, c. 14 *de R.* The reason is the danger of fall and of scandal. Benedict XIV, Instructions 82, 83; *de Syn.* l. 11, c. 4, n. 7; Pirhing l. 3, t. 2, n. 2, 3; Reiffenstuel l. 3, t. 2, n. 8; E. M.

182. Is trade lawful for clerics? - Trade properly so called is interdicted to clerics constituted in sacred orders, and to all religious, so that they sin gravely if they devote much labor to trade. Trent s. 22, c. 1 *de R.*; C. 15, 16 *de Vit. et honest. cler.*; C. 1, 3, 6 *Ne cler. vel monach.*; L. l. 3, n. 381; S. Th. 4, d. 16, q. 4, a. 3, q. 3.

Trade properly so called is when someone buys a thing with the intention that, by selling or exchanging it whole and unchanged at a dearer price, he may gain. Can. 3, caus. 14, q. 4; S. Th. 2. 2. q. 77, a. 4. Properly so called, or lucrative; for there is usually also distinguished economic trade, by which things necessary for sustenance are bought and superfluous things are sold; and artificial trade, by which something is bought so that, changed either naturally or by one's own industry, it may be sold. Neither of these is prohibited in itself. But if things are changed by another's industry, or by hired workers, or if things are sold in a public workshop, this too is unbecoming to the clerical state. For this artificial trade denotes a gain-seeking mind, equally as lucrative trade does, in either case. Cf. Bizzarri ed. 1885, p. 238.

Constituted in sacred orders; for the common opinion is that trade is not prohibited to clerics in minor orders. But it is doubted whether it is forbidden to beneficed clerics in minor orders. Molina, etc., deny it. But the opposite is better to be held with the common opinion, which Lugo, etc., hold. L. l. c.

If they devote much labor to trade; for a cleric does not sin gravely by exercising trade two or three times when it is not shameful and not in a great quantity, because the laws speak of one exercising it. Hence, even if he trades only once or again in grave matter, Cajetan, Salas, etc., probably hold that he does not even sin gravely. L. l. 3, n. 831. For trade to be forbidden to clerics, there is required the mind of buying more cheaply so that it may be sold more dearly; hence it is lawful for them to sell more dearly so that they may buy more cheaply. L. l. c. 336.

Benedict XIV, Bull *Apostolicae servitutis*, February 25, 1741, established that the penalties inflicted against cleric-traders must also be extended to clerics illicitly trading in any way under the name of a layman, just as if they illicitly exercised those same businesses by themselves and in their own name. These penalties are of ferendae sententiae as regards clerics and monks. But as regards missionaries of the East Indies and of America, to whom trade and commerce are more gravely interdicted, these penalties are incurred by them by the fact itself from the Constitution of Urban VIII *Ex debito*, February 22, 1633; Clement IX, *Sollicitudo pastoralis officii*, June 17, 1669; and Resolution of the S. O., March 6, 1817. Cf. 1218.

Clement XIII, Bull *Cum primum*, September 17, 1759, again prohibited clerics from trading through interposed persons, and especially from exercising active exchange through others, namely from acting the parts of a money-changer; adding that if necessity of the family is present, or if a business comes to him by some title from laymen, a cleric still cannot trade without permission of the Apostolic See in Italy, and outside Italy, without permission of the Bishop. Moreover he adds that if a doubt arises concerning some contract, whether it can licitly be entered by a cleric, "the most expeditious way is to write to the S. Congregation of the Council, which will decide the doubt." L. l. c. 832, 833. But from received customs, if a cleric has succeeded his father in businesses of this kind together with his brothers, he is permitted to exercise them through others. Likewise no permission is needed if someone trades in order to procure the necessities of life for himself, and not only for his state.

It is certain that it is not lawful for clerics or religious to lease the things of laymen for the sake of making gain. The reason is that although this is not properly trade, but only a certain species of trade, nevertheless it is forbidden by the Council of Chalcedon, C. *Pervenit* 1, caus. 21; C. 1 *Ne cler. vel mon.* And therefore from another's farms it is not lawful to fatten sheep, swine, etc., so that they may afterward be sold, unless somewhere a contrary custom flourishes. To lease; for he who succeeds to the lessee will be able to retain it. Fagnan on C. 1, n. 81 *Ne cler. vel mon.*

By no law is it forbidden to clerics to give a loan to others, and consequently to buy obligations of companies, or even shares, provided however that the companies set no illicit end before themselves, that they do not involve themselves in the administration and trade of those companies, and that they abstain from any trade of those obligations and shares. S. O., April 15, 1885.

Neither by an obligation nor by a share can one be said to exercise commerce and trade through an interposed person. For the company itself, whether industrial or even trading, certainly does not exercise industry or trade by mandate or in the name of such a bondholder or shareholder, but altogether independently of him. The bondholder and shareholder only cooperates by helping with his money given. La-Croix l. 3, p. 2, n. 1005, 1006; Molina d. 339, n. 2; Lugo *de Inst.* d. 26, n. 29; *Resp. Mor.* l. 3, d. 20; L. l. 3, n. 834, 835; Benedict XIV *de Syn.* l. 10, c. 6; S. Th. 2. 2. q. 77, a. 4 ad 3; E. M.

The obligation of a company is a title for receiving a certain fixed emolument from money given to the company as a loan. Wherefore through an obligation someone becomes a creditor of the company. A share of some company is a title by which someone, on account of the sum contributed to the company, has a right to receive a variable, proportionate emolument. Through a share someone becomes a partner of the company, but not for that reason an administrator.

It is likewise prohibited to all clerics to exercise the offices of president, moderator, secretary, treasurer, and similar offices in money chests, rural banks, savings banks, and other similar works for the temporal assistance of the faithful. S. C. Consist., November 18, 1910.

183. You will resolve: It is not trade prohibited to ecclesiastics or religious if from their own grapes they make wine, even through others, and sell it; if they buy cattle which, fattened on their pastures, they sell, because they sell the fruits of their own estates or fields; nor likewise if they nourish flocks so that they may sell the offspring, milk, and wool.

Nor does a cleric sin: 1. If he buys a field with fruits already mature and sells them, because he sells the fruits of his own field. 2. If that which he had bought for his own uses he afterward, either because he does not need it or because his plan has changed, sells more dearly. 3. It is also lawful in itself for clerics to buy iron in order to sell swords; colors, in order to sell paintings; wool, in order to sell cloth, provided however that they themselves make these things, but not through hired workers, because otherwise this would come very close to trade; and likewise provided that they themselves do not sell these things in a public workshop, which would be unbecoming. L. l. c. 834, 836; E. M.

184. Is it lawful for clerics to alienate the things of the Church? - Paul II in the Extravagant *Ambitiosae de Reb. Eccl. non alienand.* prohibits, under grave penalties, the alienation of immovable goods and precious movable goods of the Church which can be preserved; and he declares the alienation altogether invalid. L. 187. Cf. 1209 and vol. 1, n. 1173; C. I. 434; C. G. 2045: the goods of ecclesiastical Institutes cannot be alienated without the approval of the Government.

185. What arts and offices are prohibited to clerics? - It is prohibited to clerics in sacred orders and to monks to exercise medicine and surgery where there is need of incision, amputation, or cauterization, and no necessity is present; and indeed under irregularity if mutilation or death follows from it. For this is opposed to the gentleness which all clerics ought continually to have. If however a skilled person is not present and the case is urgent, a cleric will be able without sin, and therefore without danger of penalty or irregularity, to effect an incision or cauterization. Likewise other ecclesiastics can be present with the best counsels of the healing art. But to exercise the medical art publicly, on account of indecency, is altogether alien from present practice, although it is done without cauterization and incision. It is also prohibited to clerics and monks to hear civil law and medicine publicly. But as regards law, because of the changed circumstances of times, it is permitted to hear it publicly in schools with due permission of their own superiors. Likewise it is permitted, with permission of Ordinaries and with every indecency removed, to hear lessons concerning pastoral medicine, which according to present practice are customarily had. But secular and regular clerics who frequent Government Universities for the sake of studies must observe the prescriptions established by the S. C. of Bishops and Regulars, Instruction *Perspectum*, July 21, 1896. These laws oblige all. Clerics cannot frequent the aforesaid Universities without permission of their Ordinary, nor religious without permission of their Superior General and without urgent necessity. Likewise every art which is generally judged contrary to the honor of the clerical state is prohibited to all

clerics by the same canon law, such as the art of butchers, tavern-keepers, jesters, actors, etc. Decretals, titles *de Vit. et honest. cleric.*; *Ne cler. vel mon.*, etc.; Lugo, *Resp. Moral.* l. 4, d. 34; E. M.

Moreover, beneficed clerics or those in sacred orders are everywhere by canon law prohibited under grave obligation from exercising the following offices: 1. Of tutor, curator, or procurator of minors, and any other which is of public ministry, such as prefect of a city, quaestor, etc., and which obliges them to render accounts concerning justice or concerning goods administered, except the case in which the wards or minors are near relatives of the clerics. Cf. C. un. *de Oblig. ad ratiocin.*; Clement XIII, C. *Cum primum*, par. *Et parem*; C. I. 246. But by present practice it has been received that they can be deputies, senators, and municipal councilors, unless a special prohibition is present.

2. Of judge in a case of blood; of soldier; of advocate, procurator, and notary in secular courts, except the case in which the cleric acts a cause either his own, or of his Church, or of a poor person, or of a person joined to him in the fourth degree; of administrator of the goods of a private lay person, not miserable, with the obligation of rendering accounts of the substance administered. For the rest, doctors do not dare to condemn of mortal sin a cleric who by such procuration would not neglect his ministries, especially if he did this not for the sake of avarice, but to preserve more fittingly his own state and that of his family. For the Law speaks only of him who so immerses himself in procurations of this kind that he would be compelled to neglect his ministries. L. 190; l. 3, n. 838. Decretals l. 1, t. 37 *de Postulando*; Trent s. 7, c. 14 *de R.*, s. 23, c. 1 *de R.*; Benedict XIV *de Syn.* l. 13, c. 10; S. Th. 2. 2. q. 187, a. 2; q. 71, a. 2; Lugo, *Resp. Mor.* l. 4, d. 29; L. 189; l. 7, n. 384, 385, 389; E. M.

185 bis. Note: No one from the secular clergy can frequent royal Universities without the express permission of his Bishop, and no Religious without the express permission of the General Superior. Permission cannot be given except to those who have first completed with praise the philosophical and theological course. If the University is in another diocese, the young men must present themselves to the Bishop of the place, and as much as can be done, they must stay in the Seminary. Religious, however, either in their own house, or in another religious house, or in a seminary, or in some ecclesiastical Institute. Those who have given their name to some Catholic University, or likewise to a Catholic Institute, are not to learn in a civil University the disciplines concerning which there have been teachers in these. Pius X, Motu Proprio *Sacrorum antistitum*, September 1, 1910. Secular clerics cannot direct journals or periodical sheets without permission of the Ordinary. Nor can they exercise the office of Deputy without the consent of their own Ordinary and of the Ordinary of the place where they wish to present themselves as candidates. Thus it has been decided several times. Clerics and priests are prohibited from giving their name to any society which does not depend on the Bishops. Cf. 1240 bis.

III. On Beneficiaries in General

186. What are a benefice and a pension? - An ecclesiastical benefice, considered in itself, is a portion of goods dedicated to God, joined to an ecclesiastical office legitimately erected and perpetually subsisting. But with respect to the beneficiary it is commonly defined: A perpetual right belonging to a cleric, legitimately instituted, of receiving fruits from ecclesiastical goods, on account of a spiritual office constituted by the authority of the Church herself. The goods are something temporal; the

office, spiritual; the right, temporal annexed to the spiritual. Salaries which the State, the immovable goods having been usurped, has substituted for their revenues, put on the nature of the thing substituted and are judged by its law. S. Penitentiary, January 19, 1819. A portion of goods dedicated to God, joined to an ecclesiastical office; hence, when all the revenues of the Canons of some Chapter are in Distributions among those present, a true benefice is still had. Legitimately erected. The Bishop erects benefices in his own diocese, and also suppresses and divides them, with those things being observed which must be observed by law. If evident necessity of the Church presses, the Bishop can proceed to dividing a parish, even when the pastor is unwilling. Benedict XIII, C. *In supremo*. Perpetual. In a benefice perpetuity is altogether necessary, so that, when the beneficed person has died or been removed, it is not extinguished, but is vacant until it is conferred on another, and the beneficed person receives it perpetually and not at the will of the giver. Moreover the intervention of ecclesiastical authority is necessary, annexing temporal goods to a spiritual office and erecting them into the title of a benefice. Hence a foundation of Masses even established perpetually and committed to a priest is not a benefice when the authority of the Church does not intervene to erect it into a benefice.

The right of receiving a certain part of the fruits from another's benefice is called an ecclesiastical pension. When the revenues of benefices have been diminished or lost from public seizures, the diminution or loss of revenues of benefices affects beneficiaries and pensioners in common, proportionately, yet so that to Bishops and pastors the Tridentine congrua must be preserved complete and untouched, Decree *Cum nuperrimi*, January 20, 1871; S. C. of Bishops and Regulars, June 21, 1871, that is, 1000 scudi for Bishops and 100 for pastors.

A scudo is worth 5.37 lire. But the proportion is to be established, with 1000 or 100 deducted, upon the remaining revenue, S. C. of Bishops and Regulars, May 30, 1873. According to the style of the curia, the Roman Pontiff alone can impose a pension, namely a perpetual one. Law certainly requires that benefices be conferred without diminution. Council of Trent s. 21, c. 6 *de R.*, s. 23, c. 18 *de R.*; L. l. 3, n. 74; l. 4, n. 83, 138; Lugo, *Resp. Mor.* l. 5, d. 2.

186 bis. The fruits of the intermediate time of a vacant benefice belong to the successor, for whom they must be faithfully reserved, or to the church, for whose utility they are to be expended, from C. *Cum vos* 4 *de Off. iud. ord.*

The unreceived fruits of a benefice, when the beneficed person has died, belong to the successor, unless they are owed to the Apostolic Camera, to which the S. C. de Propaganda Fide afterward succeeded, Pius VII, C. *Catholicae fidei*, June 19, 1817. When a beneficed person resigns the benefice or renounces it, or is transferred to another benefice, some hold that the fruits not yet received pertain to him; others judge that they pertain to the benefice itself, since the beneficed person, as a quasi-usufructuary, does not have right to the fruits of the usufructuary thing except during his possession of it. Reiffenstuel l. 1, title 7, n. 55.

187. Of how many kinds are benefice and pension? - Some benefices are major, others minor. Major benefices, in which there is external and internal jurisdiction, are those to which the highest grade in the Church adheres, such as Patriarchate, Archbishopric, Bishopric, Cardinalate, and in the opinion of some also an Abbey. These, however, are usually indicated not by the common word benefices, but by their proper word; and sometimes they are also called consistorial benefices, because the Roman Pontiff is ordinarily accustomed to make their collation in the Consistory of Cardinals. Those

benefices which are not contained in the number of the aforesaid are called minor, and some are double, others simple. They are called double which, besides the common recitation of the canonical hours, which inheres in all benefices, and the ministry of the altar, have something else annexed, namely either preeminence and jurisdiction in the internal forum, and they are called curates; or only preeminence, and they are personates; or some function, and they are called offices; or preeminence and jurisdiction in the external forum, and they are dignities. Moreover, of dignities, some are major, and they are those already listed, namely Bishopric, Archbishopric, Primacy, Patriarchate, Cardinalate, and above all the Pontificate; others are minor, such as Archdeaconry, etc. Under the name of dignities generally taken in Apostolic Rescripts, minor Dignities come. Simple benefices are instituted only for pouring forth prayers to God and for the service of the altar, such as an ecclesiastical chaplaincy, etc. L. 84, 116; Bouix *de Par.* p. 172 ff.

Dignities: they are benefices having preeminence and jurisdiction, which jurisdiction today generally is not had; and therefore they would be true personates. Nevertheless the title of dignity remains by reason of a certain special honorific prerogative. And thus they always precede simple canons. They have various names; and even the first dignity has various names, and so now the dean, now the Archdeacon, etc., is the first dignity.

Commend: Formerly churches were commended for a time to someone, who was called commendatory, for their custody, administration, and their necessity and utility. Now it is a true benefice, which by this extraordinary title is conferred perpetually by the Supreme Pontiff on someone who could not conveniently obtain a benefice in the ordinary way, also for the advantage of the commendatory himself, who therefore makes the fruits his own and consequently also has the obligations of a beneficed person.

Chaplaincy: It is a certain perpetual foundation of Masses, which is lay when ecclesiastical authority does not intervene in it. But if the aforesaid foundation is made with the intervention and authority of the Ordinary, it is ecclesiastical and is a true simple benefice. The chaplain, moreover, is held to observe the obligations imposed in the documents of foundation, as regards time, as regards place, and as regards other things.

One pension is lay, another clerical. A lay pension is given either to a layman or to a cleric, on account of a temporal ministry or temporal cause; and it is something wholly temporal. A clerical pension is given to a cleric as a cleric, and it is called mixed if it is given to a poor cleric, an old man, etc., so that he may be supported, or on account of another temporal cause; but it is simply clerical if it is given, for example, to a preacher, coadjutor of a pastor, etc., on account of a spiritual ministry.

It is lost, as a benefice is, by death, religious profession, promotion to the Cardinalate, to the Episcopate, marriage, etc. Cf. the most recent prescriptions of Leo XIII, May 24, 1899. L. 137; l. 3, n. 73 ff.; Schmalzgrueber l. 3, t. 5, 12; Ferraris v. *Beneficium*, *Pensio*; E. M.

It is not lawful without permission of the Holy See, which is given through the S. C. C., to yield a pension to another for a time or for life and to make an agreement with him concerning it. S. C. of Bishops and Regulars, March 12, 1840.

188. How are ecclesiastical benefices acquired; who confers them? - Ecclesiastical benefices are commonly acquired in three ways: 1. By election, by which a cleric is elected by the whole chapter or congregation and is confirmed by the ecclesiastical superior or prelate. Unless the elected person

consents within a month and seeks confirmation within three months from knowledge of the election, the election is invalid. C. 6 *de Elect.* in 6. 2. By presentation, by which someone is presented by the patron to the superior, by whom he is necessarily accepted and instituted if he is found suitable. Nomination can be referred here, namely by which someone, although not a patron, nevertheless by indult offers someone to the superior for some benefice, so that it may be conferred on him by the Superior. 3. By collation, when gratuitously a benefice is given by the sole right of the prelate. Hence another division of benefices arises, into elective, patronate, and collative.

In the election of the Supreme Pontiff, those things alone and all those things must be observed which have been established concerning it in the Constitution of Pius X *Vacante Sede*, December 25, 1904. "Verbal institution or canonical collation of a benefice, after it has been accepted, grants right in the thing, or perfect right with respect to the benefice, even before the handing over of possession and the apprehension of this." Reiffenstuel l. 3, t. 7, n. 77. Wherefore he acquires full administration of the benefice and can have and exercise its care. Reiffenstuel ib. n. 56.

Benefices can also be acquired by prescription, by three-year possession and colored title, which in the case is collation made by him in whom resides the ordinary power of conferring benefices, whether the collation was invalid from itself, because less canonical; or on the part of the collator, because collation did not pertain to him; or on the part of the beneficed person, because he was incapable, provided he is a cleric, except however those who entered simoniacally and intruders.

Option is a certain right by which the older canons, for example, after leaving a prebend, are able within a certain time to choose and obtain another vacant one, which is not reserved. 188.

Benefices are conferred by the Supreme Pontiff in the whole world, and by Bishops in their own dioceses. Bishops by their ordinary right; the Supreme Pontiff also by his own right, but extraordinary, namely by the right of reservation, or devolution, or prevention. When the see is vacant, the Chapter cannot confer benefices which pertain to the Bishop.

Moreover, benefices are reserved to the Supreme Pontiff whose collation in Law has been established for the same Supreme Pontiff. And thus there are reserved to the Supreme Pontiff: the major dignity of each cathedral and collegiate church; the benefices of officials of the Roman curia; those which are vacant in the Curia or at the See, or in the titles of Cardinals of the Holy Roman Church while they are absent; those which become vacant when the episcopal see is vacant, or otherwise than by resignation in the pontifical months, January and February, April and May, July and August, October and November; those concerning which Bishops have disposed against the decrees of the Council of Trent, or apart from the form prescribed by the same Council; those resigned with the form of publication neglected; those conferred on sons of heretics; a benefice dismissed into the hand of the Ordinary, if someone has obtained from the Roman Pontiff another residential benefice incompatible with it; those which are vacant on account of heresy, on account of confidential simony, on account of laying aside clerical habit, on account of a simulated examination for others, or pensions offered so that they may obtain benefices, etc. Benefices are vacant at the See by the natural death of the beneficed person at the Holy See, or within two stages near the Curia, that is, within two stages or forty Italian miles from it, if namely the beneficed person came to the Curia for the sake of treating some business, C. *Licet* 2, C. *Praesenti* 34 *de Praeb.* in 6. Benefices are vacant in the Curia when they are vacant by any act which is completed in the Curia, for example promotion of the beneficed person, resignation of the benefice, etc. Benefices not conferred in due time by inferior collators

devolve to the same Supreme Pontiff, to supply for their negligence; for benefices are to be conferred within six months, and within a month if they have been resigned into the hands of the Ordinary. Finally the right of prevention is exercised in benefices if in them the Supreme Pontiff, knowingly and willingly, has placed his hand by some act, intending to confer it, for example if he gave the beneficed person a coadjutor with future succession. And these benefices are also called affected. Decretals, title *de Elect.*; Trent s. 14, c. 13 *de R.*, s. 25, c. 7 *de R.*; Gregory XIII, C. *Humano vix iudicio*, January 7, 1584; S. Pius V, C. *In conferendis*; Riganti Reg. 1, n. 39; Reg. 9, n. 30, 35; Reg. 19, n. 209, 212; Wernz, *Ius Decret.* t. 2, title 16; Scavini ed. 12, Milan 1874, v. 3, n. 626, 627; L. 85, 86; l. 3, n. 101 ff.; E. M.

The reservations of benefices are contained in the Corpus of Canon Law, in the Extravagants, in the Bulls of subsequent Pontiffs, all of which perpetually have force, and in the Rules of the Apostolic Chancery, which nevertheless cease when the Pontiff has died, though not in all things; and when a new Pontiff has been elected, they again begin to oblige, unless they have been legitimately derogated. Proem. and Reg. 1; Riganti, Proem. n. 66.

But by the death of the Pope only those benefices cease to be reserved which are contained in the ninth Rule, namely those vacant in the Pontifical months. Riganti, Proem. n. 67, 68. For indeed reserved benefices are of different kinds: some by reason of the quality of benefices, as is the reservation of bishoprics and first Dignities; others by reason of persons, as the benefices of Cardinals, Curials, and Officials of the Apostolic See; others by reason of the mode by which they are vacant, as benefices vacant by reason of Apostolic collation of another incompatible one; others by reason of place, as benefices vacant at the See or in the Roman Curia; others by reason of time, as are benefices vacant in the Pontifical months. As regards benefices vacant by reason of months, Bishops who truly and personally reside can, if they petition, obtain the alternation of months, so that in one month, January, the Supreme Pontiff disposes concerning the benefice; in the other month, February, the Bishop disposes; and so in the following months.

Reservations by reason of quality, person, and mode are perpetual. The same must be said concerning reservation by reason of place; but parish churches are to be excepted, which, becoming vacant at the Curia after the death of the Pontiff, or becoming vacant while he is living but not conferred, are immune from reservation. Their collation is free to Ordinaries, lest their long vacancy be able to bring danger to souls, C. *Si Apostolica* 35. 6 *de Praeb.* in 6. Likewise also the other benefices vacant by death at the Curia, if they are not conferred within a month by the Supreme Pontiff, can be conferred by Ordinaries. C. *Statutum* 3 *de Praeb.* in 6. Scavini, Milan 1874, ed. 12, v. 1, n. 343 ff.

Reservation by reason of months ceases, because it is by reason of time, in which the Rules of the Chancery do not oblige, namely when the See is Vacant. Reservation by reason of the benefices themselves, or of the beneficed persons, or of the mode by which they were conferred, or of the place in which they became vacant, does not cease; for benefices are already reserved antecedently to the death of the Pontiff and consequently remain reserved. Reservation is not then first introduced by the death of the Pontiff, and the Rules of the Chancery, as not in force, cannot introduce it; but neither can they remove it once introduced before, which is quite different.

By a special Indult, faculty is given to Cardinals of conferring certain benefices reserved to the Holy See.

Benefices of lay right of patronage are not subjected to reservation of the Holy See, Riganti on Reg. 1, n. 327, when the right of patronage belongs from foundation, endowment, construction, and not from mere privilege, unless the benefices become vacant at the See, or unless the Supreme Pontiff has placed his hand upon them, or they are affected. Riganti l. c. n. 335 ff. But they are subjected to reservation when the right of patronage is ecclesiastical, namely conceded to a church, Riganti l. c. n. 144, 154; Scavini, Milan 1874, ed. 12, v. 1, n. 347, par. 1.

The right of patronage is called lay when it arises from a benefice founded, restored, or endowed by someone or by his ancestors, although it is in the possession of a priest who enjoys it by the right of his ancestors. It is ecclesiastical when it belongs to someone by reason of a benefice which he himself possesses, for example a bishopric, or from the fact that he founded, restored, or endowed a benefice from ecclesiastical goods.

A lay patron is granted four months from the day on which he knew the benefice to be vacant, so that he may present a suitable cleric. If he presents an unworthy one, he is to be warned that he present another. And if a second time he presents an unworthy one, he falls from his right, which devolves to the bishop. But if he presents a worthy one, a more worthy one having been passed over, he is to be instituted.

An ecclesiastical patron is granted six months. If he presents an unworthy one, he falls from his right, and the Bishop for that turn freely confers the benefice upon any other, according to the judgment of his conscience.

If there is question of parochial benefices, institution must be made within two months from the day of presentation. S. Pius V, C. *In conferendis*, April 15, 1567.

The Bishop freely confers the benefice when the time assigned to patrons has elapsed without any presentation made by them, provided however that they knew the benefice to be vacant.

188 bis. Note: 15. "Apostolic Protonotaries Supernumerary remain subject to their own Ordinary, according to the form of the Council of Trent s. 24, c. 11, and their benefices, vacant outside the Roman Curia, are by no means reserved to the Apostolic See."

44. "The benefices of those who enjoy the title and honor of Protonotaries ad instar, as Canons of some Chapter, if they become vacant outside the Roman Curia, are by no means reserved to the Apostolic See. But the benefices of those who enjoy such title and honor as a private person cannot be conferred except by the Apostolic See." Pius X, Motu Proprio *Inter multiplices*, February 21, 1905.

189. What is the right of patronage; how is it acquired; what are the obligations and rights of the patron? - The right of patronage is the faculty or right, first of all, of presenting a cleric so that a benefice may be conferred on him. Namely presentation gives right to the thing. The one presented, however, must be suitable and not unworthy. Therefore it is necessary that he be examined by the Ordinary. He who has this faculty of exhibiting a cleric to the Bishop is called patron.

It has certainly been received by the most ancient discipline of the Church that those who would either erect, endow, or restore temples or benefices would be permitted to choose clerics acceptable to themselves for those same benefices and to present them to Bishops. By the law itself, moreover,

the right of patronage passes to heirs. The right of patronage can likewise be acquired from the concession of the Supreme Pontiff alone.

The patron is held to keep the church, chapel, or altar of the patronage in good repair and to provide their protection. But he also has the right of honor, seat, incense, prayers, burial, and support from the surplus revenues of the church or benefice, if he tends toward want. Trent s. 7, c. 13 *de R.*; s. 14, c. 12, 13 *de R.*; s. 24, c. 3 *de R.*; s. 25, c. 9 *de R.*; L. 87; l. 3, n. 71; Wernz, *Ius Decret*. t. 2, title 19.

190. What benefices are to be conferred by concours? What form is to be observed in concours? - Trent s. 24, c. 18 *de R.*, weighing how much it conduces to the salvation of souls that parishes be governed by worthy men, expressly commanded that they cannot be conferred except on the more worthy among those who, by an experiment to be instituted before the Bishop himself, or, if he is impeded, by his vicar general and examiners, not fewer than three, have been approved; declaring provisions made otherwise null and invalid by the law itself. Indeed S. Pius V, C. *In conferendis*, March 18, 1567, besides the aforesaid nullity of collation, established that this concession is devolved to the Apostolic See, or to those to whom the right of conferring the parish belongs. To parishes add, in Italy and adjacent Islands, the theological and penitentiary prebend, which likewise are benefices to be conferred by concours, and to doctors or those to be distinguished with the doctorate within a year, from Benedict XIII, C. *Pastoralis officii*. Concours has place in curate benefices of ecclesiastical right of patronage, but by no means in curate benefices of the lay right of patrons. In this case, if several have been presented, all are to be examined, and from all those approved one suitable one is to be instituted. Fagnan, C. 24 *de Iure patronatus*, n. 31. The form of concours is had in Trent s. 24, c. 18 *de R.*; C. of S. Pius V *In Conferendis*; C. of Benedict XIV *Cum illud*, December 14, 1742.

For the concours to be valid, it must be made before synodal examiners, or, if these are lacking, pro-synodal examiners legitimately elected. Trent s. 24, c. 18 *de R.*; Benedict XIV *de Syn.* l. 4, c. 7, n. 3. The signatures of the acts are substantial, so that the acts may be authentic and make faith. Nearly all the remaining formalities are accidental. A. S. S. v. 7, p. 353 ff.; Benedict XIV *de Syn.* l. 4, c. 7, 8; l. 13, c. 24, n. 7; Reclusius *de Concursibus*; Bouix *de Par.* p. 352 ff.; E. M.

190 bis. Note: In several places an Indult has been conceded so that parishes may be conferred at will without concours, as, for example, to the Bishops of Latin America. Unless such an Indult is had, or a Concordat or other exemption of this kind, concours is to be announced by the Bishop for curate benefices, and, in Italy, for the Theological and Penitentiary Canonry, ten or twenty days before. The examiners in it are synodal or pro-synodal examiners; the former elected by the Bishop in synod, the latter outside Synod with the consent of the Chapter, and at present there is no need of an indult of the Holy See. The Examiners pronounce judgment concerning knowledge and morals. But the election of the more worthy one, relative to the benefice, pertains to the Bishop. If the benefice is reserved to the Holy See, the Bishop transmits the Acts of the Concours to the Apostolic Dataria, which chooses the more worthy one, unless the reservation is by reason of papal months, because then the Bishop himself chooses the more worthy and presents him to the Apostolic Dataria. Competitors who think themselves aggrieved can have recourse to the Metropolitan or to the nearer Bishop or to the Holy See.

Provision of minor offices in the Roman Curia is made by concours, whose laws are had in the Order to be observed in the same Curia, which is had after the Constitution *Sapienti consilio*. In a concours for provision of minor administrators in the Roman Curia, the examiners are held to announce first

those suitable, and then which among them are to be preferred to others. The outcome of the scrutiny will be reported to the Supreme Pontiff, so that, with him approving, one can come to the nomination of the candidate.

Those who believe themselves less worthy, but not unworthy, can nevertheless compete.

Even when a parish is to be conferred without concours, for example because it is of lay right of patronage, the bishop is held to examine the one presented from the Council of Trent s. 24, c. 18 *de R*. Indeed he can even examine again pastors once examined, if grave suspicion of lack of skill is had against them. The Capitular Vicar can also do this. And the successor Bishop can also do this for the sole quiet of his conscience. S. C. C., August 28, 1628; January 16, 1667; February 5, 1688.

191. To whom are benefices to be conferred? - Benefices are not to be conferred except on suitable and worthy persons, who namely show beforehand the conditions or qualities required by the sacred canons. Namely, the one to be chosen for a benefice must be:

1. Of honorable morals; hence the wicked, criminal, infamous, irregular, censured, simoniac, murderer, one who has procured abortion, a heretic and his favorer, receiver, etc., is deservedly rejected, as is established from various texts of law. R. I. 87 in 6; Trent s. 7, c. 3 *de R*.
2. That he be strong in knowledge, which indeed from Trent s. 7, c. 1 *de R*., s. 22, c. 2 *de R*., s. 24, c. 12 *de R*., is diverse according to the diverse quality of benefices.
3. That he be celibate; for from Canon Law a married man cannot be admitted; and a collation made to one who is joined in marriage exists as invalid. And, if a cleric constituted in minor orders has a benefice and contracts marriage, he is to be deprived of the benefice, C.

Si qui 1, C. *Sane* 2, C. *Quod a te* 3, C. *Diversis* 5 *de Cler. coniug*., or even by the law itself he loses it, Schmalzgrueber l. 3, title 3, n. 5.

4. That he be born of legitimate parents, and not the son of a heretic; otherwise the election is null. Trent s. 7, c. 1 *de R*., s. 22, c. 2 *de R*., s. 24, c. 1 *de R*., s. 25, c. 15 *de R*.; Benedict XIV *de Syn.* l. 13, c. 24, n. 11 ff.; Pichler l. 1, t. 17, n. 4 ff.
5. That he have the prescribed age; and it is common that if age is lacking even as regards one hour, the collation of the benefice is null. Trent s. 22, c. 4; s. 23, c. 6 *de R*.; s. 24, c. 8, 12 *de R*.; L. l. 6, n. 799. Cf. n. 909.
6. That the one to be chosen be marked at least with first tonsure; otherwise it is not conferred on a cleric. C. 7 *de Praescript*.; C. 2 *de Instit*. But if the benefice requires a certain sacred order, it is necessary that within a year from possession that order be received. But if there is grave necessity or utility of the church, the Bishop can dispense with the beneficed person so that he may devote himself to studies. Schmalzgrueber l. 3, t. 4, n. 62, from Trent s. 5, c. 1 *de R*., s. 6, c. 2 *de R*. Except, unless it requires such an order actually; then the order is required at the very time at which the benefice is acquired. Here nevertheless it must be noted that even concerning a layman election and nomination sometimes is accustomed to be made, namely under hope of future clerical state.

7. That he have a true intention of persevering in the ecclesiastical state and of receiving the sacred order which is required for the benefice, unless a just cause occurs which persuades otherwise; otherwise he would deceive the Church in a grave matter, whose intention is that he receive the order at the established time. Hence he would sin gravely who without that intention received a benefice requiring sacred order; and indeed this intention must be true and determinate. Trent s. 22, c. 4 *de R.*; L. l. 6, n. 785. And, if the benefice is a parish church, and someone received it not intending to be promoted to the priesthood, he must restore the fruits which he thus fraudulently received, unless afterward with changed will he was promoted. C. *Commissa* 35 *de Elect.* in 6. If no sacred order is annexed to the benefice, he more truly sins lightly, because from no law is it established that this is lethal.

8. Finally, that the one to be instituted to a benefice not already be provided with another benefice; for it is certain by canon law that plurality of benefices in one cleric is absolutely prohibited. Nevertheless, with the dispensation of the Supreme Pontiff acceding, if some honorable cause is present, several benefices can be obtained. Indeed, even without dispensation, in some cases several benefices can be obtained. For incompatibility of benefices is had as regards residential benefices, which impose continuous residence; as regards uniform ones under the same roof, which namely have the same offices, at the same time, and in the same Church annexed; as regards sufficient ones, that is, those which suffice for the honorable and fitting sustenance of the beneficed person. But a second simple benefice can be obtained if the first does not suffice for honorable sustenance. Yet, even if the first two benefices do not suffice for this honorable sustenance, a third benefice cannot be obtained without special dispensation of the Apostolic See. Trent s. 7, c. 2, 4 *de R.*; s. 24, c. 17 *de R.*; C. 28 *de Praeb.*, etc.; Trent s. 22, c. 2 *de R.*; L. 112-118; S. Th. *Quodl.* 8, a. 13; *Quodl.* 9, a. 15; Sanchez *de Matr.* l. 7, d. 45; Schmalzgrueber l. 3, t. 5 *de Praeb.*; Benedict XIV *de Syn.* l. 13, c. 8, n. 8, 9; E. M.

Religious cannot obtain secular benefices, nor consequently can they be elected as canons, nor even as pastors of a secular parish, without dispensation of the Holy See. Those perpetually secularized, by the simple Rescript of secularization, can neither licitly nor validly receive and obtain ecclesiastical benefices.

192. How are benefices lost? - Benefices can be lost in four ways: 1. By the death of the beneficed person, because they are conceded only to persons and cannot pass to heirs by hereditary right. 2. By a sentence of the judge, either merely declaratory of the crime, if there is question of certain enormous crimes by which the benefice is lost by the fact itself, with the aforesaid sentence acceding, or condemnatory, on account of crimes not so enormous. Where there is question of perpetual benefices, or strictly such, no one can be despoiled of a benefice except on account of a crime expressed in law and with the order of law observed. The principal crimes expressed in law are: heresy, simony, assassination, homicide, abortion, concubinage, sodomy, residence not observed, alienation of the things of the benefice. Cf. Trent s. 21, c. 6 *de R.*, s. 25, c. 6, 14 *de R.*; S. Pius V, C. *Horrendum*, August 30, 1568; Sixtus V, C. *Effraenatam*, October 29, 1588; Extravagant *Ambitiosae*; C. 1 *de Homic.* in 6. But by economic removal, "if the bishop has considered the cause necessary, he will licitly be able to transfer persons from one place to another." C. *Quaesitum de Rer. permut.* Reiffenstuel title cited, n. 38; Schmalzgrueber same title. But if benefices are not perpetual, nor strictly such, but benefices are manual, as they are called, then benefices can be taken away at the will or judgment, for

example of the Bishop, and the beneficed person is removable, but from a just cause. 3. By translation or promotion; or by free renunciation, which is the voluntary dismissal of one's own benefice made into the hand of the legitimate superior accepting it; or by resignation, which is renunciation made in favor of another, into the hand of the legitimate superior accepting it; or by permutation, which is mutual resignation of the benefice, in favor of another, into the hand of the legitimate superior accepting it. Novices are prohibited from renouncing before the two months nearest to profession. Trent s. 25, c. 16 *de Reg.* In the renunciation of benefices, publication of them must be made from the Constitution of Gregory XIII *Humano vix iudicio*, January 13, 1583, in the mode and form prescribed in the same Constitution. The aforesaid Constitution was confirmed by Benedict XIV, C. *Ecclesiastica*, June 15, 1746.

4. By the mere disposition of law, after marriage or religious profession; by acceptance and peaceful possession of another incompatible benefice; if someone provided with a benefice previously resigned by another has delayed possession beyond three months from the day of collation; if someone having obtained a parochial benefice has not ascended to the priesthood within a year; if someone has laid aside the clerical habit; if someone has given his name to military service; but in these two last cases there is need of a declaratory sentence. Sanchez *de Matr.* l. 7, d. 42, n. 4; C. *Beneficium* 4 *de Regular.* in 6; Trent s. 7, c. 4 *de R.*; S. Pius V, C. *Cum sacrosanctum*, VI Id. Jan. 1588; cf. n. 191. L. 133-136; l. 3, n. 80 ff.; Riganti on Reg. 45, n. 1; Lugo, *Resp. Mor.* l. 5, d. 4; A. S. S. v. 1, p. 513 ff.; v. 18, p. 181 ff.; v. 29, p. 226; v. 38, p. 27 ff.; *Monit. Eccles.* v. 17, p. 146; E. M.

192 bis. Note: Solemn profession induces vacancy of benefices, but by no means simple vows before it. Nevertheless in Institutes of simple vows, perpetual vows induce vacancy of residential benefices.

Economic or disciplinary removal of pastors can be made, with the Decree *Maxima cura* of the S. C. Consistorial, August 20, 1910, observed, which is in force also in England, in North America, and in Australia. Its legitimate causes are: insanity, lack of skill, deafness and blindness, hatred of the people, loss of reputation, notorious crime, bad temporal administration, neglect of duties, disobedience to the precepts of the Ordinary. First an invitation is to be made to the pastor that he renounce, and in the decree of removal the Bishop must proceed with the consent of two examiners. And, if there is place for revision of the decree, the consent of two pastor-consultors is needed. Removal of this kind, moreover, provides right to a pension.

Resignation. Renunciation and resignation of benefices are often used indiscriminately. Nevertheless the distinction properly is: for resignation is the cession of a benefice in favor of another before the Pontiff; but renunciation is the pure and simple dismissal of it in the hands of the legitimate superior. Resignation of benefices, or renunciation of them, in order to be valid, must be done freely in the hands of the Bishop or Supreme Pontiff accepting it, and if the benefice is of right of patronage or elective, also with the consent of the Patron or electors. But it must be published by the newly provided person in the form prescribed by Gregory XIII, C. *Humano vix iudicio*, January 5, 1584. This form, however, by no means must be observed in the renunciation of a benefice by force of the Decree *Maxima cura*.

193. What are the obligations of beneficed and pensioned persons? - The obligations of beneficed persons are of different kinds: some are special, which will be set forth in their proper places, where

there is discussion of Bishops, canons, and pastors; others are common to all. Common to all beneficiaries are: 1. The obligation of reciting the canonical hours. 2. The obligation of restoring fruits if they omit the recitation of the office and other obligations to be fulfilled. 3. They are held under grave obligation to expend on pious uses or alms all revenues from merely ecclesiastical goods which are left over from their honorable sustenance. Trent s. 25, c. 1 *de R.*; S. Th. 2. 2. q. 185, a. 7; *Quodl.* 6, a. 12. 4. They must wear tonsure and ecclesiastical habit, and also preserve celibacy. Benedict XIV, C. *Apostolicae Ecclesiae*; *de Syn.* l. 12, c. 3. Those not wearing the habit do not make the fruits their own. Benedict XIII, C. *Catholicae Ecclesiae*, May 2, 1725. 5. They cannot alienate the goods, whether immovable or movable, such as sacred furnishings of the church, give them in pledge, make them subject to servitudes, or change the form of estates, not even for the better, unless it is much and evidently better. C. 1 *de Pignor.*; Benedict XIV, Notification 69, n. 5. 6. They must keep the things of their benefice in good repair and protect its rights, from the surplus revenues of the benefice themselves, if there are any; otherwise according to the judgment of the Ordinary. C. *Quicumque* 1, C. *De his* 4 *de Eccles. aedific.*; Trent s. 21, c. 7 *de R.*; L. 7 C. *de Usufr.* 7. If the benefice is residential, they must dwell in the place of the benefice and fulfill by themselves the burdens annexed to the benefice. C. 2, 3, 4, 9, 16 *de Cler. non resid.*; Trent s. 24, c. 12 *de R.* 8. Those provided with benefices having care of souls, or with dignities or canonries in Cathedrals, must elicit the profession of faith within two months from the day of possession obtained; otherwise they do not make the fruits their own afterward, and until they have emitted the profession. Trent l. c. Nevertheless they can emit the profession of faith after institution or collation has been received and before they are put into possession. S. C. C., May 11, 1782, in one of Tarazona, ad 1; April 23, 1902. But now from S. C. Consistorial, March 1, 1911, the profession of faith must be emitted before possession of the benefice. A. A. S. v. 3, p. 134. Likewise all beneficed persons are held to emit the oath according to the formula prescribed by Pius X in the Motu Proprio *Sacrorum antistitum*. 9. If a sacred order is annexed to the benefice, they must receive this in the next year from entering possession, as has already been said. 10. Finally they must fulfill the obligations established in the documents of foundations. E. M.

From the Constitution of Benedict XIII *Pius et misericors*, April 26, 1725, in Italy and the adjacent islands, they are also held to pay to the fabric of the cathedral church the half-annate. But at present it is almost everywhere no longer paid.

The obligations of pensioned persons are: 1. To recite the office of the Blessed Virgin Mary, unless from another head he is held to the hours, from S. Pius V, C. *Ex proximo*; otherwise he does not make the fruits his own, in proportion to the time and office. But this Bull was not received everywhere. Cf. Suarez *de Relig.* t. 2, l. 4, c. 30, n. 22; L. l. 3, n. 74. 2. If the pension or pensions taken together exceed annually 60 ducats of the camera, that is, 322 lire, he is held to go about in habit and tonsure, Sixtus V, C. *Cum sacrosanctum* and C. *Pastoralis*; otherwise he loses the pension by the law itself, ib. § 2, namely if he seems to have returned to the lay state, Schmalzgrueber l. 3, t. 12, n. 28. 3. He must be celibate; marriage having been entered, the pension is lost. And it is also lost through solemn religious profession, and through promotion to a residential episcopate, after possession has been obtained. Cf. n. 187. Probably he can altogether freely dispose of the pension. But, since it is a personal right, he himself cannot transfer the pension to another cleric. L. 139; l. 3, n. 491.

194. What must be noted especially concerning the application of Masses? - He who by reason of a benefice is held to celebrate is also held to apply the Mass for the founder, unless the contrary intention of this person is established. S. C. C., March 21, 1868; A. S. S. v. 3, p. 525; L. l. 6, n. 332. If the beneficed person is indeed held to celebrate, but the application of the Mass has been left free to him, he can certainly receive a stipend for it. But otherwise it must be said if in the foundation of the benefice the contrary has been guarded against, or nothing has been expressed. S. C. C., July 13, 1630; L. 324; Ferraris v. *Missa*, art. 3, n. 17. Unless it is expressed that he celebrate by himself, he will be able to celebrate and apply through another. S. C. C., September 17, 1783; February 24, 1872; A. S. S. v. 7, p. 181, 182; L. 330. "He who cannot satisfy the foundation because of illness is not held, if it is brief, for example of fifteen days, or even of one or another month, as Lugo d. 21, n. 49 probably teaches, to substitute another or to compensate, since not even honorable masters deal so strictly with servants," L. 333, provided however that the founder did not will otherwise. C. *Significatum* 11 *de Praebend.* But otherwise, if the illness is long-lasting, unless perhaps he is both poor and was promoted to orders by that benefice, for he will be able to be vacant as long as he labors under it. S. C. C., February 5, 1650; April 24, 1655; Elbel *de Euchar.* 214; L. 333. From S. C. C., June 4, 1689; November 17, 1695, if the infirmity exceeds fifteen days, he is held to supply through another.

He who is held daily to celebrate by himself and to apply for the founder can four or six times in a year celebrate for himself, for one joined to him, for a friend or benefactor, provided no other stipend is received; and likewise he will be able once in a month, for the sake of devotion and reverence, to be vacant, and this from the presumed will of the testator. Wherefore this is illicit if the contrary will is established. C. *Significatum* 11 *de Praebend.*; S. C. C., April 18, 1683; Benedict XIV, Instruction 56, n. 5, 6; Elbel *de Euchar.* 215; L. 332; A. S. S. v. 7, p. 179. Masses are to be celebrated at the designated time and place, and ordinarily this is grave. Nevertheless to celebrate before or after, within a modest time, namely within a month, or in another place once or twice in a month, or more often from a just cause, is free from grave fault, unless either another mind of the founder seems to be present, or unjust damage of another forbids it. But the Ordinary has the right to change the time and place, from a just cause, by interpreting the will of the founder. Elbel *de Euchar.* 216; L. 329; Lugo, *Resp. Mor.* l. 5, d. 9, d. 26.

195. Is there an obligation of choosing the more worthy for benefices? - It is certain that those who promote less worthy men to bishoprics and cardinalates are in no way excused from mortal sin. This is had from Trent s. 24, c. 1 *de R.*, confirmed from proposition 47 condemned by Innocent XI. "From this it is clear that Pontiffs and kings who do not promote the more worthy to the aforesaid dignities do indeed sin gravely. The reason is that, since the aforesaid benefices or dignities have been instituted for the common good of the Church, those greatly detract from it who omit choosing the more suitable for the governance of Churches." L. 91. The same must be said of the Minister of cults who proposes to the Prince, and of Bishops who are consulted by Governments, unless they suggest those whom they judge more worthy and more useful to the Church. It is likewise certain that Bishops are equally held to choose the more worthy for curate benefices. The reason is the same; Trent s. 24, c. 18; S. Pius V, C. *In conferendis*, March 18, 1567. But the greater worthiness of those to be chosen is not to be taken absolutely, but respectively to the utility of the Church. Wherefore the more worthy is understood not as he who is more learned, but he who is more apt and useful than the others for fulfilling the functions annexed to the benefice. L. 92; S. Th. 2. 2. q. 185, a. 3; *Quodl.* 4, a. 15; *Quodl.* 6, a. 9; *Quodl.* 8, a. 6.

Do Bishops sin mortally by choosing less worthy men for simple benefices, with the more worthy omitted? - There is a twofold opinion. "The first probable opinion denies it, because only a modest damage is brought upon the community.... The second opinion, however, more common and more probable, teaches that under grave obligation the more worthy are to be chosen even for simple benefices.... The reason is that the utility itself of the Church, on account of which benefices were instituted, of itself demands that the more worthy be promoted; otherwise clerics would apply themselves little to rendering themselves more worthy, and thus the utility of the Church would be greatly deficient.... Nevertheless doctors limit this and say that it is not a mortal sin: 1. If the more worthy is passed over not everywhere, but once or twice.... 2. If the excess of worthiness is small.... 3. If the benefices are of small moment.... 4. If by law of foundation someone must be chosen from some family, college, or town.... 5. If it is foreseen that the more worthy will soon leave the benefice." L. 93-96. Add: 6. If no certain hope appears that the more worthy is going to be elected, it is expedient to vote for the less worthy, if this other would certainly be elected. For by dissenting, one would sow nothing other than enmities and discords. Indeed, one must even vote for the less worthy if otherwise an unworthy one would be elected. And, if no worthy one occurs, it is permitted even to confer the benefice on an unworthy one, if both necessity presses and it is hoped that he will be useful, or more useful than harmful, or if a more unworthy one must be excluded. Ferraris v. *Beneficium*, a. 5, n. 28.

Are lay patrons, not kings, held under mortal sin to present the more worthy for curate benefices? - "The first opinion, which Paludanus and Garcias, P. Navarro and others hold, denies that they are held to present the more worthy, whether the benefice is simple or curate." For the Council of Trent imposes no other burden on a layman than to present a suitable one. "But one must altogether hold with the second opinion that in curate benefices the patron, even a lay one, is held under grave obligation to present the more worthy. This seems certain to me, because in these benefices the same reason indeed runs which does in episcopal benefices, for which Trent has already declared, as we saw above, that the more worthy are to be promoted by all." Lay patrons, not kings: for "it is certain that patrons of bishoprics, as are kings, are held to this from the cited chapter 1 of Trent s. 24 *de R.*, as above, where the Council declared this concerning all promoting. It is certain that if patrons are ecclesiastical, they are also held to present the more worthy, as the Council sanctioned," c. 18 of the aforesaid session 24. For curate benefices: indeed, "if the benefices are simple, just as it is probable that Bishops are not held under grave obligation to confer them on the more worthy, so it is also probable that patrons are not held to this. But because it is more probable, as we have said, that those are to be conferred on the more worthy, so we also judge more probably that patrons are held under grave obligation to present the more worthy. The reason, etc." L. 97. Benedict XIV, Epistle *Redditae nobis*, April 9, 1745. Cf. here n. 190.

Must those resigning benefices also seek the more worthy? - "The first opinion denies it... and Lugo with Vazquez calls it probable.... The second, altogether opposite opinion absolutely affirms that one resigning is held to seek the more worthy.... The third opinion... then only admits that resignation can be made to one not more worthy, when the one resigning-to is equally worthy as the one resigning, because then no damage is inflicted on the Church. But among all these opinions, the opinion of the most learned Lugo seems more equitable to me, namely that the whole reason of fault in this point is to be taken from the reason of damage which would come to the Church, etc." L. 98, 99.

Are the more worthy to be chosen also for regular prelacies? - "The first opinion denies it, unless there is question of a generalate or perpetual prelacy... but one must altogether affirm with the common opinion.... The reason is that they are as it were Bishops." L. 100, 101; S. Th. *Quodl.* 8, a. 6.

He who seeks and obtains a benefice can commit the judgment concerning his own suitability and worthiness to the estimation of others, although he does not reckon himself more worthy than others, provided he does not recognize himself as certainly unworthy. S. Th. 2. 2. q. 185, a. 3; E. M.

196. Is the election of a worthy person in benefices valid, with a more worthy one omitted? - "If the benefice is simple, it is certain from the common opinion of the doctors that it is valid.... It is doubtful if it is curate. Paludanus, etc., probably deny it.... But Lugo, etc., more probably affirm that the collation is valid." L. 102, 103; S. Th. 2. 2. q. 63, a. 2 ad 3.

Parochial prebends, to be conferred by the concours prescribed by Trent, and also for Italy and the adjacent Islands the penitentiary and theological canonry, likewise to be conferred by concours from Benedict XIII, are invalidly conceded even to the simply worthy, with the more worthy or more suitable passed over. Trent s. 25, c. 18 *de R.*; S. Pius V, C. *In conferendis*; Benedict XIII, C. *Pastoralis officii*, May 19, 1725.

197. Is the promotion of an unworthy person invalid? - If the unworthiness regards the lack of those qualities which render one incapable, because by strict law they are required for valid attainment of a benefice, such as age, legitimacy, celibacy, clerical state, sacred order which is actually had or at least received within a year, if however it was annexed to the benefice, doctorate if it is necessarily required, that someone not be excommunicated, a murderer, a son of heretics, that he was not a public heretic or schismatic, etc., then it is clear that that election is null.

If unworthiness indicates only mere ineptitude for performing the offices inhering in the benefice itself, such as defect of knowledge, defect of upright life and reputation, exercise of a ludicrous art, etc., then the election is not, at least in the external forum, invalid by the law itself, because nothing has been defined concerning this. Nevertheless it is to be invalidated from Trent, which commanded "that ecclesiastical benefices, especially those having care of souls, be conferred on worthy and capable persons... but that collation or provision otherwise made be altogether invalidated." S. 7, c. 3 *de R.* Trent s. 25, c. 15 *de R.*; Decretals title *de Filiis presbyter.*; L. l. 7, n. 316; Schmalzgrueber l. 1, t. 14, n. 30, 31. Cf. 196, 909, 1116, 1240, 1317.

198. Are those who choose for a benefice a worthy person, with a more worthy one omitted, held to restore the damage brought upon him or upon the church? - The first opinion affirms that they are held to restitution; but some say that they are held to compensate the damage to the more worthy one omitted; others think the damage must be repaired not only to the more worthy one, but also to the church. The second opinion denies that they are held to restitution either toward the church or toward the more worthy one, but otherwise if an unworthy one is chosen. "Each opinion," says S. Alphonsus, "is very probable," asserting that the second is more probable to him. The reason of this second opinion is that, by that law of choosing the more worthy, there is not had, from the mind of the Church, as it were a contract with the candidates concerning choosing the more worthy, but only a most wisely had prescription that collators of benefices provide for the good of the Church in a better way. Nor do those more worthy men who have been passed over have a strict right from justice to obtain those benefices, but only aptitude. But if an unworthy one is chosen, damage is had to the

church, and from damage arises the obligation of restitution or of reparation of the damage inflicted. L. 107; l. 3, n. 547, 585. Cf. 199.

199. When benefices are conferred by concours, is the one choosing a worthy person, with a more worthy one omitted, held to repair the damage to this latter? - The first opinion affirms it. The reason is that benefices are common goods and rewards of merits. The second opinion denies it. The reason is that the pact which is had in concours is not a rigorous pact, obliging according to the laws of commutative justice, but is only a promise obliging from fidelity; for benefices have been instituted especially for undertaking divine worship. But concours looks only to this, that it may appear who are worthy, who more worthy. L. 109; l. 3, n. 585; *Elench. quaest. reform.* q. 47.

200. Does a less worthy man, opposing himself through concours to a more worthy one, sin mortally, and is he held to restitution if he obtains the benefice? - Reply: Affirmatively, if the one opposing himself is unworthy, because he illicitly and unjustly obtains it. Negatively, if he is simply less worthy. The reason is that it does not pertain to him to discuss merits, but to the examiners and to the one conferring the benefice. And this is the mind of the Church and the common practice, that all worthy persons compete. L. 110; S. Th. 2. 2. q. 63, a. 3; q. 185, a. 3.

201. Are examiners held to denounce the more worthy to the Bishop? - The first probable opinion denies it with Lugo, etc., because from Trent s. 24, c. 18 *de R.*, not the more worthy but the suitable are to be announced by the examiners, so that from these the Bishop may then choose the more worthy. The second opinion, more probable and more common to S. Alphonsus, affirms it. The reason is that concours is prescribed for this purpose, that the Bishop may more easily and more safely be able to choose the more worthy. L. 111; E. M.

202. Must examiners judge not only concerning the knowledge of the competitors, but also concerning the other moral endowments? - Reply: Affirmatively. "When the examination has been completed," says Trent, "let as many as have been judged by these to be suitable in age, morals, doctrine, prudence, and other things opportune for governing the vacant church be announced." S. C. C., August 2, 1607, expressly declared that examiners "gravely fail in their duty if they are judges of doctrine only, and do not inquire who before the others, by probity of morals, labors, obedience previously shown to the church, and the other endowments necessary for abundantly undertaking the parochial office, are suitable and commendable." Indeed it adds that there is no collation which has been made upon the judgment of examiners limited to doctrine alone. And Benedict XIV, Encyclical *Cum illud*, December 14, 1742, openly reproved the contrary abuse growing up somewhere, *de Syn.* l. 4, c. 8. A. S. S. v. 2, p. 81, 90; v. 11, p. 13, 127; E. M.

Synodal Examiners: At present their office is not only to examine for obtaining parishes, but also to give consent for the economic removal of pastors. They must take an oath concerning faithfully fulfilling the duty and preserving secrecy. But on occasion of the examination for parishes they can receive nothing, neither before nor after; otherwise they cannot be absolved from the vice of simony, which both they themselves and the others giving incur. In choosing examiners and pastor-consultors, from the Decree *Maxima cura* concerning administrative removal from office and curate benefice, can. 4, the law to be observed everywhere in the future is this: 1. If a Synod is held, in it, according to received norms, as many are to be chosen as the Ordinary by his prudent judgment shall have judged necessary. 2. When examiners and pastor-consultors have died in the interval between one synod and another, or have ceased from the duty by another reason, the Ordinary substitutes

other pro-synodal ones with the consent of the Cathedral Chapter, and, this being lacking, with the consent of the Diocesan Consultors. 3. This rule is also to be observed in choosing examiners and pastor-consultors whenever a synod is not held. 4. Examiners and consultors, whether elected in synod or outside synod, fall from office after five years from their nomination, or even sooner when a new synod arrives. Nevertheless, with those things observed which must be observed by law, they can be elected again. 5. They cannot be removed by the Ordinary during the five years except from a grave cause and with the consent of the Cathedral Chapter or of the diocesan consultors.

Synodal judges: They are also to be chosen by the Bishop in Synod. If, after a year has elapsed, a new Synod is not celebrated, with the counsel of the Chapter, new pro-synodal judges are to be constituted. Cf. Benedict XIV *de Syn.* l. 4, c. 5, 10. To these from the Council of Trent s. 15, c. 10, ecclesiastical and spiritual causes are to be committed.

IV. On the Obligations of Bishops

203. What about the holiness, knowledge, and preeminence of Bishops? - The holiness of life of Bishops ought to be outstanding. The reason is that the episcopate is a state of perfection acquired and to be exercised. But they ought to excel in so much knowledge that they can satisfy the most grave duty of governing the diocese. Hence it is required that he be a doctor or licentiate in theology or canon law, or at least, as regards regulars, proved suitable for teaching by his superiors with legitimate testimony. Trent s. 6, c. 1 *de R.*; s. 22, c. 2 *de R.*; s. 24, c. 1 *de R.*; s. 25, c. 1, 17 *de R.*; Suarez *de Rel.* t. 3, l. 1, c. 15; Lugo, *Resp. Mor.* l. 5, d. 15; Bouix *de Iure Reg.* v. 1, p. 15 ff.; S. Th. 2. 2. q. 184, 185; *Quodl.* 2, a. 11; *Quodl.* 5, a. 22; *Quodl.* 12, a. 17; L. l. 6, n. 804.

Secular churches, pastors, and beneficiaries are held to pay the Bishop the cathedraticum, or pension, each year, as a sign of subjection and honor of the Episcopal Chair, and for sustaining the burdens of the same Chair or Bishop. The aforesaid pension, however, ought not exceed two solidi, namely twenty giulii, about 10 lire, for a giulio is worth about 50 centesimi. Cf. Benedict XIV *de Syn.* l. 5, c. 6, 7; Roman Council c. 6.

Functions: Episcopal functions are those which pertain to the Bishop by law or custom. They are listed in the Decree of the S. R. C., July 9, 1895, n. 3865. Likewise parochial prerogatives are those which concern the rights of pastors. They are listed in the Decree of the S. C. C., April 3, 1897, Regien.; December 20, 1902, Melev.; and in the Decrees of the S. C. R., Index, *Parochus quoad iura parochialia*, etc.

Cardinals: Cardinals are Princes of the Church, who provide assistance to the Supreme Pontiff in the governance of the Church; and, when the See is vacant, they elect the Supreme Pontiff. The College of Cardinals, if necessity does not press, cannot make laws, but must at once apply itself to the nomination of another Pontiff. Each has jurisdiction in his own title, but only concerning those things which pertain to ecclesiastical discipline and the correction of morals. Innocent XII, C. *Romanus Pontifex*, September 17, 1692. Consequently they can make laws and censures in it. Through the Constitution *Apostolicae Romanorum Pontificum*, April 15, 1910, the Supreme Pontiff Pius X constituted Suffragans as Ordinaries in the suburbicarian dioceses, who, in the name and place of the Cardinal Bishops, administer the diocese as other diocesan Ordinaries do, with the exceptions however noted in the same Constitution. A. A. S. v., p. 277 ff.

The print's appendix has more on this paragraph: Apostolic Constitution Concerning the Suburbicarian Dioceses. (ed.)

204. What about the obligation of residing? - It is certain that Bishops, although they are Cardinals, are held to residence; and that this obliges in itself under grave obligation, from Trent s. 6, c. 1, 2 *de R.*, s. 23, c. 1 *de R.*, and from the open declaration of Benedict XIV, C. *Ad universae*. L. 121. For indeed it is a most grave matter, looking to the salvation of souls. Hence they are held to receive the duty of consecration within a brief time, namely within three months. Trent s. 23, c. 2 *de R*. "And thus they cannot even exchange churches, as is expressly had from canon 15 of the First Council of Nicaea, and the same is had in canon 5 of the Council of Chalcedon and in Epistle II to Anastasius." L. 76. Cf. also L. 121. But the space of time required for grave fault must notably exceed the three months permitted by Trent. L. 127.

This residence is to be understood not only materially and idly, but formally and laboriously. This is established: 1. from Trent l. c., where they are held to discharge the office enjoined upon them; 2. from the Bull *Grave* of Benedict XIV, Instruction 17, n. 2; *de Syn*. l. 7, c. 1, n. 7; l. 13, c. 8; L. 127. A Bishop satisfies the obligation of residence by residing in any place of his diocese. This is established: 1. from Trent ib., in his Church or diocese; 2. from the Bull of Benedict XIV, C. *Ubi primum*; L. 124; Ferraris v. *Episcopus*, a. 3, n. 14, who adds: "provided he goes to the Cathedral at the times prescribed by Trent s. 23, c. 1 *de R.*, S. C. of Bishops, December 17, 1649"; except: "unless episcopal duties in his diocese call him elsewhere." Trent l. c.; Lucidi *de Visit. SS. Lim.* v. 1, p. 140, ed. 3; E. M.

205. What are the causes excusing Bishops from continuous and perpetual residence? - From Trent l. c. they are four: 1. Christian charity, if for example some church is placed in great danger of heresy, discord, etc., and the bishop can bring help to it. 2. Urgent necessity, if for example the bishop is placed in danger of life on account of illness, personal persecution, etc. 3. Due obedience, if for example the Supreme Pontiff calls the bishop so that he may commit some business to him to be treated. 4. Evident utility of the church or republic, for example by reason of a national council, provincial council, etc. On account of these same causes a pastor also can be absent beyond the two months conceded to him.

The causes enunciated regularly do not legitimize the absence of Bishops, except insofar as there accedes the permission either of the Supreme Pontiff, or of the metropolitan, or, if he is absent, of the older residing suffragan Bishop. But now, says Scavini vol. 1, n. 428, 6th ed., Milan 1874, from Benedict XIV, one must always have recourse to the Pope. Urban VIII, C. *Sancta Synodus*, December 12, 1634; Benedict XIV, C. *Ad universae*, September 3, 1746. Regularly; for certain cases are to be excepted. And from the Council of Trent itself, l. c., exception is made: "unless the absence has happened on account of some duty and office of the republic annexed to the bishoprics; since the causes of this are notorious and sudden, it will not even be necessary that they be signified to the metropolitan." Benedict XIV, C. *Ad universae*, September 3, 1746, §§ 6, 9, 20; Urban VIII, C. *Sancta Synodus*, December 12, 1634; L. 122 par. *Insuper*, 125 in fine; Lugo, *Resp. Mor.* l. 5, d. 13.

206. Besides the aforesaid causes, is it never lawful for Bishops to be absent from their diocese? - It is lawful for Bishops, outside the aforesaid causes, to be absent from their dioceses for two or at most three months, but this cannot be done except from an equitable cause and without any detriment of the flock, Trent l. c.; by which words, says Benedict XIV, C. *Ad universae*, "levity of mind, desire for pleasures, and other futile causes are completely excluded." But for this three-month absence Bishops do not need permission of the Holy See. L. 122.

207. Is a Bishop excused from residence on account of danger of contracting plague? - Reply: Negatively. And the same must be said concerning a pastor. S. C. C. and Declaration of Gregory XIII, December 13, 1576. But then the pastor can minister the sacraments to those infected by plague through others, lest the healthy, fearing the plague, refuse to confess to him, and so that he may be able also to satisfy the other duties of his office. Since superiors also, whether regular prelates, are bound by the obligation of residence, on account of the care to be carried for their own, hence they too are held in time of plague to assist their own. L. 119, 233; S. Th. 2. 2. q. 185, a. 5.

208. To what penalties are Bishops liable who transgress the precept of residence? - Besides other penalties, they are held to restitution of the fruits For they do not make them their own in proportion to the time of absence, namely if they do not reside beyond three months, without legitimate cause and the express permission of the Roman Pontiff; and they are held to expend them on the fabric of the churches, or on the poor of the place, without any other declaration. If they are absent for six continuous months they lose the fourth part of the fruits; if for the whole year, half; if longer, they are to be punished more severely. Trent s. 6, c. 1 *de R.*; s. 23, c. 1 *de R.*; Benedict XIV, C. *Ad universae*; L. 122, 126, 127.

209. What about the obligation of visiting the diocese? - A Bishop is bound by obligation to visit the diverse churches of his jurisdiction by himself, or through another if he has been legitimately impeded, so that he may know his sheep, as is fitting, discover their necessities, and supply the means of meeting them. He is bound to this by divine and natural law; for he is the pastor of the whole diocese, and this law cannot be abrogated by any custom. This visitation is to be made once a year, or in two years if the diocese is large. All churches and public oratories are to be visited, and also parochial churches united to monasteries. On the occasion of visitation, moreover, procuration is owed to the Bishop, which is the furnishing of those things necessary for suitable food and lodging, to be supplied by those whom they visit. He likewise has the right of visiting pious places. Regular prelates also are held to visit frequently the monasteries of their congregation and to attend to their reform. C. 3 *de Relig. Domib.*; Trent s. 7, c. 7, 8 *de R.*; s. 21, c. 8 *de R.*; s. 22, c. 6, 8, 9 *de R.*; s. 24, c. 3, 9, 10, 11 *de R.*; s. 25, c. 1, 8, 11, 20 *de Reg.*; Giraldi p. 1, s. 583, 597; E. M. Cf. Instruction for the Apostolic Visitation of the City and Italy.

Ordinaries of the Latin rite cannot admit any Oriental collector of money without permission of the S. C. de Propaganda Fide. S. C., January 1, 1912.

210. What about the governance of clerics? - A special care of watching over the life and honor of clerics rests upon Bishops. This is established: 1. from Trent s. 14, Proem. *de R.*, s. 22, c. 1 *de R.*; 2. from the Encyclicals of Pius IX *Qui pluribus*, 1846, and of Leo XIII *Etsi Nos*, February 15, 1882. Bishops are held, moreover, to institute an ecclesiastical seminary and to have particular care of it. Trent s. 23, c. 18 *de R.*

So that a Seminary of Clerics may be erected in each diocese, the Council of Trent s. 23, c. 18 *de R.* decreed that the Bishop establish and tax a portion to be deducted from the fruits of individual benefices for the expenses of the Seminary, yet with the counsel of two from the Chapter, one of whom is chosen by the Bishop, the other by the Chapter itself, and likewise of two from the Clergy of the city, the election of one of whom pertains to the Bishop, and of the other to the Clergy. Lugo, *Resp. Mor.* l. 5, d. 21.

Bishops in Italy must observe and put into execution the Norms of the S. C. of Bishops and Regulars, January 18, 1908. According to these Norms they cannot permit students of their own diocese to carry out studies privately, or outside Seminaries dependent on them. This has also been specially forbidden to other dioceses. But Italian Seminaries are to be ordered and the studies in them handed down according to the norm of the Circular Letters of the S. C. Consistorial, July 16, 1912.

The teaching of Sacred Scripture is to be imparted in each Seminary according to the prescription made concerning this matter by Pius X, Letter *Quoniam in re biblica*, March 27, 1906.

But the reading of newspapers and periodicals must be interdicted to students of Seminaries, an exception being made for these latter, for some periodical of sound principles and indicated by the Bishop as opportune for the studies of the students. There ought not be lacking in it a spiritual director. Pius X, Epistle to the Bishops of Italy, July 28, 1906. Students dismissed from one seminary cannot be admitted into another. In this matter the Decree of the S. C. C., December 22, 1905, is to be observed. "Those (pastors) who live shamefully and scandalously, after they have been forewarned, let (the Bishops) coerce and chastise; and if still incorrigible they persevere in their wickedness, let them have the faculty of depriving them of benefices according to the constitutions of the sacred canons, exemption and appeal being removed." Council of Trent s. 21, c. 6 *de R*. "The cognition of the aforesaid (crimes)... pertains to the Bishops themselves, who can proceed without noise and figure of judgment, and with only the truth of the fact inspected." Council of Trent s. 25, c. 14 *de R*. In this chapter there is question of causes of clerics who are concubinarians. Benedict XIV, C. *Ubi primum*, December 2, 1740; E. M.

211. What about the care to be had for doctrine? - It belongs to the Bishop to watch over institutions, whether private or public, and also over the printing of books in such a way that nothing be handed down which is opposed to faith and morals. It also pertains to him by a special title to denounce pernicious books. This is openly established from his office as pastor. Trent s. 5, c. 2 *de R*.; Leo XIII, C. *Officiorum*, VIII Kal. Febr. 1896.

Modernism: It is the collection of all heresies. Bishops must watch that it be rooted out if it has been present, and must take care lest it be present. Bishops are to prevent the writings of Modernists from being published and read; especially they are not to permit them to adolescents in Seminaries and to hearers in Universities. Let them institute a council of vigilance, to meet with the Bishop every other month and on a fixed day. Its duty will be to investigate indications of modernism in books and in teachings; likewise to watch over books and journals, lest dangerous questions be treated in these with weak arguments and prejudged questions; finally, in all writings concerning the social matter. By Modernism rash and false novelties are condemned, against the doctrine of Sacred Scripture and that constantly handed down by the Fathers and Catholic Doctors; but by no means is any modern discovery whatever condemned which is proved by solid reason.

Those who are prone to the errors of modernism are to be excluded from teaching and from sacred orders. Pius X, Encyclical *Pascendi*, Motu Proprio *Sacrorum Antistitum*.

212. What about the obligation of preaching? - "As regards Bishops," says Sporer t. 3, p. 73, n. 27, "although they regularly, according to custom, are not held to preach and administer the sacraments by themselves, nevertheless they must personally watch that this be furnished through others, and besides instruct the flock by good example and come to the aid of the poor. It was said regularly, for I

think that at least sometimes Bishops are held to preach, since they themselves, as Trent declares in the cited chapter 1, session 23, are held by divine law to feed their sheep by the preaching of the divine word. And this is declared by the same Council s. 5, c. 2 *de R*." L. 127. Likewise in Trent s. 24, c. 4 *de R*., it is said that the duty of preaching is the principal duty of Bishops, and the Holy Synod "commands that in their own Church they themselves by themselves, or, if they have been legitimately impeded, through those whom they shall assume for the duty of preaching... announce the Sacred Scriptures and the divine law." Cf. also Trent s. 24, c. 7 *de R*. Cf. 239; E. M.

Bishops must further take care that children and the uneducated be taught the catechism according to the norm of the Constitution *Acerbo nimis* of Pius X.

213. What about celebration of Mass and administration of the sacraments? - Reply to the first: Frequently indeed, and even daily from fittingness, and at least on Sundays and feasts from grave obligation, they must offer the Holy Sacrifice for the whole diocese. They must also often stir the people to prayer, by enjoining private and public prayers in chief necessities, by decreeing supplications, etc. St. Paul to the Hebrews 5:1. The Bishop must likewise give effort that those things be observed by all which pertain to the holy celebration of Mass. C. *Quoniam* final *de Privil*. in 6; Trent s. 22, Decree *de observ.*, etc.; s. 23, c. 1 *de R*.; Leo XIII, C. *In suprema*, June 30, 1882; L. l. 6, n. 337; H. A. tr. 7, n. 65, 66; E. M.

Reply to the second: The Bishop is held to administer the sacrament of confirmation; and it is very fitting that he show himself easy in administering it. He is held to confer orders by himself, unless he is impeded by illness. Trent s. 23, c. 3 *de R*. But he is not held to administer the sacrament of penance by himself, and since he has external governance, it is better that he abstain. It suffices that he deputize suitable priests for this ministry.

The Bishop is further held to confect the sacred oils within Mass on the fifth feria of Major Week, with twelve priests joined to himself along with seven deacons and subdeacons, and in case of necessity and with an indult of the Holy See, even with a smaller number. S. R. C., July 16, 1672, n. 1448.

Before he has received the pallium, an Archbishop cannot confer orders, gather synods, bless virgins, consecrate churches, or exercise pontificals even in his own church, unless he has obtained a special faculty. C. 28 *de Electo*. S. R. C., August 7, 1627, n. 443.

The Bishop is held to celebrate an anniversary each year, on the day of death, for the last deceased Bishop, but not for the administrator. *Caerem. Episcop*. l. 2, c. 36, n. 1; S. R. C., July 22, 1908; A. S. S. v. 41, p. 593.

214. What about convoking a synod and visiting the Holy Thresholds? - The Bishop is held to celebrate a diocesan synod every year. And every three years a provincial synod must be celebrated. Trent s. 24, c. 2 *de R*. "Every third year, and even more frequently for necessity or opportunity, all the Bishops of each ecclesiastical province should come together, to act jointly concerning the common business of their churches." Instruction of the Secretariat of State, May 1, 1900, to the Bishops of Latin America. A report every five years is to be presented by the Bishops themselves at Rome to the Holy See concerning the state of the diocese, according to the norm of the canons and order of the Decree of the S. C. Consistorial *A remotissima Ecclesiae*, December 31, 1909.

A report, moreover, is specially enjoined to be made concerning the observance of the Decrees concerning the age of those to be admitted to first Communion, concerning frequent and daily Communion, and of the Motu Proprio *Sacrorum Antistitum*, September 1, 1910, concerning whose observance a report is also to be made by General Moderators of Religious Institutes. In Italy, however, Bishops are specially commanded to preserve carefully monuments of art and history. C. of Sixtus V *Romanus Pontifex*, December 20, 1585; Instruction of the S. C. de Propaganda Fide, June 1, 1877; Plenary Council of Latin America 203; A. S. S. v. 10, p. 202; Benedict XIV *de Syn.* l. 2, c. 5.

215. What about the power of the vicar general? - A vicar general is he who is legitimately deputed to exercise episcopal jurisdiction generally, in place of the Bishop, so that his acts are judged to have been done by the Bishop. He must be a Doctor or Licentiate in Canon Law, or otherwise suitable. A Vicar General, during his duty, is a titular apostolic protonotary. Pius X, Motu Proprio *Inter multiplices*, February 22, 1905.

Whatever generally the Bishop can do from ordinary jurisdiction proper to himself, but not delegated, although ordinary as being annexed to an office, the Vicar can do, who with the Bishop constitutes one tribunal. Nevertheless this general rule has several exceptions, and certain things require a special mandate. And thus the Vicar General cannot confer, suppress, divide, or unite benefices; nor can he "concede dimissorial letters, unless he has express faculty concerning this from the Bishop, or unless the Bishop is outside the province, or distant by two or at least one day's journey from his own diocese." L. 787; C. *Cum nullus de Temp. ord.* in 6. Likewise the Bishop can, according to his own judgment, limit the jurisdiction of his Vicar in certain cases. But it is certain from several decisions of the S. C. C. that the Vicar General can, just as a pastor can, validly assist at marriage without the special mandate of the Bishop, and can concede to another, who is a priest, faculty of validly assisting at it, since he is an Ordinary, Trent s. 24, c. 1 *de R.* Benedict XIV *de Syn.* l. 2, c. 3, 8; Schmalzgrueber l. 4, title 16, n. 90, 91, 92; L. App. *de Priv.* 31, 47, 58; Plenary Council of Latin America 221; E. M.

The Vicar General can likewise approve Confessors, dispense in the proclamations of marriage, and bring censures.

But the Vicar General cannot know graver criminal causes, C. 2 *de Off. vic.* in 6; convoke a synod, S. C. C., December 4, 1655; Benedict XIV *de Syn.* l. 2, c. 3; visit the diocese; absolve from cases reserved by law to the Bishop alone, C. 4 *de Poen. et rem.* in 6; or dispense from irregularities from a hidden delict, Trent s. 24, c. 6 *de R.*

Precedence above all dignities and canons not vested belongs to the Vicar General. But precedence never belongs to him, namely neither in choir nor in processions, above canons clothed in sacred vestments. S. R. C., December 2, 1690, n. 1845.

Concerning the Vicariate of the City, cf. Constitution *Etsi nos* of Pius X, Kalends of January 1912, A. A. S. v. 4, p. 5 ff.

It cannot be prohibited, at least speaking generally, that Vicars General of the Dioceses of North America be from the number of the Consultors, unless the Consultors are very few. S. C. Consistorial, February 27, 1914.

V. On Canons

216. What are canons? - Canons, so called because formerly they were subjected to a common rule, constitute the general council of the Bishop, and are bound by various obligations as regards divine worship, the altar, choir, and, when the see is vacant, the administration of the diocese. Canons are constituted first where there is an episcopal See, or cathedral Church. Temples which, besides the cathedral, have a college of canons are called Collegiate. Some canons are regular, who under a provost lead a common life bound by vows, and these now are found fewer; others are secular, who live separately from benefices or ecclesiastical pensions and preserve the canonical institute as regards various duties to be undertaken in the Church. Trent s. 22, c. 4 *de R.*; s. 24, c. 12.

Hence it is easily clear how great both the honorableness of morals and the knowledge of canons ought to be. The Archdeacon ought to be, as far as can be done, a Master in Theology, or Doctor, or Licentiate in Canon Law. The scholastic canon, obtaining the scholasteria, or having the duty of teaching, must be a Master or Doctor or Licentiate in sacred page or in Canon Law, or certainly must be suitable for such an office. The penitentiary canon must be a Master, or Doctor, or Licentiate in Theology or Canon Law, and forty years old, or otherwise the one who is found more apt according to the quality of the place. The lector canon of sacred theology, who is held to expound and interpret Sacred Scripture, must be suitable to fulfill such a duty by himself. The Council of Trent exhorts, however, that where this can conveniently be done, all dignities, and at least half the Canonries in Cathedral Churches and distinguished Collegiate Churches, be conferred only on Masters or Doctors or Licentiates in Theology or Canon Law. Trent s. 5, c. 1 *de R.*; s. 23, c. 18 *de R.*; s. 24, c. 8, 12 *de R.* Benedict XIII, C. *Pastoralis officii*, May 19, 1725, established for Italy and the adjacent Islands that the theological prebend is to be conferred on a doctor in sacred theology, or on one who at least within a year will be distinguished with the doctorate. Besides the profession of faith, cf. v. 1, n. 364, all are held to take the oath according to the formula prescribed by Pius X in the Motu Proprio *Sacrorum antistitum*. E. M.

To canons who have not been included among Domestic Prelates, from Chapters having the privileges of Protonotaries, cf. v. 1, n. 269 ter 1, it is conceded that collegially they indeed enjoy all privileges granted by the Apostolic See to their Chapter itself; but individually they can both wear the prelatial habit and the piano, as it is called, as is in the Letter *Inter multiplices* at §§ 16 and 17, and, by special mandate of the Ordinary, celebrate the Holy Sacrifice with the vesture and manner of Prelates, concerning which there is discussion ibid. at § 31. It is lawful to use this twofold power only within the limits of the diocese of which the Chapter is. Motu Proprio of Pius X, December 22, 1913.

A canon who has left a canonry and obtained another in the same church must obtain the place of the last canonry obtained, nor can he obtain the place of the one left. S. C. C., March 21, 1609; June 11, 1701; Ferraris v. *Canonicatus*, a. 7, n. 54.

The Bishop can entrust to clerics in sacred orders, initiated by title of ministry and endowed with a canonical benefice, some duty foreign to the benefice, for example the chaplaincy of nuns, or other ecclesiastical services of this kind. When public necessity presses, just as to other clerics, so also to canons who are strong in powers and health, he can impose the aforesaid offices, otherwise by no means conflicting with canonical duties, but altogether compatible, only for a time, and urge their execution according to the canons; yet in such a way that he uses this faculty only with prudence and discretion. S. C. C., December 4, 1913.

The Bishop can visit, correct, and amend Chapters of Cathedrals and of other major churches, and their persons, as often as there shall be need. Council of Trent s. 6, c. 4 *de R*.

217. What about the residence of canons? - Canons are held by the obligation of residing in their own churches. Trent s. 24, c. 12 *de R*.; L. 129. Now from Trent l. c. two things seem to be prescribed absolutely to canons: residence in the place and attendance at choir. Nevertheless, there are those who hold that canons not having care of souls can spend day and night outside the place of their own benefice, provided that at fitting hours they approach the church for service. And this is also established from a Declaration of the S. C. apud S. Alphonsus l. 3, n. 675 in fine.

They can be absent only for three months, Trent l. c., whether continuous or interrupted, S. C. C. 1575. "Otherwise in the first year they are deprived of half the fruits," in the second year of all fruits, etc., with the part deducted for the other offices which they did not omit. L. l. 3, n. 673. "But Bonacina says from a certain Declaration of the S. C. that canons are not deprived of fruits if they are absent only for a few days beyond three months, for a transgression of this kind does not seem such as to merit the aforesaid grave penalty of deprivation of half the fruits." L. 129. They cannot use vacations on Sundays and feast days of the whole year, nor on the days of Advent, Lent, the octaves of the Nativity and Resurrection of the Lord, Pentecost, and Corpus Christi. S. C. C., June 21, 1640. "But canons in the three months in which they are absent do not gain distributions, but they do indeed gain the fruits of the prebend, provided they resided and frequented choir during the remaining time of the year." L. ib.; S. C. C., September 14, 1829. A canon who uselessly wastes the three months conceded by Trent more probably is not held to restore the fruits of the benefice. The reason is that the Council absolutely concedes to canons to be absent for three months, with no special cause required. Not all canons can be absent at the same time on the permitted days, nor beyond a third part of the chapter, lest worship be impeded. S. C. C., March 12, 1594; June 21, 1640; S. R. C. 113 ad 2; 152 ad 7. It is indeed penal that from Trent l. c. they must be deprived of half or all the fruits, and therefore they are not to be paid before sentence. Thus Scavini, ed. Milan 1874, l. 1, n. 431, and others. S. Alphonsus requires no sentence of the judge from a Declaration of Benedict XIV. But this in reality is not sufficiently established. L. l. 3, n. 675.

If they depart from the diocese during the time permitted by the Council, they need the permission of the Bishop; but otherwise if they do not depart from the diocese. S. C. C., March 12, 1594; May 9, 1626. Canons absent from choir lose distributions. Trent s. 22, c. 3 *de R*.; s. 24, c. 12 *de R*. Distributions lost on account of absence cannot be condoned by associates. S. C. C., December 6, 1794. It is in the power of the Ordinary, beyond the conciliar months, to concede another from a just cause, S. Pius V, October 7, 1580, apud Fagnan on C. *Licet* n. 4 *de Praeb*.; indeed he can even permit a longer absence on account of an extraordinary cause, namely because of infirm health, raging persecution, or undoubted utility of the Church or of the republic. Trent s. 21, c. 3 *de R*.

Canons cannot serve choir through substituted outsiders, nor, when absent from the city where the Cathedral is and from its suburbs, can they mutually substitute one for another. Trent l. c.; S. C. C., May 31, 1721; L. l. 3, n. 675. But the absent are not held to substitute someone for themselves. S. C. C., March 15, 1785. L. 189; Benedict XIV, Notification 157; E. M.

218. What about the office of choir? - All canons are held in choir, instituted for psalmody, to praise the name of God reverently, distinctly, and devoutly with hymns and canticles. Nor are they excused because perhaps they are few; for the S. C. C. defined on March 13, 1696, that canons, even if few, for

example two or three, are held to sing or recite the office in choir. Hence it is not sufficient that canons only be present at choir or offices; but they are held to concur themselves in song or recitation, insofar as they can, with raised voice and with pious affection of heart. Trent s. 24, c. 12 *de R.*; E. M.

While the canonical hours are being paid in choir, private Masses cannot be celebrated at the choral altar. S. R. C., December 20, 1878; January 14, 1888, ad 3; November 21, 1893, ad 1, n. 3814.

219. Do canons sin gravely who do not assist at choir beyond the time permitted by Trent? - Several deny it; but it must more truly be affirmed, if they are notably absent from choir beyond the time permitted by Trent, such as is not three or four days. The reason is that, as is established from Trent s. 24, c. 12 *de R.*, the obligation of assisting does not arise from distributions, so that if they renounce these, they free themselves from every obligation; but from the primary institution of benefices, which have been instituted not on account of anyone's utility, but on account of the worship of God and for undertaking the divine ministries. L. l. 3, n. 675.

220. What are canons held to restore who are not present at choir? - Those who are absent without a legitimate and just cause do not gain distributions; these accrue to those present; and contrary custom is not admitted. This is established from C. *Consuetudinem* un. *de Cler. non resid.* in 6, from Trent l. c., and from S. C. of the Council, January 21, 1905; May 12, 1912. Moreover they must restore the fruits of the prebend, but not before sentence, even if they are absent from choir beyond the conciliar months. This is established from the same Trent l. c. For it is said: in the first year let them be deprived of half the fruits; in the second year let them be deprived of all fruits. Those who are absent from legitimate causes lose neither the fruits of the prebend nor distributions. Legitimate causes are infirmity, reasonable necessity of the body, and evident utility of the church, namely of the church concerning whose distributions there is question; not of another particular church or of the general church. But he who is absent on account of causes diverse from the three aforesaid, yet also just, for example on account of study, visitation, and other things of this kind, does indeed gain the fruits, but not the distributions. Likewise they do not gain distributions among those present, although they are absent from legitimate causes, if these from the disposition of the testator, or from statute, or from the custom of the church, are owed only to those actually present. S. C. C., June 26, 1745.

Commonly there are held as present: a canon-curate in the Cathedral or Collegiate itself, while however he is occupied in the care of the parish; the penitentiary, while in his church he hears confessions; the theologian, on the day on which he expounds Sacred Scripture to the faithful. Trent s. 22, c. 3; s. 24, c. 8 *de R.* To these are to be added, in Italy and the adjacent islands, those who are occupied in spiritual exercises for ten continuous days per year, namely with the permission of the Bishop, and not on those days on which it is prohibited to be vacant, namely Advent, Lent, and the principal feasts. Clement XI, Encyclical February 1, 1700. "Dignitaries or canons, beneficiaries, and all others belonging to the choir, who either give their labor to the compiling of processes of Servants of God and of Blessed persons, whether Ordinary or Apostolic, or have been called as witnesses, are to be regarded, within or outside the City, as present in choir, with office changed; and therefore they are to receive all emoluments, even eventual ones." S. R. C., November 21, 1893, n. 3812, General Decree, and July 13, 1904, General Decree, A. S. S. v. 37, p. 255 ff. "Among the emoluments to be received are also included those which are commonly called *falle*." S. R. C., May 25, 1909, A. A. S. v.

1, p. 502. - Trent s. 21, c. 3; s. 22, c. 3; St. Pius V, C. *Cupientes*, July 8, 1518; Benedict XIV, Instruction 107, n. 56; L. 130, 131; E. M.

There is a special decree concerning the discipline of choir to be observed in the City, namely the decree *Decorem domus* of the S. C. C., November 30, 1910. Cf. Supplement n. 215.

221. Do canons satisfy choir, so that they are not held to restitution, who indeed are present in choir, but by no means sing, or recite in a lowered voice? - It is certain that they not only lose all distributions, but are also held to restore the fruits of the prebend; yet these, again, not before sentence, and only beyond the conciliar months. Therefore it seems certain that they sin gravely, if the quantity is grave. C. *Cum semper*, August 19, 1741; Brief *Dilecte Fili*, January 19, 1748, Benedict XIV; L. l. 3, n. 675.

222. Note: The things said about canons concerning choir are to be understood also of beneficiaries who, by reason of the benefice, are obliged to choir. "It must be observed that whenever by the organ something is represented as to be sung or answered alternately to the versicles of hymns or canticles, that which is to be answered by the organ is to be pronounced by someone in choir in an intelligible voice. And it would be praiseworthy that some cantor should sing the same together with the organ in a clear voice." *Caeremoniale Episcoporum* l. 1, c. 28, n. 7. "Those parts, both of the divine office and of the Mass, which are omitted because of the sound of the organ, are to be said in choir in a lowered voice; but when it is not played, they are to be sung integrally." S. R. C., July 22, 1848. If the aforesaid omitted parts are not recited in a lowered voice, satisfaction is not made for the obligation of the divine office. L. 143.

Canons, properly so called, who constitute the Chapter, must be present at it when duly convoked; and it is grave if they are ordinarily absent, unless they are excused either by a just cause, or by the lightness of the business, or by the time of vacations. - "Honorary canons, as regards the use of insignia, are to be equated with titular canons when they discharge sacred ministries in the choir of the Cathedral." S. R. C., July 21, 1906; March 16, 1876. As regards canons who are Apostolic Protonotaries, cf. the Motu Proprio *Inter multiplices* of Pius X, February 21, 1905. E. M.

A canon can well exist without a benefice or without a prebend. These two, canonry and prebend, are distinguished. A canonry, or commonly a canonicatus, is a spiritual right which comes from the election or reception of someone as a Brother or Canon. The aforesaid right imports the right of having a seat in choir, or commonly a stall, a voice in the Chapter, and of having a prebend or competent portion of the fruits of the canonry. Therefore a prebend further imports the right to receive the annual fruits of the canonry, whether owed from the title of canonical right. Hence one who has both is called a prebendary canon. Ferraris v. *Canonicatus*, a. 1, n. 1 ff.

223. Can the Bishop permit that habitually not all the hours be sung? - R. In the negative, and this has already been decided several times by the S. C. C. - Lucidi, *de Visitatione*, 3rd ed., Rome 1883, etc., v. 1, p. 324 ff.

224. Must the Office of the Dead, of the Blessed Virgin Mary, and the Gradual Psalms be recited in choir from obligation? - R. In the negative, from the Constitution of Pius X *Divino afflatu*, Rubr. tit. VII, n. 2. Cf. here n. 116, 129.

225. What about the conventual Mass? - Canons are held in turn to sing the conventual Mass, and to apply it on individual days for founders and benefactors in general, and the others must be present at it. Benedict XIV, C. *Cum semper oblatas*. "Canons are wholly held to celebrate and sing the conventual Mass of the current office, in order that they may licitly gain the daily distributions." S. R. C., June 25, 1611; February 27, 1847. The alms of conventual Masses are not to be taken from the fruits of the prebend of individual canons, but from the mass of distributions. S. C. C., March 18, 1719, Ferrara. - If the bishop sings a solemn Mass, the hebdomadary must celebrate and apply a read Mass for benefactors. S. R. C., November 12, 1831, ad 20, n. 2682. - Lucidi l. c. v. 1, p. 305 ff.; v. 3, p. 188 ff.; L. 419; E. M. "In churches in which there is an obligation of choir, only one Mass with the assistance of those belonging to choir is always to be celebrated; and indeed of the office of the day, unless the Rubrics dispose otherwise; other Masses which up to now were celebrated with the aforesaid assistance are in the future to be read outside choir, after the proper canonical hour. Exceptions are etc." Pius X, C. *Divino afflatu*, Rubr. tit. XII.

Moreover in the Rubrics of the Missal, tit. 15, n. 2, as regards Masses of choir, these things are prescribed: "The conventual and solemn Mass ought to be said in the following order: on double and semidouble feasts, on Sundays and within octaves, after Terce has been said in choir; on simple feasts and ferias through the year, after Sext has been said; in Advent, Lent, Ember days, even within the octave of Pentecost, and on vigils which are fasted, although they are solemn days, the Mass of the season must be sung after None." Cf. ib. nn. ff.

Therefore the celebrant is held to read Mass at another altar, but in the same church, and then, if choir still continues, he is held to return to it. And if he celebrates Mass at the proper hour, he also gains distributions, since he is absent from choir according to the prescription of the Rubrics. "On the Commemoration of all the Faithful Departed, the office and Mass of the current day having been omitted, only the office with the Mass for the Dead is done, as is prescribed in the Appendix of the New Psalter." Pius X, C. cited, Rubr. XIII. Therefore the office and Mass of the current day are omitted.

In cathedral and collegiate churches, as regards the solemnity of Masses and Vespers, in the choral office, on recently suppressed feast days, according to the M. P. *Supremi disciplinae* of Pius X, July 2, 1911, the same things are to be observed as before the suppression. S. C. C., August 8, 1911. Cf. 238 bis.

226. What about the assistance owed to the Bishop? - Trent s. 24, c. 12 *de R*. establishes thus concerning canons of Cathedrals: "All are to be compelled to assist and serve the Bishop when celebrating or exercising other pontifical functions." The *Caeremoniale Episcoporum*, l. 1, c. 15, agrees, and declares that all canons are held to assemble in canonical habit at the designated place, and both to lead the Bishop proceeding to the church for the sake of exercising pontifical functions, and likewise to accompany him when returning. But this is to be understood when on more solemn feasts or ceremonies the Bishop comes to the Church in order to celebrate, or to be present at the sacred rite, dressed in the cappa, or to perform pontifical functions. "On other days it is enough that some from the dignities and canons receive and lead back the Bishop dressed in the cappa at the door of the church." S. R. C., June 13, 1891, Mont. Polit. ad 4. But canons are not held to assist the Bishop when he celebrates privately. - Decr. Auth. S. R. C. n. 3782, 3828; Plenary Council of Latin America 233. "The functions which the Bishop would perform in the cathedral church, if he were present, and

which pertain to him, when the Bishop is impeded, absent, or deceased, pertain successively and not alternately to the dignities and canons of the same church," namely to the next more worthy dignity of the chapter. S. R. C., July 9, 1895, n. 3865.

Canons also compose the general council of the Bishop. For the Bishop, unless a contrary and true custom is present, in a particular case must ask the counsel of the canons before he issues mandates; but he does not need their consent in order to establish and urge them, unless in cases determined by law. Namely, the canons in that council do not have the right of deliberative vote, but merely of consultative vote. For thus Benedict XIV, *de Synod.* l. 13, c. 1, n. 8, 9: "Much in this matter is to be deferred to the custom of places.... It is certainly not necessary that the Bishop, about to promulgate new laws, should demand the opinion of the whole clergy; but it is enough if he asks the counsel of his own chapter, although he is not held to follow it.... Indeed the Bishop will even be freed from the obligation itself of seeking the chapter's counsel, if by legitimately prescribed custom he has acquired for himself the right of establishing and publishing laws without consulting the chapter." S. R. C., July 12, 1892, n. 3782; E. M.

227. What about the office of canons when the See is vacant? - When the episcopal See is vacant, the whole jurisdiction of the bishop, except those things which savor of innovation or alienation, and likewise except the erecting of confraternities and the approving of their statutes, whether that jurisdiction is ordinary or delegated by law, passes to the chapter, and from it to the capitular Vicar, to be elected within eight days, so that the chapter cannot retain for itself even the smallest part of jurisdiction. From decrees of the Holy Office, November 24, 1897; April 20, 1898; June 22, 1898, the faculties habitually granted by the Holy See to the Ordinary, either for a predetermined time or for a determined number of cases, also pass to the capitular vicar. Nevertheless he cannot undertake visitation before a year has elapsed from the last Sacred Visitation; nor convoke a synod before a year has elapsed from the last synod; nor grant dimissorial letters for tonsure or orders within the year, except to those who are pressed, i.e., laymen presented to an ecclesiastical benefice, and clerics who by reason of a benefice obtained must receive some order within the time defined by law or by the documents of the foundations. "Yet the chapter, when the See is vacant, can, even within the year, give testimonial letters to someone who from elsewhere has permission to receive orders. Probably it can also give someone permission to be initiated by first tonsure, because tonsure is not an order.... But that which the chapter can do, when the See is vacant, it cannot do through itself, but through the elected vicar." L. 788. Nor likewise can it confer benefices, except benefices of lay patronage, bestow indulgences, or perform episcopal functions which pertain to the bishop in the cathedral, S. R. C., April 22, 1871, n. 3247, etc. - The office of the capitular Vicar ceases as soon as the new Bishop has presented the letters of institution to the chapter of his church and has obtained possession of it; but the favors granted by him remain, so long as they have not been revoked. - The capitular Vicar is to be elected as one "who at least is a doctor or licentiate in Canon Law, or otherwise, as far as can be done, suitable." Trent s. 24, c. 16 *de R*. He who performs the office of capitular Vicar will be a titular Protonotary only while this office lasts. - From S. R. C., November 12, 1831, Marsorum ad 32, the decree having been preserved in the most recent edition, he is not held to celebrate Mass for the people. - Decret. tit. *Ne Sede Vac.*; C. 1, 14 *de Maior.*; Reg. 2, 11 Canc. Apost.; Trent s. 7, c. 10 *de R.*, s. 24, c. 16 *de R.*; Pius IX, C. *Rom. Pontifex*; Plenary Council of Latin America 212-214; S. C. Indulg., November 15, 1878; November 23, 1878; A. S. S. v. 11, p. 353; Benedict XIV, *de Syn.* l. 2, c. 9; Sanchez, *de Matr.* l. 3, d. 28, n. 5; L. l. 6, n. 788; E. M.

227 bis. Both within and outside the Cathedral, honors and distinctions above the chapter, which are used for the bishop's vicar general, do not belong to the vicar general if he proceeds collegially with the chapter. S. R. C., April 22, 1871, n. 3247. Canons who have renounced their canonry can be enrolled among honorary canons by the Bishop, after the chapter has been heard. S. C. de Prop. Fid., July 7, 1904.

VI. On Pastors

228. What about pastors and their residence? - Here a pastor is called a cleric to whom the actual care of souls has been entrusted, in the internal forum and in a certain part of the diocese legitimately erected as a parish, even if he is removable or for a time takes the place of his Bishop; hence his office is the office of shepherd. When the care of souls is habitually in the hands of another, e.g., in the hands of a Chapter, he who actually exercises this care is properly called a vicar. - Pastors are held to make the profession of faith before the Bishop or his vicar general, within two months from taking possession of the benefice, unless they made it in the conferral itself of the benefice, from Trent s. 24, c. 22 *de R*. But now from S. C. C., March 1, 1910, before entering possession of the benefice it is to be made. They are furthermore held to take the oath according to the formula prescribed by Pius X in the Motu Proprio *Sacrorum Antistitum*. Cf. vol. 1, n. 364.

The pastor has the right to administer baptism, extreme unction, and viaticum, as well as to assist at weddings, to receive tithes and funeral emoluments; likewise he has the right to bless homes on Holy Saturday and to undertake public processions. Pastor consultors are to be used for the revision of acts in administrative removal from office and a benefice with care of souls, S. C. Consistorial, decree *Maxima cura*. "Insofar as pastors receive a supplement from the Government in compensation for tithes, and it equals the tithes which they formerly received, the remainder which is provided by the faithful is to be expended for pious causes, at the judgment of the Ordinary." S. Penitentiary, November 20, 1902.

The first obligation of a pastor is personal residence. Otherwise he cannot fittingly feed his flock. Therefore non-resident pastors are not excused from grave fault and from restitution of fruits, as Trent declared, s. 23, c. 1 *de R*. "The same things altogether, even as regards fault, loss of fruits, and penalties, concerning lower curates ... the Sacred Synod declares and decrees (as for Bishops); yet in such a way that whenever it happens that they are absent, the cause having first been known and approved by the Bishop, they leave a suitable vicar approved by the Ordinary himself, with due assignment of pay. But they are not to obtain permission for departing, to be granted in writing and gratis, beyond the time of two months, unless from a grave cause." Trent s. 24, c. 13 *de R*.; L. 123, 126-128; Ithur. Cas. 45, n. 56, 58; Benedict XIV, Notification 17; St. Thomas 2. 2, q. 185, a. 5; Quodl. 3, a. 17; E. M.

229. You will resolve: "For the proportion of time of absence they do not make their fruits their own." Trent ibid. And these, neither residing materially nor formally, nor fulfilling their office through another, lose them before every sentence of a judge. For "they are held for no other reason than the contract entered into between themselves and the church, from which the fruits of benefices are given to them under the condition of residence; when this has not been fulfilled, even without fault, such pastors in no way acquire such fruits." L. 127.

Therefore they are held to restitution, although they received them in good faith, unless however they also consumed them in good faith and did not thereby become richer. - He who does not reside materially, but fulfills his office through another suitable person, loses the fruits after the conciliar two-month period, but by no means loses them within the conciliar two-month period of absence. He who resides materially but not formally, if through no other priest he discharges his offices, does not make the fruits his own by natural law itself. If he provides these through another, whether he loses them by canon law is not sufficiently established. St. Alphonsus, 127, affirms it, because residence is not understood unless formal; Garcias and Reiffenstuel deny it, because, in its proper meaning, not to reside is to be absent. And D'Annibale, ed. 3, p. 1, n. 304; p. 3, n. 174, says this is "more equitable and truer." Restitution is to be made to the fabric of the church, or to the poor of the place. Trent l. c.

230. Note: For absence through two months, whether continuous or interrupted, an equitable cause is required, but not a grave one, if nevertheless no harm follows to the parish from it, and with the time of plague excepted. Gregory XIII, October 12, 1576. Yet he who departed without an equitable cause, not beyond the two-month period and without harm to the parish, is held only by light fault. But it would be grave to be absent even for two or three days, even if no one actually were sick, with no vicar left, if other priests are lacking in that place. Beyond the two-month period the Ordinary can indeed give permission, but from a grave cause, and not for much time, but for two or three months. The S. C. C. has often judged as legitimate a permission given by Ordinaries to the sick for four months. D'Annibale l. c. 173; St. Thomas, Quodl. 12, a. 28. "Commonly the doctors say from declarations of the S. C. that a pastor is not reputed to reside if he does not by himself exercise the more principal offices, namely the administration of the divine word, of the sacraments, etc." L. 127. Cf. Ithur. Cas. 45, n. 61, 62. Yet he can be assisted by vicars, if the parish were large and he could not conveniently accomplish all things by himself, especially in those things which have greater inconvenience, such as going to the sick at night, preaching, teaching children, hearing confessions, etc. But he must use coadjutors as if associates, and therefore he himself also must provide these things when a just impediment ceases, especially if he has been requested; otherwise he is not without grave fault. If a pastor alone is not sufficient for undertaking his offices, he must join other priests to himself. But he must renounce the parish, or at least must assume a coadjutor, if because of old age and chronic infirmity he cannot discharge parochial offices.

Trent s. 21, c. 4 *de R.*; C. 5, 6 *de Cler. aegrot.*; C. un. e. t. in 6; C. *Apostolici ministerii* of Innocent XIII, n. 9 ff. - Pastors must live in the house of their own church, if it is there; but if it is not there, they must reside in another house which is within the limits of the parish, at least morally, namely one which is so near the parish church that he can conveniently serve it, and to which the parishioners can easily have recourse to him for receiving the sacraments. L. 124; Ithur. Cas. n. 45, n. 57. As is established from several decisions of the S. C. C., a pastor is not excused from residence within the limits of the parish because of bad air, or infirm health, or old age, or because the parish is scanty, or because only three or four inhabitants remain. D'Annibale l. c. n. 172. - Trent s. 7, c. 3 *de R.*

231. Is the aforesaid permission in writing altogether required, so that it is not valid if it is had orally? - Lessius and others deny it, and St. Alphonsus does not think this opinion improbable, while La Croix judges it probable. The reason is that although Trent requires permission in writing, nevertheless it is not established that it requires this formality for the validity itself of the act. L. 123.

232. Can a pastor, having a just cause for departing, be absent during the said two months without the express permission of the Bishop? - The first opinion affirms it, and Lessius, La Croix, Azor, and others think it probable. The reason is that from Trent any honorable cause suffices for an absence of two months; nor is the permission and approval of the Bishop required for such an absence, but only for absence beyond the two-month period, for which the Bishop must approve the gravity of the cause. Besides, absence through a two-month period is regarded by the Council as small matter, for it comprehends it by the word *aliquantisper*, for a little while. Therefore, to be absent for two months from a just cause, without the Bishop's permission, would at least of itself not exceed a venial sin. And indeed Trent s. 23, c. 1 *de R.* had established that Bishops are so held to personal residence that they cannot be absent except from those four causes indicated above, and approved by the Supreme Pontiff, or by the Metropolitan, or by the older Suffragan Bishop. Likewise it had established that Bishops can be absent for three months, even when the aforesaid causes do not exist, provided however that this be done from an equitable cause and without harm to the flock, because this brief absence is not judged contrary to the debt of residence, with no leave to be sought required. Moreover, speaking of lower curates, it says that the things which it had previously established as regards Bishops are to be applied to them. The Council of Trent indeed applies some restrictions for lower curates; but as regards fault and penalties incurred ipso facto it adds nothing. Nor at least expressly does it add that leave is to be sought in that conciliarly conceded two-month period. Therefore it seems these things must be judged from what has been said. For this reason, from the mere text of the Council only this can be deduced as certain: that both Bishops and pastors sin gravely if they are absent for a notable time beyond the permitted months.

The second opinion denies it, and St. Alphonsus follows this. The reason is that although a grave cause is not demanded from the Council for departing during the two-month period, nevertheless it is absolutely required that the cause be recognized and approved by the Bishop, from those words: whenever it happens that they are absent, the cause first having been known and approved by the Bishop. All the more because the pastor is prohibited by the Council from departing unless first the vicar who is left has been approved by the Bishop, L. 123. Yet since that *quandocumque*, whenever, could be referred to the time outside the two-month period conceded by the Council itself, and the cause to be known by the Bishop is certainly nothing other than that grave cause by which a pastor can be absent even outside the two-month period, and not that equitable cause by which he can depart during the two-month period from the Council itself, hence an entirely valid argument does not seem to be taken from it; nor from the fact that, although the vicar can be chosen by the pastor himself, nevertheless he must be approved by the Bishop, if he should leave in the service of the parish a steward or suitable vicar already previously approved by the Bishop, and who actually would already be found there. Nevertheless the S. C. C. has constantly responded that express permission of the Bishop is necessary, even if he wishes to be absent for a week and for two days. Benedict XIII also declared the same in the Roman Council, tit. 17, c. 6. But for absence through two days or three days, from custom received in many places, no permission is required. Therefore the statutes of each diocese are to be attended to, Benedict XIV, Notification 17, n. 12. "Moreover, says the same St. Alphonsus, 123, a pastor will licitly be able to be absent for a short time without permission, if some necessity occurs which does not allow delay for approaching the Bishop, provided he leaves a suitable vicar.... Likewise from smallness of matter a pastor will be able to be excused at least from mortal sin, if he departs for a moderate time, as the doctors commonly say, provided he does not leave the sick in

the article of death. But how much this moderate time is ... they commonly admit that a pastor who is absent without permission for 6 or 7 days does not sin gravely, provided however that a suitable vicar has been left; indeed Cont. Tournely, Cabassut, Sanchez, etc. extend this up to 15 and 20 days." E. M.

233. What are the grave causes excusing pastors from residence beyond the permitted two-month period? - They are those same four which excuse Bishops from Trent, namely Christian charity, urgent necessity, due obedience, and evident necessity of the Church or of the republic. L. 125; Ithur. Cas. 45, n. 58-60.

234. What about the visitation of the parish; about the care of the poor and the sick? - The pastor is held by the obligation of visiting the parish, insofar as he must know his sheep. "By divine precept," says Trent s. 24, c. 1 *de R.*, "it has been commanded to all to whom the care of souls has been committed to know their sheep." Hence pastors must make books of marriages, of those baptized, of those confirmed, of the state of souls, and of the dead. As regards marriages to be noted, those things are to be observed which are contained in the Decree *Ne temere* concerning Marriage, § IX. And from the same Trent l. c. one of the duties of the care of souls is "to bear paternal care of the poor and of other miserable persons." Moreover, from the Roman Ritual, *On the Visitation and Care of the Sick*, "the pastor ought first of all to remember that the care of the sick is not among the least parts of his duty. He ought altogether to have special care of them, since for them the work of a pastor is especially necessary." He is furthermore held to carry out the dead and render them their due rites, and if they were poor, entirely gratis. - Trent s. 24, c. 1 *de R. M.*; L. 160; *Monitor Ecclesiasticus* v. 24, p. 354 ff.; E. M.

From the Decree *Ne temere* of the S. C. C., August 2, 1907, § IX, 2, the pastor is held to write the contracted marriage in the book of marriages and of the baptized. And if someone was baptized elsewhere, he is held to transmit notice of the marriage to the pastor of that place, so that the marriage may be entered into the baptismal book.

Parochial attestations: "Pastors are not to omit demanding a baptismal testimony from those contracting marriage, if this was conferred on them in another parish. The notice of the celebrated marriage to be transmitted to the baptismal pastor is to carry with it the written names and surnames of the spouses and of their parents, the age of the contracting parties, the place and day of the wedding, and the names and surnames of the witnesses who were present, and is to have the subscribed name of the pastor with the parish seal added. The inscription is accurately to indicate the parish, diocese, town or place of baptism of the spouses, and those things which pertain to writings being safely transmitted by public carriers. If perhaps it should happen that the baptismal pastor, in receiving the notice of marriage, discovers that one or the other of the contracting parties is already bound by another marriage, he shall indicate the matter as quickly as possible to the pastor of the attested marriage." S. C. de Sacram., March 6, 1911. - It is lawful for pastors to write out authentic copies of baptismal attestations from the parochial book at the petition of the faithful, the customary taxes having been received, yet they are to be recognized and approved by the respective Ordinaries, and are not to be consigned in the registers of another parish and diocese, unless by the command of the Bishop or of his delegate, who is to recognize the authenticity of those copies together with the promoter fiscal. S. C. C., July 3, 1909.

Emigration: A committee of emigration is to be constituted in each diocese of Italy for workers migrating to foreign nations. The pastor must have a special and almost continual care of them, both

before they set out and after they have set out and when they return to their homeland, according to the norms handed down in the Letter of the Secretary of State, *Uno degli argomenti*, September 8, 1911.

235. What about correction and admonition? - Pastors are held under grave obligation to correct and admonish their sheep who are in mortal sin, or in the proximate danger of it, even with risk to their own life, and not only in their extreme, but also in their grave spiritual necessity; if however 1. there is hope of amendment; and 2. although there is no hope of amendment, nevertheless the omission of admonition would turn to the common harm and would make others more bold for sinning. The reason is that not only from charity, but also from justice, by reason of the office and stipend which is given to them, they are most strictly obliged to come to the aid of subjects constituted in spiritual necessity. They are furthermore held to inquire whether anyone is in such necessity. For the salvation of each sheep has been committed to the pastor. But if pastors are held to the office of correction, much more Bishops are. - Trent s. 6, c. 3, 4 *de R.*; s. 13, c. 1 ff. *de R.*; St. Thomas 2. 2, q. 33, a. 3, 2 ad 4; 4 d. 19, q. 2, a. 1; L. l. 2, n. 40.

236. What about prayer and the celebration of Mass? - The pastor is held frequently to pray for his subjects, that he may implore for them the graces necessary for salvation. For as Bishops are held to this by divine law, since they have the care of souls in all its fullness, so also pastors are held to it, to whom the Church commits, from obligation, the care of souls to be exercised, and without a limitation which would exempt them from the burden of praying and celebrating for the flock. But specifically the pastor is held to celebrate Mass: 1. as often as the people must hear it, Trent s. 23, c. 4 *de R.*; 2. as often as it is necessary to bless marriages, in both cases under grave obligation; 3. several times in the week, though how often is not established. Yet it is established that the Bishop can compel them under grave obligation twice or three times, if the parish is populous and other Masses are not celebrated in it; not likewise at funeral rites, unless an alms has been given. - L. l. 6, n. 314; Benedict XIV, Instruction 44, n. 9; *de Syn.* l. 12, c. 7, n. 7.

237. Must a pastor also apply Mass for the people? - Pastors must celebrate for their sheep on all Sundays and feast days on which the faithful must hear Mass, although in some places it is permitted that servile work can be done, indeed although those feasts have been abrogated or transferred, just as then, with the Constitution *Universa* of Urban VIII, September 5, 1642, and the Decree of Clement XI, December 6, 1708, they were in their full force; unless perhaps the divine office, of which the principal part is Mass, has been transferred with solemnity to the Sunday day. Nor do contrary custom, even immemorial, nor the small revenues of the parish, nor the infirmity of the pastor excuse. Nevertheless, if the pastor is so poor that he does not have fruits suitable for support, he can, with the Bishop's consent, accept an alms, while celebrating for the people during the week. This is established from Innocent XII, Brief *Nuper*; Benedict XIV, C. *Cum semper oblatas*, August 19, 1744; Pius IX, C. *Amantissimi*, May 3, 1848; L. l. 6, n. 313, 325; E. M.

238. Note: Not only pastors are held to this obligation, but also vicars deputed by the Bishop to parochial care with a certain assignment of fruits, whether perpetual or temporary and removable, and likewise curates appointed as stewards, and also vicars deputed by the Bishop, while the parish is vacant, to the care of souls until the election of a new rector of the church; and all these whether they are seculars or regulars. But ecclesiastical superiors, secular or regular, chaplains of monasteries, or of prisons, or of hospitals, etc., are not held to make the sacred rite for subjects. Nor likewise are coadjutors of pastors and missionaries in places of missions held, provided it is not a question of

places in which parishes have already been erected and missionaries have been sent to those places to take the place of legitimate pastors. Nor is it established that military chaplains in Spain are held. S. C. of the Council, May 22, 1909. As regards prelates of regulars, the question was twice proposed before the Holy See, and it remained without solution. - If from one parish two have been made, each pastor is held. If someone has two parishes, he will have to apply in each, whether by himself, if he has the faculty of binating, or through another, or on another day, if he does not have it, unless perhaps they have been united by an extinctive union. The same thing must be said of a pastor-canon on the day on which he must celebrate the conventual Mass. Benedict XIV l. c.; Leo XIII, C. *In Suprema*, 4 Ides of June 1882; S. C. de P. F., March 23, 1803; Giraldi, *Expos. Iur. Pont.* p. 2, s. 85, tom. 3.

Bishops and Abbots *nullius* are also held to apply Mass for their sheep, only one Mass, if they govern several dioceses or abbeys united equally principally. But those who are also pastors of some parish must apply in this parish through a vicar. Likewise apostolic vicars, in those places where dioceses have been constituted and they discharge the office of legitimate pastor. Not likewise capitular vicars. Trent s. 23, c. 1 *de R.*; C. cited *In Suprema*; S. C. de Prop. F., March 23, 1863; S. R. C., November 12, 1831.

If a feast has only been transferred to the Sunday day, as in France the feasts of Epiphany, Corpus Christi, etc., Mass will have to be applied on that day on which the office is celebrated, S. C. C., June 15, 1841; but if only the office is transferred, Mass will have to be applied on that day on which the feast is celebrated, S. C. C., April 24, 1875, e.g., the feast of the Annunciation of the Blessed Virgin Mary on Thursday of Holy Week. But if on that day another feast also is celebrated, satisfaction is made for both by the application of one Mass, just as by the hearing of it. Pius IX, C. *Amantissimi*, May 3, 1858.

The obligation of applying Mass for the people is personal, nor does any custom to the contrary have force, S. C. C., September 27, 1874. Yet if the pastor or Bishop is sick, or impeded by another just and legitimate cause, he can and is held to celebrate for the people through another, S. R. C., July 22, 1848, the stipend having been paid to him; and if he cannot substitute another for himself, he himself is afterwards held to apply as many Masses. S. C. C., December 14, 1859. But the pastor satisfies his obligation by a read Mass, since no prescription is found that it must be a solemn or sung Mass; nevertheless he must celebrate it in his own parish, and not in another church, any custom whatsoever to the contrary notwithstanding. S. C. C., September 15 and November 17, 1629. But a pastor legitimately absent from his parish on a feast day satisfies his obligation by celebrating Mass for his people in the place where he is staying, provided that another priest celebrates in the parish and explains the word of God. S. C. C., December 14, 1872. Bouix, *de Paroch.* p. 550 ff.; Ferraris v. *Parochus*, a. 3, n. 1; E. M.

238 bis. Note: On the feasts very recently suppressed by the Motu Proprio *Supremi disciplinae* of Pius X, namely Corpus Christi, the Purification, Annunciation, and Nativity of the Blessed Virgin Mary, St. Joseph Spouse of the same Blessed Virgin Mary, St. John Apostle and Evangelist, and the Patron of each place or diocese, the obligation remains of making the sacred rite for the people. S. C. C., August 8, 1911.

1. "When some suppressed feast falls on a Sunday day, or on a day impeded by a feast of a higher rite, those having the care of souls are not held to apply Mass for the people on the day to

which the same feast is transferred."

2. "When some feast is transferred, as regards office and Mass, as to its proper place onto another day, in churches in which choral service is provided in alternate weeks, the obligation of common choir and distributions, if there are any, are not transferred to the same day, unless, as regards distributions, the express will of the founders, a particular statute, or legitimate custom stands in the way." S. C. C., December 13, 1913.

A pastor-canon on those feast days on which, as a canon, he must celebrate the conventual Mass, which is to be applied for benefactors, can and must through another supply the obligation which he has as pastor of applying it for the people. Benedict XIV, C. *Quum semper oblatas*, August 19, 1744; S. C. C., August 24, 1867.

To supply pious legacies abolished in France, it has been established in a perpetual manner that in individual years, on one of the Sundays of the month of November, in all churches of France, a Requiem Mass be celebrated for the aforesaid end. Pius X, July 6, 1910.

239. What about preaching? - From Trent s. 5, c. 2 *de R.*, "all Bishops ... and all other Prelates of churches are held by themselves, if they have not been legitimately impeded, to preaching. Archpriests also, parish priests, and whosoever obtain the care of souls, by themselves, or through other suitable persons if they have been legitimately impeded, at least on Sundays and solemn feast days, are to feed the peoples committed to them, according to their own and those people's capacity, with salutary words, by teaching those things which it is necessary for all to know for salvation, and by announcing to them, with brevity and easiness of speech, the vices which they must decline and the virtues which they must follow." St. Alphonsus, l. 3, n. 269, after relating these words, says: "Hence I do not doubt that the aforesaid precept obliges both Bishops and pastors gravely and absolutely.... Yet the doctors commonly admit smallness of matter in such a precept.... Hence it seems not improbably held that pastors do not sin gravely who sometimes omit preaching; otherwise, however, they say, if they omit it for one whole continuous month, or for three discontinuous months in the year. All the more because in Trent, said s. 5, c. 2, at the end, it is said that if the pastors themselves, having been admonished by the Bishop, have failed in their office for the space of three months, they are to be compelled by censures, etc., to fulfill their office. From this it seems that in this matter its smallness has a greater latitude." - Trent s. 24, c. 4, 7 *de R.*; Ithur. Cas. 45, n. 63; Ferraris v. *Parochus*, n. 2, n. 72; E. M.

Pastors are especially held to observe those things which have been prescribed concerning preaching in the last part of the Motu Proprio *Sacrorum Antistitum* of Pius X. Cf. 245 bis.

240. Note: If a pastor is sick temporarily, he can be excused. But by no means is he excused because such a custom flourishes in that place, or because few hearers are present, or because frequent sermons are held in nearby churches. Constitution *Apostolici ministerii* of Innocent XIII, cited by Benedict XIV, Instruction 10, n. 3. - A pastor who reads pious books to the hearers does not discharge his duty of preaching, because reading is not preaching. Yet he is not held to holding a formal sermon to the people. S. C. C. apud Benedict XIV, Notification 10, n. 3; Trent s. 5, c. 2 *de R.*; Ithur. Cas. 45, n. 67, 69. - It will belong to the prudence of the Bishop to dispense over this matter on more solemn feasts. S. C. C., April 1, 1876. Benedict XIV, Instruction 27; S. C. Bishops and Regulars, July 31, 1894; A. S. S. v. 27, p. 162.

241. Are pastors held under grave obligation to catechize? - R. In the affirmative. Thus it is established from Trent s. 5, c. 2 *de R*. But expressly as regards the instruction of children it has that Bishops, "at least on Sundays and feast days, will take care that in individual parishes children be diligently taught by those to whom it will pertain the rudiments of faith and obedience toward God and parents; and if there is need, they will compel even by ecclesiastical censures, privileges and customs notwithstanding." S. 24, c. 4 *de R*. Cf. also ibid. c. 7; Benedict XIV, C. *Etsi minime*, February 7, 1742. But pastors are held still more in particular to instruct and prepare boys and girls for receiving the sacraments of penance, confirmation, and first communion. A. S. S. v. 37, p. 425 ff.; A. S. S. v. 13, p. 513; v. 15, p. 236; E. M.

241 bis. Note: The Supreme Pontiff Pius X, in the Encyclical Letter *Acerbo nimis*, April 15, 1905, by his supreme authority constituted and strictly commanded that the things which follow be observed and executed in all dioceses: "I. All pastors, and generally as many as have the care of souls, on Sundays and feast days through the year, with none excepted, for the space of a whole hour, are to instruct boys and girls from the catechism booklet concerning those things which each one must believe and do in order to obtain salvation.

II. The same, at fixed times of the year, are to prepare boys and girls for rightly receiving the Sacraments of Penance and Confirmation, by continuous instruction through several days.

III. Likewise, and altogether with special zeal, on all ferias of Lent, and on other days after the Paschal feasts if there is need, by suitable instructions and exhortations they are so to instruct young boys and young girls, that they may first receive holy things from the altar holily.

IV. In all and individual parishes a society is to be canonically instituted, which is commonly named the Congregation of Christian Doctrine. By it pastors, especially where the number of priests is small, will have lay helpers in handing on catechesis, who will devote themselves to this teaching, both from zeal for the glory of God and in order to gain the sacred indulgences which the Roman Pontiffs have most generously granted.

V. In larger cities, and especially in those where universities of studies, lyceums, and gymnasia are open, schools of religion are to be founded for instructing in the truths of faith and the institutions of Christian life the youth who attend public schools, where no mention of religious matters is introduced.

VI. But since, especially in this time, more advanced age no less than childhood needs religious instruction, all pastors and the rest who have the care of souls, besides the customary homily on the Gospel, which is to be had on all feast days in the parochial Mass, at that hour which they judge more opportune for the attendance of the people, except only that hour in which children are instructed, are to institute catechesis for the faithful, in speech indeed easy and accommodated to their capacity. In this matter they will use the Tridentine Catechism, in that order, of course, that within the space of four or five years they treat the whole matter which is concerning the Creed, the Sacraments, the Decalogue, Prayer, and the precepts of the Church."

242. What about the administration of the sacraments? - Pastors are held, by themselves, to minister the sacraments personally, not only when the time of precept and of grave necessity is pressing, but also, as regards the sacraments which can be repeated, as often as the sheep ask duly, or not unseasonably, unless they are legitimately impeded, or can provide for them through another without

inconvenience and offense of those asking. Trent s. 21, c. 4 *de R*. Cf. 360 ff. - "Pastors are held under grave obligation diligently to examine midwives, whether they know the things necessary for baptizing.... For it belongs to them by office to be present to women giving birth, and not rarely there occurs to them the occasion of ministering baptism in necessity." L. l. 6, n. 117. The same is established from the Roman Ritual on Baptism. - Pastors are held to be present at marriages, and to provide all things, as far as is in them, so that they be done rightly. Roman Ritual on the Sacrament of Matrimony; L. l. 6, n. 54. - Cf. A. A. S. v. 2, p. 218, VI; E. M.

243. What about the vicars of pastors? - Vicars of pastors, since they take the place of pastors, either as regards the whole parochial office or only as regards part of it, are held by the same obligations as pastors themselves, yet with due proportion; and besides, they owe reverence and obedience to the pastor himself. - Trent s. 21, c. 4 *de R*.; L. l. 1, n. 335 in fine.

244. Can a vicar depart, at least for a short time, without the pastor having been warned? Can he delegate another priest? Can he, when the pastor has died, undertake all sacred functions as before? - R. To the first: In the negative, because the reason of right order, and also of necessity, requires that the pastor himself not depart from the parish without the vicar being warned, who could supply for the pastor if the case should occur. Therefore *a fortiori*, if the question is about the vicar, since he is constituted under a certain guardianship of the pastor.

R. To the second: In the affirmative, since he is delegated to the whole class of causes. Cf. v. 1, n. 254. For the vicar in the present case is constituted by the Bishop himself, that he may assist the pastor in all things and supply for him. But from the Decree *Ne temere*, at present the vicar of the pastor cannot assist at marriage and betrothal unless delegated by the pastor himself or by the Ordinary, "that he may assist at marriages within the limits of his territory." - Nor likewise is the vicar held to apply Mass for the people. Plenary Council of Latin America 275; St. Thomas Quodl. 12, a. 31.

R. To the third: In the affirmative. The reason is that vicars receive every delegation from the Bishop himself. Therefore, notwithstanding the death of the pastor, the vicar can undertake all sacred functions just as before. - E. M.

The Vicar of the Pastor, or the pastor's coadjutor or cooperator, is not to be confused with the curate vicar, who exercises the whole actual care of the parish, as its true pastor, whose habitual care resides with a moral body, with a Chapter or monastery, which however cannot involve itself in the exercise of that actual care. Therefore canons and regulars with whom there is only habitual care of souls also need the approval of the Bishop of the place in order licitly and validly to hear confessions.

VII. On Simple Priests and Inferior Clerics

245. What about priests? - Simple priests are held to serve the church to which they have been assigned, and to devote themselves to the salvation of the faithful. This chiefly demands two things: to teach boys and the uninstructed the rudiments of faith, and to receive the confessions of those who are in mortal sin, if the one who by the office undertaken is held to provide these things is lacking or is not sufficient for all. This is established not only from the general obligation of charity, but also from the office itself of the priesthood, and from Trent s. 23, c. 13, 14, 16 *de R*., which declares that priests are not ordained except because of the necessity and utility of the Church. Hence clerics cannot be admitted to orders unless they are incardinated or enrolled in some church,

Benedict XIV, *de Syn.* l. 11, c. 2, n. 7, 13. But no one from C. *Ex quo* of Benedict XIV can abandon without the Bishop's permission the church to whose service he has been assigned. Nor indeed is it lawful to depart from one's own diocese without the command of the Ordinary; and if any have departed, they can also be recalled by penalties and censures, excepting those who depart seeking elsewhere the things necessary for their support, unless provision is made for their suitable sustenance. S. C. C., March 15, 1625; September 13, 1749; August 30, 1732.

Therefore Bishops can forbid foreign priests, without commendatory letters of their own Ordinary, to minister the sacraments in their dioceses or to undertake divine services, not even regulars, and in churches of regulars, unless perhaps of the same order. Trent s. 22, decree *de observ.* etc.; s. 23, c. 10 *de R.* - L. l. 6, n. 625; A. S. S. v. 5, p. 475; v. 10, p. 474 ff.; v. 14, p. 121; v. 23, p. 608 ff.; Bizzarri, *Collectan.*, ed. 1885, p. 89, 303, 304.

Priests who emigrate to America or to the Philippine Islands are held to observe the prescriptions of the S. C. Consistorial, March 25, 1914, A. A. S. v. 6, p. 182 ff. Besides other things which are to be observed, they must first obtain the consent of their own Ordinary and of the Ordinary of the place to which they plan to go. The matter is also to be handled between Ordinary and Ordinary by secret letters.

Priests cannot go into the Canadian region and into the United States of North America to exercise the sacred ministry among the faithful of the Ruthenian rite, unless they have been sent by the S. C. de Propaganda Fide. S. C. de P. F., August 8, 1913, art. 12, 13, 14.

No one originating from Poland can be admitted into the diocesan clergy of the United States of North America without leave of the S. C. de Propaganda Fide. S. C. Consistorial, December 9, 1909, A. A. S. v. 2, p. 102.

Likewise priests who seek Rome in order to remain there must observe the Norms constituted in the Letter of Pius X to the Cardinal Vicar, August 6, 1905. "No cleric, whether pertaining to the Roman clergy or to other dioceses, is to be assumed or chosen by anyone, even one shining with Cardinalitial dignity, for any office or benefice which requires stable or long residence in the City, unless he who wishes to choose him has first sought from the Most Eminent Vicar of the City by secret letters whether anything on the part of the Vicariate stands in the way, and has learned that nothing stands in the way. - But any provision or assignment of office otherwise made will be null and void." Pius X, Constitution *Etsi nos* concerning the Vicariate of the City, Kalends of January 1912.

All priests by reason of the priesthood itself are held by divine law under grave obligation sometimes to celebrate, three or four times in the year. S. C. C., November 1669. For this is the chief duty for which they are constituted. "Each one is held to use the grace given to him when it will be opportune." St. Thomas 3 p., q. 82, a. 10. And St. Alphonsus, l. 6, n. 313, calls this opinion "far the more common and safer." For there is another opinion, which excuses at least from mortal sin, provided they communicate at Easter and contempt and scandal are absent. The reason of this opinion is that there is no certainty about a precept, since the reasons of the opposite opinion are by no means convincing. But that opinion, from St. Alphonsus, "at least because of scandal, is scarcely probable in practice." Cf. Trent s. 22, c. 2; s. 23, c. 14 *de R.* Yet certainly it is venial without reason to abstain from making the sacred rite and from hearing Confessions, since there is the same reason for both.

In common necessity they can also be compelled by their own Ordinary to make the sacred rite on feast days and to minister the sacraments; indeed, if pastors are not sufficient for this and others are lacking who could be joined to them as coadjutors, to teach boys the rudiments of faith, to preach, and to have the care of souls. - Constitutions of Benedict XIV, *Declarasti nobis*, March 16, 1746, *Etsi minime*; S. C. C., March 18, 1578; Roman Council, year 1725, tit. I, cap. 5; Trent s. 24, c. 18 *de R.*; St. Thomas Quodl. 12, a. 27, 28, 30; A. S. S. v. 14, p. 409; v. 17, p. 288; A. A. S. v. 2, p. 911 ff. "No one, whether secular or regular, even in the churches of his own orders, may presume to preach against the opposition of the Bishop." Trent s. 24, c. 4. Cf. also s. 5, c. 2 *de R.*; Clement VIII, C. *Superna*; St. Thomas Quodl. 12, a. 27. Preaching is to be had according to the norms proposed by the S. C. Bishops and Regulars, July 31, 1894, and confirmed by Pius X, Motu Proprio *Sacrorum antistitum*, September 1, 1910. "Announcing to them the vices which they must decline, and the virtues which they must follow, so that they may be able to escape eternal punishment and obtain heavenly glory." Trent s. 5, c. 2 *de R.*; Pius X, Letter to the Italian Bishops, July 28, 1906.

All clerics, especially priests, owe reverence and obedience to the Bishop in those things which pertain to morals and to ecclesiastical discipline. C. *Conquerente* 16 *de Off. iud. ord.*; CC. 2, 4, 9 *de Maior. et obed.* - E. M.

245 bis. Note: Preachers, and those chosen for holding sermons through the time of Lent, are held to take and sign the oath according to the formula prescribed in the Motu Proprio *Sacrorum Antistitum* of Pius X. If it is a question of priests of their own diocese, Ordinaries are to take great care that the same are never admitted to that duty of preaching unless first they have been approved concerning life, knowledge, and morals, that is, unless after a trial has been made, or by another suitable method, it has been established that they are suitable. But if the matter concerns priests of another diocese, they are to allow no one to ascend the pulpit, and this especially on solemn days, unless it has first been established from the written testimony of their own Ordinary or religious Superior that the same are endowed with good morals and are equal to that duty. But the Moderators of each Order are to permit absolutely no one from the pupils of their own discipline to undertake the duty of preacher, and much less are they to commend him by testimonial letters to the Ordinaries of places, unless they have a clear view of the probity of his morals and his faculty of preaching. Pius X, M. P. *Sacrorum Antistitum*. Bishops and Moderators of regulars cannot grant letters of commendation without note to their subjects who have somewhere been prohibited from preaching. Sacred orators who have been prohibited by Bishops in any place cannot be invited. S. C. Consistorial, September 25, 1910.

A priest can give a blessing, privately or by a private rite, to fields, animals, and other similar things.

Bishops are not to permit gatherings of priests to be held, except very rarely, and so that no discussion be made about Bishops, about the Apostolic See, and nothing be said which injures sacred power, or savors of modernism, or touches presbyterianism or laicism. At meetings of this kind no priest from another diocese is to be present, unless commended by letters of his Bishop. Pius X, M. P. *Sacrorum Antistitum*.

246. What about inferior clerics? - "No one doubts that if someone dared to approach sacred ordination, knowing that he has not been called by God, he could not be excused from mortal fault, both because of the grave presumption of intruding himself into the sanctuary against the will of God, and because of the certain danger of damnation to which he then exposes himself. Yet, in order

that one to be promoted may be excused from fault, it is enough for him that he present a good end and offer himself to the Bishop to be tested, provided he does not certainly know that he was never called by God." L. 73. The Apostle teaches the grave necessity of this vocation thus: Nor does anyone take honor to himself, but he who is called by God, as Aaron was. Hebrews 5:4. And the sublimity of the order, the holiness of the office, and the gravity of the burden prove the same. L. 802, 803. Cf. here 255, 256. - Concerning one who receives minor orders or first tonsure with the intention of escaping the lay forum, and afterwards of returning to secular life, some, from St. Alphonsus 785, probably say that he sins venially; others more probably say that he sins mortally. Trent s. 23, c. 4 *de R*. - But one who neglects to follow a divine vocation does not seem able to be excused from some fault, when indubitable signs of vocation are present, because of the dangers to salvation in which he will be placed who, having despised the divine vocation, embraces the worldly state from his own will and from a motive less consonant with reason. Yet grave sin is absent, for divine vocation is an invitation, not a precept; and sufficient graces for salvation are given to all, and if someone prays as he ought, he will also obtain congruous and efficacious graces. Cf. 255 ff.; Roman Catechism on Order, n. 3, 4.

There ought to be two endowments of inferior clerics, so that they may be held worthy of sacred orders: knowledge and holiness. The first reason is that ignorance, speaking generally, in ecclesiastics harms not only themselves but also others. Yet less knowledge is required in religious destined solely for choir, such as Carthusians. Add also if someone, for example, were to be constituted in some chaplaincy in which only Mass would have to be celebrated. The second reason is that from Trent s. 23, c. 12 *de R*., only those are to be assumed to sacred orders "whose approved life is old age," namely who are old in virtue. And this is confirmed from the common authority of Supreme Pontiffs, Fathers, and Doctors, who all require in one to be ordained not only negative holiness, namely that he be immune from grave sin, but also positive holiness, i.e., that he be imbued with good morals. Innocent XIII, C. *Apostolici ministerii*. "Sacred orders presuppose holiness." St. Thomas 2. 2, q. 189, a. 1 ad 3. - L. l. 6, n. 782, 783, 892, 893; St. Thomas, Suppl. q. 36, a. 1, 2; Roman Catechism on the Sacrament of Order, n. 30-32; E. M.

The print's appendix has more on this paragraph: On Priestly and Religious Vocation. (ed.)

247. Is absolution to be denied to a cleric habituated in hidden sins of lust, who wishes to ascend to sacred orders without a preceding experiment of continence? - As regards the proposed question, St. Alphonsus has these things, l. 6, n. 64 ff., where he has a dissertation on this matter, commended by Benedict XIV, *de Syn.* l. 11, c. 2: "1. The present and ancient law of the Church, always constant, binds both Bishops and Confessors and those to be promoted, so that when some cleric relapsed or accustomed in the vice of the flesh wishes to ascend to a sacred order, whether to the subdiaconate, or to the diaconate, or to the priesthood, although he has been sincerely converted to the Lord, and therefore can immediately be absolved, nevertheless he will not be able to receive sacred order unless for some time he gives labor to uprooting the depraved habit. And, if he persists in receiving order at once, he is not judged disposed for absolution, because he violates the law of the Church in a grave matter. 2. Yet a case can be given in which God gives the penitent such extraordinary grace of compunction, which renders him so approved that he himself can immediately assume sacred order; and therefore receive the benefit of absolution, without first being proved by experience of time.... And here it must be noted that what has been said about the vice of lust must be said the same of any other, namely drunkenness, avarice, blasphemy, hatred, etc. But that simple sanctifying grace is

by no means sufficient for receiving sacred orders, but beyond it interior perfection is required, is established from the common agreement of the holy Fathers and Doctors, who with one voice demand it." But by how long a space of time, outside the extraordinary case, the relapsed are to be tested, there is no determined rule of time, since, all circumstances of person, things, and cases having been maturely weighed, the whole question is to be resolved before the Lord.

The author of the work *Istruzione pei Novelli Confessori*, p. 2, c. 3, n. 63, denies a positive law of the Church, and others also hold this opinion. Hence they assert that the natural law is to be attended to; since, because celibacy is attached to sacred orders by the law of the Church and by vow, one would act against the right judgment of prudence who would wish to assume so great a burden which he thinks he cannot bear. Hence the Confessor could not absolve him if he still wished to be initiated into sacred orders. On the contrary, the Confessor could absolve him if he sincerely believed that, with the help of God's grace, he could live chastely, and efficaciously proposed that he would use suitable means so that he might be freed from the depraved habit.

But although there is not given a positive law of the Church about a certain time of probation to be awaited, nevertheless there is certainly given a natural and positive law of a holiness not common and ordinary, which the nature of sacred order and the prescriptions of the Canons require beforehand, and which the perfect and perpetual vow of chastity attached by the Church to sacred orders also shows and confirms more than sufficiently. Cf. Trent s. 22, c. 1 *de R.*; s. 23, c. 12, 13, 14, 18; and St. Thomas 2. 2, q. 184, a. 6, 8; q. 189, a. 1 ad 3; Suppl. q. 36, d. 4 ad 3; q. 35, a. 1 ad 3, where he says: "for the suitable execution of orders, goodness of any sort is not sufficient, but excellent goodness is required." If for execution, therefore also for reception. Hence the Angelic Doctor immediately adds: "so that just as those who receive order are constituted above the people by the grade of order, so also they may be superior by the merit of holiness. And therefore grace is pre-required which suffices for this, that they may be worthily numbered among the people of Christ. But in the reception itself of order a more ample gift of grace is conferred, by which they are rendered suitable for greater things." And the Roman Council, tit. 6, c. 3: "Those who are about to approach more nearly to the most sacred mysteries ... we will that they excel in that knowledge and piety, so that they may worthily minister the sacraments of the Church, teach the faithful of Christ sound doctrine, and be able to go before them on the way of salvation no less by example than by words." The same is drawn from the Norms of the S. C. Bishops and Regulars, January 18, 1908, for the Seminaries of Italy, and from the Exhortation to the Catholic Clergy of Pius X in his Letters *Haerent animo*, August 4, 1908. How indeed can it prudently be judged that this will be so concerning a cleric hitherto entangled in sins and vice of lust, without another probation?

On the Particular Obligations of Regulars

I. On the Nature of the Religious State

248. What is the religious state? - The religious state, considered as regards its intrinsic essence, is defined: A stable institute of life, approved by the Church for the faithful, who under a certain rule and common manner of living wish to tend to perfection through the three vows of poverty, chastity, and obedience, with a handing over of themselves made to God and accepted by him. Therefore religious do not necessarily belong either to the hierarchy of jurisdiction or to the hierarchy of order; but they are, or can be, simple faithful in the Church, and therefore of either sex. - Suarez, *de Relig*. tr. 7, l. 2, c. 1, n. 1.

Their state is a state of perfection. There is indeed a twofold state of life: one of common life, which intends nothing other than the observance of the commandments of God; another of perfection, which adds the observance of the counsels. The perfection of Christian life is in charity. "Each thing is said to be perfect insofar as it attains its proper end, which is the ultimate perfection of the thing. But charity is that which unites us to God, who is the ultimate end of the human mind." St. Thomas 2. 2, q. 184, a. 1. Therefore the perfection which constitutes the state of perfection, distinct from the state of common life, is the perfection of charity.

Moreover a threefold perfection of charity can be considered. The first is absolute, by which "God is loved as much as he is lovable, and such perfection is not possible for any creature, but belongs to God alone." Another, by which "the affection according to its whole power always actually tends toward God; and such perfection is not possible on the way, but will be in the fatherland." The third, by which "those things are excluded which are repugnant to the motion of love toward God.... And such perfection can be had in this life. And this in two ways: in one way insofar as from the affection of man is excluded everything which is contrary to charity, such as mortal sin; and without such perfection charity cannot exist, whence it is of the necessity of salvation; in another way insofar as from the affection of man is excluded not only that which is contrary to charity, but also everything which impedes the affection of the mind from being totally directed to God, without which perfection charity can exist." St. Thomas 2. 2, q. 184, a. 2. Hence precepts pertain to that former charity; counsels to this latter.

Therefore that perfection of charity is certainly not in merely essential charity, but in a certain peculiar superabundance of charity, which surpasses the common and necessary charity of Christians. But this excess of charity is not situated in some one or several transitory acts of charity, even if they are of great or greatest intensity; but in such charity, in preparation of soul and habitual disposition, that a man is proximately prepared and disposed to act easily and ordinarily according to the precepts and counsels of God. St. Thomas q. 184, a. 2, 3, 4. And thus the same Angelic Doctor, q. 186, a. 1 ad 4, says: "The state of religion is principally instituted for acquiring perfection through certain exercises by which the impediments of perfect charity are removed." And a. 2: "He who assumes the state of Religion ... is held to tend to this and to give labor to it, that he may have perfect charity."

Now the state of perfection is twofold: one is the state of acquired perfection, another of perfection to be acquired. The former is proper to Bishops, the latter to religious. Indeed the state of Bishops is the state of exercising charity in a more notable grade, and of moving others to it by chosen works of zeal. But the state of perfection to be acquired is one thing incomplete or begun, another complete. For the former the three principal evangelical counsels of poverty, chastity, and obedience are not required; but some counsel is sufficient, whether it is one of those three principal ones or another, for the counsels are very many in number. But for the latter the three evangelical counsels of poverty, chastity, and obedience are required and suffice, to be observed from obligation; and consequently they must be confirmed by vow. For by these three vows almost all impediments of charity are removed. But the religious state is the complete state of perfection to be acquired. - St. Thomas q. 184, a. 4-8; q. 186, a. 3-7; Quodl. 3, a. 17; Quodl. 4, a. 24; Quodl. 5, a. 19.

Those three vows, although nevertheless of themselves they ought to be perpetual, for this is required by the very nature of the state; by no means is it required from the intrinsic nature of the thing that they be solemn, but it is enough that they be simple. This is openly established from the Constitution *Quanto fructuosius* of Gregory XIII, 1583, and *Ascendente Domino*, 8 Kalends of June 1584, where it is established that those who have emitted the three simple vows in the Society of Jesus are truly and properly religious. Moreover Leo XIII, Decree of March 16, 1886, established that knights of the Teutonic Order continue to become true religious, but emit only simple vows.

The solemnity of vows is from the disposition of the Church; hence it is a certain force added to them, of constituting one as religious properly and strictly such from canonical institution, and of making certain acts of a religious, concerning the matter of the same vows, void or at least voidable, and of dissolving ratified marriage, and of rendering the vows themselves altogether firm and stable. And that force is absolute, and not merely relative to a certain time, or until the religious, free from vows, is dismissed. Hence for the solemnity of vows it is not sufficient that there be just any force of producing the aforesaid effects; but that force must be absolute, i.e., so perpetual and immutable that neither the religious nor even the religion itself can suspend or remove that force and the vow itself. But it is by no means required, as is clear, that that force of the vow and the vow itself cannot be removed by the Roman Pontiff; for that force is of ecclesiastical law, and therefore the Pope can dispense both from the effect of the solemnity of vows, while solemn vows remain, Decree of the S. C. of Extraordinary Ecclesiastical Affairs, July 31, 1878, and from the solemn vows themselves. Therefore the solemnity of a vow is in its complete dependence on and subjection to the Supreme Pontiff, in the full acceptance and approval of the Church as regards the being of the vow, its force, and the said canonical effects. And thus Busembaum, l. 3, n. 195, says a solemn vow "is that which is accepted as such by the Church.... But simple is every vow which does not have such solemnity," namely such acceptance of the Church as regards the aforesaid canonical effects. And the S. Penitentiary in the year 1820 declared: "a solemn vow is that which is accepted as such by the Church, and renders the one vowing perpetually and immovably incapable of contracting marriage and of acquiring or retaining dominions of things." "And this is," says Cajetan on 2. 2, q. 88, a. 7, "what Boniface VIII determined in the Sixth, saying that the solemnity of a vow was found by the institution of the Church alone." And St. Thomas, 2. 2, q. 189, a. 5: "The vow of religion is twofold. One is simple, which consists in the promise alone made to God, which proceeds from interior deliberation of the mind, and this vow has efficacy from divine law.... But another is the solemn vow, which makes a monk or religious; and this indeed is subjected to the ordering of the Church because

of the solemnity which it has annexed," a solemnity not extrinsic from extrinsic ceremonies, but intrinsic by reason of the object insofar as it extends broadly, and of the immobility of the vow itself. And from this ordering of the Church the Angelic Doctor immediately repeats that a vow made before puberty "does not have its effect, so that it makes the one professing already to be religious," and consequently that it is not solemn, "however much someone may have full use of reason, or be capable of fraud, namely because the Church regards that which is in the majority of cases." Therefore the solemnity of a vow is not from the nature itself of the vow, but from the constitution alone of the Church, accepting and approving the vow, and by that acceptance and approval implicitly blessing the person and perfectly, totally, and stably consecrating him in order to observe chastity, obedience, and poverty, in the profession of a certain rule, "by which through renunciation of the world and of one's own will someone assumes the state of perfection, and totally subjects himself to divine service." St. Thomas 2. 2, q. 83, a. 7. "The solemnity of a vow consists in a certain spiritual blessing and consecration, which is done through the ministry of the Church; therefore the solemnization of a vow falls under the disposition of the Church." St. Thomas l. c. a. 9; C. *Quod votum* un. *de Vot. et vot. red.* in 6. - St. Thomas 2. 2, q. 88, a. 7, 9; q. 133, a. 1; q. 134, a. 4, 5; q. 186. Cf. here vol. 1, n. 571.

Hence a distinction is especially had between Religion properly and strictly said, according to canonical institution, and a religious Congregation. For by Religions properly and strictly said are to be understood institutes which have the essence of the religious state with solemn vows; but by Religious Congregations are to be understood institutes which have the essence of the religious state, but with simple vows only, approved however by the Holy See, and so approved that the vows which are emitted in such a Congregation are not private vows, but public, i.e., are accepted by someone in the name of the Congregation or of the Apostolic See, whence they are said to be made into his hands. Otherwise it is not a religious Congregation, but a secular one. Benedict XIV, Brief *Quo magis*, December 18, 1742; S. C. Bishops and Regulars, August 11, 1889; *Enchiridion Morale* 248, ed. 4, p. 224.

By this pronouncing of the three vows, with attention to their nature, there is had a total handing over of oneself to God, St. Thomas q. 186, a. 7, a. 6 ad 2; yet this is accepted not immediately by God himself, but by some man in his name. And thus it was always judged by the Fathers that the religious state is a donation and handing over of oneself made to God. But God, "according to ordinary providence, does not receive a peculiar care of governing a private person immediately by himself, nor does he need these sensible things, so that he may use them immediately and without the intervention of secondary causes. And therefore a donation thus made to God either would be vain and idle, or as if tempting God by demanding immediate governance from him: and for this reason it does not please him, nor is it accepted immediately by him." Suarez, *de Relig.* l. 2, c. 4, n. 7, 8. By the acceptance and approval of these vows on the part of the Church, a blessing and consecration of the person is implicitly had, whence the person becomes sacred, i.e., irrevocably devoted to God. And then the vows are solemn. St. Thomas 2. 2, q. 184, a. 4. - And if the acceptance on the part of the Church is not for every effect of the aforesaid vows, but only for some, and therefore the vows are not solemn but simple, then there is not had a blessing and consecration of the person, but a certain simple blessing, which does not devote the person to God so immovably. Hence a dismissed person is ordinarily accustomed also to be dispensed from vows, and ceases to be dedicated to God. - Consequently, as by the profession of solemn vows a certain handing over and

donation of oneself is had, so by simple vows a simple promise is had. St. Thomas Quodl. 3, a. 17, 18; Quodl. 8, a. 10; Quodl. 10, a. 11.

Hence it is entirely clear that the approval of the Church is needed for the religious state in the face of the Church. But the Church no longer approves eremitical life in the religious state, but common life under a certain rule and under certain constitutions. C. fin. *de rel. dom.*; C. un. e. t. in 6; Benedict XIV, Notification 105, n. 59 ff.; St. Thomas 2. 2, q. 188, a. 8; E. M.

248 bis. The approval required, for Orders of solemn vows, is the approval of the Supreme Pontiff; for Institutes of simple vows, the approval is first of the Bishops and then of the S. C. of Religious, as can be seen in the Norms edited for institutes of this kind by the S. C. Bishops and Regulars, June 28, 1901. - The approval of New Institutes and of their Constitutions is now done according to the Particular Norms established by the S. C. of Religious, March 24, 1914. "No Bishop or Ordinary of any place, unless the license of the Apostolic See has been had by letters, is to found a new Sodality (Religious) of either sex, or permit one to be founded in his Diocese." Pius X, Motu Proprio, July 16, 1906.

The Constitution of Supreme Pontiff Leo XIII *Conditae a Christo Ecclesiae*, 6 Ides of December 1900, and the Norms of the S. C. Bishops and Regulars, June 28, 1901, constitute the current Law according to which the Holy See is accustomed to approve New Institutes of simple Vows, for women and for men. At present they are accustomed to be approved only with simple vows, by a threefold Decree: of Praise, of Approval of the Institute, and of definitive Approval of the Constitutions. Regularly Religious Institutes without their own habit, and whose members do not live in Community, are not approved by the Holy See. Yet there are not lacking some Institutes approved by the Holy See without a special habit, and whose members, some live in Community and others outside Community.

From this approval of the Church, finally, depends the truly religious state and religious order or religion. To the point Benedict XIV, C. *Quamvis iusto*, Pridie Kalends of May 1749, § 13: "For if," he says, "for the essence of the truly religious state it is required that religion or an order in a state of this kind be established by the confirmation of the Apostolic See, according to canonical sanctions, concerning which in C. un. *de Relig. dom.* in 6, and it is not sufficient to have obtained merely from the same Apostolic See the approval and confirmation of rules which some society of men or women has prescribed for itself to be observed; if the vows of poverty, obedience, and chastity emitted by the English Virgins according to the form of the rules approved by Clement XI cannot be said to be joined with express or tacit profession in some order approved by the Apostolic See in the state of true religion, as is stated above, it is clearly evident both that the state of the English Virgins is not the state of true religion, and that the vows which are made by them must be judged at most simple vows, but not solemn ones, according to the paths of the Decretal of Pope Boniface VIII, which alone exists under the title *de Voto et voti redempt.* in 6." Cf. ib. § 14. Hence it is clear that religious vows are solemnized through the very profession of a rule fully approved by the Apostolic See in the state of true or strict religion.

Third Orders: Tertiaries, some are religious, living in community; others are secular, living in the world. As Confraternities imitate chapters and collegiate bodies of churches, so these secular third orders imitate religious congregations. Religious of solemn and simple vows cannot be enrolled in these secular Third Orders. S. C. Indulg., July 16, 1887; January 31, 1893. And the faithful regularly

can be enrolled in only one Third Order. S. C. Indulg., June 21, 1893. Secular Tertiaries do not enjoy communication of privileges and indulgences with Regulars of the first and second Order, and with other Tertiaries. S. C. Indulg., July 18, 1902. But Tertiaries living in community, and bound by simple vows, legitimately aggregated to Orders, enjoy the indulgences of the first and second Order. S. C. Indulg., August 28, 1903. - Secular Third Orders have precedence in processions above any Sodalities whatsoever, provided they proceed collegially, in their proper habit, and under the cross.

249. You will resolve: From the profession of the religious state there results a reciprocal obligation between the religious and the community, namely by which not only is the religious held to remain in the order and to live in it according to his own rule and constitutions, but the order in turn is held not to cast him out without a just cause. The reason is that "a religious becomes a member of one mystical body, which is the religion itself; but this cannot be done except through mutual union between the whole and the part; and that union, since it is moral, is made through mutual obligation." Suarez, *de Relig.* l. 2, c. 4, n. 10.

A religious, by force of his profession, is not held to be perfect, but is held under grave obligation to devote himself in some way to perfection. St. Thomas q. 186, a. 1. But he must tend to perfection primarily through the essential means of the religious state, namely through observance of the three vows, poverty, chastity, and obedience; secondarily through accidental means, namely through the proper rules of the order, at least by not despising those helps. St. Thomas q. 186, a. 2, 7. Hence he sins gravely who firmly resolves not to tend to perfection, or in no way to care about it. And against this obligation of tending to perfection he does not sin gravely who only sometimes would sin gravely, but would not be habitually so disposed that he does not attend to it.

But whether a religious sins gravely who intends to observe only the commands under grave obligation, and as for the others, resolves to transgress them all, or not to care about them, is disputed. The first opinion probably affirms it, because a religious of this kind no longer tends to perfection. The second opinion, however, more common and more probable, denies it. The reason is that the obligation of tending to perfection is from religious profession, which consists in vows. From vows there is not a grave obligation of observing all things, but all things which gravely regard the vows themselves.

But to profess a rule, or according to a rule, is not to vow to observe all things which are in the rule, but to oblige oneself to regular life, against which nothing is gravely contrary except only that which is gravely against a grave precept expressed in the rule. But contempt of both is directly contrary to the profession of perfection and of regular life. L. 11; St. Thomas 2. 2, q. 186, a. 9; Quodl. 1, a. 20; Sanchez, *in Decal.* l. 6, c. 5, n. 5.

Therefore he also sins gravely who transgresses rules, even those obliging only to venial fault, or to none, from formal contempt, namely when he transgresses them with the mind of not being subject to them, or to the precepts of prelates. But otherwise if he transgresses them led by concupiscence, or because he thinks they are not necessary for salvation, or if he judges that they are not commanded under grave obligation. - Therefore to transgress rules in matters of small matter, even from custom, of itself does not exceed venial sin. Of itself, for it can be grave by reason of scandal, or if it were gravely pernicious to Religion by inducing others by bad example to laxity of the rule, or by reason of proximate danger of sinning gravely in some particular case, and if from it he were constituted in such a state that he must be expelled as incorrigible. St. Thomas q. 186, a. 9. - Yet not

rarely there is no sin in transgression of rules, because rules do not oblige under fault, and the religious either places the act without advertence, or indeed places it with advertence, but from a just and reasonable motive. L. 10; Trent s. 25, c. 1, 22 *de Reg.*; E. M. - Ferraris v. *Religiones Regulares et Militares*.

250. Does the Rule always oblige and how? - Whether there is an obligation of observing the Rule, and how great it is, is ordinarily explained in the Rule itself. If nothing is determined in it, custom is to be attended to, which is the best interpreter of laws. Moreover no obligation is to be imposed unless it is certainly established concerning it. But sometimes in the Rule and in the Constitutions a grave obligation is imposed; sometimes only a light obligation of observing them; and sometimes there is had only an obligation of accepting or executing a penalty. If some Rule or Constitution contains no such obligation, then that Rule or Constitution is not properly a law or statute, but a mere counsel, by which a certain determined manner of perfection is proposed, to which the religious ought to aspire. Sanchez, *in Decal.* l. 6, c. 4, n. 9.

Hence in Rules and Constitutions prescriptions are to be distinguished from spiritual documents, which are often contained in them. - And although the Rules of Religious Institutes of themselves do not always oblige to sin, nevertheless sometimes of themselves and by accident they can oblige by force of the virtue of obedience; but they always oblige by force of a higher natural law, unless they present themselves as mere counsels. Practically speaking, however, in their transgression some fault is rarely absent. Rules of this kind are now customarily called Constitutions. Cf. *Cases of Conscience*, ed. 6, vol. 2, App. XI.

Besides the Rules, all Religious are evidently held to observe the laws of the Church with great submission. Several Apostolic Constitutions and Decrees gathered into one concerning the discipline of Regulars are to be read by the same Regulars at public table or in Chapter at stated times. But it is most highly commended to Bishops that they effectively spread among Religious Families and also diocesan Institutes the knowledge of the Decrees of the Holy See which regard religious life. S. C. of Religious, July 3, 1910.

The print's appendix has more on this paragraph: Obligation of the Constitutions of Religious Institutes. (ed.)

251. Do religious, dispersed by force, remain bound by the obligations of religious life? - R. In the affirmative. For they remain true religious. Hence they are by no means to be judged released from their solemn vows; yet by reason of the peculiar condition in which they are found, some modification is to be attended to as regards obedience and poverty, for as regards chastity there can be no difficulty.

As regards obedience, from the accident of the suppression of the religion, the professed do not become seculars, nor are they released from vows, by which they still remain bound; but only it is permitted to them by the Sacred Congregation to live in the world and in the habit of a secular cleric, nevertheless carrying inwardly something proper to the regular habit, under the obedience and jurisdiction of the Ordinary. Yet they always remain subject to their own superiors. As regards poverty, dispersed regulars can licitly and validly procure for themselves useful or necessary things, but by no means superfluous ones, have money with them, and enter various contracts of buying, selling, and donation. For religious can do all these things from the license and deputation of prelates; moreover in the case of dispersion a deputation of this kind is rightly presumed. For then

each one, by the fact itself, is deputed as if steward of himself, at least for all cases in which recourse to a superior cannot be had. L. 65 Note; Cardinal De Luca, Works tom. 14, Annot. ad S. Conc. Trid. disc. 36, n. 1-4; *de Regul.* p. 1, disc. 28, n. 16; E. M.

252. Does a religious promoted to a parish or episcopate remain bound by the obligations of religious life? - R. To the first: In the affirmative, and therefore he is held to wear the habit of the religion and to observe the rule in all things which can stand with his office, unless a contrary legitimate custom excuses. But if he acquires anything from the parochial office, he acquires it for the parish. - The Superior of a religious Order cannot exercise the office of pastor. S. C. Regular Discipline, May 28, 1715; Ferraris v. *Parochus*, art. 2, n. 85.

R. To the second: In the affirmative, according to the form of the Constitution *Custodes* of Benedict XIII, S. C. Bishops and Regulars, May 6, 1864. He is indeed held by the vow of obedience, but to the Roman Pontiff alone. He is also held by the vow of poverty; but first, after confirmation, he becomes capable of dominion and recovers rights of succession, even those which he had renounced, which are deferred to him after promotion; second, he does not acquire for himself, but for his cathedral church; and titular Bishops must distribute these things into pious works. Therefore he can neither dispose of these acquired goods by legacy, nor make a testament concerning them. Yet he can use and enjoy them, and dispose of his revenues among the living, as secular Bishops do. Likewise he is held by the Rules, but only by those which, in his judgment, are not repugnant to episcopal dignity and office. Yet he must wear the habit, at least as regards color, as before, and he can use the form which secular Bishops use. - Those promoted to the Cardinalate are judged to have the same law. C. *Statutum est* 1, causa 18, q. 1; C. *Clerici* 15 *de Vita et hon. cler.*; Ferraris v. *Episcopus*, a. 7; Suarez tom. 4, tr. 8, l. 3, c. 17, n. 5; c. 18, n. 4; L. 4; Lugo *de Iust. et Iur.* d. 3, n. 232, 233; *Resp. Mor.* l. 5, d. 1, 12; St. Thomas 2. 2, q. 185, a. 8; E. M.

253. Do apostates and fugitives remain bound by the same obligations? - R. In the affirmative, for they are released by no obligation legitimately. - If these and those acquire anything, when they have died it belongs by right of spoil to the Apostolic Camera. Gregory XIII, C. *Officii nostri*, January 27, 1577. - Lugo, *de Iust. et Iur.* d. 3, n. 235; *Resp. Mor.* l. 4, d. 37; Ferraris v. *Apostasia*, n. 21 ff.; L. 80, 82.

For apostasy from an Order or Institute, unless the Religious has returned within three months; and for flight from a Monastery, taking a woman with him, "the penalty of expulsion or dismissal is judged as if brought by law." S. C. of Religious, May 16, 1911.

254. Are those cast out and dismissed free from the said obligations? What about those secularized? - R. To the first: In the affirmative as regards merely regular observances; for by sentence, separated from religious life, they are no longer bound by the observances proper to religious life. Religious solemnly professed, not yet initiated in sacred orders, who are cast out or return to the world from Indult of the Holy See, are also released from the burden of the breviary. Cf. n. 112. - R. In the negative as regards vows, if it is a question of those solemnly professed; for by ejection they by no means cease. Hence they are held under grave obligation to amend themselves. Those cast out must walk in clerical habit and tonsure and be subject to the Ordinary of the place, also by force of the vow of obedience. Urban VIII, Decree *de Apost. et eiect.*, 1624. They cannot make a testament, and whatever they acquire, by right of spoil, when they have died, pertains to the Apostolic Camera, excepting those things which they have preserved or acquired from goods of the religion. Gregory XIII, C. *Officii nostri*, 1577. In the meantime they have administration and use of goods, nor is it inspected how they

expend them; but they can claim no dominion for themselves. St. Pius V, C. *Grave nobis*, May 26, 1560. - R. In the affirmative as regards vows, if it is a question of simple vows. For those dismissed and cast out are ordinarily accustomed also to be dispensed from simple vows, either by their own superiors, if they have such faculty, or by the Holy See. Bishops in France can dispense nuns of the ancient orders, who emit only simple vows, while the vow of chastity remains firm. S. Penitentiary, December 23, 1835. - Innocent XII, July 24, 1674; L. 79 ff.; St. Thomas Quodl. 12, a. 36; Ferraris v. *Eiicere*; Benedict XIV, *de Syn.* l. 13, c. 11, n. 19, 20; L. 142; E. M. "All Religious constituted in sacred orders, expelled or dismissed, remain perpetually suspended.... Clerics not in sacred orders are prohibited from ascending to higher orders. But all who have been expelled or dismissed, even if they have truly amended themselves, will not be able to be admitted to their own or another Order or Congregation without special license of the Holy See." S. C. of Religious, May 16, 1911.

R. To the second: Secularization contains the faculty for a Religious of living in the world. He is still held by vows. He is held, by force of the vow of obedience, to obey the Ordinary of the place. S. C. of Religious, September 1, 1912. He can make honest and licit expenses; but he does not acquire dominion of those things which are given to him. Hence he cannot dispose of them, and when he has died, they pass to the Camera of spoils. Nor indeed can he obtain ecclesiastical benefices without a new Indult.

Indults of perpetual or temporary secularization, or of relaxation of perpetual vows, or even only of temporary vows, or of the oath of perseverance, or of certain particular promises, granted to priests and clerics constituted in sacred orders, are always understood with the following clauses, even if not expressed, dispensation from which is reserved to the Holy See, namely: They are forbidden, without a new and special indult of the Holy See: 1. any office, and, as regards those who are habilitated for benefices, any benefice in cathedral basilicas; 2. any teaching office and office in major and minor clerical seminaries and other Institutes in which clerics are educated, as well as in Universities and Institutes which enjoy apostolic privilege of conferring academic degrees in philosophy, theology, and canon law; 3. any office or function whatsoever in episcopal Curias; 4. the office of Visitor and Moderator of Religious houses of either sex, even if it is a question of merely diocesan congregations; 5. habitual domicile in places where there exists a convent or religious house of the Province or Mission to which the secularized priest or cleric, or the one released from perpetual vows, as above, was enrolled. S. C. of Religious, June 15, 1909.

II. On Divine Vocation

255. Is divine vocation required? - R. In the affirmative. In the Norms of the S. C. Bishops and Regulars, June 28, 1901, art. 55, 56, it is said that, among the conditions required for the admission of aspirants to the Institute, first of all a true vocation proceeding from a supernatural end is required.

It is certain that a divine vocation is given to the religious state, by which namely God calls some, before others, to this more excellent state, and bestows graces so that they may rightly live according to it. This is proved: 1. from the common authority of the doctors; 2. because, if divine vocation is given to the priestly state, the same must consequently be said of religious life, which is a more perfect and much more difficult state. For since the clerical and religious states contain the exercise of greater holiness than that which is commonly required of all, God does not move all, but only

some, by special movements of grace to embrace it. Cf. S. C. of Religious, April 5, 1910, ad 2; St. Alphonsus l. 6, n. 802, 803, 804.

The print's appendix has more on this paragraph: On Priestly and Religious Vocation. (ed.)

256. Note: The Saints judge that this vocation is always from God; for it cannot be from nature, which abhors the chastisement of the flesh; nor can it be from the devil, since it induces man to good from a good end. St. Thomas 2. 2, q. 189, a. 10 ad 1. - The ordinary signs of vocation are: aptitude for the obligations of the religious state in general, and for the observance of this or that order in particular; right intention, namely the desire of being free for the divine glory, for one's own salvation, and for the salvation of souls, St. Alphonsus l. 6, n. 802; a constant and right inclination to such a state, notwithstanding some past hesitation arising from temptations of the devil or from the repugnance of nature, although in reality that inclination is not necessary for having a true vocation; a certain interior peace and joy from the consideration of such a state as suitable to oneself for obtaining one's salvation more securely and fruitfully. But extraordinary signs are: divine revelation; a certain singular inspiration of such a state. - In this matter there is no need of the counsels of many and of long deliberation. St. Thomas q. 189, a. 10. - Clement VIII, C. *Cum ad regularem*; Spiritual Exercises of St. Ignatius on Election; L. l. 6, n. 802; Lugo, *Resp. Mor.* l. 3, d. 1, n. 5, 6, 8.

The print's appendix has more on this paragraph: On Priestly and Religious Vocation. (ed.)

257. Whether and how does one sin who, not called, nevertheless receives the state of religion? - He sins of himself gravely if he clearly knows the defect of vocation, because of the proximate danger of transgressing the grave obligations of the religious state, to which knowingly and willingly he exposes himself. Yet he will be excused from that fault if he is supposed to have the will of fulfilling, with the grace of God, the obligations of the state assumed. "A novice who would enter religion with the mind of not persevering can with difficulty be excused from grave fault, because of the temporal damages and inconveniences which he would then bring uselessly to the religion, and also because of the scandal which he would furnish to other novices; for the example of a companion introduces a great temptation to another." L. l. 6, n. 785. In the Catechism published at Rome in the year 1913 by command of the Holy Father Pius X, it is said: "He who would enter the Priesthood without vocation would act most badly, because he could with difficulty observe its most grave obligations, with evident danger of public scandals and eternal perdition." Moreover, he who entered religion from a disordered intention and not from divine vocation should do sincere penance and hope in the Lord. Necessary graces certainly will not be lacking to him; and he can easily also have special helps from the riches of divine Goodness and Mercy. St. Thomas 2. 2, q. 189, a. 10. - St. Alphonsus l. 6, n. 802, 803.

258. What about those who induce others to religion? - "It must be said," says St. Thomas 2. 2, q. 189, a. 9, "that those inducing others not only do not sin, but merit a great reward. - Yet a threefold disorder could happen concerning an inducement of this kind: if he allures him violently, simoniacally, or by lies." Cf. Quodl. 3, q. 5; Trent s. 25, c. 18 *de Reg.*

259. Whether and how does he sin who, sensing himself called to religion, does not obey the divine vocation? - R. "To neglect a religious vocation of itself is not sin; for divine counsels of themselves do not oblige to fault. Yet by reason of the danger of eternal salvation to which the one called commits himself, making the choice of state not according to the divine good pleasure, it cannot be excused from some fault. And indeed, if someone believed that, remaining in the world, he would incur

damnation, both because of his own frailty which he has experienced among the occasions of the world, and because of the lack of helps which he would have in religion, he cannot be excused from grave sin, since he casts himself into grave danger of his salvation.... But whether the conscience of those is in a bad state who, having already become morally certain of God's vocation to religion, strive to persuade themselves that, by remaining in the world or returning to it, they can work out their salvation equally easily? It does not seem to be doubted that these expose themselves to great danger of salvation.... But the reason of this danger is that he who remains in the world against God's vocation will not have the congruous helps of grace which God prepared for him in religion; and therefore, destitute of them, he will with difficulty resist the temptations of the world, and thus, succumbing, will incur damnation.... Moreover I do not wish to pronounce an absolute judgment on this point: I leave it to the wise." L. 78.

Therefore in practice particular cases with all their circumstances are to be maturely weighed; and no one after the fact is to be cast into despair, but courage is to be added to him, so that, if the fact no longer has a remedy, he may trust in God, who is rich in mercy, and may establish a Christian and holy life with greater solicitude. - Elbel, *de Actib. human.* 124, 125; Lugo, *Responsa Moralia* l. 1, d. 28.

260. Whether and how do they sin who turn others away from the religious state? - He who by force, fraud, or grave fear impedes or turns someone away from religion sins gravely, even against justice. This is proved from Trent s. 25, c. 18 *de Reg.*, where he is excommunicated who impedes a girl from religion. But each one has a right not to be impeded by force or deceit from the attainment of good. But if the turning away is done only by prayers or promises, it will be a grave sin only against charity, because this cannot be without grave harm to him who is drawn away from religion. "But parents," adds St. Alphonsus 77, "turning children away from religion, I think, offend by a twofold grave sin; for besides the sin against charity, they commit another sin against piety, since they themselves from their proper office of education are held under grave obligation to devote themselves to the spiritual advancement of their children.... Yet I do not therefore deny that many parents can be excused from mortal sin, at least for some brief time, by reason of ignorance or inadvertence, which can easily be in them because of vehement affection of the flesh toward their children." - Elbel l. c. n. 126; L. l. 3, n. 663; St. Thomas Quodl. 3, a. 1.

III. On the Novitiate

261. Who can enter religion? - From the preceding Law, still in force, but to which several other things have been added: all those and only those can enter religion who 1. are their own masters; 2. are not bound to others by some graver obligation; and 3. are not criminals. Those who are not their own masters, but depend on others, cannot validly enter and profess without their consent. But the others validly enter and profess, although illicitly. L. 65; St. Thomas 2. 2, q. 189, a. 5, 6; E. M.; Lugo, *Resp. Mor.* l. 3, d. 1, d. 21; l. 4, d. 47.

261 bis. You will resolve: From the first head, the following cannot enter religion: those before puberty, because they are subject to parents or guardians as regards the disposition of life; spouses after consummated marriage, unless the other party is guilty of a delict on account of which he or she can licitly be dismissed. Religious profession entered into by a spouse, the other spouse being unwilling, is resolved into a simple vow of chastity from presumption of law, C. 3, 12 *de Conv. coniug.*

A Bishop already consecrated and even only confirmed cannot enter religion without the license of the Supreme Pontiff, because of the spiritual marriage by which the Bishop is bound to his church. C. *Licet de Regular.*; C. *Inter de Transl. Episcop.* - From the second head the following cannot enter: those liable to intricate and litigious accounts, those burdened with debt; those who have seduced a virgin with marriage promised; those who would leave brothers in extreme necessity, parents or unemancipated children in grave necessity. - From the third head those cannot enter whom from public acts it is established have been accused or investigated for crime. C. *Cum de omnibus* and C. *Ad Romanum* of Sixtus V; C. *In suprema* of Clement VIII. - Illegitimates from the same law are admitted validly and licitly. Sixtus V, C. *Cum de omnibus*, November 26, 1587; Gregory XIV, C. *Circumscripta*, March 15, 1591; Clement VIII, C. *In suprema*, April 2, 1862. From Clement VIII, C. *Cum ad singularem*, March 19, 1603: "If someone exceeding the twenty-fifth year has asked for the regular habit and is without learning, let him be counted only among the number of Conversi." - Lugo, *Resp. Mor.* l. 3, d. 1; L. 65, 71, 76, 969, 971; St. Thomas 2. 2, q. 185, a. 4; q. 189, a. 5, 7; E. M.

262. From the Norms of the S. C. Bishops and Regulars, June 23, 1901, art. 61, "without dispensation of the Holy See there cannot be admitted: 1. illegitimates not duly legitimated; 2. those bound by marriage; 3. those more than thirty years old; 4. those less than fifteen years of age; 5. those who in another Institute have emitted perpetual vows, or even temporary vows, while these endure; 6. those burdened with debt which they are not able to pay; 7. those liable to rendering an account, or involved in other secular business, from which the Institute could fear lawsuits and troubles; 8. for Institutes of women, widows." "Furthermore.... The following things, gravely burdening the conscience of Superiors, are to be faithfully observed hereafter by all religious Families of men: "In no way, without special leave of the Apostolic See and under penalty of nullity of profession, are postulants to be received, either to the novitiate or to the emission of vows:

1. those who have been expelled from colleges, even lay ones, because of dishonest morals or because of other crimes;
2. those who have been dismissed for any reason from seminaries and ecclesiastical or religious colleges;
3. those who, whether as professed or as novices, have been dismissed from another Order or religious congregation; or, if professed, have obtained dispensation from vows;
4. those who, already admitted, whether as professed or as novices, into one province of some Order or congregation and dismissed from it, attempt to be received into the same or into another province of the same Order or congregation.

Anything contrary, even things worthy of special mention, notwithstanding." Decree *Ecclesia Christi* of the S. C. of Religious, September 7, 1909.

The Decree *Ecclesia Christi*, September 7, 1909, concerning certain postulants not to be admitted into religious families, by another Decree of the S. C. of Religious, January 4, 1910, was extended also to religious families of women, as follows: "And therefore without special leave of the Apostolic See and under penalty of nullity of profession, postulants are not to be received, either to the Novitiate or to the emission of vows:

1. those who, by their own fault, have been expelled from colleges, even lay ones, for a grave cause;
2. those who have been dismissed for any reason from domestic schools in which girls are educated with special care in hope of embracing religious life; or, if professed, have obtained dispensation from vows;
3. those who, already admitted, whether as professed or as novices, into one province of some Order or Congregation and dismissed from it, attempt to be received into the same or another province of the same Order or Congregation. - Anything contrary notwithstanding."

A strict obligation is not had that lyceal studies precede the novitiate, otherwise than primary and gymnasial studies. Yet, for just causes, among clerics pupils who have exceeded the fifteenth year of age will be able to be admitted to the novitiate after the fourth gymnasial year, but on this condition, that after the novitiate they duly complete gymnasial studies before they are admitted to lyceal studies and undergo the final examination. Before the fourth gymnasial year has been completed, it is not lawful to enter the novitiate except by leave of the Apostolic See. S. Congregation of Religious, September 7, 1909; May 31, 1910.

Orientals to be admitted into religious families. "Through the Apostolic Letters *Orientalium dignitas Ecclesiarum*, given on the day before the Kalends of December of the year 1894, Leo XIII of happy memory commanded as regards the entrance of Orientals into Latin religious Sodalities: 'It will be lawful for no Order or religious Institute of the Latin rite, of either sex, to receive any Oriental among its members who has not first exhibited testimonial letters of his own Ordinary.' "But by the aforesaid prescription there was no derogation from dispositions already long ago established, and especially in the general Convention of this Sacred Congregation held on the day June 1 of the year 1885, by which in individual cases recourse is prescribed to the Apostolic See, or to the S. Congregation de Propaganda Fide for Affairs of the Oriental Rite, to which also belongs the faculty of granting a change of rite either for a time or in perpetuity. "Now, since in these most recent times it has been discovered that not once only Orientals have been received into religious Institutes of the Latin rite with testimonial letters indeed of the Oriental Ordinary, but with the Apostolic See altogether not consulted, this Sacred Congregation judges it opportune to recall to the mind of all Superiors placed over religious Institutes of the Latin rite, of whatever form and of either sex, the obligation by which they are held, namely of consulting this Sacred Congregation in writing before any Oriental is enrolled among their members. "Moreover in the petition the case is to be proposed clearly with all its circumstances; and there must be expressed not only the name, surname, age, rite, and diocese of the postulant, but, if it is a question of a man, it must especially be explained whether he asks to be admitted into an Institute of solemn or simple vows, and whether for the clerical or lay state; for the Pontifical Rescript, if it is favorable, is granted differently according to the diversity of cases." S. C. de Prop. Fid., June 15, 1911, *Acta Apostolicae Sedis* v. 4, p. 534 f.

262 bis. Note: No one can licitly be admitted to the habit, or to beginning the novitiate, and then to profession, whether in an Institute of men of solemn vows, or in an Institute of men and women of simple vows, but by no means in an Institute of women of solemn vows, without testimonial letters of the Ordinary of origin and of the place in which the postulant has stayed beyond a year after the completed fifteenth year of his age. S. C. on the State of Regulars, January 25, 1848; May 1, 1851;

February 25, 1863. The Decree *Romani Pontifices*, January 25, 1848, is to be read publicly each year on January 1. The Decree *Regulari Disciplinae*, January 25, 1848, is to be read publicly on January 1 and the first Sunday of July. The Decree *Romani Pontifices* cannot be derogated except expressly and by name. A dispensation granted to some Institute is not communicable to others.

According to the Norms of the S. C. Bishops and Regulars, art. 57, for Institutes of simple vows, there is required testimony of baptism, confirmation, free status, good morals, Postulancy before the Novitiate, and examination before reception of the habit for Sisters. Besides the examination, from a more recent Decree Postulancy is also required for nuns. Cf. 267, 273. - E. M.

The print's appendix has more on this paragraph: Testimonial Letters of Ordinaries for Those to be Admitted into Religion. (ed.)

263. Can children after puberty licitly enter religion against the will of their parents? - R. In the affirmative. The reason is that there is no obligation of obeying parents as regards the election of a state, especially a religious one, because they not only do not have experience, but because of their own interest or worldly affection they are often changed into enemies. The election of the state of children is a matter which already surpasses their education and domestic discipline, in which the authority of parents is contained. The contrary are art. C. I. 221, C. G. 372, 374, and are to be attended to in practice, to avoid grave inconveniences. - "Sanchez, etc., with Suarez, etc., and commonly, say that a son cannot enter religion leaving parents in necessity, whether extreme or grave, even if the son has emitted a vow of religion. But otherwise if the necessity is common, or if they would suffer only some diminution of status." L. 66.

But is a son already professed held to go out in order to help parents pressed by want? In extreme necessity it is certain that he is held. But if the necessity is grave, there is a threefold opinion. The first says he is held by reason of a natural obligation, which is not extinguished by the vow. The second, very probably, says he is held if the necessity precedes profession, otherwise if it follows. For the natural obligation persists in the first case, but in the other cannot arise. The third, more probable, teaches that in such a case the son is not held, nor can he go out without license, whether the necessity of the parents precedes profession or not. The reason is that "he who is already professed in religion is regarded as already almost dead to the world. Hence he ought not, on the occasion of the support of his parents, to go out of the cloister." St. Thomas 2. 2, q. 101, a. 4 ad 4; q. 104, a. 5; q. 189, a. 6. - It is not lawful to desert brothers or sisters in extreme necessity; but it is lawful in grave necessity. There is a much lesser obligation toward brothers than toward parents. Yet someone could, by reason of charity, defer or even omit the religious state in order to help brothers gravely in need. - St. Thomas Quodl. 3, a. 16; Quodl. 10, a. 9; L. 67, 68, 70; l. 2, n. 50; l. 3, n. 335.

264. Can one burdened with debts enter religion? - R. In the affirmative, if the debts by which someone is burdened are uncertain as regards the person, so that restitution must be made to the poor; for even if it is granted that uncertain debts are owed to the poor or to pious causes by natural law, the matter obtains equivalently according to the mind of the owners if they are remitted so that someone may enter religion, since they are always given to pious causes: indeed nothing is so pious as to dedicate oneself and all one's things to God perpetually. This is commonly still conceded, at least for the internal forum, if the debts are from a purely liberal contract, because in this there is always understood the condition: unless I shall choose a better state.

If it is a question of debts from delict or from an onerous contract, there are three opinions, all probable to St. Alphonsus 71, but the third more probable. The first absolutely denies it, because it is against natural justice to seek a spiritual good with the temporal harm of creditors. The second absolutely affirms it, because "because of money the person of a free man according to Civil Laws is not bound, but only things; because the person of a free man exceeds every estimation of money. Hence he can licitly, his goods having been presented, enter religion, nor is he held to remain in the world so that he may procure means by which to pay the debt." St. Thomas 2. 2, q. 189, a. 6 ad 3. The third affirms that the debtor can enter in the case in which otherwise he must remain in the world for a long time; for then payment would be had as morally impossible. But otherwise if, remaining in the world for a brief time, for example within a year or two years, with danger to the soul excluded, by his industry and labor he would easily pay his debts or a great part of them.

These things are from Natural Law. For Sixtus V, Bull *Cum de omnibus*, November 26, 1587, rendered those debtors incapable of religion who had squandered their goods, or who must render accounts before they have paid the debts or rendered the accounts themselves. But Clement VIII, C. *In suprema*, April 2, 1602, did indeed remove that incapacity, but left the prohibition. Yet these things are to be understood: 1. Of those who, remaining in the world, can satisfy creditors; otherwise they would delay uselessly. 2. Of those who are burdened with great debts from their own fault, because the Bull speaks of those burdened by an immense debt, who have squandered their goods. 3. Benedict XIV established that Decrees for religious men also comprehend women, where the cause would be the same. Cf. C. *Si datam hominibus*. Yet in the present matter the aforesaid Bull is not to be extended to nuns, nor to those burdened with uncertain debts, since in odious matters strict interpretation is always to be applied, and they testify that Sixtus V declared thus by another Decree. 4. Finally the precept is to be understood of accounts to be rendered which are very litigious, intricate, fraudulent, and about to furnish cause for lawsuits; for the Pontiff speaks only of these. - L. 71; Lugo d. 21, n. 61 ff.

From the Norms of the S. C. Bishops and Regulars for modern Institutes of simple vows, those burdened with debt which they are not able to pay cannot be admitted without dispensation of the Holy See, art. 61.

265. Can a pastor licitly enter religion, the Bishop contradicting? - "It must altogether be affirmed," says St. Alphonsus 74, and the matter is certain from C. *Duae sunt leges*, caus. 19, q. 5, from the Constitution *Ex quo dilectus* of Benedict XIV, January 14, 1747, and from St. Thomas 2. 2, q. 189, a. 7. Yet he is held first to warn the Bishop of his purpose, lest the flock be deserted without a guardian. But the Bishop can still legitimately contradict, and even recall a pastor from religion, if the parish would suffer grave detriment. As regards clerics and other beneficiaries, it is likewise certain that Bishops cannot impede their clerics from entering religion, as is contained in C. *Clerici*, caus. 19, q. 1. Yet a Bishop could well recall his cleric from religion if his entrance would be to the grave detriment of the church to which he had been assigned. Benedict XIV, C. cited; L. 75; l. 6, n. 828. - St. Thomas 2. 2, q. 185, a. 4.

266. Can a religious pass from his own order to another stricter one? - A religious can well pass from his own order to another stricter one, after license has been sought from his prelate, although denied, from C. *Licet* 18 *de Regular.*, if nevertheless according to the precept of Urban VIII it has been established that that religion is prepared to receive him. Hence they commonly hand down that the

prelate would sin gravely if without just cause he denied the license, because he would inflict grave injustice on the subject by drawing him back from a more perfect state. But in this matter the particular law of each religion is to be attended to. - Trent s. 24, c. 19 *de Reg.*; L. 73; St. Thomas 2. 2, q. 189, a. 8; Pignatelli, *Cons. Can.* a. 1, cons. 39; Lugo, *Resp. Mor.* l. 4, d. 41.

A transfer of this kind by license of Superiors is not opposed to the Decree of the S. C. of Religious, September 7, 1909. Cf. above n. 262. Yet the practice now and the style of the Curia is that license be sought from the S. C. of Religious.

267. What age is required for beginning the novitiate? - A completed age of fifteen years is required for clerics and of twenty years for lay brothers, from the Decree of Clement VIII and of the S. C. Bishops and Regulars, May 16, 1675. From Trent s. 25, c. 17 *de Reg.*, "a girl who wishes to receive the regular habit is to be more than twelve years old; she is not to receive it before then, nor afterwards is she or another to emit profession, until the Bishop, or, if he is absent or impeded, his vicar, or someone deputed by them at their expense, has diligently examined the will of the virgin, whether she has been forced, whether seduced, whether she knows what she is doing." This twofold examination is grave; nevertheless the omission of only one or the other is not judged grave, nor indeed does the omission of both render the profession invalid. But from the Decree of the S. C. of Religious, January 19, 1909, the examination of the will of individual nuns is to be repeated before the pronouncing of solemn vows, although it had already been made before profession of simple vows. A. A. S. v. 1, p. 233. - But from the Decree of the S. C. Bishops and Regulars, May 23, 1659, nuns ought not to be admitted to the habit before the fifteenth year has been completed. In the Norms n. 61, it is established for modern Institutes that without dispensation of the Holy See those born more than thirty years and those less than fifteen years of age cannot be admitted. - From the Decree of the S. C. of Religious, September 7, 1909, and January 1, 1911, it is established that no youth be admitted to the Novitiate as a Cleric unless he has exceeded the fifteenth year of age; as a Conversus, to Postulancy unless he has exceeded the seventeenth year. Cf. above n. 262 and the following number. - St. Thomas 2. 2, q. 189, a. 5; Quodl. 4, a. 23; Ferraris v. *Moniales*, a. 1, n. 72; E. M. n. 294.

267 bis. What specifically has been established at present for lay Brothers? - The S. C. of Religious, Decree *Sacrosancta Dei Ecclesia*, January 1, 1911, established these things, most carefully to be observed by all Religious Families among whom solemn vows are pronounced also by Conversi, namely:

1. To Moderators General there is given the faculty of permitting Provincial Superiors, as often as needed, that they may be able to receive also those youths destined to the duties of Laymen who have scarcely completed the seventeenth year of age, all things to be observed having been observed.
2. No one is to be admitted to the Novitiate who has not completed postulancy for at least two years, or for more if the Constitutions of the Order prescribe a longer experiment, under penalty of invalid profession afterwards.
3. The Novitiate is not to have its beginning before the twenty-first year of age, according to the path of current law; and it is to last one or even two years, according to the Constitutions of the proper Order.

4. When the Novitiate has been completed, and those things which must be observed have been observed, Laymen can be admitted to simple profession of vows, which indeed, perpetual on the part of the one vowing, is to be for the time of six years on the part of the Order.
5. When the six-year period of simple vows has been completed and the thirtieth year of age has been completed, and not before, likewise under penalty of invalidity, and with the things to be observed likewise having been observed, Laymen will be able to pronounce solemn vows.
6. Those things which in the preceding articles regard the profession of simple and solemn vows are also to be observed as regards Laymen now living in Monasteries, who have not yet pronounced solemn profession.

It is to be hoped that this rather long space of nine years will give both Superiors and candidates the opportunity of examining, on the one hand, the will, and on the other, the institute of life, for afterwards embracing it solemnly; strengthened in virtue, a man can bring a more mature judgment.

But these things would give some hope of perseverance, though not altogether firm, unless they are accompanied by the following and other cautions and efforts of that kind, which the Apostolic See over the course of the centuries has proclaimed or advised to be used, and which the more observant Religious Families have experienced by praiseworthy custom and happy result.

And first, as regards the reception of Conversi, many equally careful cautions are to be used and inquiries to be made beforehand.... Let a Father be placed over the Postulants whom both age and life have approved.... Let the superior and the Master be wholly with the postulants and novices for spiritual instruction.... Let them explain to them the whole of Christian doctrine ... the obligations of the vows ... of the Rule, of the Constitutions.... Let there be gatherings or discourses to the laymen on stated days ... for which gatherings or discourses the subject is to be not only the catechism, warnings of the spiritual life, the Rule, and explanation of the Constitutions, but also practical norms and examples of modest and moderate courtesy.... Anything contrary notwithstanding, even things worthy of special mention.

268. What form of admission is to be observed? - Those who are to be admitted to the religious habit must be approved by a twofold scrutiny. They must first be examined and approved by the Provincial and at least three provincial Examiners. The report of this examination and scrutiny and the authentic documents are to be transmitted to the Superior General, who, with the Procurator General and at least two General Examiners, confirms or revokes the approval in the first scrutiny. In both scrutinies secret votes are given. Decree *Regulari disciplinae* of the S. C. on the State of Regulars, January 25, 1848. "But in order that the Candidate be definitively received to the habit, besides the prescribed law and form, to which absolutely all must conform themselves, those things also will have to be observed which are further prescribed by the Constitutions and Statutes of the respective Order concerning reception to the habit, yet only in that part which is not opposed to this Decree." Decree cited.

But as regards modern Institutes the form is determined in the Norms of the S. C. Bishops and Regulars for Institutes of this kind and in their proper Constitutions. And as regards nuns of solemn vows, their own approved Constitutions also are to be attended to.

268 bis. For how much time must the novitiate last? - Privilege excluded, the novitiate must last for one whole year; otherwise profession is null. Trent s. 25, c. 15 *de Reg.* As regards a longer duration, the particular constitutions of the various orders and congregations are to be attended to.

From ancient law, the year of novitiate is to be computed from the moment of receiving the habit, or, if reception of the habit is not required in some religion, from the moment of entrance into the novitiate with the intention of remaining there. - The year must, for validity, be complete, so that in a leap year the passage of the day which is to be added must be awaited. Thus the S. C. C. expressly declared. - It must likewise, for validity, be continuous, from a Decree of the S. C. C., which established that a novice who had gone away from the monastery in order to enter another Religion, and after only two hours spent in another convent, repentant of the act, had returned, was held to begin a new year of probation. Ferraris v. *Annus prob.* n. 25 ff.; E. M.

From ancient law; for at present: "1. The whole year of novitiate, which alone is required for the validity of profession, must hereafter be understood not strictly from hour to hour, but from day to day. The same is to be said of the three whole years of simple vows which must precede the emission of solemn vows. "2. The novitiate is interrupted so that it must be begun again and completed: a) if the novice, dismissed by the Superior, has left the house; b) if without the Superior's license he has deserted the house; c) if for more than thirty days, even with the Superior's license, he has remained outside the enclosure of the novitiate. "3. If the novice, within thirty days, even not continuous, with the license of Superiors, has remained outside the enclosure of the house, although under the obedience of the Superior, it is required for validity, and it is sufficient, to supply the days spent in this way; but Superiors are not to impart this license except for a just and grave cause." S. C. of Religious, May 3, 1914, A. A. S. v. 6, p. 229.

269. Is the year of probation judged interrupted or suspended on the occasion of military service? - R. "1. Whether the Novitiate of those who are compelled to leave the house of probation because of military service, or called again to the same military service, is to be judged interrupted, so that it must be repeated from the beginning, with no account taken of the time of novitiate already completed; or whether it is to be considered only suspended, so that it must only be completed? "2. Whether military service can be computed as time of novitiate, when it is completed in a place where there exists a house of probation, if the novices remain under the discipline and vigilance of the moderators, and in spare hours stay in the same house of probation and perform all those things which can be reconciled with military service? "R. To the first: In the affirmative to the first part; in the negative to the second, if the novice has actually been assigned to military service beyond thirty complete days.

If within thirty days, these will have to be supplied. And in any case, he cannot be admitted to profession of vows unless he is tested for at least thirty days. - To the second: In the negative." S. C. of Religious, May 3, 1914, A. A. S. v. 6, p. 230. - Lugo, *Resp. Mor.* l. 3, d. 2; l. 4, d. 2; Sanchez *in dec.* l. 5, c. 4, nn. 30-35; Lezana, Works t. 4, Cons. 8; Suarez, *de Relig.* t. 3, l. 5, c. 14, 15; La Croix l. 4, n. 13 ff.; Schmalz. *de Reg.* 68 ff.; Ferraris l. c. n. 10-34.

270. Can the time of novitiate be prorogued? - R. In the affirmative, if a legitimate cause is present; otherwise if it is not present. A prorogation of this kind is restricted to a brief time. Thus from Trent s. 25, c. 16 *de Reg.* and from the Decree and practice of the S. C. Bishops and Regulars, Decree *Perpensis temporum*, May 3, 1902. - According to the Norms of the S. C. Bishops and Regulars, n. 65,

75, the time of Postulancy and Novitiate cannot be prorogued beyond three months. Ferraris l. c. n. 29 ff.; E. M.

271. If a novice, after completing the whole year of novitiate, is not admitted to profession, but is dismissed, or himself departs spontaneously, and after a brief delay returns and is admitted, can he profess at once without another new year of novitiate? - R. In the negative in the case of dismissal, from the Decree of the S. C. of Religious, September 7, 1909. - In the case of spontaneous departure, R. In the affirmative, provided the condition of the person and of the religion has not been changed. S. C. C., February 27, 1597, and February 12, 1598. The first reason is that here he has already been tested for a whole year, which alone is required by Trent. The second reason is that since judgment for profession must be taken from probation, if after probation a change is made, the preceding probation will serve little or nothing for making that judgment. - And from the Decree of the S. C. of Religious, April 5, 1910, it is necessary that accurate and secret information under faith of oath be had by the Moderators of the religious Institute, if such a Novice who spontaneously departed will enter another Institute. - Ferraris l. c. n. 20 ff.; v. *Professio religiosa* n. 64; Lugo, *Resp. Mor.* l. 4, d. 1.

272. Does one who is dismissed after profession and afterwards is received again need a new novitiate? - R. In the affirmative. The reason is that the first novitiate has already obtained its whole effect through profession, to which it was ordered. Lugo, *Resp. Mor.* l. 4, d. 1, n. 3. - But at present after the Decree of the S. C. of Religious, September 7, 1909, he cannot be admitted.

273. In what place and in what habit is the novitiate to be carried out? - The novitiate cannot be done outside the monastery; indeed it must be carried out in the monastery destined for it. Thus from the Decree of Clement VIII, June 20, 1599, and several other Decrees and the practice of the S. C. Ferraris v. *Annus prob.* n. 36 ff. - By common law, the novitiate must be carried out in the habit of the religion which the novice intends to profess. Trent s. 25, c. 15 *de Reg.* And this is required even under penalty of nullity, according to the S. C. Bishops and Regulars. Ferraris v. *Habitus* n. 2, 3; v. *Moniales* a. 1, n. 76 ff.; v. *Novitiatus* n. 4. - C. *Is qui de Regul.* in 6; Clement VIII, Decree *Regularis disciplinae*, March 12, 1596; Benedict XIV, C. *Si datam* § 6; Lucidi c. 4, n. 146; Bizzarri p. 279 ff., ed. 1885; Kenrick tr. 8, n. 50; Bouix, *de Iure Regular.* p. 4, s. 1, c. 5, par. II, 5; Benedict XIV, *Quaest. Can. et Mor.* Quaest. 220; Norms cited 76.

Clerics regular are not comprehended in the Decrees of Clement VIII concerning novices to be admitted only in certain monasteries designated by the Apostolic See. Urban VIII, C. *Decet Romanum*, November 17, 1634. E. M.

During the time of Novitiate, Novices must give attention to spiritual exercises. Norms cited, art. 74. - The religious instruction of Novices can be taken from the Constitution *Quum ad Regularem* of Clement VIII, March 19, 1603.

At present literary studies are not altogether to be omitted. Novices privately will dedicate one hour on individual days, feast days only excepted, to studies. The Master of Novices or Vice-Master, or one of the professors of humane letters who lives in the house or nearby, will be in charge of studies. It will be theirs to instruct three times in the week for one hour. They will also be able to have written or extemporaneous exercises, and, conversing among themselves, can sometimes use the Latin language. He who is in charge of this school is to note in writing the diligence and progress of each Novice and send this writing to the Superior General or Provincial. Decree *Ad explorandum* of the S. C.

of Religious, August 27, 1910. - From the Norms art. 72, in the second year of Novitiate, "under the direction and vigilance of the mistress, the novices will be able moderately to devote themselves to studies or other works of the Institute; but in the house itself of the novitiate, and not outside, unless grave reasons persuade otherwise."

From the cited Norms, Postulancy precedes the Novitiate, art. 63 ff. Postulancy for lay Brothers is prescribed by the Decree reported above n. 267 bis. Likewise Postulancy is prescribed by the following Decree in monasteries of solemn vows for nuns. "Any Postulant in Monasteries of solemn vows and papal enclosure can be admitted without previous leave of the Holy See, yet with the other things to be observed by law being observed. "2. Any Postulant, before she enters the Novitiate, will have to be tested for the time and according to the manner prescribed in the proper Constitutions of each Monastery. "3. If nothing is established in these concerning these matters, then the probation is to be made at least for six months, yet in such a way that Postulants, admitted within the enclosure of the Monastery for the sake of probation, use a garment of modest color, different from the habit of the Order, which they are not to put on unless when they are about to begin the Novitiate properly so called." S. C. of Religious, August 2, 1912.

274. Whether, when, and how must a novice or novice-woman dispose of his or her goods? - A novice or novice-woman, excepting the Society of Jesus, must renounce his or her goods within the two months immediately before profession of solemn vows, not before, and with the license of the Bishop or his vicar. Trent s. 25, c. 16 *de Reg.*; S. C. Regular Discipline, August 1, 1862; S. C. Bishops and Regulars, May 3, 1902. - But before profession of simple vows they must cede, for the time in which they remain in the same profession of simple vows, the administration, usufruct, and use to whomever they please, and also to their order or monastery, if they so wish. S. C. Regulars, June 12, 1858; S. C. Bishops and Regulars, May 3, 1902.

Lugo, *Resp. Mor.* l. 4, d. 44, 45.

In the more recent Norms of the Sacred Congregation for more recent Institutes it is said, the ancient formula unchanged: "Before the first emission of vows they must dispose of the use and usufruct of the revenues or fruits of their goods, in whatever way they please, and also, if they judge it so according to their own choice, in favor of their Institute. They must also before first vows cede the administration of their goods to the person or persons well-liked by them; and, if they freely wish, also to their own Institute, having been forewarned and accepting. - A change of the aforesaid disposition and cession can be made with the license of the Moderatrix General. In order that perpetually professed Sisters may licitly divest themselves of the radical dominion of their goods by acts *inter vivos*, the license of the Apostolic See is required. - It is fitting that, before they first emit temporary vows, they dispose entirely freely by testament of their present and future goods. - Professed Sisters, both for making and for changing a testament, need leave of the Apostolic See, or in an urgent case of the Ordinary, or of the Superiorissa General and even local, if it cannot be done otherwise." Norms 115, 117, 120-122.

But in order that a renunciation of this kind be valid in conscience, there is no need of the solemnities of civil law. L. l. 3, n. 935; Ferraris v. *Annus probat.* n. 53; v. *Novitius* n. 30 ff.; v. *Moniales* n. 98 ff.; E. M.

The dowry of a deceased nun, the three-year period of simple vows not yet completed, according to the norm of the Decree of the S. C. Bishops and Regulars, May 3, 1902, passes

IV. On Profession

275. Is a novice held to regular discipline? - The Rules and precepts of the order do not of themselves oblige novices. For Novices have not yet professed the Rule, and are only in the way of probation. C. *Ad Apostolicam* 16 *de Regular.* But although the prelate cannot command a novice by reason of vows, as is clear, nevertheless he can command by reason of the power which any superior naturally has in any community, and by reason of ecclesiastical jurisdiction over the novice. C. *Recolentes de statu monachor.* Hence several infer that he can bind novices by precepts under sin and under censures, and reserve cases with respect to them. But several other grave theologians teach the contrary as regards this last point, namely that novices, without license of the prelates of the order, can validly confess to any Confessor approved by the Ordinary of the place for seculars, and be absolved by him, even from cases reserved in the religion. But generally novices enjoy all privileges, indulgences, protection of the canon, etc., which the professed of the order which they intend to embrace enjoy; for from R. I. 55 in 6: "He who feels the burden ought also to feel the advantage." Schmalz. tit. *de Regular.* n. 85 ff.; Ferraris v. *Novitiatus* n. 13-16, 20, 21.

Only the Master of Novices hears the Confessions of these. Yet it is lawful for the Superior, even the local one, to hear them once or twice in the year. Thus from the Constitution *Quum ad Regularem* of Clement VIII, March 19, 1603, apud Bizzarri, Collection, at the end. But at present Novices, as all other Religious, can freely confess to any Confessor approved by the Ordinary of the place. S. C. of Religious, May 3, 1914, A. A. S. v. 6, p. 232.

276. What is the force of religious profession? - Religious profession is distinguished in two ways; for one is such broadly, another strictly. The former is had through simple vows, the latter through solemn vows. But where the word profession is used without addition, it is customarily understood of profession strictly taken. - Solemn profession frees the professed from paternal power, because the professed passes into the full power of the regular superior and is fully subjected to him. But understand this concerning burdens, not concerning favors. For this is a benefit, and what is conceded in favor of someone is not to be turned to his disadvantage, R. I. 16 in 6. Hence the professed retains rights of succession, and if goods come to the son after profession, they pertain to a quasi-military peculium, all of which, although he does not acquire them for himself, he nevertheless acquires for the monastery. Schmalzgr. l. 3, t. 27, n. 67 ff. - Solemn profession dirimently impedes marriage to be contracted and dissolves a ratified marriage. - Solemn profession induces the vacancy of benefices. Indeed even perpetual profession in Institutes of simple vows induces the vacancy of residential benefices. S. C. Bishops and Regulars, August 25, 1903; March 30, 1908. Likewise profession frees from irregularity coming from birth, in relation to receiving sacred orders; not likewise to prelacies. C. 1 *de Filiis presbyt.* - Other vows previously emitted are commuted into religious profession, unless they have been made in favor of a third party and accepted by him. C. *Scripturae* 4 *de Vot. et vot. redempt.*; C. *Qui post* 5 *de Reg. et trans.* in 6. - St. Thomas 2. 2, q. 88, a. 12 ad 1; q. 189, a. 3 ad 3; E. M.

More recent male and female religious emit only profession of simple vows, first for a time and then in perpetuity. But they can never remain without vows; rather, when the time of temporary vows has

elapsed, these are at once to be renewed. Indeed nuns also belonging to regular Orders in several regions emit only simple vows, and are subjected to the jurisdiction of Ordinaries, so that Superiors no longer have any jurisdiction over them. Four monasteries of the Visitation in the United States of North America and the Monasteries of Savoy retain solemn vows. - S. C. Bishops and Regulars, March 23, 1869.

277. What things are required for religious profession? - For the value of profession there is required: 1. That the person be fit for entering religion. - 2. That the one professing has completed the sixteenth year, computing this time mathematically from moment to moment. For thus Trent decreed, s. 25, c. 15 *de Reg.*, according to the S. C. and all the doctors. Laymen or conversi cannot be admitted to profession before they have arrived at the age of twenty-one completed years, from Clement VIII, C. *Regularis disciplinae*, March 19, 1603. But now from the Decree of the S. C. of Religious, January 1, 1911, they are admitted to solemn vows only when the thirtieth year of age has been completed, after a six-year period of simple vows, a year of Novitiate, and two years of Postulancy. Cf. 267 bis. - 3. That a whole year of probation has preceded. Trent ibid. - 4. That it be done with the intention of making profession; for it is a certain spiritual marriage with religion, which, just as carnal marriage, is itself lacking when consent is lacking.

5. That profession not be emitted because of fraud or deceit; otherwise true consent would be lacking. - 6. That it not be done from force or grave fear, unjustly inflicted from without to extort profession. C. 1 *de His quae de vi metusve*, etc.; C. ult. *Qui clerici vel voventes*; Trent s. 25, c. 18, 19 *de Reg.* - 7. That the three substantial vows be emitted; otherwise the essence of the religious state will not be present. - 8. That profession be made in some approved religion. - 9. That profession be accepted by one having power for this. Cf. Ferraris v. *Moniales* a. 1, n. 101 ff.; C. *Ad Apostolicam de Regular.* - 10. That the one professing attach no condition repugnant to the substance of religion. - 11. That express profession be made; for tacit profession as regards men has been abrogated by Pius IX, Decree of the S. C. Regular Discipline, June 12, 1858. Cf. Ferraris l. c. n. 109. By custom it has also been abrogated as regards nuns, and as regards more recent Institutes of simple vows. - 12. That both men and women first emit simple vows and remain in them for three whole years before solemn profession is to be emitted. From just and reasonable causes these vows can be extended up to the completed twenty-fifth year of age. Pius IX, Brief *In universalis Ecclesiae*, February 7, 1862; S. C. Bishops and Regulars, May 3, 1902. Meanwhile they must remain in houses of the professed and of studies, and observe perfect common life, and they are held to the observance of the rule of the order as solemnly professed men and women are; and they enjoy the privileges and indulgences of the order or monastery as these do. The active and passive voice is computed from the day of emission of simple vows. Yet they do not have a suffrage in admission to solemn profession, and can be elected only to lesser offices, not also to offices of superiority. S. C. Regular Discipline, August 6, 1858; S. C. Bishops and Regulars, May 3, 1902; February 20, 1905. By this profession of simple vows, which precede solemn vows, residential benefices do not become vacant. S. C. Bishops and Regulars, March 30, 1908. - 13. If one vow, e.g., of poverty, is not solemn, neither are the other two solemn. S. Penitentiary 1820 to the Bishop of Limoges. - 14. As regards nuns, solemn profession is not had without papal enclosure, C. *Periculoso* un. *de Stat. reg.*; St. Pius V, C. *Cura pastoralis*, May 29, 1566. - Lugo, *Resp. Mor.* l. 4, d. 14, 18, 21, 43; l. 3, d. 16.

Concerning Religious bound to military service. - "... The S. C. of Religious ... decreed the following:

I. In Regular Orders in which solemn vows are emitted, young men who are not certainly established to be exempt from active military service, namely from that service which they, when first called to the military, must perform for one or more years, cannot be admitted to Sacred Orders or to solemn profession until they have completed military service and, this having been completed, have remained at least for a year, according to what is to be said below, in simple vows, with the decree *Sacrosancta Dei Ecclesia*, edited on this same day, observed as regards Laymen.

II. In Institutes of simple vows, the young men concerning whom in the preceding article will be able to be admitted only to temporary vows up to the time of military service; nor is it lawful for them, while they give service to the military, to renew profession. When they have been dismissed from military service, they will again emit profession, at least for a year, before they bind themselves by the bond of perpetual profession.

III. But let young men serving in the military take care lest they lose the gift of holy vocation, and let them always converse with that modesty and caution which befits religious men. Wherefore let them shrink from suspect places and little gatherings; let them abstain from theaters, dances, and other public spectacles; let them avoid the commerce of the bad, slippery conversations, things discordant with religion, men professing suspect doctrines, readings contrary to morals or faith according to the dictates of the Holy See, and other dangers of sinning; let them not omit, as much as is lawful for them, to frequent churches and the sacraments; let them approach Catholic circles or meetings for recreation and instruction of soul.

IV. Wherever their station is placed, if there is there a house of their Religion or Institute, let them frequent it and be under the immediate vigilance of the Superior. But if the aforesaid house is not present, or they cannot conveniently frequent it, let them approach a priest designated by the Bishop, and use his counsels and company, so that when it is necessary to leave the same station, they may be able to receive from him written testimony concerning the observance of all those things which are prescribed in the preceding article. But if a priest designated by the Bishop is not had, let them choose for themselves a prudent priest, to be indicated at once to their Superiors, who will procure for themselves from the Ordinary information about his morals, doctrine, and prudence. Furthermore, let them establish correspondence by letters and, as far as can be done, diligently pursue it with their respective Superior or another religious or member of their Institute designated for this, whom they are to make more certain concerning the manner and condition of their life, concerning each change of their station, and especially let them notify him of the name and domicile of that priest whose company and direction they use, as was prescribed above.

V. Superiors General or Provincial, even local according to the custom of each Institute, by themselves or by a delegated member, who in clerical Institutes is to be marked with the priestly order, are altogether held to inquire concerning the life, morals, and conduct of the pupils while military service lasts, especially by the work of the priest or priests concerning whom above, through secret letters if there is need, so that they may be made more certain whether these have preserved the right way of faith and morals, observed the cautions prescribed above, and shown themselves faithful to the divine vocation, their conscience being gravely burdened.

VI. When they have been definitively dismissed from active military service, let each one be held to return by a straight path to his own religious houses, and there, if it is certainly established concerning their good conduct, as was said in the preceding article, some days of holy recollection having been premised, those who are assigned to Institutes of simple vows are to be admitted to renewing temporary profession; but in Regular Orders, let them be placed among the younger clerics or professed, or at least in a house where perfect regular observance flourishes, under the special vigilance and direction of a religious commended for piety and prudence, who in clerical Institutes must be a priest. In that state they must complete the whole time, which, according to what has been said in articles I and II, will not be able to be less than a year, to be premised to solemn or perpetual vows according to the path of the Apostolic Prescriptions and of the Constitutions of their own Religious Family, yet in such a way that the time spent in simple or temporary vows from the first emission of vows up to departure from the religious house because of military service is indeed computed, but not that which was given to military service.

VII. At that time, let them give attention to studies and regular observance; but let the immediate Superiors and the members placed over the direction of the younger men consider them most diligently, investigate their morals, fervor of life, opinions, doctrines, and zeal for persevering, so that concerning them before the last profession they may be able to render an account under faith of oath to the higher Superiors.

VIII. If any, during military service or after it has ended, before they are admitted to solemn or perpetual profession, have given doubtful signs of perseverance, or have not obeyed the cautions prescribed during the time of military service, or have turned aside from purity of morals or faith, let them be dismissed by the Superior General with the consent of his Counselors or Definitors, and let their vows be held as dissolved by the very act of dismissal.

But if the young men themselves desire or spontaneously ask to be relaxed from the bond of vows, the faculty is given to the aforesaid Superiors, as delegates of the Apostolic See, of dissolving the vows, if it is a question of clerical Institutes; but if the matter concerns Institutes of laymen, let the vows be judged dissolved by letters of the Superiors, by which license is given to them to return to the world.

IX. Ecclesiastical Societies also are held by these prescriptions, which, although they do not use vows, neither solemn nor simple, nevertheless have simple promises by which their pupils are bound to those Societies.

X. If anything new, not foreseen in this Decree, or if anything doubtful in understanding it should occur, recourse is to be made in individual cases to this S. Congregation.... Anything contrary whatsoever notwithstanding." S. C. Religious, Decree *Inter reliquas*, January 1, 1911.

Declarations concerning the Decree *Inter reliquas* on the military service of religious. - "I. Whether perpetual vows emitted before the promulgation of the Decree *Inter reliquas* cease ipso facto when active military service is assumed?

II. Whether temporary vows likewise cease ipso facto when the same service is assumed?

III. Whether solemn profession in Orders, and perpetual profession in Institutes of simple vows, emitted in good faith by one who falsely thought himself exempt from military service, is valid?

IV. Whether solemn profession in Orders, and perpetual profession in Institutes of simple vows, emitted before a year has been completed from the day active military service was completed, is valid?

V. Whether a whole year must flow before he who was assigned to active military service for only three months is admitted to solemn or perpetual profession?

VI. Whether those Religious can be admitted to solemn or perpetual profession who, subject to active military service, nevertheless have and manifest the firm intention of giving themselves to foreign Missions, and of remaining in them up to the time established by civil law for obtaining perpetual exemption from military service, as, for example, in Italy it is the thirty-second year of age?

R. To I. In the negative. - To II. In the negative of itself, or, the vows do not cease ipso facto at the beginning of military service; nevertheless Religious can ask for dispensation from vows from the first day of military service, according to Art. VIII of the Decree *Inter reliquas*, if they do not intend to persevere; if they intend to persevere, in no case can they emit a new profession of vows unless military service has been completed, even if the time of profession has expired during military service. - To III. In the negative. - To IV. In the negative. - To V. In the negative; but it is necessary and sufficient in the case that there be three months, or a space of time shorter than a year, corresponding to the time spent in military service. - To VI. In the negative of itself. Yet the Sacred Congregation concedes that in the last year of the course of studies it is lawful to admit to solemn profession, or respectively to perpetual profession, and to promote to sacred Orders, young men about to set out for sacred Missions within a year, after an oath has first been emitted on the part of the candidate concerning service to be rendered to the Missions up to the time predefined by civil law for obtaining exemption, and with the conscience of Superiors burdened concerning its execution.

Concerning religious Profession in the article of death. - "... In any Order, or any Congregation or religious Society, or monastery whether of men or women, or even in Institutes in which, although vows are not emitted, nevertheless common life is lived after the manner of Religious, it is lawful thereafter to admit Novices or Probands, who by the judgment of the physician are gravely sick, so that they are judged to be constituted in the article of death, to profession or consecration or promise according to their own Rules or Constitutions, although they have not yet completed the time of novitiate or probation.

Yet, in order that novices or probands may be admitted to the above-said profession or consecration or promise, it is necessary:

1. That they have canonically begun the novitiate or probation.
2. That the Superior who admits the Novice or Proband to profession or consecration or promise be the one who actually governs the monastery or house of novitiate or probandate.
3. That the formula of profession or consecration or promise be the same which is in use in the Institute outside the case of sickness; and vows, if they are pronounced, are to be pronounced without determination of time or perpetuity.
4. That he who has emitted profession, consecration, or promise of this kind will be a participant in absolutely all the indulgences, suffrages, and graces which Religious truly professed dying in

the same Institute obtain; and to the same there is mercifully conceded in the Lord plenary indulgence and remission of his sins in the form of a Jubilee.

5. This profession or consecration or promise, besides the graces declared in the preceding article, produces altogether no other effect. Therefore:

A) if the Novice or Proband after profession or consecration or promise of this kind dies intestate, the Institute will be able to claim for itself no goods or rights pertaining to him;

B) if he recovers before the time of novitiate or probandate expires, he is to be in altogether the same condition as if he had emitted no profession; and therefore: a) freely, if he wishes, he will be able to return to the world; and b) Superiors are able to dismiss him; c) he must complete the whole time of novitiate or probandate defined in individual Institutes, even if beyond a year; d) this time having been completed, if he perseveres, a new profession or consecration or promise will have to be emitted.

Anything contrary whatsoever notwithstanding." S. C. of Religious, September 10, 1912.

277 bis. What form of admission is to be observed? - When Novices are to be admitted to profession, "the Conventual Chapter ... is to declare by secret votes whether the Novice can be admitted to profession.... Then the Provincial and the Examiners (Provincial, at least three) are to define by secret votes whether the Novice ... can safely be admitted to profession. If the Novice has been approved, the Provincial is to render the Superior General instructed concerning everything, who ... is to revoke or confirm the approval ... yet so that he can never permit the profession of a Novice who has been rejected by the Provincial Examiners.... If the Constitutions and rules of some Order and Institute further require anything in admitting Novices to profession, that also will have to be observed only in that part which is by no means contrary to the tenor of this Decree." Decree *Regulari disciplinae* of the S. C. on the State of Regulars, January 25, 1848.

As regards nuns of solemn vows, those things are to be observed which are established in their proper Constitutions. As regards more recent Institutes of simple vows, the Norms of the Sacred Congregation and their own Constitutions approved by the Holy See are to be observed.

As regards the rite of making profession and renewing vows, the General Decree of the S. R. C., August 14, 1894, n. 3836, and June 5, 1896, n. 3912, is to be observed. - E. M.

278. Can someone desert religion whenever he wishes because of nullity of profession? - R. In the negative. For he must object in the first five-year period, unless he is restored in full by the Holy See. But the cause of nullity must be examined by his own prelate and by the Ordinary of the place. While appeal is pending, he cannot go out after the first sentence. Trent s. 25, c. 19 *de Reg.*; Benedict XIV, C. *Si datam*, published on March 16, 1748; Ferraris v. *Professio religiosa* n. 65 ff.; Lugo, *Resp. Mor.* l. 3, d. 21.

279. Can a superior expel some religious? - R. In the affirmative, if however he has this power proper or delegated, according to the various constitutions of religious orders. For generally speaking, besides the major superior, other inferior superiors do not have this power. Bizzarri ed. 1855, p. 856. But a canonical process and judgment, and a legitimate cause, are required. Such is: to have kept silent about an essential impediment, or a defect harmful to the community; to have committed "grave external and public fault, and that the guilty one is also incorrigible" in grave sins. S. C.

Bishops and Regulars, November 4, 1892. - St. Thomas Quodl. 12, a. 36; Benedict XIV, *de Syn.* l. 13, c. 11, n. 15 ff.; Ferraris v. *Apostasia* n. 8.

Infirmity is not a just cause for dismissing a professed person, nor is the sole petition of a professed person asserting that he does not have, or has lost, the mind and vocation for the religious state. S. C. on the State of Regulars, June 12, 1858; S. C. Bishops and Regulars, November 19, 1886.

The simple vows which are emitted before solemn vows for men are perpetual on the part of the one vowing, and can be dissolved on the part of the Order in the act of dismissal of the professed, after an examination has been held. For nuns [source print damaged here], these vows are likewise perpetual on the part of those vowing; dispensation concerning them is reserved to the Roman Pontiff. And for dismissing them, recourse is to be made to the Holy See. S. C. on the State of Regulars, March 19, 1857; June 12, 1858; February 7, 1862; S. C. Bishops and Regulars, May 3, 1902; July 15, 1902.

As regards more recent Institutes, for the dismissal of a religious or sister of temporary vows, a grave cause is required; a graver cause and incorrigibility, if they have perpetual vows. The dismissal of a Nun or Sister of perpetual vows is to be confirmed by the S. C. of Religious. Moreover, for a religious who has solemn, or perpetual, or temporary vows, but at the same time is bound to sacred orders, a threefold admonition or correction and a summary process are pre-required according to the Decree *Auctis admodum* of the S. C. Bishops and Regulars, November 4, 1892, and the Decree *Quum singulae* of the S. C. of Religious, May 16, 1911, which is reported here in the following number. - Norms 192 ff.; E. M.

279 bis. Decree - On the method to be observed in rendering a sentence of expulsion or dismissal from orders and religious institutes. "... 1. The competent Curia or competent Tribunal for rendering sentence is constituted by the Superior or Moderator General and the Definitors or Counselors or Assistants, not fewer than four; if any are lacking, in their place the same number of Religious are to be chosen by the President of the Curia or Tribunal, with the consent of the other Counselors.

In Congregations of Monks, the Tribunal is constituted by the Abbot General with his Council. If some Abbey is attached to no Congregation, recourse is to be made to the Holy See in individual cases.

2. In any Curia or Tribunal let there be constituted by the General Council a Promoter of Justice for the protection of right and law, who is to be a Religious of the same Order or Congregation.
3. Hereafter only a Summary Process is to be instituted in expelling or dismissing Religious who either have professed solemn vows in Orders, or perpetual vows in Congregations or Institutes, or, if they have emitted only temporary vows, are nevertheless constituted in Sacred Orders; special privileges by which some Order or Institute may enjoy being saved.
4. One cannot proceed to instructing the Process unless after a threefold admonition has been given and correction inflicted in vain, saving the exceptions under numbers 17 and 18.
5. The admonition is to be made by the legitimate Superior, even local, yet by mandate or license of the Provincial or quasi-Provincial Superior; he will join to the last admonition the threat of expulsion or dismissal. For the effect of expulsion or dismissal, an admonition or correction has no force unless it has been given for some grave delict.

6. Admonitions cannot be repeated unless the delict has been repeated; but in continuous or permanent delicts it is necessary that between one admonition and another there intervene a space of at least two whole days. After the last admonition, six whole days are to be awaited before progress is made to further steps.

7. From the Process there must be established the guilt of the accused, as well as the gravity and number of the delicts, the fact of the threefold admonition, and the defect of repentance after the threefold admonition.

8. In order that the guilt of the accused be established, such proofs are to be brought forward as would move the mind of a prudent man. These proofs can be taken from the confession of the accused, from the deposition of at least two trustworthy witnesses, confirmed by oath and strengthened by other supports, and from authentic documents.

9. The gravity of the delict is to be taken not only from the gravity of the law violated, but also from the gravity of the penalty sanctioned by law, from the gravity of the deceit, and from the gravity of the harm, whether moral or material, inflicted on the Community.

10. For the effect about which there is question, at least three grave crimes of the same species are required, or, if of different species, such that taken together they manifest a perverse will obstinate in evil, or only one permanent crime which by a threefold admonition virtually becomes threefold.

11. In order that the fact of the threefold admonition be established, ordinarily an authentic document must be brought forward concerning this. Therefore it is necessary: a) that this be done either before two witnesses, or by a letter registered by public record-keepers, with faithful proof of reception or rejection having been sought; b) that a document be drawn up concerning the admonition carried out, signed by the said witnesses and to be preserved in the Registers or Archive; or that a copy be made of the above-said letter, likewise signed before dispatch by two witnesses as testimony of conformity, and likewise to be kept in the Registers or Archive.

12. A new crime committed after the threefold admonition, or the obstinate and hardened manner of acting of the delinquent, proves the defect of repentance.

13. The Provincial or quasi-Provincial Superior of the delinquent Religious, after the admonitions and corrections have fallen out in vain, will diligently collect all acts and documents which exist concerning the guilt of this Religious and will transmit them to the Superior General, who must hand them over to the Procurator of Justice, so that he may examine them and propose his accusations, if he judges that any are to be proposed.

14. The accusations proposed by the Procurator of Justice and the results of the Process must be notified to the accused, and a suitable time, to be determined at the discretion of the Judge, must be conceded to the same, in which he may be able to present his defenses, either by himself or through another Religious of the same Order or Institute. But if the accused himself has not presented his own defenses, the Curia or Tribunal must constitute ex officio a defender who is a member of the respective Order or Institute.

15. The Curia or Tribunal, having diligently weighed the allegations both of the Promoter and of the Accused, if it has indeed judged them to be adverse to the accused, will be able to pronounce the sentence of expulsion or dismissal; nevertheless, if the condemned person has duly appealed to the Sacred Congregation of Religious within ten days from notification of the sentence, it cannot be handed over to execution until judgment has been rendered by the same Sacred Congregation.

16. But notwithstanding the appeal, the guilty one can be sent back to the world at once by the supreme Moderator or Abbot General, with the consent of his Chapter or Council, if from his presence there threatens danger either of very grave scandal or likewise very grave harm to the community and their members. In the meantime let him put off the habit and remain suspended, if he is constituted in Sacred Orders.

17. He who has been guilty of even only one delict, from which danger of grave public scandal or very grave detriment to the whole Community threatens, can likewise be sent back to the world even by the Provincial Superior or Abbot, the religious habit being immediately laid aside, provided that the delict itself and the guilt of the Religious to whom it is imputed have certainly been established; and meanwhile let the Process be instituted for rendering the sentence of expulsion or dismissal. Those who are constituted in Sacred Orders are likewise to remain suspended.

18. Likewise against certain delicts the penalty of expulsion or dismissal is judged as if brought by law. These delicts are: a) public apostasy from the Catholic Faith; b) apostasy from an Order or Institute, unless the Religious has returned within three months; c) flight from a Monastery, having taken a woman with him; d) and much more the contract, as they say, civil, or the attempt or celebration of marriage, even valid, or when the vows are not solemn or do not have the effect of solemn vows.

In these cases it is enough that the Superior General or Provincial, with his respective Council, issue a declaratory sentence of the fact.

19. A sentence of expulsion or dismissal, in whatever way brought, if it is a question of a Religious in Sacred Orders, is to be communicated at once to the Ordinary of origin and the Ordinary of the place where he is staying, or where he is known to wish to establish his seat.

20. All Religious about whom there is question, constituted in Sacred Orders, who have been expelled or dismissed, remain perpetually suspended until they have obtained dispensation from the competent Authority after amendment of life. Religious or Clerics not in Sacred Orders, expelled or dismissed, are prohibited from ascending to higher Orders without leave of the Holy See. But all expelled or dismissed, even if they have truly amended themselves, will not be able to be admitted to their own or to another Order or Congregation without special license of the Apostolic See.

21. For expelling Nuns who have professed vows, whether solemn or simple, in an Order properly so called, and for dismissing Sisters who have emitted perpetual vows in Religious Institutes, grave external causes are required, together with incorrigibility, by the judgment of the Abbess or Superiorissa with her Council, respectively to be manifested by secret votes, an experiment

having first been had, so that hope of repentance has vanished and from the continual faults of the incorrigible Nun or Sister harms threaten the Monastery or Institute. Less grave causes are required for dismissing Sisters of simple vows in Religious Orders. Just and grave causes must be proved by the Ordinary of the place and, if the Monastery is subject to Regulars, also by the Regular Superior. Furthermore it is necessary that confirmation of the Sacred Congregation be added, so that expulsion or dismissal on the part of the Order or Institute does not obtain juridical effect before it has been confirmed by the Sacred Congregation. Only in the case of grave external scandal, the Bishop of the place approving, can a Nun or Sister be sent back to the world at once, yet in such a way that the confirmation of the Holy See be sought without delay." S. C. of Religious, May 16, 1911.

Those constituted in sacred orders and bound by simple vows, whether perpetual or temporal, who have spontaneously sought and obtained dismissal from the Apostolic See, or otherwise have been dispensed from simple, perpetual, or temporary vows by Apostolic privilege, cannot go out from the cloister until they have found a Bishop as benevolent receiver and have provided for themselves concerning an ecclesiastical patrimony; otherwise they remain suspended from the exercise of the orders received. This is extended to pupils of temporal vows who would already have been released from any bond of profession because of the elapsed time for which vows were pronounced by them. Decree *Auctis admodum* of the S. C. Bishops and Regulars, November 4, 1892.

V. On the Vow of Poverty

280. What is the force of the solemn vow of poverty in relation to the ownership of goods? - A Religious, by force of the solemn vow of poverty, is rendered absolutely incapable of dominion in particular, or personally, over any temporal thing estimable by price, even with the license of the superior. - Absolutely incapable, i.e., incapable perpetually and immutably, both on the part of the religious and on the part of religion.

In particular, or personally: for the solemnity of the vow of poverty does not prevent the community from being able to acquire and possess goods, whether by itself or through subjects, unless its constitutions stand in the way. Hence the widely spread axiom of canon law: Whatever a monk acquires, he acquires not for himself, but for the monastery. Cf. Schmalzgr. l. 3, t. 27, n. 75 ff. Of a temporal thing estimable by price: because the religious retains dominion over spiritual goods, honor, reputation, and similar things.

Likewise he retains the right of electing, presenting, and conferring a regular benefice. Even with the license of the superior, namely of the regular superior: for this incapacity can be removed by the Supreme Pontiff, without the solemnity of the vow being thereby impeded. Cf. 248. Of dominion, i.e., of dominion both direct and also merely useful. Therefore the ownership of temporal goods, the right of enjoying, the right of using, the right of simply retaining or possessing, the right, i.e., in one's own name and by one's own judgment, is opposed to the solemn vow of poverty; but by no means the usufruct, use, and retention of mere fact, i.e., with the license of the superior, dependently on the superior, and also mere administration. For through this he acquires no temporal advantage for himself by which he might become rich or less poor, and disposes of no thing for his own temporal

emolument. Lugo d. 3, n. 155. - C. *Cum ad monasterium* 6 *de Stat. monach.*; Trent s. 25, c. 2, 3 *de Reg.*; Bizzarri ed. 1885, p. 276, 279, 335, 336, 384; E. M.

281. You will resolve: A Religious solemnly professed is altogether incapable of any act of ownership, of donation, sale, etc. Therefore he cannot make a testament. Incapable, namely unless the dispensation of the Supreme Pontiff is added, which in fact was given to regulars of Belgium, so that they could acquire, retain, administer, and dispose of goods. S. C. Extraordinary Ecclesiastical Affairs, July 31, 1878.

Act of ownership, by which he receives some advantage and emolument; but mere causing of damage is by no means against poverty, e.g., to kill at night a barking and troublesome or dangerous dog. D'Annibale p. 3, n. 222. All gifts which are made to religious solemnly professed are thereby acquired for the monastery, legacies and inheritances not excepted, unless a special rule or constitution of the Order stands in the way. Trent s. 25, c. 1 *de Reg.*; Lugo, *Resp. Mor.* l. 3, d. 14. - Manuscripts are proper to religious.

For they are something spiritual, since they are the offspring of their own intelligence. And this has already been introduced also by custom. Likewise holy Relics can be had, because they are not estimated by price. - The S. C. of Religious, July 13, 1913, declared that Religious, both of solemn vows and of simple vows, who during vows have written some manuscript do not have dominion over the same, so that they can donate it or alienate it by any title whatsoever. - "To have something proper is said to be against poverty, not because it is against some special virtue, for there is none, but because it is against the vow of poverty; and thus that sin is properly against religion." Suarez, *de Rel.* tr. 10, l. 4, c. 14. For indeed the virtue of poverty excludes only the affection and disordered use of earthly things, not ownership. This is not excluded unless, with a vow added, it is restricted and narrowed. Therefore the virtue of poverty can easily be reduced to modesty, a part of temperance. - L. 14, 22.

282. What is the force of the simple vow of poverty in relation to exterior goods? - A Religious bound by a simple vow of poverty can indeed have direct dominion of goods; but he can licitly dispose of nothing concerning them without particular or general license of the superior. Licitly, since a religious preserving direct dominion of goods can validly dispose of them without license, since he is truly lord of those goods. Yet the simple vow which formed coadjutors emit in the Society of Jesus renders one incapable even of dominion. Suarez, *de Relig.* tr. 10, l. 4, c. 6, n. 12; Lugo, *de Iust.* d. 3, n. 78; Schmalzgr. l. 3, t. 35, n. 9; E. M.

283. You will resolve: A Religious who is not solemnly professed has direct dominion: of temporal goods which he possessed before vows. The reason is that simple vows do not deprive one of dominion already had. - Of the fruits or revenues of the same goods. The reason is that a thing fructifies for its lord, and simple vows do not deprive one of the right of acquiring dominion. But cf. n. 274. - Of those things which come to him by law, without new acceptance, such as paternal inheritance, legacies, etc. The reason is clear from what has been said. - Of all goods which he receives from parents, relatives, friends, with the license of superiors; if however those donations are made specifically with regard to the private person, and not insofar as he is religious; otherwise donations come to the monastery. For that principle is also applied to these religious: Whatever a monk acquires, etc. - Of all goods which he receives from parents, relatives, friends, etc., given with regard to the private person, without license of superiors. The reason is that since he has the right of

acquiring, the defect of license makes him acquire illicitly, not acquire invalidly, just as the defect of license makes him donate illicitly, not donate invalidly.

Manual works, whatever they are, which are made by religious pertain to the community. Therefore private persons, although craftsmen, cannot dispose of them, nor can they receive any emolument from them. The same is to be said of honoraria which are given to regulars for Masses or other spiritual ministries. Yet it is not against poverty, with material furnished by another, at his petition to paint, for example, a small panel, which he then receives. For it is gratuitous work, not an act of dominion from which advantage or emolument is acquired. The same is to be said if a religious gratuitously teaches another canon law, theology, etc. It is a gratuitous office, not an act of ownership. Likewise it is not against poverty to eat and drink at the house of an outsider, for this is the act of dominion of the outsider, not of the religious. Lugo d. 2, n. 51; d. 3, n. 149; Norms art. 126.

A Religious bound by a simple vow acts illicitly if at home, or also outside, even from those things which pertain to food and clothing, he receives, retains, consumes, exchanges, gives to another, lends for consumption, or lends for use, or makes any contract in which an act of ownership intervenes, without the consent of the superior. - He sins against the vow of poverty if he expends for another use anything from the things conceded for his use, or culpably loses or destroys it. The reason is that in these he has only use of fact, and that precariously, as long as it shall seem good to the superior; and it is at the same time an act of dominion to be able to destroy one's own or quasi-own thing by one's own decision. - He also sins against the vow of poverty if he usurps for himself things of the monastery, if he hides or subtracts some thing from the disposition of the superior; if he remits a debt; if he renounces an inheritance or legacy which would be in favor of the community. If he renounces a donation, he does not sin against justice or the vow, but he can sin against charity toward his own convent. L. 19, 20; Norms of the S. C. Bishops and Regulars, art. 124.

284. What is required so that a religious can receive or give a thing? - So that a religious may licitly, by reason of the vow of poverty, receive, donate, etc., a thing, the license of the superior is required and suffices, at least reasonably presumed or interpretative. - Presumed or interpretative license is distinguished from express and tacit license. Express is called that which is openly conceded by word or writing; and this can be formal express, or virtual, as if he says: I concede to you that you call a physician; this will be formal express license in order to consult the physician, virtual in order to apply the prescribed remedies. Tacit is called that when from custom, signs, or other circumstances, it is reasonably concluded that the superior approves the matter.

Presumed or interpretative is called that when, because of some occurring necessity or another just cause, it is believed or presumed that the superior would consent or give license if this were sought in these circumstances. Reasonably presumed: otherwise there is no license, since it is against the will of the superior. - Moreover, for acting against the vow of poverty it is required that the religious act in his own name and independently of the will of the superior. But one who acts from the consent of the prelate according to prudent interpretation does not act in his own name and independently. Therefore. St. Alphonsus 18 calls this opinion more probable, and St. Thomas teaches it expressly, 2. 2, q. 32, a. 8 ad 1, and 4 d. 15, q. 2, a. 5, q. 4.

285. You will resolve: If the prelate gives or permits to be given to a subject images, rosaries, etc., knowing that he does not need all these for his own use, he is judged tacitly to concede the faculty of

giving them to others. - If to a religious for his support a certain quantity is assigned in such a way that neither is the monastery held to provide anything else to him, nor he himself to render an account, then whether he stays within the cloister or outside, whatever he has withheld for himself from that portion he will be able to expend at his good pleasure, provided he expends it for an honorable use.

But otherwise, if no certain quantity is assigned to him, but all necessary things are supplied by the monastery, because then it is not presumed, as in the first case, that the prelate concedes license. - By authors it is permitted to religious, because of the same presumed license, to make some moderate alms, likewise to make light donations for reconciling the love of others toward religion, as a sign of due friendship or due gratitude. And here attention is to be given to the Constitution *Religiosae* of Clement VIII, moderated by the Decree *Nuper* of Urban VIII, prohibiting to religious the giving of gifts, unless they are from causes containing by their nature an act of virtue and merit, yet modestly and discreetly, and with license of superiors. By this prohibition convents also and their chapters are comprehended; and those receiving are held to restitution. Illicit donations are also void from these Constitutions. If these exceed the sum of ten scudi, absolution cannot be given unless first, if it can be done, restitution be made. Innocent XII, C. *Romanus Pontifex*, 1692. - L. 17, 21, 23; E. M.

286. Note: License sought but unduly denied does not excuse from transgression of the vow, unless there is danger of grave harm in delay, e.g., if the superior denies things necessary for food and clothing, or to relieve the want of one in extreme need. For then the consent of the major superior is presumed to be present. Thus St. Alphonsus 33, and it agrees with the doctrine of St. Thomas 1. 2, q. 106, a. 6; 2. 2, q. 120, a. 1; Schmalzgr. l. 3, t. 35, n. 35, and of others. When the matter has already been done and consummated with reasonably presumed license, there is not given from the vow of poverty an obligation of manifesting the fact to the superior. Otherwise that license would serve for nothing, and can no longer serve for anything. Lugo d. 3, n. 128. - A superior cannot licitly and validly give permission for things extraordinarily superfluous and illicit. For these are unbecoming to the state of poverty of religious, and the superior is not the lord, but the simple administrator of the things of the monastery. L. 29 f.; Lugo d. 3, n. 139 ff.; Kenrick tr. 8, n. 75. - If the preceding superior gave license, it is valid even if he has departed from office. On the contrary, although a superior licitly accepts and retains during the time in which he himself is superior money given to him, nevertheless he will not be able to expend it when he has ceased from office without leave of his superior. La Croix l. 4, n. 116.

As already said, the giving of gifts is prohibited to Regulars of either sex, apart from a cause of virtue and merit, yet modestly and discreetly. And those doing otherwise incur infamy of law ipso facto, deprivation of active and passive voice, and perpetual inability for all offices and dignities. But restitution of things received is to be made to the Convents.

Economic obligations are to be undertaken by religious families according to the Decree *Inter ea* of the S. C. of Religious, July 30, 1909. - Without the consent of the respective council, obligations cannot be contracted for individual houses which exceed 500 lire and do not reach 1000 lire; for provinces, which exceed 1000 lire and do not reach 5000; for Generalitial Curias, which exceed 5000 lire; and for the sum of 10000 lire, besides license of the respective Council, the Apostolic good pleasure is needed. And no foundation of a house is to be made, and no amplification of a foundation, if the money to be paid is not had. Stipends accepted for Masses can in no way be expended before the

celebration of the Masses themselves. And the dowries of Religious women are by no means to be alienated as long as they live. Cf. § 7, Second Supplement, E. M., p. 74 ff.

287. What is grave matter in transgression of the vow of poverty? - It is difficult to hand down some determined rule as regards the quantity required for grave sin, as is established from the very multiplicity of opinions concerning this matter. - Generally speaking, that matter is to be held grave which constitutes grave sin in theft. For an act of ownership which is grave by reason of matter against justice is also grave against religion when the vow of poverty is added. For the vow of poverty precisely impedes this, namely an act of ownership. But some say that only that matter is grave which is grave in thefts of children in the household, which others more probably deny. For their condition is altogether different as regards the goods of the monastery and as regards paternal goods. And since, as regards religious, it is a question of spiritual detriment, the superior must always be judged more unwilling than the father of a household. And hence it is clear that the aforesaid grave matter is not absolutely grave matter in theft, if the monastery is very wealthy, but only relatively grave matter, namely relative to a monastery moderately rich, as to the common rule, with attention given to the harm which Religion suffers from the sin of ownership. For if it is grave in the reason of an act of theft, it is already grave in the reason of an act of ownership against the vow of poverty. But here the harm of society or community, from which absolutely grave matter is determined, certainly cannot be attended to, but merely the act of ownership, and the grave matter of this act as respectively such. And if the harm of society or community had to be attended to here, since the harm to be attended to here is spiritual harm, it is clear that not only then must absolutely grave matter be rejected, but even on the contrary respectively grave matter must be restricted rather than extended. But this respectively grave matter as regards a monastery moderately rich is that very matter which is respectively grave as regards a person moderately rich. But it is altogether discordant to introduce, for constituting grave sin against the vow of poverty alone, a still greater quantity than that absolutely grave for theft.

Yet this grave matter, according to diverse circumstances, as in theft, can be still greater or lesser. More is required for rich convents than for other poor ones. - More also if a religious usurps things of the monastery for his own use, or for others of the same community, than if he were to expend them on outsiders; for in the former case the thing remains at home. More, if the thing is not from money, but from clothing, books, and similar things. It is not mortal to steal edible things on several occasions, even if they come to a great quantity, provided they are not reserved by the religious, and provided the damage to the convent is not excessive and in an extraordinary and more precious thing. More is also required in small thefts, which moreover, with a notable interval interposed, do not coalesce into grave matter, than in other ordinary thefts. Furthermore, more is required in sins against religion alone, or committed against the vow alone, than at the same time against justice; for in the former case the act of ownership, as is clear, is less. Hence also in the same case of sin against religion alone more is required for sinning gravely when gifts are received from outsiders to be expended on others in one's own name, than if these were retained for one's own uses; and more is also required if someone expends or retains goods of which he has radical dominion. For the whole malice of the act is in this, that it is an act of ownership without dependence on the superior, against his will. Finally more or less is required according as the act participates more or less in ownership. And thus generally a religious does not sin gravely when he secretly receives some thing from the

community for his own use, or if he lends for consumption or lends for use to another a thing conceded to him for use. - L. 24, 25, 27; l. 3, n. 545; H. A. tr. 3, n. 10;

Lugo d. 3, n. 170 ff.

Those things which are light only against the vow of poverty, and therefore only against religion, do not coalesce to constitute at the same time a grave sin, because the reason of grave real harm inflicted is lacking, as in sins against justice.

288. Is it lawful for religious to have a peculium, i.e., a temporal good destined for their own uses, but by no means for the common uses of the monastery? - It is certain that such a peculium with independent use of it is illicit; for it is against poverty and against Trent s. 25, c. 2 *de Reg.* - But it is disputed whether peculia with dependent use were prohibited by Trent s. 25, c. 2 *de Reg.* From custom and permission of the Apostolic See, the use of a peculium and life allowance still perseveres in several monasteries and is licit. All agree that in those convents in which common life is not observed because of poverty, or because of the negligence of superiors in supplying necessary things to subjects, peculia can be conceded at the nod of the prelates. The reason is that the Tridentine Council then commands common life to religious when "nothing that is necessary is denied" by the convent. - A regular cannot refuse common life if the superiors wish to choose it. The reason is that this would be against the vow of poverty, for it would be to have goods independently of the will of superiors. - Clement VIII, Constitution on the Reform of Regulars; L. 15; E. M.

In the Norms of the S. C. Bishops and Regulars, art. 127, 128, it is said: "All things in the Institute are to be called and to be common, as regards furnishings, food, and clothing. Yet it is fitting for each, indeed in common custody but separately, to keep and distribute clothing of strict personal use. The furnishing which the sisters use, with superiors permitting, is to befit poverty, and nothing superfluous is to be in it, nor is anything necessary to be denied to them." As is clear, no distinction is made between superiors and subjects as regards common life. And from the Decrees of Clement VIII for the Reform of Regulars, art. 10, it is explicitly commanded that common life is to be observed also by Superiors.

289. Does he sin against the vow of poverty who receives money from an outsider to be spent at will on pious works? - R. In the negative, if the pious works are determined by the donor himself. For then no act of ownership is had. The Religious is only the executor of another's commission. - But if the works are in no way determined by the donor, Fr. Gury 157 affirms it, because he would make an act of ownership. But Sanchez, *in Decal.* l. 7, c. 30, denies it. The reason is that while he distributes that money not in his own name but in another's, he makes no act of ownership. - St. Thomas Quodl. 3, a. 15.

290. Are religious by the vow of poverty prohibited from receiving another's thing in deposit without the license of the prelate? - R. In the affirmative, if it is by force of the contract of deposit, because then there is present a true right and obligation from justice. In the negative, if it is only into faithful custody, for then no right and obligation from justice is had.

VI. On the Vow of Chastity

291. What is the object of the vow of chastity? - The object of the vow of chastity comprehends two things, namely those things which by natural and divine law are already prohibited by the virtue of

chastity, and also those things which can licitly be done in legitimate marriage.

292. What is the gravity of sins committed against the vow of chastity? - R. There is exactly the same gravity or lightness of sin against the virtue of chastity as against the vow in those things which are prohibited by the virtue; and in these two sins are given, if the vow is violated. One sin is committed in that which is forbidden by the vow alone. But the gravity or lightness is to be taken from the virtue itself of chastity, namely if it would also be opposed to that virtue.

293. What is the difference between the solemn and simple vow of chastity? - The solemn vow of chastity invalidates subsequent betrothal and marriage, and likewise antecedent betrothal, and also antecedent ratified but non-consummated marriage. And note the difference with the vow of chastity in the reception of sacred orders, for this latter indeed invalidates betrothal and marriage contracted afterwards, but it does not invalidate marriage contracted before, although not consummated. A simple vow of chastity by common law does not invalidate marriage, whether subsequent or antecedent. By common law, because the Supreme Pontiff can decree that the simple vow of chastity dirimently impede marriage, just as if it were solemn. And thus it was really established as regards subsequent marriage for the simple vows of scholastics of the Society of Jesus. Furthermore, through the simple vow of perpetual chastity, subsequent betrothals are void, for the promise of marriage then concerns an illicit thing. More probably, antecedent betrothals are also dissolved. The reason is that the promise of betrothal is always judged to have been made under the tacit condition: unless a better state be chosen. - C. *Rursus* 6 *Qui cler.*; Trent s. 24, c. 6, 9; L. l. 6, n. 812, 958, 1059; Lucidi ed. 3, p. 93, 148.

294. What about enclosure? - For the greater custody of chastity enclosure was introduced, by force of which nuns cannot go out from the monastery except by license of the Pontiff or Bishop, which can also be given only in extraordinary cases. But religious men cannot be absent from the house without the license of the prelate. Nor indeed can women enter the enclosure of regular men, nor persons of whatever sex or age enter the enclosure of nuns. Likewise frequent access to nuns is prohibited, and to regulars, as is fitting, more severely than to others, both secular clerics and laymen. - C. 20, caus. 18, q. 2; Trent s. 25, c. 4, 5 *de Reg.*; Benedict XIV, Decretal Letter *Gravissimo*, October 31, 1749; C. *Quamvis iusto*, April 20, 1749; Clement VIII, C. *Nullus*; Ferraris v. *Moniales* a. 3; E. M.

Enclosure is also to be observed in hospices, stations, and houses of regulars in places of missions; and its norm and limits are constituted by the Decree of the S. C. de Propaganda Fide, August 26, 1780, Collect. n. 410.

As regards modern Religious Institutes of simple vows, they have enclosure, indeed not strict, but partial, determined in the Constitutions themselves, which requires at least that in all houses some part be reserved for the Sisters themselves, into which no other is admitted. Norms of the S. C. Bishops and Regulars for more recent Institutes, n. 170. It will belong to the Bishop to take care that this partial enclosure be rightly observed, and to restrain whatever defect creeps into it. Norms n. 172.

Sisters seeking alms must have the license of the Ordinary, and are held to observe the prescriptions established by the Decree *Singulari quidem* of the S. C. Bishops and Regulars, March 27, 1896, and also the norms which were promulgated by the S. C. of Religious, Decree *De eleemosynis*, November 21, 1908, both for mendicant Orders and for non-mendicant religious Orders or Institutes. A. A. S. v. 1,

p. 153. From this Decree the Friars Minor are exempted as regards collections customarily made in favor of the Holy Land. S. C. of Religious, October 1, 1909.

As regards Sisters who provide assistance to the sick either in public Hospitals or in private houses, works of charity are by no means approved which seem unbecoming to virgins dedicated to God and clothed in ecclesiastical habit. Norms art. 15, 291.

Confraternities are prohibited in Convents of Religious women, whether of solemn or simple vows; but by no means pious Associations of women only, the things to be observed having been observed. But if it is a question of erecting pious Associations of either sex, the matter is remitted to the Ordinaries. S. C. Bishops and Regulars in Tirasonensi, November 9, 1595; January 18, 1907. - Lugo, *Resp. Mor.* l. 4, d. 40.

Without a special faculty, male and female Religious cannot receive outside persons as guests in their own house, except by reason of charity when some case occurs. - Outside youths cannot live in Convents of men by any title or pretext unless they have completed the twenty-first year of age. - S. C. Bishops and Regulars, May 16, 1675.

The use of the telephone is now permitted by common custom to all religious, men and women. Yet due cautions, as is clear, must be used.

295. What sort of sin is it to go out from the monastery without license? - For nuns living within enclosure it will always be grave, since the Church prohibits it under a most grave penalty, namely excommunication. - For religious men it will be grave if it is done rather often with scandal, or furtively at night; but only venial if someone goes out once or twice, or only sometimes during the day. - Clement VIII, on the Reform of Regulars, art. 19, prohibited a general license from being given, or one without a companion; but it is not certain whether the ordinances of Clement VIII are all preceptive, or at least some directive. Cf. Salm. tr. 15, c. 5, n. 163. Yet one can stand by legitimate custom, and by the Constitutions of each order approved by the Holy See. - The prescription of a companion is still in force from the practice of the S. C. Bishops and Regulars and now of the S. C. of Religious in the approval of more recent Institutes, especially as regards nuns. Norms a. 174. - L. 37; Suarez, *de Relig.* tr. 8, l. 1, c. 6, n. 8.

296. What about the obligation of wearing the habit? - In those Institutes in which a certain habit is ordered to be worn as a sign of religious profession, speaking of itself, the formal putting off of the habit, i.e., by changing the habit so that one is not recognized as a religious, if done rashly, is a mortal sin. C. *Ut periculosa* 2 *Ne clerici vel monachi* in 6. - Bouix v. 2, p. 585 ff.

VII. On the Vow of Obedience

297. What is the object of the vow of obedience? - A Religious from the vow of obedience is obliged to all things which the superior commands according to the rule and constitutions of the order, whether directly and expressly, or indirectly and implicitly. This is established from the very nature of the vow of obedience made in such a religion; for the object of this vow is this: to obey the superior commanding according to the rule of such an order. No religious superior has power above or against the rule. The former power exceeds the limits of promised obedience; the latter would tend to the destruction of religion. - C. 6 *de Statu monach.*; Suarez, *de Rel.* t. 3, l. 10, c. 8; St. Thomas Quodl. 10, a.

10; 2. 2, q. 88, a. 5 ad 3; q. 104, a. 5 ad 3; Lugo, *Resp. Mor.* l. 3, d. 3; S. C. of Religious, May 3, 1914, A. A. S. v. 6, p. 231; E. M.

298. You will resolve: The Superior generally does not have the right of imposing under precept that which from the Institute is not commanded under sin. For this would openly be against the rule. He can do this only when a special reason is given, in certain particular cases. L. l. 1, n. 141. If regular observance has been relaxed, superiors can recall it to its former state. For this was implicitly promised by professing the rule, unless altogether another state of the religion has already come forth, and those professing it wished to embrace it only thus relaxed. L. 44. - Obedience is sometimes to be offered even with danger of life, when the dangerous action is necessary and consonant with the Institute. Thus the Superior can command that a professed member assist other professed members infected with plague; that he administer sacraments to others if secular priests are lacking, especially when the Institute proposes for itself, as its special end, the procuring of the salvation of souls. - Obedience is not owed by force of the vow to a subordinate official. - Lugo, *Resp. Mor.* l. 5, d. 16, n. 2, 3; l. 4, d. 35; l. 3, d. 4, 5; S. C. of Religious, May 3, 1914, A. A. S. v. 6, p. 231.

299. Note: "Unless the prelate explains the command, for example by saying, I order, I command, etc., the subject is not held to obey. And when the prelate says: I order, I command, etc., the subject would not even be held to obey under grave obligation unless there is added: In the name of the Lord Jesus Christ, or in virtue of obedience, or unless the penalty of excommunication is added, not only to be imposed, but also *latae sententiae*." For thus it has already been introduced by common practice for avoiding anxieties and doubts. - "Those things which indirectly pertain to the rule, Sylvius, etc., extend to those things which conduce to its fuller observation; Sanchez, however, restricts it to things very necessary, without which the rule cannot conveniently be observed, for otherwise the superior could command any macerations of the body whatsoever; for they are ordered to the fuller observation of the rule." L. 38, 39, 40; St. Thomas 2. 2, q. 104, a. 5 ad 3; 2 d. 44, q. 2, a. 3; Bouix v. 2, p. 429 ff. - Rarely, cautiously, and prudently should superiorissas command in virtue of holy obedience, or under formal precept, and only from a grave cause. It is expedient besides that they impose a formal precept in writing, or at least before two witnesses. Norms art. 136. - A gravely disobedient Religious more probably sins gravely both against the virtue of religion and against the virtue of obedience. For how otherwise could a grave transgression against the vow of obedience be had, unless at the same time grave disobedience is had? L. 46. - Lugo, *de Poenit.* d. 16, s. 4, § 4; *de Iust.* d. 36, n. 90, 92; L. 6, n. 313; Ithur. Cas. 8; Escobar tom. 5, lib. 43, s. 2, dub. 17-20; E. M.

Religious missionaries are bound by a twofold bond of obedience, namely: by force of canonical obedience, as missionaries they are subject to the ecclesiastical Superior; by force of the vow, as religious they are under the religious Superior.

The general rule is that all things which regard the sacred ministry and the temporal administration of the mission must be directed by the ecclesiastical Superior; but those things which protect religious life and discipline pertain to the duty of the religious Superior. Cf. the Statute or Manner of Living to be observed in the missions of the Congregation of the Sacred Hearts of Jesus and Mary and also of the perpetual Adoration of the Most Holy Sacrament of the Altar, Rome 1907; Decree of the S. C. de Propaganda Fide, August 18, 1913, for the Ruthenians in the Canadian region, art. 21; Supplement to the *Enchiridion Morale*, ed. 3, p. 21.

Regulars have the habitual faculty of obtaining academic degrees in biblical studies. S. C. Bishops and Regulars, Prefect, April 19, 1904.

In all Italy and especially in the kingdoms of both Sicilies, Abbesses and Superiorissas of Monasteries are to be elected only for a three-year period. Gregory XIII, Constitution *Exposcit debitum*, January 1, 1583. Yet outside Italy, Rules and Constitutions approved by the Holy See and immemorial customs are to be observed. S. C. of Religious, June 3, 1910; S. C. Bishops and Regulars, May 4, 1901; A. S. S. v. 34, p. 397; Ferraris v. *Abbatissa* n. 55. "In elections of an Abbess or Prioress, whether the Monastery is subject to the Bishop or to a Regular Prelate, the individual votes of the nuns are to be collected in a closed urn and opened by the Prelate presiding with two priest scrutineers. But if for a grave cause the votes are given orally, this is to be done before the Prelate, with priest scrutineers nevertheless assisting. The priests about whom there is question are to be of mature age and approved virtue. Yet the ordinary confessors of the nuns themselves are not to be admitted as scrutineers or associates of the Bishop or Prelate." S. C. of Religious, August 27, 1910.

According to the Norms, local Superiorissas in more recent Institutes of simple vows regularly last in office for one three-year period, and only for a grave cause can they be confirmed for another three-year period; but not beyond this term in the same house, art. 309.

300. Can an abbess command nuns in virtue of obedience, obliging in conscience? - R. In the affirmative. The reason is that through the vow of obedience nuns are obliged to obey all their legitimate superiors. But the abbess in her monastery must be called legitimately and truly a superior. This is established both from the very nature of society and community, which certainly is in a monastery, and from the approval of the Constitutions by the Holy See. For the Holy See, approving Constitutions, certainly approves the order of superiorissas and subjects, the superiority of the former and the subjection of the latter. Otherwise, how could the monastery and regular observance be preserved? Therefore, although the abbess lacks ecclesiastical jurisdiction, she nevertheless does not lack economic and dominative power; this must also be said of male superiors not having ecclesiastical jurisdiction. But from the Norms the matter has been placed beyond every question. Cf. preceding number. - L. 52; E. M.

301. Can merely internal acts be commanded by force of the vow of obedience? And what also about the other vows? - Almost all agree concerning the vow of poverty, that it touches only external acts of ownership as its proper object. This does not exclude, as is clear, that someone can sin against the vow of poverty also by an internal act, e.g., by a desire of exercising an act of ownership; for that desire is specified by such an object, which by hypothesis is against the vow of poverty.

As regards the vow of chastity, Salmanticenses tr. 15, c. 6, n. 20, Sanchez *in Decal.* l. 5, c. 6, 9, Busembaum apud St. Alphonsus 37, Gury 165, and several others affirm that its object is both exterior acts and interior acts, because, they say, the vow of chastity is commonly understood thus. But this does not demonstratively prove the assertion, since in several Constitutions of Orders and Congregations this explanation is not found, and religious who vow very often have not given their work to theological studies in such a way that they can have knowledge of this matter. They are content to vow as the others vow according to the mind of the Church approving the Constitutions of the Order and Congregation. Nor indeed can they have another intention. Hence there are not lacking those who think that the vow of chastity touches only external acts and is violated by these. For they say that the Church is not accustomed to command merely interior acts; and therefore

neither do vows of religion, approved by the Church, extend themselves to merely internal acts. But it is answered, and thus the common opinion is maintained at the same time, namely, that the vow of chastity in religion is certainly more perfect than a vow outside religion. Moreover the vow of chastity outside religion, since it is understood as a vow of perfect chastity, comprehends both internal and external acts; for chastity extends itself to both. It is confirmed from the Norms art. 129: "Through the vow of chastity the sister emitting profession binds herself to preserving celibacy, and besides, by a new title, that is, of the vow itself, to abstaining from any act whatsoever opposed to chastity."

As regards the vow of obedience, there are various opinions. For some think that the vow of obedience touches only exterior acts and the exterior execution of the mandate of the superior, which Gury 169 also has; others, on the contrary, judge that that vow extends itself even to merely internal acts. St. Thomas 2. 2, q. 186, a. 5 ad 4, although he says this vow of obedience has a certain universality, nevertheless says that it does not extend to all particular acts, and seems to exclude, besides others, also internal acts, concerning which there is discussion in the objection, for he refers himself to q. 104, a. 5, where he positively excludes acts of this kind from obedience to be offered to men. The Angelic Doctor indeed has these things at the aforesaid q. 104, a. 5: "in those things which pertain to the interior movement of the will, man is not held to obey man, but God alone." And ibid. ad 3, he says of religious: "as regards those things alone they are held to obey which can pertain to regular conduct." And q. 186, a. 7 c., he says that through the vow of poverty the good of exterior things is offered to God, through the vow of chastity the good of one's own body, through the vow of obedience one's own will. And ibid. ad 1 he says: "The vow of religion is ordered as to its end to the perfection of charity, to which all interior acts of virtues pertain.... And therefore interior acts of virtues ... do not fall under the vow of religion, which is ordered to them as to its end." Yet obedience is to be offered from the soul, since the vow is about the virtue of obedience, not merely about material compliance. - Lugo, *Resp. Mor.* l. 6, d. 7.

Therefore there is a difference between the vow and the virtue of obedience. The former regards only the external execution of the precept of the superior. The latter extends itself to perfect submission of the will both to the precept of the superior and to his simple manifested will, and also to the Rules or Constitutions. The virtue of obedience certainly commands submission of the will to the will of the superior commanding, and altogether prohibits contempt of him.

Moreover the opening of conscience to be made to a superiorissa or superior, in institutes of nuns of either solemn or simple vows, and in congregations of men of profession and rule wholly lay, is altogether not obligatory. Minor Superiors who dare to induce to this are to be denounced to superiors, and Major Superiors doing this are to be denounced by their own subjects to the S. C. Likewise the right of permitting or prohibiting access, or more frequent access, to sacred communion in no way pertains to Superiors, but only to Confessors, and indeed by reason of mere counsel. But the reason for the prohibition that was made of rendering an account of one's own conscience was not only the violation of secrecy most greatly to be preserved in that matter, but also and chiefly because of the abuse by which, "although manifestation of conscience had been permitted so that pupils might more easily learn from experienced superiors in doubts the arduous way of perfection, on the contrary from some of these there was introduced an intimate scrutiny of conscience, which is reserved solely to the sacrament of penance." S. C. Bishops and Regulars, December 14, 1890. That Decree is to be read publicly once in the year. E. M. Cf. C. *Nova* 10 *de Poenit. et remiss.*

And this reason of abuse, as is clear, is universal, and consequently, by reason of the matter, the reported Decree, on this side, regards all religious Institutes, as was also twice declared to me by the Secretaries of the S. C. Bishops and Regulars. And indeed it does not appear how Superiors could oblige their own subjects, by reason of rendering an account of conscience, to make an extra-sacramental confession before them, since already after the Decree of Clement VIII, May 26, 1593, they could not oblige them to make sacramental Confession itself to them; and much less does this seem possible today, after the Decree of Pius X, August 5, 1913, concerning sacramental absolution to be imparted to religious members, by force of which all religious can freely confess to any confessor approved by the Ordinary of the place. - Furthermore, Regular Superiors can in no way know the causes of their subjects which pertain to the Holy Office.

And as regards Religious women, if ever they ask to confess to some extraordinary Confessor, in no way can they be impeded by their own Superiorissas under pretext of any reason whatsoever, as has already been declared several times by the S. C. S. C. Bishops and Regulars, August 5, 1904.

302. If the Rule of an Order obliges under sin, is its transgression against the vow of obedience? - Suarez, *de Rel.* tr. 8, l. 1, c. 2, denies it. For the vow does not oblige one to observe the rule, but to obey superiors according to the rule. And therefore the proper obligation of the rule as such is not from the vow of obedience, but from the proper character of law. Busembaum apud St. Alphonsus 41 affirms it, because such a rule is no less preceptive than the voice of the superior. Yet in order that there be a sin not only against obedience, but also against the vow, it is required that either someone by a special vow, or by a special reason, has promised observance of the rule containing true law and precepts, or that in the rule there is expressed a precept of superiors by force of the vow of obedience; for then in reality it is the same as if the precept were imposed on all orally, or in writing through the rule, in virtue of the vow of holy obedience. And this seems to agree with the doctrine of the Angelic Doctor 2. 2, q. 186, a. 9; Quodl. 1, a. 20; S. C. Bishops and Regulars in the Norms 132, 133, 134. - Suarez tr. 7, l. 10, c. 6, n. 6; c. 7, n. 1, 6, 8.

From the aforesaid Norms the matter is now certain. From the Norms art. 133, "it would not be said exactly that the Constitutions of the Institute are to be observed by force of the vow, so that the sister sins against the vow of obedience whenever she acts against some point of the Constitutions."

303. How does the solemn vow of obedience differ from the simple vow as regards its proper effect? - The simple vow of obedience induces only the obligation of a promise of obeying the prelate, which of itself, or from the nature of the thing, or from positive law, is not sufficient for invalidating the will in matter not contrary to the vow, the rule, religion, or its prelate. Therefore it indeed renders illicit an obligation which is contracted by a subject independently of the consent of the superior, but by no means of itself makes it invalid. Norms 132. And indeed how could such a superior ever in advance invalidate or afterwards rescind either a marriage or a sale validly but illicitly made by a religious who sold his own thing?

But the solemn vow of obedience of itself renders invalid an obligation undertaken by a subject independently of the will of the superior, unless however the matter is one which is by no means subject to the power of the superior, as can be seen in the secret of confession, in a committed secret, etc. For a Regular through solemn profession so fully hands over his will to God that he is said to have neither to will nor not to will. C. *Religiosus* 2 *de Testam.* in 6; C. *Religiosi* ult. *de Sepult.* in 6; C. *Si*

Religiosus 27 *de Elect*. in 6. - Suarez, *de Rel*. tom. 3, l. 2, c. 12, n. 8 ff.; St. Thomas Quodl. 1, a. 15, 16; Quodl. 4, a. 12; L. 48.

303 bis. Note: Superiors General and Superiorissas General in New Institutes must every third year transmit to the S. C. Bishops and Regulars a Report on the personal, disciplinary, material, and economic state, according to the Instruction of the same S. C. - S. C. Bishops and Regulars, July 16, 1906. "Monasteries and other religious houses of women which are in the City are subject to the authority and ordinary jurisdiction of one Cardinal Vicar, privileges of exemption being suppressed, with only the duty of protection preserved to the Most Eminent Cardinals." Pius X, Constitution *Etsi nos* concerning the Vicariate of the City.

The print's appendix has more on this paragraph: On Affiliation to Religious Institutes. (ed.)

On the Sacraments in General

I. On the Nature of the Sacraments

304. What is a sacrament? - As regards the force of the name, sacrament, in Greek mystery, is the same as a sacred, hidden thing. As regards the thing, sacrament, insofar as it comprehends the sacraments of the Old Testament and of the New Testament, is defined: A visible sign of invisible grace. But insofar as it is restricted only to the sacraments of the New Testament, it is defined: A sensible sign which, from the institution of Christ, has the power of signifying and causing grace. Hence the sacraments of the Old Testament differ much from the sacraments of the New Testament. For the former did not cause grace, but only figured that it was to be given through the passion of Christ; but our sacraments both contain grace and confer it upon those worthily receiving them. - Sacraments are distinguished from sacramentals, which are certain sacred things, sacred prayers, or actions instituted by the Church, which do not have the power of causing grace of themselves, but only, from the prayers of the Church, of exciting pious movements in us; and thus consequently they have the power of remitting venial sins and temporal punishment, and also of obtaining for us other spiritual and temporal goods, by way of impetration, by reason of the prayers of the Church. Sacramentals are: the Lord's Prayer, holy water, the use of eulogiae, Agnus Dei, consecrations, blessings, general confession, alms, etc. Sacred anointings, which are not sacraments, instituted by the Church, are counted among sacramentals. - Florence, Decree for the Armenians; Trent s. 7, c. 1, 2, 5, 6, 7, 8; Roman Catechism n. 2, 14; St. Thomas 3 p., q. 60, a. 1-4; q. 87, a. 3; Suppl. q. 29, a. 1; L. 90-94; La Croix 218 ff.; Ferraris v. *Peccatum* n. 52 ff.; Voit 112-117; E. M.

Agnus Dei are blessed and consecrated by the Roman Pontiff. They have power against demons and against all evils of the elements; they are a protection for women giving birth, and for all in prosperous and adverse cases, and they free from unexpected death.

305. How many are the sacraments of the New Testament? - There are seven: Baptism, Confirmation, Eucharist, Penance, Extreme Unction, Order, Matrimony. Namely, as in bodily life we are born, grow, are nourished, are healed when sick, are fortified against enemies, are governed, and are multiplied, so also in spiritual life. For through baptism we are spiritually reborn; through confirmation we are increased in grace and strengthened in faith; through the Eucharist we are nourished with divine food; through penance we are spiritually healed from the sickness of sin; through extreme unction we are strengthened in agony against the devil; through order the Church is governed; through matrimony it is multiplied. Florence, Decree for the Armenians; Trent s. 7, c. 1; St. Thomas 3 p., q. 65, a. 1-3.

306. Were all the sacraments instituted by Christ, and when? - R. To the first: In the affirmative, and this is of faith from Trent s. 7, c. 1. But it is far truer that all were instituted immediately by Christ, by himself, and not some mediately through the Apostles or the Church.

R. To the second: Christ more probably instituted Baptism before his passion, when he was baptized in the Jordan, John c. 3, v. 5; Matthew 3:15-17; penance after the resurrection, when he gave to the Apostles the power of remitting sins, John c. 20, v. 22, 23; Trent s. 14, c. 1, 14; the Eucharist at the

Last Supper, Trent s. 12, c. 1; order at the Last Supper, when he conferred on the Apostles the power of consecrating, 1 Corinthians c. 11, v. 24-26; Trent s. 22, c. 1, c. 2, and after the resurrection when he gave to them the power of remitting sins, John l. c.; matrimony at the wedding of Cana, or when he established its indissolubility and perpetuity, Matthew c. 19, v. 5, 6, 9, for the matter is not certain. Nor is it established at what time he instituted confirmation, whether after the institution of the Eucharist at the supper, in that discourse in which he promised to all that he would send the Holy Spirit, John 14, 17, or after the resurrection, when Christ conferred on the Apostles full episcopal power in the Church, saying to the Apostles: As the Father has sent me, I also send you.... Receive the Holy Spirit, John 20:21, 22. Nor likewise is it established at what time he instituted extreme unction. - St. Thomas 3 p., q. 64, a. 2-4; 4 D. 3, q. 1, a. 5, s. 2; Roman Catechism p. 2, on Baptism, n. 19.

307. Do all the sacraments, and always, confer grace? - All the sacraments of the New Testament contain grace and have the power of conferring it on those not placing an obstacle, and they give it always and to all who rightly receive them. Trent s. 7, c. 6, 7. An obstacle is had if the necessary dispositions are lacking in the one receiving. It is also called fiction, because it prevents the sacrament from effecting that which it signifies. St. Thomas 3 p., q. 60, a. 3; q. 69, a. 9 ad 3. - Hence sacraments are called formed or unformed according as they produce grace while they are received, or, with an obstacle intervening, suspend their effect, namely grace, until the obstacle is removed. Whence it appears that sacraments can be at the same time valid but unformed, and can be received at the same time validly but illicitly. Validly, when nothing is lacking from those things which pertain to the essence of the sacrament; illicitly, when, from fault, something is lacking from the necessary dispositions in the one receiving. - Decree of the Holy Office *Lamentabili*, July 3, 1907, propositions 39, 40, 41.

308. Do unformed sacraments, when the obstacle is afterwards removed, revive? - For a sacrament to revive is to furnish the grace which it would have furnished from the beginning if there had not been an obstacle. But the obstacle is removed by supplying those necessary dispositions which were lacking from the beginning, e.g., imperfect contrition, if it is a question of baptism received by an adult without any contrition for his own sins, and meanwhile he has not committed a new grave sin. Otherwise either perfect contrition is required, with the vow of the sacrament of penance, or imperfect contrition with the sacrament itself of penance. And then baptism destroys original sin and at the same time all actual sins committed before baptism. But the sacrament of penance destroys sins committed after baptism, and the sin of fiction, or of depraved disposition, with which the sacrament of baptism was received, at least insofar as this depraved disposition persevered after baptism, since it impeded its operation.

Now baptism revives, because it cannot be repeated. St. Augustine l. 1 *Contra Donat*. c. 13; St. Thomas 3 p., q. 69, a. 10, and others commonly. The same consequently must be said of confirmation and of order. St. Thomas 4, d. 49, art. 2. The same also must be said by proportionate reason of extreme unction and of matrimony, which during the same infirmity and the same marriage likewise cannot be repeated. - But concerning penance and the Eucharist it is much disputed. The reason for doubting is that if attrition is lacking in penance, the matter of the sacrament is lacking; and consequently the sacrament is neither formed nor unformed, since it is invalid, namely since it is altogether not. But the Eucharist from its institution can frequently be repeated, and therefore it does

not seem that there was need to attribute to it this efficacy, so that assistance may be given to human frailty.

But St. Thomas, 4 dist. 17, q. 3, a. 4, qc. 1, speaking of a penitent who has made a valid but unformed confession, says: "although then he does not perceive the fruit of absolution, nevertheless when the fiction recedes he will begin to perceive it; as also happens in the other sacraments." But the general reason for revival is that it is only by accident that they do not produce their proper effects of grace, namely because of the obstacle; and therefore those effects remain suspended while the obstacle remains, but when this has been removed they must be applied to the soul. - Lugo d. 9, n. 50, 55; La Croix 207; L. 6, 87, 444, 707; H. A. Exam. Ord. n. 4.

309. What grace do the sacraments cause? - Sacramental grace, which the sacraments cause, is not grace entitatively diverse from common or non-sacramental grace, but it is sanctifying, habitual grace, insofar as it is given through such a sacrament, and gives a right to such special and more abundant helps, and comprehends these special helps themselves, actually conferred in their own time, according to the diversity of the end for obtaining which each sacrament was instituted. Florence, Decree for the Armenians. But the sacraments which from their primary institution cause the first sanctifying grace are called sacraments of the dead, as baptism and penance. Those which from their primary institution cause the second sanctifying grace, as the five other sacraments, are called sacraments of the living. But, since all the sacraments of the New Testament contain and confer grace on those not placing an obstacle, Florence, Decree for the Armenians; Trent s. 7, c. 6, 7, the sacraments of the dead by accident confer second grace if someone receives them already in the state of grace, and this is certain.

On the contrary, the sacraments of the living by accident confer first sanctifying grace, if someone simply attrite receives them in the state of grave sin, in good faith falsely thinking himself to be rightly absolved or perfectly contrite; and this again is certain concerning extreme unction, very probable concerning the others. The reason is that all the sacraments cause grace for those not placing an obstacle; but the obstacle to grace is not sin existing in the soul, but affection toward sin. - St. Thomas 3 p., q. 62, a. 1-4; q. 72, a. 7 ad 2; q. 79, a. 3.

310. Do the sacraments cause equal grace in all? - Sacraments cause grace by force of the sign itself, or *ex opere operato*, not by the merit of the minister or of the recipient, or *ex opere operantis*. Hence they of themselves effect grace equally in all; yet this by accident, from the greater merit and better dispositions of the subject, can be greater, as happens in the effects of other causes which act physically and necessarily. For greater merit and better dispositions of this kind, in order to the effect of grace *ex opere operato*, have themselves as more fully removing every obstacle. Trent s. 6, c. 7; St. Thomas 3 p., q. 69, a. 8.

311. Do all the sacraments imprint character; what is the nature of character? - Only three sacraments imprint character, which therefore are customarily called characteristic, namely baptism, confirmation, and order, by which we are made subjects, soldiers, and ministers of the Church. Character is a certain spiritual sign, distinctive from the others, impressed on the soul and indelible. Hence they cannot be repeated without grave sin of sacrilege. For they would be repeated in vain, and consequently not without grave irreverence, since it would be to mock Christ himself, who instituted the sacrament. Sacramental character is not incompatible with grave sin; therefore sacraments, even unformed ones, although they do not produce grace, nevertheless imprint character in the soul. The

remaining four sacraments do not imprint character and admit repetition. Hence sacraments are divided into unrepeatable and repeatable. Penance and the Eucharist are simply repeatable; extreme unction and matrimony indeed are repeatable, but not in the same infirmity and the same marriage. Therefore they hold a middle place between the unrepeatable and the repeatable, and cannot be repeated without grave sacrilege. - Florence, Decree for the Armenians; Trent s. 7, c. 9; St. Thomas 3 p., q. 63; Lugo, *de Poenit*. d. 16, n. 558.

312. Are the sacraments necessary? - Baptism for the non-baptized, and penance for those who after baptism have fallen into grave sin, are necessary by a necessity not only of precept but also of means, in reality or in desire. Florence, Decree for the Armenians; Trent s. 5, Decree on original sin; s. 14, c. 1, 4, 5; can. 1, 2, 6, 7. The Eucharist is necessary by necessity of precept. Trent s. 13, c. 9. The sacraments of order and matrimony are altogether free to individuals. Trent s. 7, c. 4. But whether confirmation and extreme unction are necessary from precept is not certainly established, as will be explained in its own place. - St. Thomas 3 p., q. 61.

313. By what are the sacraments perfected? - "All Sacraments are perfected by three things, namely by things as matter, by words as form, and by the person of the minister conferring the sacrament with the intention of doing what the Church does; and if any of these is lacking, the sacrament is not perfected." Florence, Decree for the Armenians.

Things and words are required so that they may intrinsically constitute the sacrament, or the sensible sign signifying and causing grace, as matter and form. But since the proximate matter and form, which is contained in words, do not exist of themselves, but are contained in human actions, therefore a minister is furthermore required for substantially perfecting the sacrament, and indeed with the intention of doing what the Church does; for by this intention the ultimate signification of that sign is completed. For even with the thing and word, or matter and form, posited, that whole action still does not have perfect sacramental signification; for it can still be a sacramental action or some action, e.g., one mocking the sacrament itself, according to the intention of the one acting. But the sacraments "effect that which they figure" and signify, St. Thomas 3 p., q. 62, a. 1 ad 1, and therefore if they signify nothing, they effect nothing.

II. On the Matter and Form of the Sacraments

314. What and how many kinds is the matter of the sacraments? - The matter of a sacrament is some thing, or quasi-thing, or some action, determined from the institution of Christ for confecting the sacrament. St. Thomas 3 p., q. 60, a. 5. - This matter is distinguished into remote and proximate. Remote matter is the thing itself to be used in the sacrament, e.g., water in baptism, chrism in confirmation, etc. Proximate matter is the application and use of the thing in the sacramental action, e.g., washing in baptism, anointing in confirmation, bread and wine insofar as they are subjected to the words of consecration in the Eucharist. Therefore proximate matter is matter which, together with the form, constitutes the sensible efficacious sign of grace. A thing or action of this kind has the character of matter in a sacrament, because it is more indifferent and has less perfect signification, and therefore must be determined to signify by something else.

315. What is the form of the sacraments? - The form of the sacraments is certain words determined from the institution of Christ for perfecting the sacrament by perfecting the signification of the thing

or matter. For what things demonstrate more obscurely, words signify more clearly. St. Thomas 3 p., q. 60, a. 6.

316. Can a sacrament be confected without matter or without form? - Matter and form are altogether necessary for the validity of a sacrament; therefore, if either is lacking, the sacraments cannot be confected. The reason is that a sacrament is and has its power from the institution of Christ. Therefore it cannot be confected except in that mode in which Christ instituted it. This is furthermore established from Florence, Decree for the Armenians, from tradition, and from the practice of the Church. C. *Non ut* 5 *de Bapt*.

317. Must matter and form be certain? - In confecting a sacrament outside the case of necessity, certain matter and form must be used, insofar as they can be had. The reason is that probability of invalidity does not remove the danger, which is both against the reverence owed to the sacrament, and often against charity toward the neighbor, and often also against justice. This is furthermore established from proposition 1 condemned by Innocent XI.

Outside the case of necessity. For since the sacraments exist for men, they can and must be conferred, although certainty concerning the validity of the sacrament is not had, whenever there is present not only extreme necessity, but also grave necessity or utility, especially if it is prudently feared that, the present occasion being passed over, they will no longer be conferred afterwards. The reason is that since irreverence or contempt is situated in some human action which of itself is insulting, all irreverence and contempt of the sacrament indeed ceases if a cause is present which by the common opinion of men removes every appearance of contempt. Insofar as they can be had: for where it is a question, for example, of a disposition necessary for the sacrament of penance, scarcely any judgment can be had about it other than prudent and probable.

Often it is against charity and against justice to use uncertain form or matter; for neither would be the case if the one receiving consented. But although then harm to the neighbor and any malice against charity and justice would be absent, nevertheless irreverence toward the sacrament and sacrilege both of the minister and of the recipient would not be absent; for holy things are to be treated holily. But the harm which can be brought upon the neighbor by uncertain matter or form can be most grave, as in the baptism of an infant; simply grave, as in extreme unction of the dying; light, as in absolution of venial sins; and also none, as in the ordination of a woman.

What has been said about doubtful matter and form is likewise to be said about a subject perhaps incapable. But the matter is explored concerning baptism and penance, and the truer opinion is concerning confirmation and extreme unction. Roman Ritual on the Sacrament of baptism and extreme unction. - L. 28, 162, 432 IV, 449; Lugo, *de Poenit*. d. 14, n. 110, 111; La Croix 105.

318. You will resolve: When danger of death is urgent, baptism and penance can and must be conferred even with the lowest degree of probability. Therefore one dying is to be baptized even with rose-water, or on the foot, Roman Ritual on Baptism of children, or on the fingers or hair. But confirmation and extreme unction can and must be conferred if it is truly probable that neither matter nor form is lacking, and scandal is absent; for scandal also must be removed, while the eternal salvation of another is preserved. - From the Roman Ritual, on the Sacrament of extreme unction, a sick person is to be anointed concerning whom it is doubted whether he still lives. From St. Alphonsus 719, likewise a child concerning whose use of reason there is doubt is to be anointed

under condition. In that danger it is also lawful to confer extreme unction with oil of catechumens. And if one about to die cannot confess and communicate, it is lawful to confer on him even extreme unction with the lowest degree of probability, e.g., if he has been destitute of senses in the act of sin, in drunkenness, in a fight; since then the sacrament becomes one of necessity. Likewise in the same danger it is lawful to confer confirmation with blessed oil without balsam.

But not by imposition of hands alone, because of the novelty of the thing and the wonder and scandal of bystanders. - L. 82, 103, 107, 111, 162, 702, d. 2, 408, 732, 751.

It is never lawful to confer order, especially the priesthood, with doubt about its value, because no necessity and utility of the recipient is had in it, and on the contrary there is had a most grave danger to the Christian republic. - Cf. 345, 348.

319. Does a change of matter and form invalidate the sacrament? - There can be a twofold change in the matter and form of the sacraments: substantial and accidental. A substantial change will be in the matter if this is physically corrupted, so that it seems to have lost its former nature; or if it can no longer serve its natural use; or if according to the common estimation of men it cannot be called the same as that which was determined by Christ: e.g., if wine has become vinegar, if ink is made from water, if wine and water are mixed in equal quantity. For it is judged neither wine nor water, but a mixture from water and wine, which can serve neither baptism nor the Eucharist. - But a change will be accidental if the matter, neither physically nor morally speaking, loses its former nature, nor ceases to serve its natural use: e.g., if in a small quantity you mix water with wine or wine with water, the wine does not invalidate the Eucharist, nor the water baptism. - St. Thomas 3 p., q. 66, a. 4; Lugo, *de Euchar.* d. 4, n. 4; La Croix 261; L. 103, 207, q. 2.

A substantial change will be in the form if the sense of the words intended by Christ is so changed that it no longer signifies either the sacramental action which is perfected by the minister or the sacramental effect, e.g., if someone in baptism says: I absolve you; I wish to baptize you.

The change will be accidental if the form still signifies the same thing, e.g.: This is my body, with a grammatical error. Generally, errors of grammar change the form only accidentally; for the signification is regularly judged the same.

Every substantial change in the matter and form of a sacrament invalidates it, because it is no longer the rite instituted by Christ, but another. But if it is voluntary, it constitutes grave sin; for it brings grave injury upon the author of the rite. But no accidental change in the matter and form invalidates the sacrament, because the same rite still remains; yet it induces grave or light sin according as it is notable or of little moment. - La Croix 40, 46; St. Thomas 3 p., q. 60, a. 8; q. 74, a. 3, 4, 5; q. 77, a. 8; Suppl. q. 29, a. 9 ad 3; 4 d. 2, a. 2, q. 2, 3, 4.

320. In how many ways can the form be changed? - The form can be changed: By addition; and the form is void if it changes the sense, or contains error against the form itself, e.g., I absolve you from your involuntary sins; I baptize you in the name of the Father greater, and of the Son lesser, and of the Holy Spirit created. If the sense is not changed, nor is error had against the form itself, the form is valid, e.g., I baptize you in the name of the Father and of the Son and of the Holy Spirit with this cold water, although it is hot. La Croix 64. If equivocation is had, the matter depends on the intention of the one pronouncing, e.g., I baptize you in the name of the Father and of the Son and of the Holy Spirit and of the Blessed Virgin Mary. If the name of the Blessed Virgin Mary is added from

mere devotion, the form is valid; but if it is added so that baptism is conferred also in that name, it is not valid. St. Thomas 3 p., q. 60, a. 8.

By detraction; and the form again is void if words are taken away which signify the sacramental action, e.g., these words, I baptize you, or the subject, e.g., by saying I baptize; but otherwise if the pronoun of the minister is omitted, for it is tacitly present, e.g., I baptize you in the name, etc.

By corruption of words, which also voids the form, unless perhaps it happens either by a natural defect, e.g., in the tongue-tied, or by some natural haste, or by lack of skill, if nevertheless it does not altogether remove the sense; since in these cases corrupted words by common use are received and understood as complete, e.g., I baptize you in the name of the Father and of the Daughter and of the Holy Spirit, with wrong endings, which form is valid because it does not remove the sense and is received as correct, since it is understood as corrupted, not diverse; or, I baptize you in the name of the Mother and of the Daughter and of the Holy Spirit, which form is not valid, because it altogether removes the sense and is received as altogether another and diverse one. Thus also it is not valid if it is said, I am baptized you, etc. Ordination is valid if the Bishop, through error, when several are touching the instruments at the same time in priestly ordination, pronounces the form in the singular: Receive, etc. Holy Office, January 16, 1901; *Monitor Ecclesiasticus* v. 12, p. 482 f. - St. Thomas 3 p., q. 60, a. 7; L. 110; *de Cons.* Dist. 86.

By transmutation of words; if they are altogether synonymous, the form is valid; if they are not synonymous, the form is not valid; if they are doubtful, the form will also be doubtful. Thus in baptism, I wash or I lave for I baptize, is valid; for it is a synonymous word. But I anoint is not valid, because it is not synonymous. Likewise I regenerate is not valid, or is doubtful; for it is not plainly synonymous, since it signifies the sacramental effect, but does not also signify the sacramental action. In penance, I cleanse you, for I absolve, more truly is not valid, for it is not synonymous. Likewise, Christ baptizes you, etc., absolves you, etc., more truly seems not to be valid, because the action of the minister is not expressed.

By translation of words from one language into another, which does not render the form void; for the signification is altogether the same, even if various idioms are used in one and the same form, e.g., *io ti battezzo*, in the name of the Father and of the Son and of the Holy Spirit. L. 109; La Croix 30.

By transposition of words, which of itself makes only an accidental change; for the same signification altogether remains, e.g., if you say: You I baptize in the name, etc. L. 110. Yet transposition of words can altogether pervert the sense, or render it ambiguous, and then the form will be invalid or doubtful, as in the consecration of bread: mine is this body; this body is mine; this mine is body; this body, is mine. Yet the form would be valid if it were said: this, body is mine. - St. Thomas 3 p., q. 60, a. 8 ad 3; Lugo d. 2, n. 112.

By interruption of words; if this is notable, it harms the form, St. Thomas 3 p., q. 60, a. 8 ad 3; if small, it does not harm. St. Thomas ibid. Which interruption is long, which brief, must be judged by prudent estimation. Lugo d. 2, n. 112; Sporer n. 91. Commonly a brief interruption is judged to be one Our Father or Hail Mary.

But concerning a brief interruption of the syllables of the same word, some judge that it harms the form, others that it does not harm, others that it harms if the interruption was made by another word

interjected; but by no means if it was made by some action interjected, e.g., breathing, coughing, yawning. L. n. 11; La Croix 33.

By substitution of other signs in place of words, e.g., nods, writing, etc., which, excepting matrimony, which consists in a contract, voids the form; for the form is in words. Florence, Decree for the Armenians; St. Thomas 3 p., q. 60, a. 6; La Croix 37.

321. You will resolve: The form is valid, although it is not lawful, if a small interruption is made, e.g., I baptize you, and there is interposed: this water is too cold; or: sacristan, turn the page; in the name of the Father, etc. L. 11.

322. What sort of union must there be between matter and form? - In order that a sacrament be valid, there must be between matter and form, e.g., between the pouring of water and the pronunciation of the words, such conjunction that, according to the moral estimation of men, with the nature of each sacrament considered, one is understood to be referred to the other.

The reason is that from matter and form one sign must coalesce. But in a moral composite, such as a sacrament is, moral unity suffices, excepting the Eucharist, which altogether requires them to exist physically together, since the pronoun this, here, cannot be verified unless the matter is present. Nor indeed does it matter which is placed first, excepting penance.

L. 8. - It suffices in baptism, confirmation, extreme unction, and order, if, when one of them has been placed, whether matter or form precedes, the other is placed immediately or soon afterwards, e.g., if someone in the conferral of the order of priesthood touches the chalice and paten after the Bishop has pronounced the words: Receive power, etc. Lugo, *Resp. Mor.* l. 1, d. 33, n. 2. Soon afterwards: for a brief delay interposed does not harm, namely a delay which is shorter than one Our Father. L. 8. Cf. Lugo, *de Sacr.* d. 2, n. 99. - In matrimony, the consent of one can follow the consent of the other as long as this is judged morally to remain, as in other contracts. Busembaum 10. In penance, absolution can be deferred for a rather long time, just as in judgment a sentence after the examination of the cause. Busembaum ibid. "In penance," says St. Alphonsus 9, "that union suffices which the judicial act requires, since some distance of time is accustomed to intervene between accusation and sentence, although in this sacrament such distance ought not to be as great as occurs in forensic judgment. But Croix l. 6, n. 8, with Tamburini, says that a penitent is validly absolved after an hour from Confession." The reason is that this judgment is far simpler than forensic judgment is accustomed to be, and because the sentence has the character of form with respect to the acts of the penitent, which are as if matter. Therefore with that same long distance which is accustomed to be in forensic judgments between their various acts, there would no longer be a moral union of them in this judgment. Cf. 748. - Roman Ritual on the Form of baptism; St. Thomas 3 p., q. 60, a. 6 ad 2; Suarez d. 2, s. 2.

323. Note: If a sacrament consists of several parts, as the Eucharist, extreme unction, order, with a notable delay interposed between them, so that the action of the minister can no longer seem one, one must altogether cease in the Eucharist, begin again from the beginning in extreme unction, and in order always cautiously supply what was incautiously omitted. L. 724; St. Thomas Suppl. q. 29, a. 2 ad 3. Cf. 336.

324. Must matter and form be united and applied by one and the same minister, and with regard to the same subject? - R. In the affirmative. The reason is that if one placed the matter and another the

form, or the same minister applied matter and form to one subject and another subject, the words of the form would be false: I baptize you, etc.; for while another poured the water, he himself would not baptize; or while he himself poured the water upon one, he would nevertheless assert that he baptizes another. - L. 114; St. Thomas 3 p., q. 67, a. 6.

325. What if several ministers confect a sacrament, or the sacrament is conferred on several subjects? - R. To the first: If two ministers, for example, place the whole matter and form, whether of the whole sacrament, as if they baptize or consecrate together, or of a part of the sacrament, if the sacrament consists of several parts, as are the Eucharist, extreme unction, order, the sacrament is valid, because nothing is lacking in the being of the sacrament. But in the former case he confects the sacrament who first completes the sign; and if each completes the sign at the same moment of time, each, as far as in himself lies, confects the sacrament. L. 120; St. Thomas 3 p., q. 67, a. 6; q. 82, a. 2. But this is grave, excepting the ordination of priests. In the latter case also it is grave, excepting grave necessity.

In the East, on one altar several priests sometimes consecrate the same bread and the same wine. Then as many Masses are said as there are priests, and the fruit of the Mass is multiplied as many times. Benedict XIV, *de Sacrif. Miss*. l. 3, c. 16, n. 10.

R. To the second: A sacrament which one and the same minister confers upon several at the same time is valid beyond doubt, because then the form is virtually multiple. This has place, for example, in baptism and in penance, namely when someone under one form baptizes several, absolves several. It is indeed lawful in the case of extreme necessity, e.g., in fire, shipwreck, etc., Roman Ritual on Baptism of children; but in other cases, whether it is grave or light is disputed; for a notable change does not certainly appear. "Yet all say that he would not be excused at least from venial sin" without necessity. L. 29.

326. How are the words of the form to be pronounced? - Since sacraments are signs, and by signifying grace they effect and sanctify, the words of the form are of themselves consecratory both of the matter and of the subject. Consequently they are to be pronounced in a consecratory manner, in the present time, whether indicative, as in baptism; or imperative, as in ordination; or deprecative, as in extreme unction. If the words are uttered in another mode, namely merely historically, or promissorily, or interrogatively, or by way of sermon for instructing or exciting, the form is void. And thus this form is not valid: you are absolved from your sins; I will absolve you from your sins; do I absolve you from your sins? Würzburg Theologians 109 ff.; St. Thomas 3 p., q. 78, a. 1.

327. Are the sacraments to be repeated in doubt about the valid application of matter and form? - A threefold rule must be established as regards practice: 1. Sacraments can be repeated whenever there is a prudent doubt about their value. The reason is that if perhaps the sacrament were not valid, those who approach to receive it would be deprived of its fruit. But that prudent fear of so great an inconvenience is a sufficient reason why a sacrament be repeated is clear from the very well-known axiom: Sacraments exist for men. Roman Ritual on Baptism of children, c. 3, n. 3; Rubrics of the Missal, tit. 5, n. 2; L. 28, 136.

2. Sacraments generally cannot be repeated without grave sin when a prudent doubt about their value is not present. The reason is that they would be repeated without cause, and therefore grave injury would be inflicted on them. Catechism of the Council of Trent on Baptism n. 57. - 3. Sacraments must be repeated whenever, when a prudent doubt about their value has arisen,

charity, justice, and religion demand it, that is, whenever from justice, charity, and religion they ought to have been confected or administered. The reason is that the nullity of the sacrament, if perhaps it were present, would turn to the harm of the neighbor and sometimes to contempt or irreverence of Religion. But then they are to be repeated only conditionally, so that the reverence of the sacrament may be provided for. - L. 27 f.

328. You will resolve: 1. Sacraments that are more necessary and that are conferred only once are more easily to be repeated, namely baptism and order, even if much greater probability stands for the value of the sacrament against reasons of the lowest degree of probability in the opposite direction. - 2. Absolution is to be repeated with a penitent guilty of mortal sin if there is prudent doubt about the due pronouncing of the form. But if the penitent has not brought necessary matter of Confession, it will not be necessary to repeat the form, since Communion can be permitted to him even without absolution. - 3. A minister who doubts lightly and does not know why he fears, or only does not reflectively remember that he has pronounced the words of the form, of himself sins mortally if he repeats the form, or even repeats one word three or four times. The reason is that he changes the form and introduces a new rite concerning the gravest action of all. Besides, he exhibits Christ, whom he represents, as speaking ridiculously. Yet in practice the scrupulous who repeat the form are usually excused from mortal sin, indeed often even from venial sin, because, too agitated by scruples and perplexity, or without advertence, they act so foolishly. - 4.

If in Mass after consecration a doubt arises for you concerning the due pronouncing of the form, or concerning total omission, you neither ought nor can repeat anything, since otherwise you are not accustomed to omit these things; for one must judge from things commonly occurring, unless however you doubt very probably, as the Rubric says. - L. 224, 107 q. IV.

329. What as regards celebration of Mass in particular? - It is to be noted from St. Thomas "that although a priest does not recollect that he said some of those things which he ought to have said, nevertheless he ought not to be disturbed in mind because of this; for one who says many things does not recollect all things which he said, unless perhaps he apprehends something in saying under the aspect of already said; for thus something is made memorable. Hence if someone attentively thinks about that which he says, but nevertheless does not think that he says it, he afterwards does not much recollect that he said it; for thus something is made subject to memory, insofar as it is received under the aspect of past.... Yet if it is probably established for the priest that he has omitted some things, if indeed they are not of the necessity of the sacrament, I do not think that because of this he ought to resume by changing the order of the sacrifice, but he ought to proceed further. But if he is made certain that he has omitted something of those things which are of the necessity of the sacrament, namely the form of consecration, since the form of consecration is of the necessity of the sacrament just as the matter also is, the same seems to be done as was said in the defect of matter, namely that it be resumed from the form of consecration and the rest be repeated in order, lest the order of the sacrifice be changed." 3 p., q. 83, a. 6 ad 5. This doctrine of St. Thomas agrees with the rubric of the Roman Missal, *de Defectibus in celebr.* etc., tit. 5, *de Defectibus formae*, n. 2: "If the celebrant does not remember that he said those things which are commonly said in the consecration, he ought not on account of this be disturbed. Yet if it is certainly established for him that he omitted something of those things which are of the necessity of the sacrament, i.e., the form of consecration or a part, let him resume the form itself and pursue the rest in order. But if he very probably doubts

that he omitted something, let him repeat the form at least under tacit condition. But if they are not of the necessity of the sacrament, let him not resume, but let him proceed further." Note the difference which is had according to the rubric cited here for the twofold case in which it is certainly established for the priest that he has omitted something of those things which are of the necessity of the sacrament, or he only very probably doubts that he has omitted something of this kind. For in the first case it is said that "let him resume the form itself and pursue the rest in order." But in the other case it is said: "let him repeat the form at least under tacit condition."

330. Now as regards the first case, in which the priest must resume the form itself and pursue the rest in order, a question can be raised: 1. Whether he must resume and pursue the rest in order in the case in which it is certainly established for him that he omitted the form of one consecration only, or also in the case in which this is certainly established for him concerning both forms of consecration. 2. From where he begins to resume. 3. What that means: let him pursue the rest in order; whether all things after the form has been resumed are to be repeated in order, or whether he must pursue in order all things which remain from that point of the Mass at which the priest has detected his error.

331. As regards the first question, if an essential defect occurs in the form of only one consecration, certainly the consecration is to be repeated, even if that defect occurs from the malice of the minister, and after the consumption of the species not duly consecrated, the matter being placed which was not consecrated, and, if it was from malice, by repenting of the former fault. The reason is: 1. that the sacrifice may be perfected; 2. because the Rubric is to be understood at least concerning the case of an essential defect of one consecration; 3. because there is the same reason of unsuitable matter as of matter without form. Moreover according to the Rubric tit. 3, n. 5 and 6, it is said: "If the celebrant should notice after consecration that the host is corrupted, or is not wheaten, even after the consumption of that host, let him place another, make the oblation, and begin from the consecration, namely from those words, Who the day before, etc. But if this happens after the consumption of the blood, new bread and wine with water must again be placed, and the oblation first having been made, the priest is to consecrate, beginning from those words, Who the day before, etc., and at once consume both, and pursue the Mass, lest the sacrament remain imperfect." Likewise tit. 4, n. 4 and 5, it is said: "If the celebrant after the words of consecration notices that wine had not been placed, but water, the water having been deposited in some vessel, let him again put wine with water in the chalice and consecrate, resuming from the aforesaid words, In like manner, etc. If he notices this after the consumption of the Body or of water of this kind, let him place another host again to be consecrated, and wine with water in the chalice, offer both, and consecrate and consume, etc." Or, the Rubric adds ibid., "if Mass is celebrated in a public place where several are present, to avoid scandal he will be able to place wine with water, and, the oblation having been made as above, consecrate and at once consume, and pursue the rest." Therefore the same is to be done if the essential defect should occur not by reason of matter, but by reason of form.

332. If an essential defect occurs in the form of both consecrations, and is noticed before the consumption of either species, it seems that each matter is again to be consecrated. The reason is that it is said absolutely in the Rubric, and altogether generally, that the form is to be resumed "if it is certainly established for him that he omitted something of those things which are of the necessity of the sacrament, i.e., the form of consecration, or a part"; nor is any distinction made between a defect

of only one consecration and of both. Suarez, *de Sacram.* d. 85, s. 1, par. *Secundo etiam constat*, etc., thinks the same. "If the celebrant," says the distinguished Doctor, before consumption "from defect of intention or form consecrated neither species, he will be held secretly to repeat and to consecrate before he consumes, and as soon as he can, not by force of a precept of perfecting a sacrifice substantially begun, because this in reality does not yet oblige; but by force of the precept of not pretending something false in this ministry, and consequently of not persevering in the fiction begun; nor of consuming drink and food by way of a sacrament which is not a true sacrament, nor of giving others occasion of adoring mere bread and wine." But if the same essential defect of both forms is noticed after consumption, it does not seem that the consecration is to be repeated. And indeed the reason which the Rubric adduces for supplying a defect of either matter after consumption is "lest the sacrament remain imperfect," tit. 3, n. 6, "because the precept concerning the perfection of the sacrament is of greater weight than that it be consumed by fasting persons," ibid. n. 5. Now when the essential defect of both consecrations has occurred, no sacrament was really made, neither perfect nor imperfect, but the whole was feigned; and therefore then the precept concerning integrating or perfecting the sacrament does not oblige. From another side, the precept of not consuming the sacrament when the fast has been broken obliges. Therefore in that case this precept seems to be observed before the other. And the distinguished Doctor l. c. affirms the same.

333. As regards the second proposed question, there are various opinions. But the more common opinion is that only those words are to be repeated which constitute the whole form, which according to the Rubric, tit. 5, n. 1, are: This is, etc. This is the chalice, etc. The reason is that the Rubric says: let him resume the form itself. Yet the same Rubric 10, n. 3, seems to indicate that it is to be resumed from the words Who the day before, etc.; In like manner, etc. - Suarez l. c., par. II; but you will ask finally; Gavantus and Merati on the cited rubric.

334. As regards the third proposed question, St. Thomas l. c. seems at least to suggest that the priest must pursue the rest in order in such a way that he repeats them in order. But according to the Rubric, nothing seems to be repeated from accidentals which are not of the necessity of the sacrament. The reason is that the rubric does not say: let him resume the form and the rest in order, but it distinguishes very carefully and says: let him resume the form, and let him pursue the rest in order, namely let him pursue from that point of the Mass at which he has arrived. And thus if the matter happens immediately before or after consumption, as is said in the same Rubric in the defect of matter, so also in this defect of form, let him consecrate and at once consume, tit. 3, n. 5, 6. Besides the cited Rubric absolutely says: "but if they are not of the necessity of the sacrament, let him not resume, but let him proceed further." Therefore whether only essentials, or essentials and accidentals together, have been omitted, it will suffice to repeat only the essentials. Suarez l. c., par. *Sed quaeres tandem*, etc., also thinks thus.

335. Finally note, as regards accidental defects, that the general rule is: after they have already been committed, regularly speaking, they are not to be supplied by repeating something, or by saying or doing in a reversed order that which had to be done earlier. Regularly, because if sometimes the delay were so small that, no other action having been interposed or prayer said, the priest notices the defect committed, then repetition could be made and the defect supplied. For in that case the order of the sacrifice is not inverted, but on the contrary care is taken that all things be perfected in due order. But except from this rule an accidental defect indeed, but a very grave one, if the bread is leavened, or

if water is not mixed with the wine; although this cannot be supplied after consecration, nevertheless before consecration it must altogether be guarded against. - Rubric *de defect*. etc., tit. 4, n. 7; St. Thomas 3 p., q. 83, a. 6 ad 4; Suarez, *de Sacr.* d. 83, s. 2; Reuter, *Neo-Confess*. p. 3, c. 13, n. 268; La Croix l. 6, p. 2, n. 443 ff.; Diana tr. 1, *de Celebr. missar.*, r. 236.

336. These things which have been said about the celebration of Mass can be adapted to the other sacraments. Therefore, if someone does not remember that he omitted something, or if he does not remember that he said or did something from those things which had to be said or done, he ought not be disturbed, and let him pursue the rest in order. If he certainly or very probably remembers that he omitted something, if he does not remember it at once, it is not necessary to resume everything again, nor to supply anything in a reversed order; but let him resume or supply what is substantial, and pursue the rest in order. But if something has been omitted concerning which it is disputed whether it is substantial or accidental, what was incautiously omitted is to be cautiously supplied. C. 3 in fine *de Presb. non bapt*. Are all things then to be repeated entirely? One must see what part was omitted which must be supplied. If the part is separated from and independent of the others, as the last imposition of hands in the priesthood, only this is to be supplied, Holy Office, May 27, 1840. If it is not independent of or separated from the others, as the second imposition of hands, or the handing over of instruments in the priesthood, and chrismation in confirmation, the whole essential rite certainly is to be supplied. S. Penitentiary, March 31, 1888; S. C. C., May 28, 1796. And even an accidental rite omitted is to be supplied if it is a rite of greater moment, as for example in baptism the omitted ceremonies are to be supplied. Cf. *Enchiridion Morale* 440. - St. Thomas Suppl. q. 29, a. 2 ad 3.

III. On the Minister of the Sacraments

337. Who is the minister of the sacraments? - Christ himself is principally acting in the sacraments; the ministers of the Church are only instrumentally operating in the sacraments. St. Thomas 3 p., q. 64, a. 4, 5. - In matrimony the contracting parties themselves are the ministers. - In the other sacraments, the power of order and jurisdiction is regularly required, excepting the Eucharist, in which no jurisdiction is regularly required. Without the power of order, no sacrament is valid, excepting baptism. Without the power of jurisdiction, the sacrament is valid, excepting the sacrament of penance, which is invalid; but it is conferred illicitly and it is a grave sin if it is conferred without faculty, at least presumed or interpretative, e.g., if a simple priest, not a pastor, administers baptism, viaticum, extreme unction, or a bishop confirms or ordains outside his own diocese. Clement I *de Privil.*; Trent s. 6, c. 5 *de R.*; s. 7, c. 10.

338. Is attention required in the administration of the sacraments? - Attention is the application of the mind to those things which are being done, or it is the act of the intellect by which a man considers that which he does. - For the validity of the conferral of sacraments, no other attention is required except that which is found in every truly human act. Therefore the sacraments can commonly be validly ministered even by a distracted minister, or one thinking at the same time about other business. The reason is that the morality of the act proceeds not from actual attention, but from at least the virtual intention of the one acting. Besides, attention often does not depend on the will of man; but Christ could not require a condition sometime impossible in the minister of the

sacraments. - For the licit conferral of the sacraments, such attention is required that every voluntary distraction be absent.

The reason is that the reverence owed to the sacrament requires that it be treated with attention. But voluntary distraction ordinarily does not exceed venial sin, according to the common opinion of theologians, unless someone exposes himself to the danger of gravely erring in the form. Yet more probably and more commonly they except the Eucharist, in whose confection they judge every voluntary distraction a mortal sin because of the greater dignity of the sacrament. But La Croix l. 6, p. 2, n. 443; Mazzotta and others deny this not improbably. Not improbably, namely provided the danger of erring is absent. - St. Thomas 3 p., q. 64, a. 8 ad 3; 4 d. 6, q. 1, a. 2, q. 1 ad 4; L. 14; l. 4, n. 75.

339. Is intention required in the administration of the sacraments? - Intention is an act of the will tending toward some end, or an act of the will by which someone intends to do or omit something. - For the validity of a sacrament, there is required in the minister some true and serious will at least of doing that which the Church, namely the Catholic Church, does. For those things which are done in the sacraments can be done in diverse ways, and are determined to sacramental action only through the intention of the minister. St. Thomas 3 p., q. 64, a. 8; Trent s. 7, c. 11.

Hence St. Thomas 3 p., q. 83, a. 4 ad 7, says: "The efficacy of sacramental words can be impeded by the intention of the priest." - Yet actual intention is not required, but virtual suffices. The reason is that actual intention, although best and desirable, is sometimes morally impossible; but virtual intention sufficiently flows into the action of the minister, so that this can be called truly human and deliberate. - Habitual intention does not suffice, nor interpretative. The reason is that for a human act some will is required, by force of which the act is placed.

Now neither habitual nor interpretative intention is of this kind: not the first, because it is neither actually elicited by the will, nor, although once elicited, does it persist in some effect or in a series of actions; not the second, because it is neither actually elicited nor ever was actually elicited, but would only be elicited if the mind were thinking about the thing to be done. Suarez d. 16, s. 2; Lugo d. 8, n. 28, 35. "A coerced intention of the minister, or one extorted by fear, also suffices, except in matrimony. Likewise error of the minister about the person of the recipient does not invalidate the sacrament, excepting matrimony." L. 19; E. M.

340. Note: For casting away scruples in this matter it is to be noted that implicit intention suffices. Hence St. Alphonsus 18 says: "Viva, etc., rightly say that the minister who in the customary way places the actions required for the sacrament, unless he positively excludes the due intention, imprudently doubts about it, because at least he wishes to do what he is otherwise accustomed to do, and what other ministers do. Add that through this, that he recognizes that action to be sacred and not to be placed in vain, he intends in exercise to place it according to its end. Therefore there is no need that the minister by mouth or in heart should say reflectively that he intends to confect the sacrament, but it suffices that he be present in mind and attentively do what he does." And at n. 25 the same holy Doctor says these things: "He ought not repeat the consecration who has brought smaller hosts to the altar, about which, while consecrating the larger, he did not explicitly think, nor uncover them."

If someone intends to do what another schismatic or heretical Church does, if this truly makes a sacrament, it is valid, from Trent sess. 7, *de Bapt.*, c. 4; Sporer n. 121; L. l. 6, n. 21. Hence, the rite of ordination in England having been publicly changed, so that from it there would be excluded the power of consecrating and of offering sacrifice, by defect of intention, indeed by contrary intention, presbyteral and episcopal ordinations performed according to the Anglican rite are invalid. Leo XIII, Const. *Apostolicae curae*, Sept. 13, 1896.

It is necessary that the intention precede the sacramental action, which takes its force from the intention; i.e., that it be elicited before you begin to apply the matter and to pronounce the form. Therefore, if someone, without the intention of baptizing or confirming, washes or anoints, and immediately after the washing or anointing, having conceived this intention, pronounces the form, he accomplishes nothing. St. Thomas 3 p., q. 64, a. 8; 4 d. 6, q. 1, a. 2, q. 1.

341. Is internal intention required, or the intention of doing the rite which the Church intends? - Here one intention is internal, another external. Internal intention is had whenever the minister, when he perfects the sacrament, wills to effect that which is to be effected by that sacrament; external intention is had when he seriously performs the whole external rite, and as if as a minister of the Church.

Therefore if he has both wills, the sacrament is valid. If he has neither, it is not valid, as if he baptizes or absolves for the sake of jest, Trent sess. 14, *de Poenit.*, c. 9; or for the sake of example or devotion, as if a pastor washes an infant just born, not in order to baptize him, but in order to teach the midwife the rite of baptizing; or if a nurse, while washing a child in the morning according to custom, says: I wash you in the name of the Father, etc. If he has internal intention only, it is still valid, as if someone washes the head of a dying infant, the child of unbelievers, as if making a cleansing or a medicine for him, and meanwhile says in a low voice: I baptize you, etc. If he has only external intention, the question is not yet entirely settled. The first opinion denies it, that is, denies that internal intention is required. The reason is that from Trent there is not required in the minister the intention of doing what the Church intends, but only of doing what the Church does; and therefore it suffices that the minister seriously apply the due form to the matter, as the Church does. Moreover, it seems difficult to admit that the minister can, by a hidden motion of soul, frustrate a rite which he seems seriously to perform in the name of the Church. Hence, if a newly ordained priest, for the sake of practice, were to go through the whole Mass without the intention of confecting the sacrifice, he certainly would not confect it, because both internal and external intention are lacking, for externally he does not present himself as seriously celebrating in the name of the Church. If, on the contrary, he were to celebrate publicly and pronounce the words of consecration, while within himself not willing to confect the sacrifice, he would still confect it. But the second opinion, common and to be held in practice, affirms it. It is proved from Trent sess. 7, c. 11, where there is required the intention of doing what the Church does; therefore the intention merely of seriously applying the form to the matter, as the Church does, does not suffice, for in reality this intention, while the external action is placed, is inseparable from the action; but beyond this there is required the intention of doing the sacramental rite which the Church does; otherwise both Trent and Florence would have required in vain, besides matter and form, the intention of the minister of doing what the Church does. The Church does not perform only the external rite; and therefore the minister who uses the external action alone does not do what the Church does. Hence if it is his purpose, e.g.,

while consecrating, to consecrate only this host out of two hosts, and not that one; while ordaining, not to ordain those who perhaps are not his subjects; if he absolves under this tacit condition, if you shall restore; he does not consecrate, does not ordain, does not absolve. Likewise, if someone has eleven hosts before him, and intends to consecrate only ten, not determining which ten he intends, he does not consecrate. Therefore external intention does not suffice, but internal intention is required. Moreover, this is established by the same reason by which the necessity of the minister's intention for confecting the sacrament is proved. This intention is necessary so that the minister act not in his own name, but in the name of Christ, bearing his person. L. 23, 26; St. Thomas 3 p., q. 64, a. 8, 10; Benedict XIV, *de Syn.* l. 7, c. 4, n. 9; l. 8, c. 11, n. 2; E. M.

342. Does ignorance or error of the minister invalidate the sacrament? - If the minister has at least an implicit and virtual intention of doing what the true Church does, the sacrament is valid, even if by error he thinks his heterodox Church to be the true Church, even if he does not have an explicit intention of confecting the sacrament, provided he does not exclude this intention, even if he does not understand the form, even if he errs concerning the true meaning of the form, e.g., if he thinks these words: This is my Body, signify only the mystical presence of Christ, even if he falsely thinks that either the matter or the form is not suitable, e.g., if someone, in consecrating bread, judges the words, which shall be given up for you, to be necessary and omits them. The reason is that our ignorance or error does not change the truth of the thing. Therefore if sacraments are perfected by three things and only by three things, namely by things, words, and a minister with the intention of doing what the Church does, the truth of the sacrament stands notwithstanding the ignorance and error of the minister. Moreover, if it were otherwise, it would follow that, since Protestants do not believe that a sacrament is effected by matrimonial consent, their marriage would be null, which is false. L. 21, 22; E. M.

343. Must the intention of the minister be determined to certain matter and person? - Resp. In the affirmative. The reason is: as regards the matter, because otherwise it would remain in a state of indifference; for it cannot be drawn out of that state and determined to the sacrament except through the intention of the minister. As regards the person, because the effect of the sacrament cannot be applied in general, but to some subject; otherwise no application would be made. Namely, according to the nature of the matter at issue, the object or term of the action must be determined; for if, for example, you were to say, I give, but did not determine what, or to whom, you have an act void of all force. - But the Eucharist is to be excepted, which is not confected in a subject, and consequently determination of the person is not required for the validity of consecration.

344. If the minister has two contrary intentions, which one ought to prevail? - If those wills are simultaneous, the predominant one prevails, namely the one which would be chosen if the impossibility were known. - If among contrary wills one succeeds another, the later one is valid, unless the prior one has revoked, at least virtually, every subsequent will; for then the prior will, provided it is not expressly revoked, certainly prevails. But in these matters, if doubt still remains, the validity of the sacrament will be doubtful. - And this also holds for the application of Masses. L. 24, 784; l. 3, n. 700; Lugo d. 8, n. 121, 123. Cf. V. 1, n. 18.

345. Is the conferral of a sacrament with a conditioned intention valid and licit? - The condition can regard those things which in some way pertain to the validity of the sacrament; the dispositions of the subject licitly and fruitfully receiving the sacrament; or any other matter. - Licitly, in a case of

necessity, a condition can and must be added which regards the validity of the sacrament, if it is doubted, e.g., whether it is water with which baptism is given; whether the dying person to be fortified by extreme unction still lives; whether a sacrament was invalidly received, and therefore is to be repeated. The reason is that the reverence due to the sacrament is safeguarded, as far as possible. And here it must be carefully observed that, if besides this reverence due to the sacrament, something else would have to be guarded against which cannot be guarded against by the condition added, it is not licit to use that condition and therefore to confect the sacrament under that condition. And thus it is never licit to confect the Eucharist conditionally with doubtful matter because of the danger of material idolatry; it is never licit to confer orders with the same doubtful matter because of the very grave inconveniences of an invalid ordination. - Outside the aforesaid case of necessity and doubt, to administer a sacrament conditionally would often be grave, because it would not be without trifling in a grave matter.

A condition regarding the dispositions of the recipient, in conferring the sacrament of penance from an urgent cause, can be added and must be added, lest the sacrament be exposed to nullity. But in the other sacraments it is generally not licit; for, if afterward it is clear that the dispositions were lacking, either someone would have to lack them forever, or the sacraments would be repeated not without scandal. If extreme unction, for example, is given to the sick person under the condition: if you are disposed, i.e., in the state of grace; and the sick person is not then disposed, he is deprived of the sacrament, although afterward he may be disposed and remove the obstacle; and thus sufficient provision will not have been made for his salvation. Generally it is not licit; for at the point of death, when matters are desperate, St. Alphonsus n. 82 says: "if perhaps the sick person has been deprived of his senses, in an act of mortal sin, Viva says probably that extreme unction at least conditionally is to be ministered to him, as we shall also say concerning the sacrament of penance n. 483." And the same Doctor has the same at n. 732, concerning extreme unction.

It is not licit to add other conditions, and it would be grave. For, if the condition is about the future, the sacrament is null. For it is not valid when the matter and form are placed, because the intention is lacking, nor is it valid when the condition is verified, because then the matter and form are lacking. Matrimony is excepted, which, after the manner of all other contracts, can be celebrated under a condition concerning the future; when this is fulfilled, they are perfected, no differently than if from the beginning they had been entered into purely and without condition. Nor is the aforesaid inconvenience therefore to be feared. For since the consent is referred to the event of the condition, then in reality the contract is perfected, and therefore then the sacrament is made. But if the condition concerns the present or the past, the sacrament is exposed to the danger of nullity; indeed it is null if the event of a condition of this kind cannot be known in a human manner, since the sacraments certainly must be administered in this way; e.g., if you are predestined. - L. 25, 26, 431; E. M.

346. Is the conferral of sacraments with a conditioned intention always licit, in doubt whether they have been validly conferred? - As regards the sacraments imprinting a character, it is certain that it is licit. C. *De quibus* 2, *de Bapt.*, where this form is indicated in doubt concerning conferred baptism: If you are not yet baptized, I baptize you, etc. - As regards the other sacraments, it is also licit if a sufficient cause is present for adding the condition. The reason is that the sacraments are for men, and by conditioned conferral of the sacrament provision is made, insofar as it can be done, both for

the good of those who receive the sacrament, if perhaps they are capable of it, and also for the reverence of the sacrament. - L. 27, 28; E. M. "It is licit for a confessor prudently doubting whether he has absolved a penitent, to absolve conditionally.

And Tournely, etc., say the same when a child is to be absolved about whom it is doubted whether he is capable of reason. But if someone, judging the penitent to be disposed, were to absolve him conditionally, saying: I absolve you, if you are disposed, they rightly say that he would not sin mortally, but he would not be excused from venial fault, since this would be contrary to the rite of the Church." L. 28.

"It is certain that in the case in which there is extreme necessity of one's neighbor, and no matter is had except doubtful matter, then the minister not only can, but is bound under grave obligation to minister the sacrament to him conditionally. Lugo nevertheless notes that if afterward certain matter is had, and there is opportunity, the sacrament is to be repeated conditionally, if perhaps the first was invalid. Understand this of sacraments which are not repeatable, such as baptism, confirmation, and order." L. 29. As regards the other sacraments there is no special difficulty, since they of themselves do not prevent repetition. And they are to be repeated when prudent doubt is had concerning their validity, and grave harm would follow if they had truly been conferred invalidly. Cf. n. 345.

347. Must the condition be expressed in words? - Resp. In the negative. The reason is that, for the reverence of the sacrament, it suffices that it be conceived in the mind. Indeed, there is not even need to have the condition explicitly and formally in mind; but it is enough if it is had implicitly and virtually, as he has it who has willed to hear Confessions according to the institution of Christ or the intention of the Church; because thus the reverence due to the sacrament is still sufficiently preserved. Yet it must be added orally and expressly where the rubric prescribes this, as in conditional baptism, especially if it is conferred publicly, lest bystanders believe that baptism is being repeated absolutely; and in conditional extreme unction. Roman Ritual *de Sacr. bapt.*, *de Sacr. extr. unct.* - L. 29; H. A. tr. 14, n. 3; La Croix 83; Gobat 272; E. M.

348. In conferring or receiving the sacraments, is it licit to use a probable opinion? - As regards the conferral of sacraments, where their validity is at issue, generally speaking this is illicit from proposition 1 condemned by Innocent XI. The reason is that irreverence would be done to the sacrament; and for the subject there would be danger of harm, especially in baptism because of its greatest necessity, and in order because of the public harm also of others. Consequently it is licit: 1. If necessity is present, or grave utility on the part of one's neighbor. The reason is that the sacraments are for men; nor indeed is there an obligation of rendering to the sacraments more than probable reverence. Cf. 1031. 2. If there is a probable opinion concerning the jurisdiction of the confessor, or concerning the validity of matrimony. The reason is that the Church then supplies by her authority as regards jurisdiction to be conferred on the confessor, and as regards convalidating the contract, if perhaps that contract is null because of an impediment which the Church removes by supplying.

3. When the administration of the sacrament would otherwise be exposed to excessive scruples or difficulties; for otherwise an infant could not be baptized whom the parents assert not to have been baptized, since such testimony is only probable; nor could a penitent be absolved, concerning whose disposition only a prudent probability can be had. L. 57, 633; l. 1, n. 50, 51.

But as regards the reception of sacraments with a probable opinion, if again the validity of the sacraments is at issue, the same must be said, for the same reasons. But in those things which do not pertain to the validity of the sacraments, in sacraments either to be conferred or to be received, the same rule holds as in other laws. For if, while probability stands, other laws are not contemned, certainly, while the same probability stands, the sacraments are not contemned. This is especially true as regards the dispositions of those ministering and receiving. For in these things grave probability is held as certainty. Moreover, both the administration and the reception of the sacraments would continually be exposed to scruples and anxieties of conscience. Wherefore it is sufficient to approach the sacraments, whether to confer them or to receive them, with probable disposition. Lugo *de Poenit*. d. 14, n. 109; La Croix 105; L. l. 1, n. 32, 48; l. 6, n. 461, 475, 482, 560, 573.

349. Are faith and probity of the minister required for valid and licit administration of the sacraments? - For the validity of the sacraments neither faith nor probity, or the state of grace, is required in the minister. This is clear 1. from the practice and perpetual tradition of the Church, which never wished those baptized by heretics and wicked men to be rebaptized. It is clear 2. from the definition of the Church. Trent sess. 7, c. 12 *de S.*, c. 4 *de B.* But for licit administration of the sacraments there is required in the minister faith and probity, at least if he has been consecrated for conferring the sacraments, and confects them solemnly, that is, with the whole rite prescribed by the Church. Therefore he gravely sins who, as a minister of the Church or by force of the order conferred on him, ministers the sacraments in mortal sin. For since of himself and by office he has been constituted for exercising this function, he is bound to exercise it with due disposition and holiness. Wherefore a minister of this kind, lacking faith or wicked, inflicts grave injury upon God and Christ by treating holy things unworthily and, as far as lies in him, by contaminating them. For the minister of the sacraments represents Christ, the primary minister, who is the Holy of holies, and bears his person, and therefore it is necessary that he too be holy.

At least, etc.; for whether this is demanded by the holiness of the office, or also by the holiness of the thing, because the minister of the sacraments represents the person of Christ and holy things are to be treated holily, is not sufficiently clear. - L. 31, 32; St. Thomas 3 p., q. 64, a. 5, 6; q. 82, a. 5; Suppl. q. 36, a. 5; q. 38, a. 2; Lugo d. 8, n. 150; Suarez d. 16, s. 2; E. M.

350. Does a minister gravely sin who confers in mortal sin a sacrament for which he has not been specially ordained or consecrated? - Resp. Probably in the negative, because the obligation in the minister of having holiness probably does not arise precisely from the holiness itself of Christ and of the sacrament according to itself, but from the consecration of the minister in order to the conferring of sacraments. Billuart Diss. 5, art. 4; St. Thomas 3 p., q. 64, art. 6; 4 d. 5, q. 2, a. 2. Yet others affirm it. St. Liguori 32 admits the probability of both opinions; nevertheless he inclines more to the affirmative. Cf. Sporer n. 176; Roncaglia cap. 3, q. 6; Sanchez *de Matr.* l. 2, d. 6, n. 4. "This question, as the same St. Alphonsus says, l.c., has place only in baptism and matrimony, for it is evident that the other sacraments cannot be ministered except by consecrated ministers." Hence those contracting matrimony in mortal sin probably sin gravely only by receiving the sacrament, not also by ministering it. L. 30; l. 6, n. 884.

Yet even laymen baptizing in necessity, or those contracting matrimony, sin lightly if they are in the state of grave sin. For certainly it is not fitting to bear the person of Christ in the state of sin, and it is

fitting that holy things be treated holily.

351. Does a priest, or consecrated minister, sin gravely who indeed ministers a sacrament in mortal sin, but not solemnly, e.g., baptism without ceremonies in a case of necessity? - This is controverted, as in the preceding question, and the same authorities and reasons are brought forward for each side. Hence it must probably be said that he does not sin gravely, because although he is of himself consecrated for ministering sacraments, he nevertheless does not act as consecrated or by office, but only as a layman from charity for aiding his neighbor in necessity. - L. 32, 884.

352. Does a consecrated minister solemnly ministering in mortal sin sin gravely, if grave necessity presses? - Resp. In the negative, strictly speaking, namely if the danger is so pressing that time does not permit him to elicit an act of contrition. For since the sacraments are for men, irreverence seems to be absent if, in that necessity of aiding a man, the sacrament is ministered by a sinner. But this hypothesis generally must be denied. For it is sufficient by an interior act of the will to conceive sorrow and detestation of sin because it is an offense against God, which can be done at once. Moreover, a minister conscious of grave fault is not to be excused from mortal sin if he can foresee a case of necessity, as a pastor and others who by office must minister the sacraments, and therefore by a special obligation are bound habitually to remain in the state of grace. L. 33, 86, 617; Lugo d. 8, n. 151; *de Euch.* d. 9, n. 8; Sanchez d. 207.

353. Does one who ministers the Eucharist in mortal sin sin gravely? - Resp. More probably in the affirmative. The reason is that he inflicts grave injury upon the most holy Eucharist. For although he does not act as an efficacious cause in confecting the sacrament, nevertheless he is its dispenser, specially consecrated for this, and he performs a ministry which immediately cooperates in the sanctification of the soul. Hence one celebrating and ministering in mortal sin commits four sacrileges: 1. Because he confects the sacrament. 2. Because he receives it. 3. Because he ministers to himself unworthily. 4. Because he ministers the Eucharist in mortal sin. But it is only one action, and therefore it is enough to say that he celebrated in mortal sin. L. 35 and others commonly. Yet Lugo d. 8, n. 155; Salm. tr. 1, c. 7, n. 11, and others probably judge that he sins only venially; because he neither acts in the name of Christ nor himself sanctifies anyone, but as it were transfers the sacrament from place to place. Diana thinks this opinion probable not only if communion is ministered outside Mass, but also if it is ministered in Mass. Tr. 2, *de Praec. div. et eccl. sacr. comm.*, res. 25. St. Thomas Suppl. q. 36, a. 5 ad 4; L. l. 2, n. 46.

354. Do those gravely sin who in mortal sin either mediately or immediately touch or carry the Eucharist? - There is a threefold probable opinion. The first, more probable opinion affirms in each case, because they treat a most holy thing or the Body of Christ unworthily. St. Liguori 35 calls this opinion very probable. - The second opinion denies it, because there is no administration of a sacrament here, nor does the matter appear so grave that it induces mortal sin. Thus La Croix n. 101; Salmant. c. 7, n. 1; Busemb.; and St. Liguori says this is not improbable. - The third opinion distinguishes thus: those indeed sin gravely who immediately touch the most holy Eucharist in mortal sin, but not those who touch it mediately. The reason is taken from the very different degree of irreverence between the first case and the second. Thus Billuart. But if the opinion of Cardinal Lugo, of which in n. 353 here, is not without its probability, then every difficulty vanishes. St. Thomas Suppl. q. 36, a. 5 ad 4.

355. Do those sin gravely who exercise other sacred functions in mortal sin? - Resp. In the negative, because all the other exercises of orders, besides the confection and administration of the sacraments, do not seem to require holiness under grave obligation, since they are not proximately ordered to the sanctification of the soul. Thus commonly and more probably. - Therefore they do not sin gravely: 1. Deacons and subdeacons who, in mortal sin, solemnly minister at the altar. 2. Bishops who, in mortal sin, confect chrism or holy oil. 3. A bishop or priest who in mortal sin consecrates or blesses a church, blesses sacred vestments or corporals, assists at matrimony, blesses ashes, lustral water, etc. 4. A preacher existing in mortal sin. - L. 37-40, 747, 767, 889; Lugo d. 8, n. 152 ff.

356. Is the minister bound to confess before the confection of a sacrament, if he is guilty of mortal sin? - Resp. In the affirmative, if it concerns the celebration of Mass and he does not lack an opportunity for a confessor; because all the faithful about to communicate must premise Confession from Trent sess. 13, c. 7, c. 11. - But more probably in the negative, if it concerns the other sacraments; because he is bound by no law to Confession; and therefore it suffices that he elicit an act of contrition. Yet except the case if the lack of perfect contrition is clear to him. - L. 34, 617.

357. Does one who hears Confession in mortal sin, but does not absolve, sin gravely? - Resp. More probably in the negative, because the confessor by hearing confession does not confect the sacrament. L. 36.

358. How many sins does a confessor commit by absolving several penitents successively in mortal sin? - The first opinion is that he commits as many sins as persons he absolves; the reason is that each absolution constitutes a distinct moral action, just as many complete judgments and just as many sacraments conferred in the state of sin, and therefore just as many sins. Thus L. l. 5, n. 50 with others. The second opinion is that he commits only one sin. Thus Salmant. *de Censur.* c. 2, n. 72, with others whom they cite, and Lugo *de Poenit*. d. 16, n. 558 calls that opinion probable. The same must generally be said of one who successively, but continuously, confers several sacraments, e.g., baptizes, confirms, or ordains several persons. And indeed, if the sin is taken from the holiness of the office, it is truer that one sin is committed, because one ministry of baptizing, confirming, etc., is exercised. - Busemb. 617.

359. How many sins does one commit who ministers the Eucharist to several persons in mortal sin? - Resp. More probably only one; because he places one moral action; for each distribution is held after the manner of one thing, and constitutes one administration and one banquet. L. 30, 35; l. 5, n. 30. Cf. 353, where a twofold opinion concerning the gravity of this fault was presented.

360. What about the obligation of ministering the sacraments? - Those having care of souls are bound under grave obligation from justice to minister the sacraments to their subjects reasonably asking for them. For by undertaking the care of souls they have obligated themselves to this, by a tacit contract entered into with their subjects, from whom they receive support or at least honor. - Therefore they are bound if the common precept of receiving them presses, or if the private necessity or utility of the petitioner requires administration, e.g., if the petitioner foresees some danger, or is in temptation and needs the grace of the sacrament, or if he wishes to exercise devotion suitable to his state, or to gain an Indulgence, etc. - Others, not having care of souls, are not bound to minister the sacraments from justice; yet sometimes they are bound from charity, namely in grave necessity of a neighbor; but without grave proportionate inconvenience of their own. - L. 58, 623, 728, 729.

361. Who are here judged to have care of souls? - All those who by office, or by a special title of spiritual jurisdiction or delegation, must feed or care for some part of Christ's fold. Therefore such are bishops, pastors, and whoever have a subsidiary care of souls by commission or public function, as are coadjutors or vicars of pastors, chaplains of soldiers, hospitals, etc. Likewise with respect to religious, their own prelates or superiors; with respect to nuns, their chaplains or confessors. L. 58.

362. Which sacraments are to be ministered in necessity, even with danger of death, whether by those having care of souls or by others? - Those who do not bear care of souls are certainly bound only to minister the sacraments absolutely necessary for salvation, namely baptism and penance, or extreme unction when someone can in no way confess. The reason is that they are bound only from charity alone to aid their neighbor in a most grave danger to salvation. But only the aforesaid sacraments are necessary for salvation. Even those bearing care of souls are, much more probably, bound to minister only the aforesaid sacraments with any danger. The reason is that the other sacraments are not of such necessity that anyone is bound to confer them with grave danger to life. Thus L. 233, 729, relying on the Declaration of Gregory XIII, Oct. 12, 1576, and likewise on the Declaration of the Sacred Congregation of the Council approved by the same Pontiff.

Suarez, on the contrary, affirms that by force of their office they are bound also to minister the Eucharist, which, although not absolutely necessary, nevertheless is very profitable; and it would be a great scandal to the people if a pastor allowed his parishioners to die without viaticum. And several synods have embraced this opinion, and most recently also the Plenary Council of Latin America n. 531. But Benedict XIV, *de Syn.* l. 13, c. 19, n. 7, 10, calls into doubt the Declaration of Gregory XIII and of the Sacred Congregation of the Council. For the rest, those who bear care of souls are bound to expose their life not only in extreme necessity, but also in grave necessity, while other ministers are obligated to this only in extreme necessity. La Croix l. 3, p. 1, n. 755 seq. - L. 58, 624; l. 2, n. 27; l. 3, n. 389; St. Thomas 2.2, q. 26, a. 5. Cf. 90.

363. Is someone who is not a pastor bound to expose his life for ministering the aforesaid sacraments with only probability of success or necessity? - The first opinion affirms this "from the law of charity, which obliges one, in equal danger, to expose temporal life in order to save the spiritual life of one's neighbor." L. 624. The second opinion denies it, because it is too hard to require so heroic an act for aiding one's neighbor, unless moral certitude is present either of success or of necessity. Hence you are not bound certainly to expose your life in order to baptize or absolve someone, if you probably must perish before you can fulfill it, or if you probably presume that he has been baptized, or is not in the state of mortal sin, or also can easily help himself through an act of perfect contrition. St. Liguori 624 says that the first opinion pleases him more; adding: "yet if the priest does not know that he is in mortal sin, he is not bound to absolve with danger of life." But l. 2, n. 27, he seems to adhere to the later opinion; and l. 6, n. 728, he seems to require a greater probability for the necessity of the neighbor.

364. You will resolve: Those having care of souls sin gravely, not only if without reason they deny their ministry, but also if they often show themselves slow and difficult; because in this way they deter the faithful from the sacraments, and the matter comes to the same as if they denied the sacraments. - Yet it is not mortal, to one or another or to the same person once or again, asking apart from necessity, to deny the sacrament of penance or the Eucharist; because the harm can easily be repaired, nor is the subject therefore judged to be gravely unwilling. If subjects ask irrationally, there

is no sin. Hence a pastor is not bound daily to spend time with a scrupulous person or with devout little persons, since such frequent Confession is not expedient for them, nor do they themselves have a strict right to such frequent absolution.

If the pastor has suitable vicars, he will not be bound so rigorously to receive the Confessions of subjects; nevertheless he must satisfy the faithful expressly requiring him by name, unless either he is impeded, or the penitents are willingly about to approach another confessor. Generally speaking, those bearing care of souls sin gravely who are unwilling to receive the Confession of subjects except on a few determined days within the month; because they are the cause why the faithful remain long in the state of sin and are kept away from receiving the sacraments. - L. 58.

365. What about the obligation of denying the sacraments to the unworthy who ask? - Generally and under grave obligation, speaking in itself, the minister is bound to deny the sacraments to the unworthy, because natural law obliges the dispenser to dispense the goods of the Lord faithfully and according to his will; moreover the certain will of Christ is that the sacraments not be conferred on the unworthy, according to that saying of Matthew 7:6: Do not give what is holy to dogs, nor cast your pearls before swine. Roman Ritual *de SS. euch. sacr., de Sacr. extr. unct.* - Cf. Lugo d. 8, n. 164, 180, 193; Suarez d. 8, s. 2. Indeed, as St. Alphonsus 43 notes, "in certain sacraments, for the minister to show himself a faithful dispenser, it does not suffice if he does not know the petitioner to be unworthy, but further he is bound to have a prudent reason that he is worthy; for in the sacrament of penance, since the disposition of the penitent is altogether required for validity, the minister, as judge constituted for this, must make himself certain about it. Likewise in the sacrament of order, the bishop must have certain knowledge concerning the dignity of the one to be ordained, since for order, as directed to the public good, no one has a right unless he is called by God, as Aaron was. But in matrimony the assisting priest must inquire into impediments, since he is constituted for this by the Church. But in the other sacraments, they are not to be denied to those who live as Catholics, unless the unworthiness of the penitent is established... The reason is that all the faithful have a right to these other sacraments and the ministers are not judges, but dispensers; hence in these they do not have a right of inquiring, but only the duty of dispensing to all who ask, provided they are not positively unworthy." Cf. Decr. *Ne temere de Spons. et Matr.*, S. C. C., Aug. 2, 1907.

To a public sinner, whether asking secretly or publicly, the sacrament is to be denied; because there is no reason why an exception should be made to the general rule; indeed grave scandal of the faithful would follow from the concession of the sacraments. St. Thomas 3 p., q. 80, a. 6; L. 44. But in the case of doubt whether someone has sinned, it is to be conceded; in doubt whether he has done penance, it is to be denied. L. 48. "Yet excepted is a sinner constituted at the point of death,"

L. 44, because everyone is then presumed to wish to dispose himself rightly, and necessity removes scandal, as does the hidden penance itself of the dying person, to be made public by the minister if the sacraments were to be publicly ministered to him. La Croix 143. Very rare is the case in which the denial of the sacraments is extended even to penance. But the obligation is always present, as regards penance itself, of denying absolution to one indisposed.

Likewise the sacrament is to be denied to a hidden sinner asking secretly; because reverence toward the sacrament and charity toward one's neighbor demand this in these circumstances, St. Thomas 3 p., q. 80, a. 6; L. 50, except the case in which the crime was known from Confession; for then it is not even licit for the minister to warn the sinner. And this is forbidden even if the confessor could deny

the sacrament under the pretext of other causes. L. 50, 51. - But the sacrament is not to be denied to a hidden sinner asking publicly. The reason is drawn from the inconveniences which would follow from denial of the sacrament; for scandals and disturbances would arise in the Church, and especially the faithful, brought into suspicion lest they be prohibited from the sacraments, would withdraw from them. But he who ministers sacraments to an unworthy person cooperates only materially in his sin, and such cooperation is licit from a grave proportionate cause. Cf. 374. St. Thomas p. 3, q. 80, a. 6; L. 49, 50; Lugo d. 8, n. 176; Roman Ritual *de Euch. sacram.* - E. M.

366. When is a sinner judged public, or notorious, or hidden; and secretly asking for a sacrament? - A public sinner is called one whose crime or very bad life is commonly known. But if his infamy has not yet come into common knowledge, yet is known in such a way that it can no longer be concealed, he is called notorious; but if there is no danger that the wickedness become known, he is called a hidden sinner. Wherefore one will still be a hidden sinner if his wickedness is known only to a few who will not manifest it, so that it is withdrawn from common knowledge. - A sinner secretly asking is called one who is found alone with the minister or with a few others of whom deservedly no account is to be taken, as little children, etc. Otherwise he is judged to ask publicly.

367. Is the sacrament to be denied to an unworthy person asking publicly, whose crime is indeed notorious but not yet public? - Resp. In the negative according to the more probable opinion, because he cannot yet be called a public sinner; moreover denial would be exposed to various inconveniences. Indeed, more probably the sacrament is not to be denied even if most of those present know the crime, since it is not simply public. Except unless the crime is soon to be made public, and scandal of the faithful would consequently have to be feared from the concession of the sacrament. Cf. n. seq.; L. 45.

368. Is the sacrament to be denied to a sinner when his crime is not public where he asks, yet is public elsewhere? - Resp. In the negative, at least more probably; because on the one hand, in ministering the sacraments to him there is no scandal of others, and on the other hand, if they were denied, those inconveniences and harms would arise which come from denial made to a hidden sinner. But it must be said otherwise if knowledge of that crime will easily reach that place shortly. For it can prudently be feared that scandal of the faithful may arise from the concession of the sacrament. L. 46.

369. What is required so that the Eucharist can be ministered to a public sinner? - "Laymann, etc., require, besides Confession, some time of good conduct for removing scandal. Possevinus, etc., say that Confession before several persons suffices, provided, Bernal adds, that the penance is shortly to be publicly manifested. And Croix rightly adheres to this opinion when the sinner does not have a proximate occasion of sinning; because one who has publicly confessed is publicly judged amended; otherwise, if the occasion were present and he had not left it. But he who asks secretly, it suffices that he has secretly done penance." L. 47; Roman Ritual *de Euch. sacram.* - E. M.

Hence, as is clear, one account would have to be taken of a public blasphemer who has already publicly approached Confession in church, or is presumed to have approached; another, however, of a public concubinary who has contracted only civil marriage and keeps his concubine at home, which scandal regularly must first be removed.

370. Is the sacrament of order to be denied to a hidden sinner asking publicly? - Resp. In the affirmative. "The reason is certain, because he who intrudes himself into public functions for which he is not fit must be repelled even with infamy, because the public good is to be preferred to the private. And that an unworthy cleric, although because of a hidden crime, can and must be repelled, is clear from Trent, where in sess. 14, c. 1 *de R*. it is said that the bishop can prohibit a cleric from ascending to further orders; and the cleric is bound to obey him, even if ascent has been interdicted by his prelate 'from any cause whatever, even because of a hidden crime, in any way whatever, even extrajudicially.' And it is added that 'no license granted contrary to the will of his prelate, by causing himself to be promoted, shall avail him.' And it is especially to be noted that in that case the bishop is not bound to reveal the cause why he repels from ordination, according to the Declarations of S. C. C., March 21, 1613; April 26, 1668; Benedict XIV, *de Syn*. l. 11, c. 2, n. 16. But that the bishop not only can, but also must repel the unworthy, although hidden, obvious reason persuades from the same Trent sess. 23, *de R*., c. 5 and 7, where it is expressly prescribed that the ordaining bishop diligently investigate and examine morals. 'For what purpose, then, must the prelate investigate and examine the morals of clerics, unless to repel those whom he knows to be unworthy?'" L. 52, 69; St. Thomas Suppl. q. 36, a. 1, 3, 4.

371. Note: "Concerning this matter, says the same holy Doctor 803, bishops in seeking this proof ought not be content with the simple attestation of pastors... but besides, secret information having been taken from other trustworthy persons, they ought to be made certain not only that the one to be initiated has not been bad... but also that he is positively good, etc." Cf. Benedict XIV, Const. *Ubi primum*; St. Thomas Suppl. q. 36, a. 4 ad 3.

372. Can a pastor assist at the marriage of those who are public sinners? - Laymann, Croix, and Lugo affirm. The reason is that the pastor is not the minister of the sacrament, but only a witness; whence, on the one hand, since he is a public minister, he cannot deny his assistance; and on the other, he can licitly assist, since his cooperation is merely material. But others deny it, among whom is St. Alphonsus, unless from a grave and proportionate cause, both because by natural law no one can cooperate in the sin of his neighbor, and because the pastor is bound from justice, from the contract entered into with the community from which he receives a stipend, to attend to the spiritual salvation of his sheep, by turning them away from sins. And immediately the holy Doctor adds, "what we say of the pastor must also be said of the witnesses; yet they would be sufficiently excused from sin if they assisted compelled by grave fear, since they are not bound except from charity to impede sin. But the pastor also can be excused in order to avoid death, or other graver evils of the community, or of the contracting parties themselves, for example lest they persevere in sin." L. 54; E. M.

373. If one of the spouses is publicly unworthy, can the other enter into marriage with that one, and consequently minister the sacrament to him or her? - Resp. In the negative, if the person is unworthy because he or she is an excommunicate to be avoided, as is clear. - In the affirmative, if the person is unworthy because excommunicated, but tolerated; for the Council of Constance granted indistinctly that the faithful can communicate with tolerated excommunicates. In the affirmative, if the person is unworthy because of some sin, and the other spouse could not recede from the marriage without grave inconvenience. Thus more probably and more commonly. The reason is that the aforesaid administration is by them as ministers not consecrated for this. L. 55; H. A. tr. 14, n. 6. Hence one

who contracts with an unworthy person is excused from mortal sin; for he does not sin insofar as he ministers to the unworthy person, because charity alone forbids this, and grave inconvenience excuses, which is scarcely absent, or not even scarcely; nor insofar as he asks from an unworthy person, because that person is a minister not consecrated for this. - Lugo d. 8, n. 226, 230; L. l. 2, n. 60.

374. What if a sacrament cannot be denied to an unworthy person without danger to life? - It is not licit to give it if it is asked in contempt of Religion or in hatred of the faith, or if it cannot be given without offense of others and scandal. These being removed, there are those who deny it, because it is the greatest irreverence to give what is holy to dogs; and this is licit only for avoiding common harms.

Nor are there lacking those who do not admit even this, since the matter is intrinsically illicit. For profanation of the sacrament is had immediately in the case by its very concession, and, by means of that profanation, escape from death is had. Others affirm it, because in so great a crisis of matters irreverence ceases. Others dispose of the matter by another way; for they teach that it is licit to simulate the administration of a sacrament, except the priesthood; not indeed formally, but materially, namely by substantially changing the matter or form, e.g., if he says: I do not absolve you, or, I will absolve you, or, Do I absolve you? with scandal always removed. Cf. n. seq. But to confer sacraments on the unworthy is not evil of itself. Indeed, Christ gave communion to Judas; who would say that Christ did a thing materially evil? And if it is licit to give a sacrament to an unworthy person in order to protect his reputation, why will the same not be licit in order to protect one's own life? Charity alone forbids cooperating in the sacrilege of the recipient, but charity does not oblige with grave inconvenience.

Properly speaking, however, cooperation is not had in the case, but mere permission. For the whole of that which the minister does is good and holy in itself, which one unworthily receiving the sacrament abuses from his own malice. - L. 49, 59; Lugo d. 8, n. 180, 181; Suarez d. 67, s. 1, at the end; Viva in prop. 29 condemned by Innocent XI, n. 11; Cardenas in the cited prop. n. 53; Lehmkuhl ed. 8, n. 43. Cf. here 375.

375. Is simulation of a sacrament intrinsically illicit? - Simulation, taken most broadly, is the placing of a sign indifferent of itself to several things, with the foresight that someone is to be deceived, because he will receive it in a sense which is not true. By this it is distinguished from dissimulation, because dissimulation is the omission of every sign when one deservedly ought to be placed. - One simulation is formal, by which the minister directly intends to deceive; another is material, by which the minister does not directly intend to deceive, but, acting from a reasonable and just motive and foreseeing deception, permits it. - Simulation of a sacrament can be either concerning a thing plainly indifferent with respect to the essence of the sacrament, or concerning a thing regarding the very nature of the sacrament. Simulation can be either merely concerning the administration of the sacrament, or concerning the sacrament itself; namely, when someone either places an action by which others can falsely believe there is confection or conferral of a sacrament, or fictitiously places something which pertains to the essence of the sacrament.

Moreover, formal simulation is not licit, not only in the sacraments, but in any other case whatever, because it is a lie of deed. St. Thomas 2.2, q. 111, a. 1. Material simulation concerning a thing that stands plainly indifferently toward the sacrament, that is, toward the administration itself of the

sacrament or the essence of the sacrament, speaking in itself, is not illicit, because it is not simulation of the administration of the sacrament, or of the sacrament; nor is another vicious circumstance present, as is supposed. Material simulation concerning the administration itself of the sacrament, speaking in itself, is not intrinsically illicit; for no action is placed which of itself pertains to the essence of the sacrament, and the action which is in reality placed is, as is supposed, an honorable action, although an opinion of the conferral of the sacrament can be induced in others from it. Material simulation concerning the sacrament itself, or an essential part of the sacrament, is altogether illicit. The reason is that it is grave irreverence toward Christ, whom the minister mocks by abusing sacred things instituted by him. Moreover, this is shown from proposition 29 condemned by Innocent XI, in which material simulation is specially treated. And by the Holy Office, Sept. 6, 1628, before the Most Holy, it was cautioned that priests who are compelled by Turks to baptize their children, not so that they may become Christians, but for bodily health, cannot... baptize them by applying matter without form. Benedict XIV, Const. *Postremo mense* § 21. - L. 59, 62; La Croix 150, 158; E. M.

376. You will resolve: "If someone, unwilling to confess, enters the confessional and, kneeling, speaks with the confessor about some business, he does not simulate the sacrament, nor does he sin with the sin of lying." L. 60. That action is of itself indifferent; and in it the matter and form of the sacrament are wholly lacking. L. ib. - A confessor would sin gravely who pronounced the words of absolution without the mind of absolving, even if he did this in order to extricate himself more easily from an indisposed penitent who was urgently asking absolution, or even demanding it by very grave threats. Many say that in this case the confessor can say: I absolve you, pronouncing the word "not" so quietly that it is not heard by the penitent. St. Alphonsus 59 judges this not improbable; but the confessor could more easily then pronounce other words or prayers rather than the form of absolution; for the rest, that case seems almost chimerical. - But the confessor does not simulate the sacrament of penance if he recites prayers over an indisposed penitent, lest bystanders notice that he is dismissed without absolution; for it is clear among all that penitents are often dismissed with a blessing alone, and sometimes approach the sacred tribunal without the intention of confessing or of completing Confession. L. 59.

A priest would sin most gravely who in Mass pronounced the consecratory words over bread and wine while excluding the intention of consecrating. Nor can they be excused in good faith who, laboring under crass ignorance and celebrating in mortal sin, simulate consecration lest they become guilty of sacrilege, even if they wholly omit the words of consecration. - A priest sins gravely who presents an unconsecrated host as consecrated, even to one knowing and consenting, as sometimes happens to miserable priests with an accomplice who approaches the sacred table for the sake of preserving reputation. The reason is that in this way an unconsecrated host is exposed to the adoration both of the bystanders and even of the knowingly receiving person himself with external reverence, which constitutes external and material idolatry, and therefore something intrinsically evil. L. 61; St. Thomas Quodl. 5, a. 12. "In the case in which someone cannot dispose himself for Communion, he could sometimes agree with the pastor, in order to avoid infamy or scandal, that the latter say over him only the words: May the Body of our Lord Jesus Christ preserve, etc.; and not present the host, as La Croix 160 admits." L. 61.

According to the common opinion, those who, compelled by grave fear, simulate entering marriage do not sin, at least gravely. The reason is that since voluntary consent is lacking, according to the now certain opinion which holds that the spouses are the ministers of this sacrament, matter and form are lacking, and therefore it is not simulation of a sacrament, but only simulation of a contract. "For the same reason he would not sin by the sin of sacrilege who contracted marriage knowing that he had a diriment impediment." L. 62. Furthermore, it must be noted that although someone then wishes to contract marriage, because of the defect of validity of the contract, in reality he does not contract marriage.

377. What about the manner of conferring the sacraments? - It is not enough if the minister diligently observes those things which regard matter and form; but he must studiously observe all the laws of Holy Church concerning the administration of the sacraments. Trent sess. 7, c. 13; S. R. C., May 12, 1612, n. 297. Wherefore it is not licit to omit the prescribed ceremonies, and of itself it is grave, apart from the case of necessity. Roman Ritual, *de Bapt.*, at the beginning. But each must use his own rite, whether Latin or Greek, and it is grave. Benedict XIV, Const. *Etsi Pastoralis* § 2; L. 202, 203; E. M.

Sacred Ceremonies are those sacred actions to be observed in divine offices from the statute of the Church, so that they may be duly performed; whence in sacred functions there is also a master of ceremonies. Not all are, of course, always to be observed by precept, as for example in the private recitation of the divine office; but those which regard the administration itself of the sacraments and the celebration itself of Mass are preceptive, obliging under grave or under light obligation by reason of the matter.

The aforesaid manner of administering the sacraments is contained both in the Roman Ritual and in the Roman Pontifical. But the proper rite is to be observed by a Latin priest and by a priest of an Eastern church. Simple faithful also are bound to observe this rite. Passage from one rite of an Eastern church to the Latin rite cannot be made without permission of the Sacred Congregation for the Propagation of the Faith.

In the Constitution of Pius X *Ea semper*, XVIII Kal. Jul. 1907, for the Ruthenian rite in the United States of North America, art. 22, it is said: "Ruthenian laity who have established a true and stable domicile in the United States can pass to the Latin rite, provided however that in individual cases permission of the Apostolic See has first been obtained." - In the Decree of the Sacred Congregation for the Propagation of the Faith for the Ruthenian rite in the Canadian region, Aug. 18, 1913, art. 25, it is said: "Passage from the Ruthenian rite to the Latin rite cannot be conceded to Ruthenian laity who have established a true and stable domicile in the Canadian region except by the Sacred Congregation for the Propagation of the Faith for affairs of Oriental rites, with grave and just causes intervening, to be known by the same Sacred Congregation, the Ruthenian Canadian bishop having been heard." - In another third Decree of the same Sacred Congregation for the Propagation of the Faith, Aug. 17, 1914, for the Greco-Ruthenian rite in the United States of North America, published in these days in *A. A. S.* v. 6, p. 458, it is said: "Passage from the Greco-Ruthenian rite to the Latin rite cannot be conceded to Ruthenians, whether temporarily or stably dwelling in the United States of North America, except by the Sacred Congregation for the Propagation of the Faith for affairs of Oriental rites, with grave and just causes intervening, to be known by the same Sacred Congregation, the Greco-Ruthenian bishop having been heard."

And as in the first two Decrees the celibacy of clerics is explicitly asserted, so in this last most recent Decree for the Greco-Ruthenians, published after the things which precede n. 97 had already been printed, the celibacy of clerics is passed over in silence.

378. Is the use of the Roman Ritual in the administration of the sacraments a matter of precept? - Resp. In the affirmative. For more than once the Sacred Congregation of Rites declared that only those books are to be used, and only those blessings are to be used, which are conformable to the Roman Ritual, and that others are not to be used, provided it is not clear that they have been approved by this Sacred Congregation. S. R. C., Apr. 7, 1832, n. 2689; May 23, 1835, n. 2725; Jan. 10, 1852, n. 2993. - Some things in the Ritual are preceptive under grave or under light obligation, while some are only directive, according to the nature of the matter, the varied expression of the Rubrics, and the Declarations of the Sacred Congregation of Rites.

A new edition of the Roman Ritual has been approved, declared as typical, to which all other editions must be conformable. S. R. C., June 11, 1913, *A. A. S.* v. 5, p. 434.

379. What sacred vestments are required for the administration of the sacraments? - The surplice and over it the stole. Roman Ritual, *de Sacram. admin.*, at the beginning; S. R. C., Jan. 10, 1852, n. 2993; Aug. 31, 1867, n. 3158; March 11, 1871, n. 3237. But in extreme necessity baptism and penance can be conferred without these; indeed also confirmation and extreme unction; La Croix l. 6, p. 2, n. 2116; L. 184, 726. Indeed even viaticum itself without sacred vestments, if it can be done without offense, is not illicit. S. R. C., Feb. 4, 1871, n. 3234; L. 241. But it is not grave not to use the stole in the sacrament of penance, and several deny that not using it in the Eucharist is grave, nor does St. Alphonsus 241 disapprove. The rochet is not a sacred vestment to be used in the administration of the sacraments. S. R. C., Jan. 10, 1852, n. 2993; Jan. 12, 1878, n. 3438; March 23, 1882, n. 3542; S. R. C., General Decree, July 12, 1892, n. 3784; E. M.

IV. On the Subject of the Sacraments

380. Who is the subject of the sacraments? - As the minister of a sacrament is he who performs in the name of Christ the sacramental rite instituted by him, so the subject of a sacrament is called he who receives the sacrament and is capable of the effect of the sacrament. The subject of the sacraments is only man as wayfarer; because, as is clear from Sacred Scriptures and Tradition, the sacraments were instituted for men as wayfarers alone. Yet not all men are capable of all the sacraments. For neither can women receive the sacrament of order, nor can children not yet using reason receive the sacraments of penance and extreme unction.

The reason *a priori* why only man as wayfarer is capable of the sacraments is the will of Christ the Lord, the institutor of the sacraments. But the reason of fittingness is that, according to the order of present Providence, only man as wayfarer is capable of first grace, or of an increase of grace; but such are not the Blessed, or souls detained in Purgatory, for whom the measure of glory corresponding to the grace which they had merited in mortal life has already been determined. But much less are the damned capable of grace, since they have already been separated from God for eternity. - St. Thomas Suppl. q. 39, a. 1, 2.

381. What things are required for the valid reception of the sacraments? - For receiving the sacraments validly, no probity is required in adults, nor properly faith in the subject, if you except the

sacrament of penance. This is clear from the practice of the Church, which has never permitted heretics and wicked men, duly baptized and ordained, to be baptized or ordained again. - In infants or those perpetually insane, no disposition is required, nor intention, so that they may validly receive the sacraments of which they are capable, namely baptism, confirmation, order, and the Eucharist, which formerly was ministered to them. This is clear from the practice of the Church and the common opinion. L. 80, 782; St.

Thomas Suppl. q. 39, a. 2. - In adults, for the valid reception of the sacraments some intention is required, because it is not fitting that an adult be sanctified unless he wills it. Council of Trent sess. 6, c. 5, 6, 7. But for most sacraments a habitual intention suffices, even sometimes only a confused, or implicit, intention, the nature of each sacrament being considered; because the conferral of the sacraments is a certain giving and benefit, for accepting which habitual intention suffices. St. Thomas 3 p., q. 68, a. 7. Cf. Lugo *de Euch.* d. 13, n. 23, 26; *de Poenit*. d. 14, n. 46, 48. If the will of receiving the sacrament is lacking, the sacrament will be invalid, whether someone does not wish to receive it, or does not not wish, having a neutral will. Benedict XIV, Const. *Postremo mense* § 47, 48, 51; L. 81. - For validly receiving the other sacraments, reception of baptism is presupposed; therefore an unbaptized man is in no way capable of the other sacraments. The reason is that the other sacraments were instituted for the Church alone; moreover through baptism alone men become members of the Church. Therefore. Florence, Decree for the Armenians. - E. M.

382. Is attention required in an adult subject, so that he may validly receive a sacrament? - Resp. In the negative. For intention suffices, even in the sacraments which require virtual intention; the reason is that a human act proceeds not from attention, but from will or from intention.

Besides, most sacraments do not even require virtual intention; therefore a fortiori they do not require attention on the part of the subject. Moreover, attention is not required in the minister for confecting the sacrament, as is clear from the things said above n. 338; therefore a fortiori it is not required in the subject. - Hence penitents are sometimes troubled in vain by scruples from this, that they suffered distractions while they were being absolved, or that they were absolved without noticing it. Sporer 157.

383. What intention is required in adults for receiving the individual sacraments? - In baptism and order there is required at least a habitual explicit will. The reason is that sacraments of this kind impose grave obligations to be fulfilled. But no one is judged to receive a grave obligation; rather, his positive will must be altogether clear. Lugo d. 9, n. 119, 127; L. 81, 82. The sacrament of baptism and of order is indeed invalidly conferred on those having only interpretative intention. Nevertheless Coninck, Sporer, Dicastillo, etc., apud Croix l. 6, p. 1, n. 168, and others judge that for receiving baptism an implicit intention contained in contrition or attrition had by the recipient suffices, or, as Lugo d. 9, n. 130 says, in the will of giving one's name to the Christian Religion, or, if he is ignorant of this, of doing whatever things are necessary for salvation, as La Croix has it, l.c. Cf. L. 82. This indeed can have place in urgent necessity, but baptism must then be conferred conditionally, and therefore repeated conditionally if time allows, unless there is certainty concerning a true and explicit intention not retracted. Cf. S. C. de P. F., March 30, 1898.

In confirmation, extreme unction, and the Eucharist, a habitual implicit will suffices, which is less rightly called interpretative, and which consists in this, that someone has had a general intention, and has not retracted it, of applying those things which are necessary and useful for his salvation; or

of living and dying in the Catholic religion, with the helps of the same religion; or, a fortiori, of receiving all the sacraments in life and at death. The reason is that these sacraments bring many advantages and no disadvantage. But all are judged to wish to receive advantages. Hence both confirmation and extreme unction can be conferred conditionally on a dying person deprived of his senses. Ritual, *de Extr. unct*. § 6; L. 82. But if he in reality had never thought of receiving them, they would have to be altogether repeated.

For penance there is required either actual or at least virtual intention; nor therefore does habitual intention suffice. The reason is that in this sacrament the acts of the penitent are required for the matter, and these indeed cannot be had without at least virtual will of receiving the sacrament.

L. 82. - Likewise for matrimony at least virtual intention is required. For "since each spouse is not only receiving, but also minister of the sacrament, in each of them there is certainly required that intention which is demanded in the ministers of the other sacraments." L. 82.

Fr. Lehmkuhl, ed. 11, n. 66, requires for the Eucharist, besides the case of viaticum, an expressed habitual intention. Yet ordinarily it is not only virtual, but even actual. The reason, he says, is that "in the general will of living a Christian life there is in no way contained the will of receiving the sacred Eucharist so many times and at such a time." - But if, besides the case of viaticum, it is a question of the Eucharist to be received from obligation, certainly that general will also implicitly contains this. And if that general will is conceived more determinately, namely of applying all the means constituted by God as necessary and useful for salvation, certainly this will would also implicitly include the Eucharist to be received from mere devotion. Finally, if the general will of dying in a Christian manner includes the will of receiving the sacraments of the Church at the point of death, why does the general will of living a Christian life not include the will of receiving Christ's sacraments during life? "Wherefore," the same Fr. Lehmkuhl concludes, "an adult to whom, besides the case of viaticum, the Holy Eucharist were given without his knowledge, would indeed receive it materially, but not with fruit." - But consequently to the things which have just been noted: if in the case of Viaticum the aforesaid adult would receive the sacred Eucharist sacramentally and with fruit, also outside that case he would receive it sacramentally and with fruit, if namely, as was said, he has its will at least implicitly.

384. Are sacraments validly conferred on those sleeping, drunk, or fallen into insanity, who previously had the intention of receiving them? - Resp. In the affirmative. Thus most commonly. The reason is that they are a capable subject. - But this would be done illicitly "unless in probable danger of death, or unless when the impediment of the use of reason is judged perpetual; otherwise one must wait for the time in which the one receiving becomes master of reason." L. 81, 139; St. Thomas 4 d. 6, q. 1, a. 2, q. 3 ad 2; 3 p., q. 68, a. 12; Roman Ritual, *de Bapt. adult*. Wherefore, to the sick who are deprived of their senses, the sacraments are to be given; but only in danger of death, and unless they die impenitent and in manifest mortal sin. Roman Ritual, *de Sacr. extr. unct*. In doubt they must be given; namely baptism and penance, even with the lowest probability of disposition; but confirmation, the Eucharist, and extreme unction, when it is probable that they are rightly disposed.

Indeed these can also be given if this can only be presumed. Lugo d. 9, n. 122, 126. Cf. 318, 383; E. M.

385. Can the sacraments be conferred on the deaf and mute from birth who have not been instructed in schools? - Some compare those deaf and mute from birth, not at all instructed in schools, to idiots; others to those using reason. Likewise some hold that they cannot know those things which pertain to the discernment of good and evil and to faith; but others hold that they can, at least in some way. Hence, since it is probable that they are like infants, baptism and confirmation can then be given to them conditionally. Likewise they can be baptized if they show some signs of religion. Collection of S. C. de P. F. n. 585. But since it is not plainly indubitable that they are ignorant of those things which pertain to faith, absolution also can then be given to them conditionally. The Eucharist can also be given to the dying, if it is clear from signs that they have some sort of discernment of it, or, as formerly to infants, if they are idiots, provided every danger of irreverence is absent. Yet extreme unction is not to be given to them, since it is neither necessary nor probably valid, namely if they are probably idiots from birth. But even it can be given if they probably conceive sorrow for their own sins, and do not seem to be ignorant of those things of faith which must necessarily be believed. But they are permitted to contract matrimony. C. *Cum apud* 23; C. *Tuae fraternitati* 25, *de Spons.* - Sanchez *de Matr.* l. 1, d. 8, n. 13; Kenrick tr. 17, n. 39.

386. What things are required for licit reception of the sacraments? - For the sacraments of the living to be received licitly and fruitfully, besides the intention of receiving them, the state of grace is prerequired. For these from their primary institution by Christ are ordered, not to conferring first grace, but to its increase, since they already suppose first grace in the subject. Hence they sin gravely who knowingly receive the sacraments of the living in the state of mortal sin, and indeed more gravely than those who unworthily minister or confect them. But the state of grace is to be procured through confession, if one is to approach the Eucharist; or at least through perfect contrition, if it concerns the other sacraments. Cf. 568. But it is better, as far as can be done, always to premise Confession even to the reception of the other sacraments. - For the sacraments of the dead to be received licitly by adults, there are required at least implicit acts of faith and hope, according to the words of the Apostle, Heb. 11:6: One who approaches God must believe that he is, and that he is a rewarder to those seeking him. Nor indeed does it suffice only to know those things which are necessary by necessity of means, but it is also necessary to know those things which are necessary to be known by necessity of precept.

Cf. V. 1, n. 348 ff., 356 ff. Moreover, an act of sorrow for sins is required, because forgiveness of sins is given to no one without retraction or sorrow for committed sins. But these things in the sacrament of penance are necessary also for validity, because they pertain to the disposition of the penitent. Trent sess. 14, c. 4. But attrition suffices, as will be said in its own place. - Likewise it is required that one be bound by no excommunication and no personal interdict. Roman Ritual, *de Extr. unct.* c. 1, § 8. But if someone cannot abstain from the sacraments without grave inconvenience, he licitly receives them, although for the present he cannot be absolved from the censure. - L. 86, 265, q. 2; E. M.

387. Is there a case in which it is licit to receive a sacrament of the living with mortal sin? - Resp. In the affirmative; but it is very rare. St. Alphonsus enumerates two. The first is if a host would be profaned unless it is consumed at once; then the host would be taken, not as a sacrament, but so that it may be rescued from that profanation, and therefore irreverence would cease. The other is if a layman already reclining at the communion rail and about to receive Communion at once were to remember a mortal sin and, because of the excessive shortness of time, could not make an act of

contrition. But unless the time is altogether extremely short, God's special grace would not be lacking in such cases for conceiving contrition at once. - L. 86, 33; St. Thomas 4 D. 24, q. 1, a. 3, q. 5 ad 4.

388. Is it licit to ask for a sacrament from a bad minister? - Resp. In the negative, if he is an intruded priest, namely one who, contrary to the rights of the Church, has invaded offices and benefices of the Church relying on secular power, unless extreme necessity is present. Pius VI, Epist. *Sollicitudo*, Apr. 1, 1794. The same consequently must be said of a notorious schismatic or heretic. Holy Office, July 2, 1864. For there is danger of perversion and scandal. - Resp. Also in the negative, if the minister is an excommunicate to be avoided, or one suspended by name, unless in extreme or very grave necessity. For there is a positive prohibition of the Church. - Resp. In the affirmative, if he is a tolerated excommunicate, and precisely insofar as tolerated; because the Council of Constance absolutely granted to the faithful that they could communicate with tolerated persons. L. 88; St. Thomas 3 p., q. 82, a. 9.

If the minister is simply bad because of mortal sin, it is licit from a reasonable cause of necessity or grave utility to receive the sacraments from him. The reason is that, such a reason standing, the sin of another is licitly permitted, which "nevertheless he could put away, because in an instant a man is amended by divine grace." St. Thomas 4 d. 24, q. 1, a. 3, q. 5 ad 3. Moreover, "he who approaches the sacraments receives the sacraments from a minister of the Church, not insofar as he is such a person, but insofar as he is a minister of the Church; and therefore as long as he is tolerated by the Church in ministry, he who receives the sacrament from him does not communicate in his sin, but communicates with the Church, which presents him as a minister." St. Thomas 3 p., q. 64, a. 6 ad 2; C. *Vestra* 7, *de Cohabit. clericor.* From a reasonable cause, because charity requires that we impede the sin of our neighbor which we can easily impede. - But it is certain that any minister is presumed worthy unless the opposite is established. "Hence it is probably inferred that the sacrament can still be asked from him who is known to have sinned a little before, because he himself is to be presumed already to have disposed himself at least through contrition, unless it is established that the minister is habitual in sin, or is in a proximate occasion of sin, understand a voluntary one." L. 89. "Thus likewise I think," says St. Alphonsus ibid., "that it is illicit without grave cause to serve a priest celebrating unworthily." - L. l. 2, n. 47, 79; l. 6, n. 560; q. 19 among recent reforms; Scavini ed. 12, Milan 1874, v. 4, n. 454, 566; Collection of S. C. de P. F. n. 1823, 1845.

On Baptism

I. On the Nature, Effects, and Necessity of Baptism

389. What is baptism? - The word *baptismus* or *baptisma* signifies the same as immersion and washing; whence baptism is also called a laver, because it wipes away sins. Baptism is defined: "The sacrament of regeneration through water in the word." Roman Catechism 5; St. Thomas 3 p., q. 66, a. 1; E. M.

390. How many kinds of baptism are there? - Baptism is threefold. For from the sacrament of baptism, or baptism of water, so called from its proper matter, there is distinguished baptism of spirit and of blood. St. Thomas 3 p., q. 66, a. 11.

391. What is baptism of spirit? - "Baptism of spirit is perfect conversion to God through contrition, or love of God above all things, with the explicit or implicit desire for true baptism of water, whose place it supplies as regards the remission of guilt, but not as regards imprinting the character, nor as regards removing every debt of punishment: it is called of spirit, because it is done through the impulse of the Holy Spirit, who is called *flamen*. But that men are saved through baptism of spirit is of faith." L. 96; E. M.

392. What is baptism of blood; what are its required conditions? - Baptism of blood is the shedding of blood or death endured for faith, or for another Christian virtue. But this baptism is equated with true baptism, because as if *ex opere operato*, after the manner of baptism, it remits guilt and punishment. As if, because martyrdom does not operate so strictly and properly as the sacraments do, but from a certain privilege by reason of real imitation of the Passion of Christ. Therefore martyrdom profits even infants. The Church honors the Holy Innocents as true martyrs.

For the martyrdom of an adult, that it be such as is necessary for salvation, five things are required: 1. the infliction of death; 2. acceptance of the same from a pious cause; 3. that one not resist the tyrant; 4. that by faith he hold the truth for which he suffers; 5. legitimate disposition for grace. But what such a disposition is, is controverted. The first opinion teaches that true contrition, perfect from love of God above all things, is necessary. The second holds that the will of suffering for Christ suffices, and that there is no need of another penance, even if the man remembers his sins. The third asserts that at least attrition is required, if the man is conscious of sin.

Moreover, contrition can be required for the fruit of martyrdom in two ways: first directly, as a necessary disposition; second indirectly, as a work necessary for avoiding a new sin. - If the one for whom martyrdom is imminent is in mortal sin, contrition is necessary for him for the fruit of martyrdom indirectly, or at least attrition which is thought to be contrition, as a work necessary for avoiding a new sin which would impede its fruit. The reason is that if ever the precept of contrition obliges, it does so especially in danger of death. - Yet contrition is not necessary in itself and directly as a disposition for the fruit of martyrdom, but attrition is required and suffices. The first reason is that the Fathers equate the martyrdom of adults with baptism in its force of destroying sin. Here it must be noted that the very endurance of death according to itself is compared with baptism, and no

lesser force in washing away sins is attributed to it than to baptism; nor is this force attributed to internal contrition, but to the external work. Therefore, just as baptism does not require contrition in order to confer grace, so neither does martyrdom. The second reason is that it is certain that for remission of guilt some penance is always required in adults from Trent sess. 14, c. 1.

- Theol. Wirceb. 57 ff.; Suarez d. 29, s. 1, 2; L. 95, 97; St. Thomas Quodl. 6, a. 4; 2.2, q. 124; 3 p., q. 66, a. 12 ad 2.

393. Note: "Concerning those who die from charity in service of the plague-stricken, the Roman Martyrology, Feb. 28, says: 'Whom religious faith has been accustomed to venerate as martyrs.'" L. 100.

394. What are the effects of baptism? - Baptism is spiritual regeneration. Hence through the infusion of sanctifying grace: 1. it destroys every guilt. 2. It remits every punishment due to sins. Wherefore it is grave to impose satisfactions on the baptized. 3. It imprints a character; whence it cannot be repeated. 4. It makes one of the body of the Church. It is clear as regards the first from C. *Maiores* 3, *de Bapt*. etc.; Trent sess. 5, decree on original sin; sess. 14, c. 2; as regards the second from Trent sess. 5, the cited decree, sess. 6, c. 14, and from Florence in the Decree for the Armenians; as regards the third from Florence, ibid., and from Trent sess. 7, c. 9 *de R*.; as regards the fourth from Trent sess. 14, c. 2, and from Florence, Decree for the Armenians. - Therefore baptism is as it were the gate of the Church and of the kingdom of heaven. Hence if someone has not been validly baptized, he cannot validly receive any other sacrament. C. 1, 3, *de Presb. non bapt*.; Florence, Decree for the Armenians; St. Thomas Suppl. q. 35, a. 3. - Trent sess. 7, c. 1, 6-11, 13, 14; Roman Catechism 42 ff.; St. Thomas 3 p., q. 69; q. 68, a. 5; E. M.

395. Is baptism necessary? - Baptism of water in reality or in desire, from divine institution, is altogether necessary for salvation, by necessity of means. This is clear from the words of Christ, John 3:5: Unless someone has been reborn of water and the Holy Spirit, he cannot enter into the kingdom of God. And from Trent sess. 6, c. 4; sess. 7, c. 5: If anyone shall say that baptism is free, that is, not necessary for salvation, let him be anathema. - Decree of the Holy Office *Lamentabili*, July 3, 1907, prop. 42, 43; Roman Catechism 21, 31; St. Thomas 3 p., q. 68, a. 1, 2; Commentary on Necessity of Means.

II. On the Matter and Form of Baptism

396. What is the remote matter of baptism? - The valid matter of baptism is only true and natural water, fit for washing. This is clear from the words of Christ, John 3:5, and from the Councils, especially from Florence in the Decree for the Armenians, and from Trent sess. 7, c. 2; Roman Catechism 2 ff.;

L. 153; St. Thomas 3 p., q. 66, a. 3, 4. - The licit matter of baptism, outside the case of necessity, is only blessed or consecrated water, mixed with the sacred oil of catechumens and chrism according to the rite of the Church, at least for solemn baptism. This is clear from the Roman Ritual and the practice of the Church. - But he certainly sins gravely by the sin of sacrilege who, without grave necessity, uses impure, turbid, or muddy water, although this matter is valid. L. 102; E. M.

Note: In danger of death, if certainly valid matter cannot be had, doubtful matter can and must be used under this condition: If this matter is sufficient. But then even the lowest degree of probability concerning the validity of the matter suffices, because in necessity one's neighbor must be aided in the best manner in which it can be done. But if the one baptized in this way survives, once there is supply of certainly valid matter, he must again be baptized conditionally: If you are not baptized, I baptize you, etc. C. *De quibus* 2, *de Bapt.* etc. - L. 103.

398. You will resolve: Valid matter is: water of springs, wells, rivers, the sea, ponds, marshes, lakes, cisterns; water dissolved from ice, snow, or hail, because it preserves the same substance, although it has been accidentally changed as regards color, taste, or odor; sulphurous or mineral water; water collected from vapor, dew, or flowing in rainy weather from a wall, leaves, etc.; turbid water mixed with another substance, provided water is the truly and certainly predominant matter, so that according to the use or estimation of men it can still be called water. - Valid and licit matter, where there is a true danger of disease, is water with corrosive bichloride of mercury, in one thousand parts of water. Holy Office, Aug. 21, 1901. - Invalid matter is milk, blood, tears, sweat, saliva, spittle, urine; wine, oil, beer, thick broth from fat, etc.; mud, ink. - Doubtful matter is very thin broth, lye, weak beer, water from dissolved salt, humor flowing from a vine and other plants. L. 103, 104; St. Thomas 3 p., q. 66, a. 4; C. *Non ut* 5, *de Bapt.* etc.; E. M.

399. Is water produced by chemical art, distilled, poisoned, suitable matter for baptism? - Resp. In the affirmative. For it is true water. - L. 104, 106.

400. Is ice or snow, not dissolved, suitable matter? - Resp. Some deny it, others doubt, "therefore they say that in necessity it can be used conditionally." L. 104.

401. What is the proximate matter of baptism? - The proximate matter of baptism is washing, which can be done in three ways, namely by immersion, sprinkling, and pouring, according to the practice of the diverse Churches, so that by the moral judgment of men the baptized person is judged to have been washed. This is clear from the words of the form, and the perpetual practice of the Church, and also from Paul to the Ephesians 5:26: Cleansing by the laver of water in the word of life. Roman Ritual, *de Forma Bapt.*; St. Thomas 3 p., q. 66, a. 7, 8.

402. Can an infant in danger of death be baptized in the womb of the mother? - "If the infant," says the Roman Ritual, "has put forth the head, and danger of death is imminent, let him be baptized on the head; nor afterward, if he comes out alive, is he to be baptized again." - If, on the contrary, he is wholly enclosed in the womb and is baptized by washing the body of the mother, "it is certain that the baptism is not valid, because the infant is a person distinct from the mother." - If the womb can in some way be penetrated, and the child wrapped in the afterbirth is reached by means of some instrument, he is probably validly baptized, because that is held as part of the infant.

But because many hold it simply as part of the mother, therefore it also probably is not valid. - The same variety of opinions exists concerning baptism to be conferred on a fetus who has been brought forth wrapped in its own membrane; namely whether it suffices to confer baptism upon the membrane itself, or rather whether this should be broken, so that the ovular matter may be immersed in water, while the form is pronounced at the same time, and then the fetus is drawn out from the water. - If by means of some instrument the afterbirth is cut and the body itself of the infant is reached by the water, it is still more true that baptism is conferred validly. The reason is that such

an infant, since he already exists as a man wayfarer, can well receive baptism. But since the matter is not certain, if afterward the living infant is brought into the light, he will have to be baptized again conditionally. L. 107, 123; Pignatelli Consult. 153, tom. 1; Benedict XIV, *de Syn.* l. 7, c. 5; St. Thomas 3 p., q. 68, a. 11; E. M.

403. Is baptism valid if someone casts an infant into a well or river and pronounces the form? - The first opinion denies it; the second opinion affirms it. "Each is probable." L. 106; La Croix 265. Yet such baptism is truly doubtful; for since there is not immersion and emergence, washing or cleansing is lacking.

404. Is it licit to throw an infant into a river in order to baptize him?

Resp. In the negative, "although he is soon about to die without baptism, because it is never licit for any cause whatever directly to kill the innocent... But although it is not licit to cast the child into a river, nevertheless it is licit to baptize with water even cold as ice, if no other can be had, a child soon to die, even if it were feared that from this death would be hastened." L. 106. For the action is of itself indifferent, having a twofold effect, and in order to obtain eternal life a small loss of temporal life can well be neglected. - Elbel 13, 14.

405. Is baptism conferred by application of a moistened hand valid? - Resp. In the negative. The reason is that washing is not had, which is the proximate matter of baptism.

406. Is baptism valid if the baptizer were to wash a part of the body of the one to be baptized by the motion of a moistened finger? - Many affirm; because washing is sufficiently had. - But there are not lacking those who judge the baptism doubtful, because that washing is very imperfect. It is rather an anointing than a washing. Hence baptism is also doubtful if someone is baptized with two or three drops of water. - Holy Office, Nov. 8, 1770; Dec. 1, 1898; L. 103 IV, 107, q. 6; Elbel 16; E. M.

407. Is baptism valid by applying cotton wet with water to the forehead? - Resp. In the affirmative, if water successively flows over the forehead, as can easily be done by pressing the cotton somewhat; for then true washing is had. In the negative, if there is mere contact of water upon the forehead; for then washing is in no way had. - Holy Office, Nov. 8, 1770; Suarez *de Sacr.* d. 20, s. 2; E. M.

408. Is baptism valid if the pastor or another minister places the infant under falling rain? - Resp. In the affirmative, for in that way he truly washes the infant. Yet it would be better to collect water in the palm of the hand and wash the infant's head with it. On the contrary, baptism would be invalid if conferred by snow, frost, or hail applied to the head and dissolved by natural heat; for washing would not be had from the action of the minister himself. L. 106.

409. Is triple washing required for baptism? - Certainly it is not required for validity; for one washing suffices so that someone is judged truly washed. St. Thomas 3 p., q. 66, a. 8. - But it is required for liceity, and indeed under grave obligation, where this triple pouring of water is prescribed, as in the Roman Ritual. Yet these things seem to be understood of solemn baptism.

410. Is baptism valid if the water touches the clothes or hair of the one to be baptized? - If the water touches only the clothes, baptism is certainly invalid; because thus no one would say that the man is washed. - But more probably it is valid if the water touches the hair. But in practice the safer part is to be followed.

Hence if the one to be baptized is hairy, either let the priest part his hair with the fingers of the left hand while pouring water with the right, or let him baptize him on the forehead. And this also seems to be done if the infant's head abounds in an oily crust which prevents washing on the skin. Lugo Resp. Mor. l. 1, d. 1; L. 107, q. 3; Collectanea of S. C. de P. F. n. 642; E. M.

411. Is baptism conferred on another part than the head valid? - Resp. More probably in the affirmative, especially if baptism is conferred on some more principal part, e.g., on the breast, shoulders, neck. According as the part is less or more principal, baptism is more or less doubtful. But there will always be some doubt if it is not conferred on the head, since the integrity of life fully consists in the head; "because washing of the man absolutely and simply is of the substance of the sacrament." Suarez *de Bapt*. d. 20, s. 2, par. *Quare*; Roman Ritual, *de Bapt. parv.*, par. *Nemo*. Hence "by precept the head is to be washed, which the practice of the Church has." L. 105. And if necessity has compelled baptism to be conferred on another part than the head, afterward, if it can be done, baptism would have to be repeated conditionally. - Holy Office, Nov. 8, 1770; St. Thomas 3 p., q. 66, a. 7 ad 3; L. 107, q. 4.

412. What is the form of baptism? - The form of baptism is: I baptize you in the name of the Father and of the Son and of the Holy Spirit. But among the Greeks it is said: Such a servant of Christ is baptized in the name, etc.; CC. *Si quis* 1, *Non ut* 5, *de Bapt.*; Florence, Decree for the Armenians; Trent sess. 7, c. 4. "Several theologians, among whom is St. Alphonsus, think that it is venial to omit the word Amen at the end of the form of baptism, which word however is not found in the Roman Ritual. Hence it is asked whether it is to be used or omitted? Resp. Strictly in the case, let the Roman Ritual be observed." S. R. C., June 9, 1853, Cochinchina, ad 2, n. 3014. - Ferraris v. *Baptismus* n. 1 ff.; Lugo Resp. Mor. l. 1, d. 3; E. M.

413. Note: There are five things which are signified in the pronouncing of the form, according to which its validity must be weighed: 1. The person baptizing, at least implicitly, which is not neglected in the form of the Greeks, since "is baptized" has the same value as "is baptized by me." - 2. The act of baptizing, because otherwise the form would not have connection with the matter, nor determine it, since washing can be referred to various ends. - 3. The person to be baptized, because as the washing, so also the form must turn upon a certain person. S. C. de P. F., Sept. 11, 1841. - 4. The unity of the divine nature, which is done through the phrase "in the name." - 5. The Trinity of persons: and this explicitly and distinctly in common words, L. 108, namely the expressed invocation of the three divine persons.

S. C. de P. F., June 23, 1830; Florence, *De variis formis dubiis*. Cf. L. 108-112, 119, 120, and C. *Debitum* 4, *de Bapt*. - "And therefore no one can baptize himself." St. Thomas 3 p., q. 82, a. 4 ad 2. - It is expedient that midwives baptize in the common and vernacular tongue. But they say that these forms are valid: *Io ti abbattezzo...* S. C. C., May 12, 1753; *Ego te baptismo...* S. U. I., May 22, 1871; *Io ti battesimo... Io ti battezzo nome di Padre...*, with *in* omitted, and *di* for *del*, the same Sacred Congregation, Sept. 12, 1801, or *del nome del Padre...*, or *in domine Patris...*, *in nom.* (abbreviated) *Patris...*, L. 110. *Mi te abbattezzo in nome del Padre, e del Figliuolo, dello Spirito Santo*, with *et* omitted before the Holy Spirit, S. C. C., May 12, 1753. - The form is invalid if someone were to say: I will the sacrament of baptism of sins to be ministered to you, in the name... Holy Office, June 23, 1840. If someone for *baptizo* says *mergo* or *tingo*, St. Alphonsus 109 thinks that it is valid, because the words are synonymous. But *mergo* does

not seem to signify the sacramental action of washing, but only the material action of immersing, if baptism is ministered by immersion. But *tingo* properly signifies to imbue something with color.

414. Is baptism valid if in the form the pronoun *ego*, the particle *in*, or the particle *et* before only the invocation of the Son, or also before the invocation of the Holy Spirit, is omitted? - Resp. To the first: In the affirmative; for it is implicitly contained in the verb, but it is venial. - To the second: there are not lacking those who deny that it is valid, because when the preposition *in* is omitted, the meaning is varied; for then the sense is not that one is baptized in the invocation of the Trinity, but that one is baptized by the authority, power, and command of the Trinity. But more probably it must be affirmed that it is valid according to the character of the Latin language, in which the preposition *in* can be omitted; so much the more because, even with the preposition *in* still expressed, that phrase "in the name" remains equivocal and can signify both in invocation and in power, as Christ signified when he said: In my name they shall cast out demons, etc., Luke 16:17. But it is determined by the intention of the minister. And it is held valid from the Holy Office, May 22, 1871. - To the third: It is valid, because the distinction of the Persons is sufficiently explained. S. C. C., Sept. 12, 1801; Holy Office, Aug. 3, 1889. - To the fourth: Many say that it is valid, because again the distinction of the persons is sufficiently explained. For on the one hand the character of the Latin language altogether admits that omission, and on the other the names Father, Son, Holy Spirit, as relatively opposed among themselves, already signify the distinction of the persons.

But many others say that it is not valid; for since the name Holy Spirit of itself is not notional, but belongs both to the Father and to the Son, unless the particle *and* is expressed at least before the last name, the distinction of the three Persons is not sufficiently expressed. For the first opinion there is also brought S. C. C., May 12, 1753; Sept. 12, 1801; May 12, 1823, by which baptism was declared valid although the particle *and*, pronounced before the Son, had been omitted before the Holy Spirit. - L. 111, 112. Cf. here the preceding number.

415. Is baptism conferred with these forms valid: I baptize you in Father; with Father; from the part of the Father; in the power of the Father, etc.; In the name of the Father through the Son and the Holy Spirit? - The baptism is not valid, or at least is doubtful; because in these forms there is not had the invocation of the Most Holy Trinity and the unity of the divine nature, although the distinction of the Persons is had. Scavini, Milan 1874, v. 3, n. 59, reports that it was answered by the Sacred Penitentiary and by the Sacred Congregation of the Council, indeed by Benedict XIV himself, Dec. 7, 1741, that the form *cum nomine Patris, Filii* etc. is valid; but D'Annibale, ed. 3, p. 3, n. 272, observes that as long as these things are not authentically clear, one ought not recede from the common opinion. But Lehmkuhl, ed. 11, n. 89, also says that it has several times been decided by S. C. C. and by the Holy Office that *cum nomine* does not impede validity.

416. Is baptism valid with this form: I baptize you in the name of the Father, in the name of the Son, in the name of the Holy Spirit; or in the name of the Father, and in the name of the Son, and in the name of the Holy Spirit; or I baptize you in the name of the Father, I baptize you in the name of the Son, I baptize you in the name of the Holy Spirit? - Resp. In the affirmative, far more probably; because the locutions are altogether equivalent, if they are considered grammatically. But since the unity of the divine essence is less correctly expressed, if the theological signification and the mystery are attended to, they could seem at least doubtful, although all those locutions are theologically true and contain Catholic truth. Cf. Roman Ritual, *Ord. Comm. Anim.* Nevertheless S. C. C., May 4, 1641,

declared the second form valid; Holy Office, Jan. 11, 1882, declared the third proposed form valid. Whence it follows that the first also is to be held valid. - L. 111; Suarez d. 21, s. 3, par. *Sed quid*; E. M.

417. Is the form of baptism valid if you say: In the name of the Begetter and of the Begotten and of the Spirated or Proceeding? - St. Thomas 2.2, q. 16, a. 5 ad 7 denies it, because "just as water is taken for baptism because its use for washing is more common, so for signifying the three Persons in the form of baptism those names are assumed by which the Persons have more commonly been accustomed to be named in that language." Yet baptism is valid in the name of the Father and of the Word and of the Paraclete Spirit, or Spirit.

418. Is the form of baptism valid if it is said: I baptize you in the name of the Most Holy Trinity, or in the name of Christ? - Resp. To the first: In the negative, at least more probably, because in such a form the individual persons of the Holy Trinity are not expressed sufficiently distinctly, since the word Trinity signifies the Persons only confusedly and implicitly; but Christ willed that they be expressed distinctly, as is clear from Matthew, the last chapter. - To the second: In the negative also a fortiori, because the Trinity is in no way expressed by the phrase "in the name of Christ." Thus all, at least now after St. Thomas 3 p., q. 66, a. 6, and it is clear from C. *Si revera* 80, *de Consecrat.*, Dist. 4. - L. 111, 112.

III. On the Minister of Baptism

419. Who is the minister of baptism? - The minister of baptism is one kind ordinary and another extraordinary. The extraordinary minister is twofold: namely a minister of solemnity and of necessity. - Every priest and only a priest, by force of his ordination, is the ordinary minister of baptism. This is clear from Florence, Decree of Union, and also from the universal practice of the Church. - A deacon, unless he is a pastor, is an extraordinary minister and a minister of solemnity, that is, able to baptize solemnly, but only from the delegation of the pastor, at least interpretative, and from a grave cause. This is clear from the Roman Pontifical, the instruction of the bishop to deacons in ordination, etc.; C. *Diaconos* 13, Dist. 93. Cf. C. n. 527. Solemnly to baptize, i.e., by observing the rites and ceremonies prescribed by the Church. - Any human being using reason, whether man or woman, whether Catholic or heretic, whether faithful or unbeliever, is an extraordinary minister of baptism, so that he can always validly, and in necessity also licitly, baptize. Florence, Decree for the Armenians.

Although every priest by force of ordination has the power of baptizing, nevertheless he cannot licitly use it, even privately, outside the case of necessity, unless deputed by the Ordinary or by the proper pastor for baptizing. For the legitimate minister is only the Ordinary or one's own pastor. From the Roman Ritual, *de Bapt. adult.*: "the baptism of adults, where it can conveniently be done, should be referred to the bishop, so that, if it pleases him, it may be conferred more solemnly by him; otherwise let the pastor himself baptize, with the fixed ceremony." Florence, Decree for the Armenians; Roman Ritual, *de Min. bapt.* - At present the minister regularly is the pastor, Roman Ritual ibid., and it is grave. Clement I, *de Priv.* - L. 116, 236; St. Thomas 3 p., q. 67; E. M.

420. You will resolve: Neither a pastor nor a bishop, without commission, outside his own parish and diocese, or within it, licitly baptizes subjects of another. And therefore parents also sin who without permission of their own prelate bring their offspring to another to be baptized, since they violate the right of the pastor. L. 114. - A stranger can be baptized with the permission, whether

expressed or reasonably presumed, of his own priest. L. 115. Religious can baptize in a case of necessity, or with the same permission of the pastor and of their own superior, since this is prohibited by no law. L. ib. "A priest baptizing without permission outside necessity, even without solemnity, sins gravely." L. 115.

421. If parents have domicile in one place, quasi-domicile in another, and in this latter place the woman has given birth, must the infant be baptized in this place? - The infant can be baptized in the place of quasi-domicile or of domicile. The reason is that each is the proper pastor in order to receiving baptism and the other sacraments. C. *Significavit* fin., *de Paroch.* L. 115. - "Children of families, generally speaking, must be baptized and educated in the rite of the father," if the parents belong to different rites, such as the Roman, Ruthenian, Armenian, etc. S. C. de P. F., Apr. 11, 1894. Cf. here 431.

422. In which parish must an infant be baptized if the parents have neither domicile nor quasi-domicile, or are distant from it? - "Pilgrims, or those who do not have domicile (vagrants), can be baptized in the church which they choose, from cap. *Nec numerus* q. 3... But if a woman by chance gives birth in a village not her own, the offspring is to be baptized by the pastor of that village; nevertheless, if that village is little distant from her own village, e.g., by two or three hours, the offspring can also be baptized in her own church," L. 114; indeed must be, if there is no grave inconvenience.

423. Does a cleric who is not a deacon, and a deacon without commission solemnly baptizing, incur irregularity? - Resp. To the first: In the affirmative. This is clear from C. *Si quis* 1, *de Cler. non Ord. min.* - To the second: some deny it from the cited *Si quis*. But more probably others affirm it from the same C. *Si quis*, according to the opinion which St. Alphonsus 116 says is most common. But cf. *de Irregul.* n. 1323.

424. Does a layman solemnly baptizing contract irregularity? - Resp. In the negative. For in law nothing is said; indeed the contrary is suggested. L. 116, 754.

425. What order is to be observed among the ministers of baptism in a case of necessity? - In the Roman Ritual it is had thus: "If a priest is present, let him be preferred to a deacon, a deacon to a subdeacon, a cleric to a layman, and a man to a woman, unless for the sake of modesty it would be fitting that a woman rather than a man baptize an infant not wholly brought forth, or unless the woman knew better the form and manner of baptizing." In the presence of the bishop, a priest can baptize, because this is the office of a priest. St. Thomas 3 p., q. 67, a. 4.

426. Is it grave if the father or mother baptize when another is present? - Resp. In the affirmative, by reason of spiritual kinship. Wherefore an external person, even a woman, is to be preferred to them. L. 117, 150; La Croix 277, 358; Viva q. 1, a. 5, n. 4.

427. Does a layman sin mortally who, in necessity, baptizes in the presence of a priest? - Resp. In the affirmative. The reason is that outside necessity a layman cannot baptize; and then he truly usurps the right of the priest, to whom from the power of order the function of baptizing has been committed. Therefore the priest himself would also sin gravely if he yielded the administration to a layman. L. 117; Eugene IV, Decree to the Jacobites. - Outside necessity; in certain places there is a custom, and it is approved, that a catechist and other more prudent laymen should baptize quickly

any infants of Christians whatever, even if these are well, when a priest is absent or there is difficulty in approaching him. Collection of S. C. de P. F. n. 536 ff.

428. In the presence of an excommunicated priest, is a layman not excommunicated to be preferred? - Resp. In the affirmative. The reason is that, if a layman is present, there is now no necessity why an excommunicated priest should baptize. L. 117.

429. Does a layman baptizing before a deacon sin gravely? - It is controverted. The first probable opinion affirms; because a deacon by force of ordination is deputed to baptize, although from the present practice of the Church he cannot solemnly baptize except from grave cause and with the permission of the pastor. - The second opinion, equally probable, denies it, because a deacon baptizing in a case of necessity without commission does not baptize by office, but in the same manner as a lower cleric or a layman. L. ib.

430. Must the ceremonies prescribed by the Church be used under grave obligation? - Resp. In the affirmative, unless necessity excuses. Benedict XIV, Const. *Inter omnigenas*, Feb. 2, 1744; Collection of S. C. de P. F. n. 602. But if something of them is lacking, it is not therefore licit to substitute private baptism for solemn baptism; rather those ceremonies which can be observed are to be observed. Roman Ritual, *de Bapt*., c. 1, § 2; S. C. de P. F., Jan. 21, 1789; Jan. 16, 1797; Holy Office, Feb. 28, 1663. - Collection of S. C. de P. F. n. 611; St. Thomas 3 p., q. 66, a. 17; q. 71; E. M.

431. Must the rite of one's proper Church, Latin or Greek, be observed? - Resp. In the affirmative, and indeed under grave obligation. Benedict XIV, Const. *Etsi Pastoralis* § 2. Cf. Roman Ritual, *de Bapt*., l.c. And this holds even if a Greek lives among Latins, or a Latin among Greeks, namely if in that place there exists a Church of his own rite; otherwise he will be able to use the rite which he prefers. L. 202, 203. "Those born in the United States of America from a Latin father and a Ruthenian mother are to be baptized in the Latin rite. For the offspring must altogether follow the rite of the father.

But if the father is Ruthenian and the mother Latin, it will be free to the same father that the offspring be baptized either in the Ruthenian rite or in the Latin rite, if he consents in favor of the Latin wife. Infants pertain to the jurisdiction of that pastor by whose rite they have been legitimately baptized." Pius X, Const. *Ea semper*, XVIII Kal. Jul. 1907. "Those born in the Canadian region from parents of diverse rite, Latin and Ruthenian, are to be baptized in the rite of the father. For the offspring must altogether follow the rite of the father.

Infants pertain to the jurisdiction of that pastor whose rite is that of their father." S. C. de Prop. Fid., Aug. 18, 1913. "Those born in the region of the United States of North America from parents of diverse rite are to be baptized in the rite of the father: for offspring of each sex must altogether follow the rite of the father. Infants pertain to the jurisdiction of that pastor whose rite is that of their father, except those born from an illegitimate bed, who follow the rite of the mother." S. C. de Prop. Fid., Aug. 17, 1914. Cf. First Supplement to *Enchiridion Morale*, ed. 3, n. 365, p. 13 ff.

432. Is it grave outside the case of necessity to baptize solemnly without consecrated water? - Resp. In the affirmative, because it is the omission of a very grave ceremony. "Generically speaking, omission of blessed water is mortal." L. 102; Benedict XIV, enc. *Inter omnigenas*. And therefore missionaries are ordered to consecrate water, or always to carry consecrated water with them whenever they can do this without grave inconvenience. S. C. de P. F., Sept. 8, 1869. In a case of necessity, "if baptismal water is not had, and danger threatens, let the priest use simple water."

Roman Ritual, Order of Baptism of Children, at the end. But care must be taken that blessed water, or lustral water, be made, because of greater fittingness. S. C. de P. F., Sept. 8, 1869. And a Decision of the Holy Office is had, June 22, 1883: if the priest has the sacred oils, "when baptismal water is not had, blessed water is to be used, when it can be done, according to the formula in the new editions and in the appendix of the Roman Ritual; otherwise natural water is to be used." L. 102; E. M.

433. Is it grave to baptize without the anointing with oil of catechumens, or without the anointing with chrism? - Resp. In the affirmative, because these, like the other ceremonies, by reason of their special and grave signification, constitute grave matter. Benedict XIV, Const. *Omnium sollicitudinum*, Sept. 13, 1744; L. 141; E. M.

The sacred oils: There are three: the oil of the sick, the oil of catechumens, and sacred chrism, which are blessed by the bishop on Thursday in the Supper of the Lord. - The oil of catechumens is used in baptism for anointing catechumens, before the conferral of baptism, on the breast and between the shoulders. It is also used in ordination for consecrating the hands of newly ordained priests, in the consecration of a church and altar, and in the blessing of the baptismal font. It also serves for the consecration of kings.

Chrism is the remote matter of confirmation. It is used, however, in baptism after it has already been conferred; in the consecration of a bishop, chalice, paten, church, altar, baptismal font, and in the internal anointing of a bell. It is also used for the blessing of wax forms, which are commonly called *Agnus Dei*. Cf. First Supplement to *Enchiridion Morale*, ed. 3, p. 71.

The oil of the sick is used in Extreme Unction, and for the external anointing of a bell in its solemn blessing.

434. How is the prohibition of using old chrism, or chrism of another year, to be understood? - It is to be taken rigorously when new chrism is had. Therefore a priest would sin gravely who, setting aside recent chrism, used old chrism. - But in solemn baptism infants are to be anointed with oil and chrism of the preceding year while recently consecrated oils are not had; nor is this ceremony to be omitted and afterward supplied when new oil and new chrism are received; nor for that reason must baptism be deferred to another time, however brief. Likewise the blessing of the baptismal font on Holy Saturday must be done with chrism of the preceding year, in the complete impossibility of having holy oils from one's own Cathedral, or from neighboring dioceses. But if by some accidental case the holy oils are delayed for a brief time, pastors who before the blessing of the font could not receive the holy oils will later be able privately and separately to put them into the water; unless they must baptize someone, for then in the solemn blessing itself they should pour in the old oils. In a church where a baptismal font is present, its blessing must altogether be performed not only on Holy Saturday, but also on the vigil of Pentecost. And if there is need, water can be consecrated even outside Easter and Pentecost. Roman Ritual, *Bened. font. bapt.*;

S. R. C., Apr. 12, 1755, n. 2436; Sept. 23, 1837, n. 2773; Jan. 31, 1896, n. 3879; *A. S. S.* v. 40, p. 347 ff.; E. M.

Baptismal water is to be blessed on Holy Saturday and the Vigil of Pentecost not only in parish churches, but also in filial churches which legitimately have a sacred font. S. R. C. C., Jan. 13, 1899, ad 1, 2, n. 4005.

435. What if consecrated water and blessed oils seem likely to fail, and other blessed ones cannot be had? - Other oil and other non-blessed water can be poured in, in a lesser quantity, and this as often as will be necessary, although finally the greater part is added to what preexisted. Roman Ritual, *de Mater. bapt., de Sacris oleis*; E. M.

436. Is it grave, without urgent necessity, to baptize outside the church? - Resp. In the affirmative. Clement, un. *de Bapt.*; Roman Ritual, *de Temp. et loco admin. bapt.*; L. 142.

437. Can baptism sometimes be conferred outside the Church? - "It must be noted that infants are prohibited from being baptized at home, except those of Kings or Princes, as is had from Clement, un., *de Bapt*. And since here it concerns a grave matter, the transgression will indeed be mortal... Nevertheless, these things notwithstanding, where a custom has been introduced of baptizing the children of magnates at home, it is not easily to be disapproved." L. 118; S. C. C., Jan. 20, 1894. Baptismal water blessed according to custom must then be used. - This also will be licit if the infant cannot be brought into church without danger of infamy of the parents, or danger to the infant himself because of the distance of places, as in mission places. S. R. C., Feb. 4, 1871, n. 8934; L. 142. When baptism is to be repeated, "it can be given in any place whatever, if the solemnities have already been performed in church," L. 136, and by anyone whatever, yet a priest must always be preferred. La Croix 324, 325.

Solemn baptism from Canon Law can never be conferred outside the church, and indeed the parish church, except in a case of necessity, privilege, or special faculty to be obtained from the Ordinary. Wherefore it is not licit to baptize in other churches or chapels or oratories, whether private or public, except by permission of the bishop alone; and this, notwithstanding any custom whatever. Nor without a reasonable cause to be approved by the bishop is it licit solemnly to confer baptism in the sacristy. S. C. R., March 14, 1861, n. 3104. - If a priest in necessity baptizes outside the church, he must omit all the ceremonies which precede baptism, even if the infant seems likely to live that long; but once baptism has been conferred as above, he must anoint the infant on the crown with chrism, if he has it, impose the white garment, and present the lighted candle. But when the infant has recovered, he is to be presented in church, and there, and never outside the church, the omitted ceremonies which precede baptism are to be supplied.

S. R. C., Sept. 23, 1820, n. 2607; Jan. 23, 1914. These things St. Alphonsus 136, 143: "After someone has been baptized privately, the customary ceremonies and rites must be supplied in church... And these ceremonies are to be supplied under mortal obligation." And if it is foreseen that he can never be brought into church, they are to be supplied even at home. Holy Office, Apr. 10, 1861; Collection of S. C. de P. F. n. 629. - Roman Ritual; La Croix 333 ff.; E. M.

437 bis. Can Ordinaries permit baptism to be conferred at home, and what then must be observed? - "Ordinaries can permit that, besides when danger of death is imminent or sickness presses, the sacrament of baptism be administered to little children at home, from a just and reasonable cause." S. C. de Sacram., Dec. 23, 1912, *A. A. S.* v. 4, p. 725. "Baptism conferred at home by permission of the bishop or Ordinary, outside danger of death and urgent necessity, must be administered with all the ceremonies of the Roman Ritual." S. R. C., Jan. 17, 1914, Bellunen., *A. A. S.* v. 6, p. 32. "I. Whether, in the administration of Baptism, when danger of death is imminent, after the pouring of water, the prescription of the Roman Ritual presses under grave obligation as regards the anointing with Chrism, the handing over of the linen cloth and candle? "II. Since in the diocese of Versailles and, as

is reported, in some surrounding places, the use of adding these rites in the stated case has become obsolete, must care not be taken that those rites be strictly fulfilled, and that the priest in the case ought to carry and use holy Chrism, a linen cloth, and a candle? "III. Whether, outside the case of necessity, when the Ordinary, for reasons explained to him, has granted permission of administering Baptism at home, the prescription of the Ritual presses of completing the rite of anointing with Chrism and handing over the linen cloth and candle? "Resp. To I and II. The Roman Ritual is to be adhered to. - To III. Let the Bellunen. Decree of Jan. 17, 1914 be given." S. R. C., Jan. 23, 1914, Versalien.

438. What about names to be imposed on the one to be baptized? - As regards names of some Saint to be imposed on the one to be baptized, which the Roman Ritual provides for, this is either counsel or a light precept. L. 145. And if he who brings the child to be baptized altogether does not wish him to be baptized unless the name of some impious person is imposed, it is not therefore lawful to defer baptism for the infant, but he is to be baptized, with the name of some Saint added in a low voice. Holy Office, June 1883; E. M.

439. Can the interrogations which, from the Rubric of the Roman Ritual, are to be made to the sponsors be made in the vernacular language? - Resp. In the negative, but all things must be done as they stand in the Roman Ritual. For the rest, nothing prevents those things which pertain to the sacrament of baptism itself from being explained in the vernacular language. The interrogations can also first be made in the Latin language, and then repeated in the vernacular language. But the godfathers and godmothers can respond in their own language. Holy Office, Aug. 23, 1886; E. M.

440. If baptism solemnly conferred is found invalid, are the ceremonies also to be repeated? - This is controverted. There is a twofold probable opinion. Whence the ceremonies are not necessarily to be repeated; yet it is to be advised that they be repeated, if it can be done without scandal or infamy. - But the ceremonies are to be used when baptism is conferred conditionally on one who has been doubtfully baptized without ceremonies. Holy Office, Apr. 2, 1879; Collection of S. C. de P. F. n. 634. When heretics have been validly baptized, "only the omitted things are to be supplied, unless for a reasonable cause it seems otherwise to the bishop." Roman Ritual, *de Bapt. adult.*, par. *Haeretici vero*. - "For an adult Catholic validly baptized after birth, but without ceremonies, the ceremonies and prayers are to be observed which are assigned in the Ritual for the baptism of infants." For an adult heretic to be baptized conditionally, "insofar as they are to be supplied or are believed to be supplied, the ceremonies prescribed for the baptism of adults are to be supplied." S. R. C., Aug. 27, 1836, n. 2743; L. 144; E. M.

441. Are sponsors to be used in baptism? - Sponsors, as spiritual fathers, are those who lift the baptized from the sacred font and receive him into their care. In solemn baptism, and also in confirmation, they must be used under grave obligation. At least one must be used under grave obligation in solemn baptism. Trent sess. 24, c. 2 *de R. M.*; Benedict XIV, Const. *Inter omnigenas*, § 19; L. 159, 185. In private baptism they need not be used necessarily, but they can laudably be used. L. 147.

442. Who cannot be sponsors? - They cannot validly be those who are not masters of themselves, such as infants, L. 146; the unbaptized, C. 102, *de Consecr.*, d. 4; and in confirmation, the unconfirmed, C. cited 102 and S. C. C., June 13, 1624, and it is grave. L. 186; Sanchez *de Matr.* l. 7, d. 60, n. 20. But licitly they cannot be those who could not perform the office received, such as the

mute, regulars, nuns, unless a monk or nun is to be confirmed, C. 103, *de Consecr.*, D. 4; L. 156; La Croix 355, 497; likewise those who are unworthy, such as heretics, criminals, infamous persons, etc. Roman Ritual, *de Patr.*, if they can be removed without grave harm, since the laws of the Church do not oblige with grave inconvenience.

S. Penitentiary, Dec. 10, 1860; L. 156 IV. But a heretic is in no way to be admitted, and if he cannot be removed without grave inconvenience, he can be admitted as merely assisting and as a witness, without touching the infant when he is baptized. La Croix 373. Cf. Kenrick v. 2, tr. 15, n. 47; Gury, Cases 231; Collectanea of S. C. de P. F. n. 604, 606; *A. S. S.* v. 26, p. 448. Finally, spouses cannot be sponsors with respect to spouses, nor parents with respect to children, C. 2, *de Cognat. spir.*; L. 156; nor the same person in both sacraments, but this is light. L. 187. - Roman Ritual, *de Bapt.*, *de Confirm.*; S. R. C., Feb. 15, 1887, Beng. Centr.; E. M.

It is not licit, either personally or through others, to perform the office of sponsor in baptisms which are ministered by heretics to the children of heretics. Holy Office, May 10, 1770.

443. Note: "In private baptism given because of necessity, the father ought not receive or hold the infant as sponsor, since in this case there is no necessity for a sponsor, and therefore if he does this rashly either then or even in public baptism, he sins gravely." L. 158. - E. M.

444. Can two spouses licitly receive the offspring of another? - Resp. In the affirmative. The reason is that this has already been introduced by custom. L. 157.

445. Can a father be sponsor in the baptism of his illegitimate child? - Resp. In the affirmative. The reason is that the prohibition made for married persons was lest someone have as wife his spiritual kin. But such a reason has no force in this case. Lugo Resp. Mor. l. 1, d. 5, n. 4.

446. Can a father be sponsor in the baptism of the child of his wife by another husband? - Resp. In the negative. The reason is that the prohibition was made for married persons lest they contract spiritual kinship with their own spouse. But this reason would altogether be verified in such a case. Lugo ib.

447. Can a father licitly be sponsor in the baptism of his child if at that time his wife is already dead? - In the affirmative. For, 1. only married persons are prohibited from holding their own child or the child of the spouse in baptism. But in the present case he is neither married, nor does he hold the child of a spouse, since he now does not have a spouse, for the bond of marriage has been dissolved by the death of the spouse.

2. For the reason of that prohibition was lest someone contract spiritual kinship with his wife. But with one deceased no spiritual kinship can be contracted. Lugo ib. n. 5.

448. How many sponsors are to be designated? - It is not licit under grave obligation to designate in baptism more than one man and one woman; and in confirmation only one and of the same sex. Trent sess. 24, c. 2 *de R. M.* But to designate in baptism two males or two females is probably only venial. Thus La Croix 350 with Sanchez and others. "But Bonacina and others say that it is mortal, and this seems truer to me if the sponsors were of a different sex from the infant, because thus kinships would be multiplied, which Trent wished to prohibit; otherwise if they were of the same

sex." L. 155. But if in baptism a single sponsor is used, that person can be male or female, since in Trent it is said "whether man or woman." L. 155.

449. What are the obligations of sponsors? - Sponsors have the obligation of teaching the baptized person those things which pertain to faith and morals, if the parents do not provide this. Wherefore they are exempted from this obligation if they prudently presume that the baptized person is diligently instructed by the parents. Roman Ritual, *de Patrinis*; L. 147; St. Thomas 3 p., q. 67, a. 8. - Sponsors besides contract spiritual kinship with their little children and their parents, which constitutes a diriment impediment of marriage. Hence the priest, once baptism has been conferred, must warn the sponsors concerning the obligations received and the spiritual kinship contracted. Roman Ritual, *de Bapt. parvulor.*; St. Thomas Quodl. 12, a. 18.

450. What conditions are required so that someone truly be a sponsor? - It is required that someone, otherwise capable, cf. 442, have the true mind of performing the office of sponsor; that he has been designated by the parents, and in their defect, by the pastor or bishop; that in mind and in fact he receive the one to be baptized or confirmed while he is baptized or confirmed. The pastor does not validly change the sponsors duly designated by the parents. For this right, from Trent sess. 24, c. 2 *de R. M.*, does not properly regard the pastor, but the parents. But a pastor changing the sponsor sins gravely, because he usurps the right of the parents. Cf. 452; L. 146; E. M.

451. What act is required in sponsors so that they contract kinship? - It is required that the sponsor have the mind of performing this office of sponsor, and either hold or touch the infant while he is being baptized, or immediately lift or receive him from the sacred font, or from the hands of the baptizer or midwife. S. C. de P. F., Jan. 21, 1856; S. C. C., Feb. 27, 1601; Dec. 20, 1653; Dec. 18, 1688; Ferraris v. *Baptismus*, art. 7, n. 23; Giraldi, *Espos. Iur. Pont.*, p. 2, s. 112, n. 6, 7. But it is commonly asserted that this touch must be physical, and not moral, or mere assistance. L. 148; Pyrrhus Corradus, *Prax. Dispens. Apost.* l. 8, c. 7, n. 8; E. M.

452. Must sponsors be designated in order to contract kinship? - Many and grave theologians affirm. The reason is that Trent sess. 24, c. 2 *de R. M.* expressly requires designation, and therefore, if it is lacking, kinship is not contracted. But many and grave other doctors deny it. "For Trent did not establish designation as a form, by the lack of which the act would be rendered void, and Passerinus reports that it was so declared by S. C. C. in Cremona." De Angelis l. 4, t. 11, n. 3.

Wherefore although Trent prescribes that the pastor should ask the parents whom they have designated, and that he be punished if he has done otherwise, nevertheless it does not say that the reception is null, nor does it invalidate the ancient Law, C. fin. *de Cognat. spir.* in 6, from which all who touch contract kinship. - But since Trent says: "If others besides those designated have touched the baptized person, they in no way contract spiritual kinship, notwithstanding Constitutions to the contrary"; if designated sponsors are present, but another besides them alone touches, then this person alone contracts kinship, "because the Council says that those who touch beyond those designated do not contract, but not those who touch besides... Conversely, it must be said altogether otherwise if one designated person touches and another not designated, because this latter in no way contracts, as is clear from the words of Trent."

L. 154. - If more than two are designated and they touch successively, only the first two contract kinship; but if all touch at the same time, more probably all contract, because Trent, although it

forbids more than two to be used, nevertheless does not invalidate the ancient Law except when more than two touch beyond those designated, but not if more designated persons beyond two touch. L. 154. - And if either two males or two females were used, each contracts kinship, since Trent innovated nothing concerning this matter. - Designation pertains to the parents, or to guardians, and if these are lacking, to the pastor.

The consent of the pastor must accede to the designation of the parents. - Sponsors designated by the parents and unjustly rejected by the pastor contract true spiritual kinship if they in reality hold the infant. L. 154. - In confirmation, nothing seems to have been changed from the old law, by which there was no need of designation of a sponsor. Trent sess. 22, *de R. M.*, c. 2, at the end. But whether those things which the Council established concerning baptism are to be drawn to confirmation, even Sanchez himself doubts, *de Matr.* l. 7, d. 57, n. 9. - Barbosa, *Apost. Decis. Collect.* 177, n. 10; Ferraris v. *Baptismus*, a. 7, n. 13; La Croix 360; Corradus l. 8, c. 8, n. 8.

453. Does a father who is sponsor in the baptism of his illegitimate child contract spiritual kinship with his concubine? - Resp. In the affirmative, because the ecclesiastical laws inducing this spiritual kinship between the sponsor and the parents of the baptized person speak generally of all children, whether legitimate or illegitimate. Lugo Resp. Mor. l. 1, d. 5, n. 2; Schmalzgrueber l. 4, t. 11, n. 45.

454. Is spiritual kinship contracted between the sponsor and the legal parents of an adopted child? - Resp. In the negative, because they are not true parents, that is, carnal generators. Lugo ib.

455. Who contracts kinship if someone receives an infant in the name of another? - It must undoubtedly be held that the one mandating contracts kinship, not the mandatary, unless however the former has revoked the intention in the meantime. La Croix l. 6, p. 1, n. 365; S. C. C., March 15, 1631; June 11, 1881. Hence it does not matter of what sex the mandatary is, S. C. C., March 29, 1582; Ferraris a. 7, n. 19, nor whether he himself has been baptized or confirmed. Benedict XIV, *Quaest. can.* 227; L. 153; E. M.

456. Does one receiving an infant in baptism conferred conditionally contract kinship? - Resp. In the affirmative if the doubt is negative, that is, if there is no solid reason for the prior baptism. In the negative, if the doubt is positive, that is, if there is a probable reason for the prior baptism; for then there will be kinship and a doubtful impediment, and therefore none. L. 151.

457. Does one contract kinship who by error receives one infant for another? - Resp. In the negative. The reason is that there is no will of one erring. But it is controverted among the doctors, and therefore, since it is a doubtful impediment, the impediment will be null. L. 146, 152.

458. Do those contract spiritual kinship who exercise the office of godfather and godmother in supplying the solemnities of baptism? - Resp. In the negative, because baptism is not then had. S. C. C., July 13, 1642; S. C. de P. F., Sept. 11, 1779. - Wherefore, in a case of this kind, sponsors also are to be used, unless, because a grave cause impedes, they cannot be appointed. Holy Office, Dec. 11, 1850; Collection of S. C. de P. F. n. 624.

459. Is spiritual kinship contracted in private baptism? - There is no doubt that the one baptizing contracts it. As to sponsors, it is disputed. The more common and more probable opinion, from St. Alphonsus 149, denies it; for since the Council of Trent speaks of those receiving from the sacred font, it speaks only of solemn baptism.

Indeed in private baptism a sponsor is not used according to ecclesiastical discipline. D'Annibale p. 1, n. 66, ed. 3; p. 3, n. 303; Gury-Ballerini 805, 806. But De Angelis l. 4, t. 11, n. 5; Gennari, *Monit. Ecclesiast.* v. 9, p. 1, p. 92, and others affirm from a declaration of S. C. C. Yet Ferraris a. 7, n. 20 asserts a contrary declaration of S. C. C. - Ballerini-Palmieri, *Op. Theol.*, ed. 3, v. 6, n. 652; Kenrick tr. 15, n. 51; E. M.

IV. On the Subject of Baptism

460. Who is the subject of baptism, and what are its necessary dispositions? - Resp. The subject of baptism is every and only man as wayfarer, not yet baptized. - As regards dispositions, in infants Christ and the Church supply their will. But in adults, for validly receiving baptism there is required at least a habitual explicit or at least implicit intention. In the same adults, for licitly receiving baptism there is required faith and penance. - L. 139; La Croix l. 6, p. 1, n. 60; St. Thomas 3 p., q. 79, a. 3 ad 2; 4 Dist. 6, q. 1, a. 3 ad 5; E. M.

461. You will resolve: Infants are validly baptized, likewise the perpetually insane, who have never used reason and therefore are judged to be of the same condition as infants. But if they have at some time used reason, more probably baptism is not valid unless before insanity they asked for it. In practice, however, these would be baptized conditionally, both because it is not plainly clear that they did not ask for baptism, and also because according to many it suffices if someone had the will of receiving all things necessary for salvation. Cf. 383. - If it is doubtful whether an infant lives, he is to be baptized conditionally.

Hence theologians rightly judge generally that all aborted fetuses are always to be baptized conditionally, if they are alive, provided putrefaction certainly does not appear. - Here it is fitting to add that very many are the cases of infants who are born in a state of apparent death, and that it has happened several times that these infants, even several hours after birth, have been recalled to life. Wherefore these too should be baptized, although no trace of life appears in them, provided again that putrefaction certainly does not appear. - When it is doubted whether a monster is a man, it is to be baptized absolutely if the head is human, although the members are bestial; but conditionally if the head is bestial and the members human. - But if it has doubled members of a man, and it is doubted whether it is one man or two, a double baptism is to be conferred, one absolutely, the other conditionally, in that part in which the members appear more imperfect. Hence, if there are two heads and two breasts, each one is to be baptized separately; if there is one head and two breasts, or two heads and one breast, baptism is to be conferred absolutely on one head and then baptism is to be conferred conditionally either on the other breast or on the other head.

And if there are two breasts, and it does not appear which one pertains to the head, after baptism upon the head, each breast is to be baptized conditionally. - A mole or fleshy mass which comes forth from natural abortion or from surgical extraction, without any disposition of organs or sign of motion and life, is not to be baptized. - Roman Ritual; L. 125; Capellmann, *Medicina Pastoralis*, Aachen, Latin ed. 4, p. 114 ff.

462. Is it licit to baptize an unwilling adult? Must an adult receive baptism at once after he has known its obligation? What about adults among unbelievers concerning whose will there is no certainty? - Resp. To the first: In the negative, and this is grave. C. *Sicut* 9, *de Iud. et Sarrac.* - To the

second: "Someone is not bound to receive baptism immediately after he has the purpose of baptism, so that he would sin mortally unless he is baptized immediately, nor is there any determined time beyond which, if he defers baptism, he incurs mortal sin." St. Thomas Suppl. q. 6, a. 5. Yet since anyone is bound to enter the Church which he has known as soon as he conveniently can, and baptism is the gate of the Church, there follows from that former obligation the obligation of receiving baptism as soon as he conveniently can, although the time of delay to grave sin cannot be determined.

To the third: It is not licit to confer baptism on unbelievers even conditionally, if no positive sign is had of their will to receive baptism, although they are dying. But they will be able to be baptized conditionally if, all the circumstances of things having been examined, it is prudently judged that they wish baptism, or have desired it, or have renounced idolatry. Collection of S. C. de P. F. n. 582, 585, etc.

463. Are infants to be baptized at once? - "It must be noted that they sin gravely who defer baptizing an infant for much time. This is common among all... and in the Ritual it is said: Let the pastor exhort that a sacrament so greatly necessary not be too much deferred for children, with danger to salvation... More commonly and more probably the delay is not grave unless 10 or 11 days are exceeded." L. 118. The Salmanticenses judge that it is not mortal to defer for 15 or even 20 days, even without an urgent cause.

Indeed others with Suarez say that it is not a grave delay if it does not reach a month, although there is no cause; but when a cause stands, if it is not extended to two months. The reason indeed for not notably deferring baptism is "the danger of death, which must always be feared in children." St. Thomas 3 p., q. 68, a. 3 ad 1. - Trent sess. 5, Decree on Original Sin; sess. 7, c. 12; Roman Ritual tit. 2, cap. 1, n. 27; cap. 3, n. 4-6; Roman Catechism 34; St. Thomas 3 p., q. 88, a. 3, 9; E. M.

464. Are children rightly baptized against the will of their parents? - It is certain 1. that such baptism is valid; 2. that this baptism is also licit if it concerns the children of Catholics, since they are subject to the laws of the Church. D. Gousset does not easily concede this if impious parents have altogether refused. Yet Gousset himself observes that the contrary is common. For this can be done cautiously without any danger; and since the child still lives among Catholics, perversion is not so greatly to be feared. But it is not expedient to resolve this question practically without the counsel of the bishop.

If it concerns the children of unbelievers, Scotus affirms that they are licitly baptized against the will of the parents; but the more common opinion, and the one to be held in practice, which the Thomists defend, teaches that, generally speaking, the children of unbelievers are baptized illicitly if their parents are or are judged likely to be opposed, although otherwise they are civilly subject to Christian Princes. For those baptized are either taken away from their parents, and injury is done to them; for it is of natural law that the child, before he has the use of reason, is under the care of the father; or they are left with those same parents, and injury is done to the sacrament, since it is exposed to irreverence. Whence it is also not licit to baptize them, although they are spontaneously offered by each parent, whenever those same infants must be left under the power and education of those same unbelieving parents. This is confirmed from the practice of the Church and from Benedict XIV both in Instr. *Postremo mense*, Feb. 28, 1747, and in Epist. *Probe te*. Indeed, as regards the children of Hebrews, there is the Constitution of Julius III, who imposed upon delinquents suspension and a penalty of one thousand ducats.

Generally speaking. For they will also be licitly baptized: 1. If the parents are our slaves; for then they are rather of our law than of theirs. 2. If either parent asks, because his or her just will is to be preferred to the unjust will of the other in favor of faith and of the offspring; or if, the father being dead, the paternal grandfather consents, even with the mother resisting, since paternal power is with him, or at least the paternal grandmother, although wholly lacking paternal power, namely in favor of faith. But there is need that a reasonable hope be present that the infant will afterward be educated in a Christian manner. Benedict XIV, Instr. *Postremo* § 16, 28; Epist. *Probe te* § 17, 18. 3. If the infant is in danger of death, provided this is done without scandal, and therefore no greater hatred of unbelievers against the Christian religion and savagery against Christians is stirred up; for then provision is made for the good of the offspring, without injury being done to anyone, since by death he is to be withdrawn from all power of men. Provided this is done without scandal, wherefore no force is to be used, and nothing is to be done which brings grave offense of the people. For no one is bound to disturb public order, nor can he excite scandal in order to aid an infant. 4. If, already master of his own reason, he seeks baptism of himself; because in the matter of Religion he is already of his own law, provided it cannot prudently be doubted lest afterward he fall away from the Catholic Religion. Benedict XIV, Const. *Postremo* § 22. But in doubt concerning the use of reason, the age of seven years suffices. But generally favor is to be shown rather to the child than to the father. For the father is dealing with avoiding a light detriment, namely of paternal power for a moderate time; but the child is dealing with avoiding a most grave detriment, namely eternal damnation. Lugo Resp. Mor. l. 1, d. 4, 6, 5. 5. If the child has been placed outside the care of the parents, as if he had been exposed; for then they would be judged to have renounced their right. Likewise if the parents have been captured in war; for by the right of war captives belong to the victor. 6. If the father offers the child and afterward changes his mind; or if the parents abandon the child, although afterward they reclaim him; for the Church would already have acquired a right. - Benedict XIV, Const. *Inter omnigenas*, Feb. 2, 1744; Instr. *Postremo*; Collection of S. C. de P. F. 540 ff.

Yet if the offspring has already been illicitly baptized against the will of the parents, then Benedict XIV in the cited Instr. *Postremo* prohibits returning him to the parents, because of the certain danger of perversion of the offspring and profanation of the sacrament.

The Church has the right of baptizing infants, the children of heretics, even against the will of their parents, from whom also she can "tear them away, so that they may be educated as Catholics." L. 127. Yet the Church is not accustomed to use this right because of graver inconveniences. But where the Church cannot carry out a right of this kind, "the same seems to have to be said in that case concerning a heretic and any other unbeliever, if the same moral danger is present," lest they afterward be educated as Catholics. S. C. de P. F., Apr. 17, 1727; Holy Office, Jan. 23, 1763. - La Croix 297 ff.; L. 128-132; Lugo Resp. Mor. l. 1, d. 4; St. Thomas 2.2, q. 10, a. 12; 3 p., q. 68, a. 10; Quodl. 2, a. 7; *A. S. S.* v. 25, p. 247 ff.; E. M.

465. Can or must baptism ever be repeated? - It can and must be repeated conditionally whenever there is some not-to-be-despised doubt concerning its validity; otherwise it cannot be repeated without grave sin, because an attempt to minister a sacrament to an incapable subject is sacrilege. L. 134; *A. S.* v. 25, p. 258; Roman Ritual, *de Bapt. adult.*; E. M.

466. Are exposed infants to be baptized? - Resp. In the affirmative, if these have been exposed without testimony of baptism conferred, unless from elsewhere it is clear that they were duly

baptized. But if they have been exposed with a note attesting that they were baptized, it is controverted. The more common and truer opinion teaches that all these are to be baptized conditionally, "whenever moral certitude is not had concerning baptism conferred, and duly conferred," after diligent inquiry has been made. L. 135; E. M.

467. Are infants baptized either by midwives or by laymen to be rebaptized? - Resp. In the negative, unless there is a probable suspicion of error in the baptism conferred. Thus the most common and true opinion, says St. Liguori 136, where he recalls a decision of the Sacred Congregation. E. M.

468. Must those baptized by heretics be rebaptized? - Resp. It is certain by faith from Trent that baptism conferred by heretics is valid when all the things required for the sacrament are used. But in the conversion of heretics, from whatever sect they have come, inquiry must be made concerning the validity of baptism received in heresy. And thus they are to be baptized absolutely, conditionally, or in no way, according as, inquiry having been made, it is certainly clear that baptism was not duly conferred, or the matter is probably doubtful, or nothing has been detected either for validity or for invalidity, or it is certainly clear that baptism was valid. Holy Office, Nov. 20, 1878. - Lugo Resp. Mor. l. 1, d. 2; E. M.

469. What about the Caesarean operation in order to baptize an infant not yet born? - The operation or Caesarean section consists in this, that the uterus of the pregnant mother is opened so that the fetus may be extracted. A twofold principal question occurs, namely whether or when it can be done, or must be done.

470. Whether or when can it be done? - When the mother is dead, it is certain that the Caesarean operation can be done, and indeed as soon as her death is established. For if anything opposed it, it would be the danger to the mother; but, from the hypothesis, her death is certainly established; and from another side the spiritual life, indeed perhaps also the temporal life, of the infant can be saved. Yet the Prefect or superior of the place is to be warned, and witnesses approved by him are to be used both for recognizing the death and for greater certainty of the matter, and especially lest the author of the operation be denounced as guilty of homicide. - When the mother is living, the Caesarean operation can never licitly be done whenever there is danger, either proximate or probable, of the mother's death to follow from it, although, if it is not done, the mother and offspring are certainly going to perish. The reason is that this would be the same as directly killing the mother, which is never licit. St. Thomas 3 p., q. 68, a. 11 ad 3 says: "A man must not kill the mother in order to baptize the child." L. 106. Hence the operation cannot be done when a very skilled surgeon is lacking, nor when the mother is so weakened by disease that the operation, otherwise not dangerous, would from the circumstances bring on proximate danger of death.

When the mother is living, the Caesarean operation can licitly be done with these conditions posited: 1. If she cannot give birth naturally, or is going to die before she gives birth, with the greatest danger of the death of the infant before he can be baptized. 2. If from the judgment of a skilled surgeon proximate danger of the mother's death is absent. But such danger can be absent if the mother is robust. 3. If a very skilled surgeon is present. Elbel 60. The reason is clear; for there is no danger, or at least it is very remote, and therefore, if perhaps death follows, it will seem to follow only accidentally.

471. Whether or when must it be done? - When the mother is dead, it certainly must be done under grave obligation, even against the will or resistance of parents or relatives, if it can be done; because from the law of charity the eternal salvation of the infant must be procured by every care and labor. Thus St. Thomas ibid., where he adds: "Yet if the mother has died, the offspring living in the womb, she must be opened, so that the child may be baptized." Thus also the Roman Ritual establishes. This especially holds if the time of birth is imminent, because since the fetus is more robust, greater hope of baptizing him shines forth. Moreover, careful attention must be used so that the region of the uterus of the deceased woman be kept warm until the operation has been done; for otherwise the infant would more easily depart from life before he could be baptized. Wherefore an obligation of this kind ceases if it is morally certain that the fetus died before the mother, or with the mother, or cannot be estimated as living. Nor indeed should there be delay in completing this operation, since the fetus, the mother being dead, ordinarily certainly dies not much later. - Speaking in itself and speculatively, the operation is to be done even while the mother is living, if from the judgment of experts the infant is to be brought forth alive, and the infant cannot otherwise be baptized, and it can be done without proximate danger of death. The reason is that from the general law of charity anyone is bound to suffer temporal inconvenience to preserve the spiritual and eternal life of his neighbor. Speaking in itself and speculatively; for in practice the confessor must beware lest he urge the mother under grave obligation, because of the excessive danger that, by denying consent, she may die in the state of mortal sin; and thus while he wishes to save the spiritual life of the infant, the mother herself would be damned. Therefore it will be enough to exhort her to consent to the incision. For the rest, since it is clear that the fetus can survive the deceased mother, then there certainly shines forth hope of baptizing him after she has died, and therefore a lesser obligation of incision presses. - But the mother is not bound to undergo the operation if, the operation being omitted, she alone is judged likely to perish; because no one is bound to preserve life by extraordinary and so arduous means. But if that hope of saving the offspring were altogether slight, the mother could, but would not be bound to, undergo the operation, because charity does not so urge in so great uncertainty of the event. And then baptism could at least probably be conferred on the infant remaining in the womb. Cf. n. 402. - L. ib.; E. M.

472. Note: Certainly anyone, once the mother has died, if the fetus still lives and this is clear, must procure that it be baptized. Wherefore, since with moral certainty it cannot be baptized in the womb itself, the uterus of the mother is to be opened by experts or even by others. But priests, regularly speaking, are not bound by this obligation, because of lack of skill, because of very grave inconveniences on the part of the civil authority, and because of scandal which would be had among the people. Hence from the Decree of the Holy Office, Feb. 15, 1780, a prohibition in this matter was made to missionaries in China: "This extraction of the fetus from the womb of the pregnant and deceased mother, although it is to be disclosed and urged, nevertheless His Holiness expressly cautions and prohibits that missionaries in particular cases involve themselves in ordering the section, much less in performing it." E. M.

The blessing after childbirth according to the Roman Ritual is not to be denied to a woman whose offspring died without baptism. S. R. C., May 19, 1896, n. 3904.

On Confirmation

I. On the Nature, Matter, and Form of Confirmation

473. What is confirmation? - It is a sacrament of the New Law, instituted by Christ the Lord, by which, through the imposition of hands and the anointing of chrism in the word, the strength of grace is given for professing the faith received in baptism. Trent sess. 7, c. 1, 2; Florence, Decree for the Armenians; Decree *Lamentabili*, July 3, 1907, prop. 44; Roman Catechism 5; St. Thomas 3 p., q. 72, a. 1; Suppl. q. 29, a. 3; E. M.

474. What are the effects of confirmation? - It is strength for constantly professing the faith where there is need, and for defending it when the opportunity is given. And therefore it brings to the soul grace and helps by which it may provide this. Moreover, since through the sacrament of confirmation men receive power and strength for spiritual combat against the enemies of the faith, it is necessary that by its reception a character be imprinted. Florence, l.c.; Roman Catechism 2, 5, 20, 23; St. Thomas 3 p., q. 72, a. 1, 5, 7.

475. What is the matter of confirmation? - It is twofold: the imposition of hands and the anointing of chrism. The imposition of hands is not that which is done at the beginning of the sacred function over all those to be confirmed, but that which is had when the minister anoints each one to be confirmed with blessed chrism. But chrism is confected from olive oil and balsam of any region. Florence, Decree for the Armenians; St. Pius V, Brief, Aug. 2, 1571; Benedict XIV, Const. *Ex quo primum*, March 1, 1756; S. C. de P. F., Aug. 6, 1840; Roman Catechism 7; Roman Pontifical, *de Confirm.*; St. Thomas 3 p., q. 72, a. 2; Lugo Resp. Mor. l. 1, d. 8; E. M.

The print's appendix has more on this paragraph: The Matter of Confirmation. (ed.)

476. Note: Concerning the adequate matter of this sacrament, St. Alphonsus has these things: "The common or almost common opinion, which we defend and judge most certain with Bellarmine, holds that the adequate and total matter of confirmation is the anointing with chrism, which is applied to those to be confirmed through the imposition of the bishop's hand... Therefore we confess that for the matter of confirmation both anointing and imposition are required, but only that imposition which is indistinct from the anointing... But according to our opinion, that the total adequate matter of confirmation is the anointing of chrism performed by the hand of the bishop, it must be noted that it is of the essence of the sacrament: 1. That the anointing be done on the forehead, as is had from C. un. *de Sacra unctione*, and from the Decree of Eugene IV according to the common opinion... 2. That the anointing be done in the form of a cross, according to St. Thomas 3 p., q. 72, a. 4 ad 3, whom the doctors also commonly follow... 3. That the anointing be done by the hand of the ministering bishop himself." L. 164; St.

Thomas 3 p., q. 72, a. 9; Roman Catechism 24; Roman Pontifical, *de Confirm.*; E. M. "Through chrismation of the forehead there is designated the imposition of the hand, which by another name is called Confirmation; because through it the Holy Spirit is given for increase and strength." C. un. *de Sacr. unct.* - Each thing, imposition of the hand and anointing, is had from Sacred Scripture: Acts 8:17;

19:6; 2 Cor. 1:21, 22; Eph. 1:13; 4:30; 1 John 2:27. For these places are understood by several Fathers of the Sacrament of Confirmation.

The print's appendix has more on this paragraph: The Matter of Confirmation. (ed.)

477. You will resolve: Confirmation would be invalid if the anointing is done by means of an instrument. Holy Office, Jan. 14, 1885. - Likewise it is invalid if, instead of on the forehead, it is done on the mouth. - But although it ought to be done with the right thumb of the bishop, nevertheless the anointing would be valid if it were done with another finger of the bishop, and even if it were the finger of the left hand. Yet the bishop would sin if he did this without necessity; for he would act against the universal practice of the Church, although it does not appear that inversion of the said ceremony reaches grave fault. S. R. C., May 7, 1853; L. 165.

The print's appendix has more on this paragraph: The Matter of Confirmation. (ed.)

478. Are olive oil and balsam of the necessity of the sacrament? - "It is certain that oil is of the necessity of the sacrament... And it must be olive oil... But whether balsam also is of the necessity of the sacrament, the first opinion denies...; the second opinion, more common and more probable, affirms... But it is certain that neither opinion is of faith, nor certain; hence the sacrament is altogether to be conferred with oil and balsam, and otherwise it would be at least doubtful... And therefore confirmation given with oil alone would have to be repeated at least conditionally. Conversely, because the first opinion is sufficiently probable, at the point of death confirmation can well be conferred conditionally from oil alone, if chrism confected also from balsam cannot be had; for the great utility of this sacrament would be a just cause for ministering it conditionally." L. 162. A privilege was granted to the Indians by Paul IV and by Pius V of using another liquid, which is not balsam, although by them it is called balsam. But it is certain that balsam is required by necessity of precept. L. H. A. tr. 14, n. 39. - Florence, Decree for the Armenians; Roman Catechism 7-9; St. Thomas 3 p., q. 72, a. 2.

479. Must chrism necessarily be blessed? - It must be affirmed absolutely, if the discussion is about necessity of precept. It must altogether be affirmed also, if the discussion is about necessity of sacrament. For this is urged by the constant practice of the Church and the Decree of Eugene IV, in which it is read that the matter of confirmation is chrism blessed by the bishop. St. Alphonsus H. A. tr. 14, n. 39 says: "The remote matter of confirmation is chrism confected from balsam and oil through the blessing of the bishop, to distinguish it from the oil of baptism and of the sick, as Innocent XI distinguished in C. *Cum venisset, de Sacr. unct.* But whether one of these oils is valid matter for another sacrament, Suarez, Laymann, and Henriquez deny, but Bellarmine, Castro Palao, Bonacina, and Barbosa more probably affirm." L. 163; St. Thomas 3 p., q. 72, a. 3; E. M.

480. Must chrism necessarily be of that year? - This is not required by necessity of sacrament, because whether it is old or new, the matter is not changed; but it is required from the precept of the Church. Hence a bishop would sin gravely who confirmed with old chrism. For to this end new chrism is consecrated on the Supper of the Lord, the old having been burned. - L. 163.

481. What is the form of confirmation? - Just as the total adequate matter of confirmation is the anointing of chrism applied through the hand of the bishop, so the total form is the words which the bishop pronounces while anointing: I sign you with the sign of the cross, and I confirm you with the

chrism of salvation, in the name of the Father, and of the Son, and of the Holy Spirit. Florence, Decree for the Armenians; Roman Pontifical, *de Confirm.*; St. Thomas 3 p., q. 72, a. 4; L. 167 IV.

When the bishop says: N., I sign you, etc., another name of a Saint can be imposed on the one to be confirmed, besides the baptismal name. S. C. R., Sept. 20, 1749, n. 2404; E. M. 404.

482. What words of this form are essential? - For validity the following are altogether essential: 1. The words *signo* and *confirmo*, unless they are supplied by another synonymous word. 2. The expression of the Most Holy Trinity, as in baptism. 3. The word *te*, by which the subject of the sacrament is designated. 4. The words *signo crucis*, and also the words *chrismate salutis*.

But to say *corroboro* for *confirmo*, or *sanctificationis* for *salutis*, would be only an accidental change. The words *signo te signo crucis* signify the sacramental action, and by them there is indicated the sign or standard which is given to the soldier of Christ for spiritual combat. *Confirmo te chrismate salutis* signify the spiritual strength which is conferred upon a man through the sacrament of visible matter for salvation, namely through the sacred anointing of chrism. *In nomine* etc. signify the cause conferring the fullness of spiritual strength. Florence, Decree for the Armenians; Roman Catechism 11, 12; St. Thomas 3 p., q. 72, a. 4; L. 168.

483. Is the form used among the Greeks valid: The seal of the gift of the Holy Spirit? - Resp. In the affirmative with the common opinion of theologians. For the sense is: by this sign, which I confer upon you, the gifts of the Holy Spirit are given, with the verb omitted, according to the custom of the Greeks. But the invocation of the Most Holy Trinity, while in the Latin Church it is had after the anointing, is had in the Greek Church in the preceding prayer. Otherwise one would have to say that the Greeks do not have the sacrament of confirmation, which is very hard. Moreover, this is clear from the Declaration of Benedict XIV in the encyclical letter *Ex quo primum* to the Bishops of the Greek rite, March 1, 1756. - L. 164, 169.

II. On the Minister and Subject of Confirmation

484. Who is the minister of confirmation? - Only the bishop is the ordinary minister of this sacrament. Thus Innocent III declared, and Trent sess. 7, c. 3. - A simple priest can confirm as extraordinary minister from special delegation of the Supreme Pontiff, or from his commission conferring fullness of power. This is clear from the practice of the Church. Greek or Oriental presbyters, from most ancient custom, confirm in baptism itself; and they validly confirm also outside baptism. Yet those places are excepted from which the Holy See has taken away this faculty, which consequently is not in Italy and the adjacent Islands, in Bulgaria, in Cyprus, and among the Maronites of Lebanon. Cf. Benedict XIV, Const. *Etsi pastoralis*, May 27, 1742. Likewise confirmations of this kind are held valid, although done by schismatics, for from those as if tolerated jurisdiction was not taken away. Benedict XIV, Const. *Eo quamvis tempore*, May 4, 1745; Const. *Anno vertente*, June 18, 1759; *A. S. S.* v. 25, p. 439. But the priest must use chrism blessed by the bishop. This is clear from the Decree of Eugene IV, where it is said that the matter of confirmation is chrism blessed by the bishop. - Roman Pontifical, *de Confirm.*; St. Thomas Suppl. q. 38, a. 1; Quodl. 11, a. 7; 3 p., q. 72, a. 11; Benedict XIV, *de Syn.* l. 7, c. 7, 8, 9; Lugo Resp. Mor. l. 1, d. 6, 7; L. 170; E. M.

From the Constitution of Pius X *Ea semper*, XVIII Kal. Jul. 1907, concerning the Ruthenian Rite in the United States of North America, art. 14: "It is altogether forbidden to Ruthenian priests dwelling in

America to sign the baptized with sacred chrism; and if they shall do otherwise, let them know that they have acted invalidly." But in the Decree of the Sacred Congregation for the Propagation of the Faith, Aug. 18, 1913, concerning the Ruthenian Rite in the Canadian Region, the aforesaid article is omitted. And it is also omitted in another Decree of the Sacred Congregation for the Propagation of the Faith, Aug. 17, 1914 [text/OCR reads: 1904], concerning the Greco-Ruthenian Rite in the United States of North America.

485. Can the Pope delegate even to a simple priest the power of confecting chrism? - It is controverted. Not a few affirm; but several others deny. The same controversy exists for the oil of extreme unction. But it is clear that the oil of extreme unction is validly blessed by Greek presbyters. Cf. Benedict XIV, *de Syn.* l. 8, c. 1, n. 4. The blessing of a priest in each sacrament, without delegation of the Pope, is invalid. - L. 163, 709; E. M.

486. Can a bishop confirm faithful persons who are not his subjects? - As regards validity, he can confirm all, as follows from the power of order. - As regards liceity, he cannot confirm except those who are found in his diocese; and he would sin gravely by confirming even his own subjects in another diocese while exercising pontificals there, because then confirmation is judged an exercise of jurisdiction of the external forum, which cannot be performed without permission of the Ordinary of the place. But he can confirm strangers in his own diocese, which has been introduced by custom and by the tacit consent of bishops. - Holy Office, Apr. 19, 1899; L. 173.

An Abbot nullius, having the privilege of confirming the faithful, cannot confirm subjects of another in another diocese, even with the consent of the bishops.

487. When is a bishop bound to confirm? - He is bound to confirm those asking, whenever he conveniently can, if he cannot defer it to another near time. - He is also bound sometimes to provide opportunity to his subjects of receiving this sacrament. Hence he would sin gravely if he abstained for a long time from conferring confirmation, e.g., for eight or ten years, and did not go around the diocese, at least through the principal places, unless he were excused by moral impossibility. - "But if a just cause is present, he does not sin who defers for three or more years." L. 175. - La Croix 388.

488. Does a bishop sin gravely by omitting to confirm a dying person asking for the sacrament? - Since this sacrament is not necessary for salvation, not to go to the dying in order to confirm them, because it is not without inconvenience, is light; and where this custom prevails, not even light. - L. 175; La Croix 390; Benedict XIV, *de Syn.* l. 7, c. 10, n. 8; l. 13, c. 19, n. 5.

489. Who is the subject of confirmation? - It is every and only baptized man not yet confirmed, although lacking the use of reason. For confirmation perfects the spiritual life which is received in baptism, and it was instituted for all, as baptism was. - Yet from the practice generally prevailing in the Church, children who have not yet attained the use of reason are not to be confirmed, unless the legitimate custom of places brings this about, as for example prevails among the Greeks and in Spain. Benedict XIV, Const. *Eo quamvis* § 6. - "It is certain among all that infants are licitly confirmed if just causes accede, namely danger of death, absence of the bishop, etc." L. 178.

"If the twelfth year does not seem to have to be awaited, certainly it is most fitting to defer this sacrament until the seventh." Roman Catechism 18. Nor must it be awaited that children be confirmed only after first Communion. Leo XIII, Brief, June 22, 1897. - "Even to those about to die this sacrament is to be given... Even confirmed children who die obtain greater glory, just as here also

they obtain greater grace." St. Thomas 3 p., q. 72, a. 8 ad 4. - Speaking about the insane, Benedict XIV says that confirmation must altogether be ministered to them. L. 178. Even the perpetually insane are licitly confirmed. L. 180. - Roman Pontifical, *de Confirm.*; Benedict XIV, *de Syn.* l. 7, c. 10, n. 5, 8; St. Thomas 3 p., q. 72, a. 8; E. M.

490. What is the necessity and obligation of receiving confirmation, and of what kind is it? - "It is not necessary for salvation by necessity of means, nor of itself by necessity of precept. This is common with St. Thomas and others against Scotus and Sylvester. The reason is both because the Church does not urge its reception by any penalties, and because neither from Scripture, nor Tradition, nor the end or institution of the sacrament is such a precept gathered.

And the canons which are brought forward to the contrary are sufficiently explained of necessity for better being." Busembaum 181. - "The precept which is had in Trent sess. 23, c. 4 *de R.* does not bind all, since it is hypothetical; but only those to be ordained, or to be initiated with first tonsure. Henriquez, Valentia, Suarez, and Navarrus teach against Tanner that its omission is not mortal; and Navarrus adds that not even a bishop sins mortally by ordaining one not confirmed, or if he himself, not confirmed, ordains." Busembaum 183.

According to St. Liguori there is an obligation under grave obligation from divine precept, at least in the course of life and when a suitable occasion is given; and he proves this from the Declaration of Benedict XIV, Const. *Etsi pastoralis*, concerning the rites and dogmas of the Greeks, where he says, § 3, n. 4: "They are to be warned by the Ordinaries of places that they are held by the guilt of grave sin if, when they can approach confirmation, they refuse and neglect it." These words of Benedict XIV do not seem to conclude for all; because the Pontiff speaks only of those invalidly confirmed by Greek presbyters, who therefore refused to approach confirmation again because they held the first as valid. Whence there was here a particular reason of obliging them to receive the sacrament of confirmation, namely so that they would thus retract the error. And this is confirmed from Benedict XIV himself, *de Syn.* l. 7, c. 10, n. 9, which work was published after that Constitution, c. 9, n. 4. Wherefore the law is doubtful. Yet the opinion of St. Alphonsus is handed down in the Instruction issued by authority of S. C. de P. F., May 4, 1774, and inserted into the Roman Ritual. But the common opinion of St. Thomas is handed down, on the contrary, in the Instruction of the Holy Office, June 20, 1866, for the Apostolic Vicar to the Gallas. - St. Thomas 3 p., q. 72, a. 8; Suppl. q. 29, a. 3 ad 3; E. M.

491. What is to be done in doubt whether someone has been confirmed? - He can be confirmed again conditionally, cf. 345, 346. But he is not bound to this if he truly probably believes that he has already received the sacrament. - L. H. A. 48.

492. What dispositions are required in those to be confirmed? - 1. The baptismal character for the validity of the sacrament, and in an adult the intention of receiving the sacrament of confirmation for the strength of his soul. Cf. 381; Holy Office, Apr. 10, 1861; Collection of S. C. de P. F. n. 1213. 2. The state of grace, because confirmation is a sacrament of the living. Wherefore he who is conscious of mortal sin must have recourse to the sacrament of penance, unless he is perfectly contrite. The general custom is that no one be confirmed unless he presents a certificate signed with the autograph of the pastor. 3. That the one to be confirmed be imbued with the rudiments of Christian doctrine, especially those which are of necessity of means, and which regard the sacraments of penance and confirmation. - Roman Pontifical, *de Confirm.*; E. M.

493. Must the one to be confirmed be fasting? - Resp. In the negative, considering present-day custom. For the canonical laws which prescribed fasting for receiving confirmation have fallen into desuetude. For this reason also the use has prevailed of conferring that sacrament in the evening time. - Roman Pontifical, *de Confirm.*; L. 184; St. Thomas 3 p., q. 72, a. 6, 7.

494. What about the various prescriptions concerning the administration of confirmation? - The rite to be observed by a bishop is had in the Roman Pontifical; but the manner to be observed by a simple priest administering this sacrament is had in the Instruction of S. C. de P. F., May 4, 1774. - "Confirmation can be conferred on any day whatever," L. 184, "and at any time whatever," L. 174. "But probably it can be ministered without grave sin in some decent place, even outside the Church," L. 174, 184, even in churches of regulars. Benedict XIV, Const. *Confirmandis* § 6. "The bishop must be clothed with amice over the rochet, or with surplice if he is a Religious, and with stole, white cope, miter, and staff... They more truly say that to omit all the aforesaid instruments is mortal..., otherwise if only some one is omitted... It must be noted as regards the staff, that it suffices that the staff remain publicly exposed, or be held by a cleric... Likewise the Sacred Congregation declared that it suffices that the bishop confirm without miter, with only the stole used... It must be noted that the omission of the slap, scandal being excluded, is never mortal..., they deny that omission of the candle can ever be mortal." L. 134; Roman Pontifical.

Moreover, outside the case of necessity, under grave obligation a sponsor is required, and of the same sex, Roman Pontifical, *de Confirm.*; Instruction of S. C. de Pr. F., May 4, 1774; and only one, designated by the parents or by the bishop in their defect, who, as regards validity, must have been confirmed; besides, he must be different from the baptismal sponsor, at least outside necessity. The sponsor contracts spiritual kinship with the confirmed person and his parents, provided however that he touches him. He also contracts the obligation of instructing the confirmed person as regards those things which pertain to faith and morals, if the confirmed person has not been instructed and another is lacking. Trent sess. 24, c. 2 *de R. M.* - But a religious cannot be sponsor unless the one to be confirmed is likewise a religious. Cf. 441 ff. - As regards the manner of receiving in confirmation, it is prescribed in the Roman Pontifical that the one to be confirmed place his foot upon the right foot of the sponsor; but today received custom has that it suffices that the sponsor place the right hand upon the right shoulder of the one to be confirmed. S. R. C., Sept. 20, 1749, ad 6, n. 2404; L. 187.

The forehead of the confirmed person is to be bound with a linen band, marked with a cross, and thus to remain until the chrism dries or is wiped away. But today by desuetude this ceremony is no longer in use in our parts, since immediately after the anointing the forehead of the confirmed person is wiped. L. 188. - "The common blessing, which is given by the bishop to those confirmed at the end, is not necessary for the sacrament, but is a simple ceremony, as the doctors commonly say. Hence Tamburini probably says that the admonition which is made, that those confirmed not depart before the aforesaid blessing, does not seem to oblige." L. ib. - Roman Pontifical, *de Confirm.*; L. 185-188; H. A. 50-52; St. Thomas 3 p., q. 72, a. 10, 12; E. M.

The names of those confirmed and of the sponsors are to be recorded in the parish books.

On the Eucharist

I. On the Nature and Effects of the Eucharist

495. What is the Eucharist? - It is the mystery of our Faith, by which, under the species of bread and wine consecrated through the words of the priest, Christ himself is offered, contained, and received. Florence, Decree for the Armenians; Trent sess. 13, c. 1, 3, 7; can. 1-4; sess. 22, c. 1, 6. It has the nature of sacrifice and of sacrament: of sacrifice while it is confected; of sacrament while it is confected, remains, and is received. Trent sess. 13, c. 4; sess. 22, c. 1; Decree of the Holy Office *Lamentabili*, July 3, 1907, prop. 45; St. Thomas 3 p., q. 73, a. 1, 4, 5; q. 75, 76, 77; q. 79, a. 5; L. 189, 190; E. M.

496. How long does Christ remain really present in the Eucharist? - He remains as long as the species remain whole; but he ceases to be under them as soon as the species are corrupted in such a way that, according to the estimation of men, they no longer seem to be bread and wine. But then, from the law established by God in the institution of this sacrament, there is substituted for the species the same matter which would succeed to corrupted bread and wine. - Wherefore the whole Christ remains present under the individual parts of the species when separation has been made. Trent sess. 13, c. 3. - "The species are not to be retained in the mouth so long until they wholly perish, because then Christ would not be eaten, nor would the grace of the sacrament be conferred, just as neither if you were to die while the host is still in the mouth." L. 226. For grace is given as soon as the eating is verified, which is the vital passage of food from the mouth into the stomach, according to the words of Christ: He who eats my flesh, and drinks, etc. But it is probable that grace is increased *ex opere operato* during the whole time in which the presence of Christ under the species perseveres, if the man then disposes himself more and more. St. Thomas 3 p., q. 77, a. 4, 5, 8; L. 225; La Croix 474; Lugo dist. 12, n. 40 ff.; E. M.

497. How long are the sacred species judged to remain whole after the reception of the sacrament? - Some say after a minute, others after five minutes, others after half a quarter of an hour, others still longer, after a quarter of an hour, after half an hour. Concerning this matter it does not seem that any general rule can be handed down. For a shorter or longer delay must chiefly be taken from the different digestive power of different men, and from other circumstances both internal and external. But it remains longer in a priest, who in Mass communicates under each species and with the larger host, than in a layman, who according to custom receives only a small host. L. 225.

498. Whether the Eucharist is one sacrament, or a double sacrament? - It is one sacrament in species, although there are several signs. For although there is a physical plurality of sign, nevertheless there is a moral unity; for the sacrament of the Eucharist, although composed of the physically distinct species of bread and wine, is nevertheless ordered to one spiritual refreshment in species as to the end and signified effect, just as material food and drink are ordered to one bodily refreshment. Thus in extreme unction there are several anointings, and nevertheless one sacrament is had, because those several anointings are ordered to one end and effect, namely to removing the remnants of sins. St. Thomas 3 p., q. 73, a. 2; L. 191, 199. - But since under only one species

someone receives the whole thing of the sacrament, or the whole Christ, just as he who receives the Eucharist under each species, it follows that the effect of the sacrament is of itself the same under one species as under each species, if the dispositions of those receiving are the same. Council of Trent sess. 21, c. 3; Suarez d. 63, s. 6, n. 9; Lugo d. 12, s. 3, n. 68.

499. What are the effects of the sacrament of the Eucharist in the soul? - The principal ones are the following, namely: 1. Spiritual nourishment or increase of sanctifying grace, which constitutes the proper and principal effect of the Eucharist of itself. For according to the words of Christ, John 6:56: My flesh is truly food, this sacrament was instituted as spiritual nourishment; and nourishment supposes life in him who receives it. Hence it comes about that through this nourishment the very life of the soul, which chiefly consists in sanctifying grace, is strengthened and increased. Trent sess. 14, c. 5; Lugo d. 1, n. 7. - 2. The attainment of eternal glory; for Christ promises this: If anyone shall eat of this bread, he shall live forever, John 6:51. Wherefore eternal glory will be conferred by this new title, that the glorious flesh of Christ has sanctified our body, if someone has persevered in the state of grace to the end. And by the helps which this sacrament confers, it wonderfully aids him to attain eternal life, which he will in reality attain who frequently, as is fitting, and devoutly eats this bread.

3. A most abundant bestowal of actual graces, which flow from habitual grace and infused habits. For "every effect which material food and drink produce as regards bodily life, by sustaining, increasing, repairing, and delighting, this sacrament works as regards spiritual life." Council of Florence, Decree for the Armenians. Therefore this sacrament is a morally necessary means for preserving sanctifying grace. More abundant helps are therefore given in view of it for overcoming temptations and dangers of sinning. - 4. Weakening of bad habits and amendment of vices, especially of lust. For, as was just said, the proper effect of this spiritual food is spiritually to repair, sustain, increase, and delight the powers. Moreover, by this sacrament the flesh of Christ through the Eucharistic species is joined to the body and sanctifies it. - 5. Remission of venial sins, which is done *ex opere operato*. Trent sess. 13, c. 2, the Eucharist is called "an antidote by which we are freed from daily faults and preserved from mortal sins." But this remission of venial sins *ex opere operato* is together with the remission of venial sins *ex opere operantis* through supernatural acts, to which the sacrament excites us, of sorrow and charity. Roman Catechism. - 6. Remission of temporal punishment due to sin; not indeed of the whole, but according to the manner of devotion and fervor, as St. Thomas says, 3 p., q. 79, a. 5. And this remission of temporal punishment is *ex opere operantis* from acts of sorrow and charity, to which the sacrament excites us. For the Eucharist by force of the sacrament has only that effect for which it was instituted. But it was not instituted for making satisfaction, but for nourishing spiritually through union with Christ and with his members. But this union is made through charity, from which there follows remission not only of guilt, but also of punishment, not indeed of the whole, but according to the manner of devotion and fervor. St. Thomas 3 p., q. 79, a. 5. Therefore this remission of temporal punishment *ex opere operantis* does not impede also the remission of temporal punishment *ex opere operato* indirectly, namely that which follows the remission of venial faults *ex opere operato*. - 7. Special union with Christ and his members, as is clear from John 6:57: He who eats my flesh and drinks my blood, abides in me and I in him. "The effect of this sacrament," says the Council of Florence, Decree for the

Armenians, "which it works in the soul of one worthily receiving, is the uniting of man to Christ." And this union is had through grace, by which "man is incorporated into Christ and united to his members." Council of Florence, ibid. This intimate conjunction with Christ is also the proper and principal effect of this sacrament of itself, as is clear of itself from the very nature of this sacrament.

8. Preservation from future sins, both because, charity having been increased through this food, the soul becomes stronger against corrupt nature, and because it is an efficacious memorial of the Lord's Passion, by which the demons were conquered. L. 268, 269; H. A. 5. - Florence, Decree for the Armenians; Trent sess. 13, c. 2; St. Thomas 3 p., q. 79; q. 73, a. 4; q. 74, a. 1.

It is clear that the preceding effects of the Eucharist depend very greatly on one's own cooperation with grace. And therefore, in those who approach it indevoutly and rarely, those admirable effects often do not appear.

500. Can the Eucharist ever destroy mortal sin? - Resp. More probably in the affirmative, not indeed of itself, but accidentally and mediately through the infusion of grace, namely when someone, ignorant that he is living in the state of mortal sin, approaches the Eucharist in good faith and with attrition for sins committed beforehand. Then nothing prevents the sacrament from producing its effect. But it cannot produce the effect while mortal sin stands. Therefore it must indirectly remove that sin. L. 268; St. Thomas 3 p., q. 79, a. 3.

II. On the Matter and Form of the Eucharist

501. What is the remote matter of the Eucharist? - Bread and wine are the remote matter of the sacrament of the Eucharist. This is clear 1. from the institution itself of this sacrament; for Christ in the Last Supper took bread and wine, and consecrated them into his Body and Blood. 2. From the definition of the Church in the Lateran Council, cap. *Firmiter*, in Florence, Decree of Union, and in Trent sess. 13 in almost all chapters. 3. To all these is added the unanimous tradition of each Church, Latin and Greek. - Only wheaten bread and only wine from the vine are valid matter of the sacrament of the Eucharist. This is clear from the cited Decree of Florence, where it is said: "The third is the sacrament of the Eucharist, whose matter is wheaten bread and wine from the vine." The perpetual tradition and practice of each Church, Latin and Greek, also agrees.

Only wheaten bread, namely that which from wheaten flour and natural water, even sea water, mixed and toasted or baked by fire, and uncorrupted in its species, is valid matter. But wheat is not any kind of grain whatever, but is the noblest kind of grain. But as there are various species of wine, so also there are various species of wheat. Matter altogether unsuitable is bread from barley, oats, starch. - Valid matter is bread made from crushed grains, and infused in water for some hours, but not however to the point of corruption, which grains are then pressed by hand and breads are made from the white matter coming forth, by hot iron, in the usual manner. Holy Office, June 25, 1852.

Wine from the vine, not another; natural wine from the vine, not made by chemical art. But the matter will be valid if the wine is frozen, or if must has then been pressed from grapes; but invalid if pressed from sour or unripe grapes. Rubr. Miss. *De defect*. t. 4, n. 1, 2. Likewise valid matter will be wine pressed from dried or desiccated grapes, unless they were cooked, or too much water is mixed

in. Nothing prevents some quantity of spirit of wine, alcohol, extracted from the offspring of the vine, from being added for preserving weak wine, provided that this, with that which the wine already naturally contains, does not exceed the due proportion, namely 12 percent, or even 17-18 percent if the wines are generous, and the admixture is made when the so-called tumultuous fermentation has begun to subside. Likewise an admixture of sugar, unless it is excessive, does not take away the nature of wine. Wine, even from the vine, from which by art every spirit of wine, alcohol, is removed, is not valid and licit matter of consecration. Holy Office, June 1, 1910. - E. M. "Since the matter of this sacrament is determined by comparison to the use of the faithful absolutely; but the number of the faithful is indeterminate... it cannot be said that the quantity of the matter of this sacrament is determined." St. Thomas 3 p., q. 74, a. 2.

A very little water is to be mixed with the wine; and this is not by necessity of sacrament, but of ecclesiastical precept. The reason for the first is drawn from the perpetual practice of the Church and the universal tradition of the Fathers; and from the Declaration of the Councils, especially of Florence, which declares the matter of the chalice "to be wine from the vine, with which a very little water must be mixed," and Trent sess. 22, c. 7. The reason for the second is drawn from the fact that Christ, in the institution of this sacrament, designated wine alone, and the Councils, in making mention of this mixture, speak only of precept, as Trent l.c. The doctrine of the Roman Catechism is added, which, after teaching that this mixture cannot be omitted without mortal sin, adds: "Yet if it [water] is lacking, the sacrament can stand." This precept is grave; and "if this mixture has been omitted, and this is noticed before consecration, it is still to be done, otherwise not if after." L. 208. - St. Thomas 3 p., q. 74; L. 198; S. C. de P. F., Jan. 30, 1635; Collectanea n. 797; E. M.

502. Is bread made from rye or siligo valid matter? - Rye (*segala*) is a kind of grain, and is black, heavy, bitter. Wherefore it certainly seems invalid matter. Siligo (*grano bianco*) is a kind of very light and very white wheat, from which very excellent bread is made. Wherefore it certainly seems valid matter. St. Thomas 3 p., q. 74, a. 3 ad 2; Lugo d. 4, n. 3; La Croix 421; L. 200.

503. Is bread made from spelt or far valid matter? - In various regions there are given diverse species of true grain which come under the name of spelt. Whence it seems that attention must be paid to the common estimation of men. For every bread made from grain which is truly established to be wheat, although named otherwise, is certainly valid matter. But spelt has not the same signification in various regions and among various doctors. Spelt, from Forcellini, h.v., is a kind of grain which is thought the same as *zea*, which from the same Forcellini, h.v., is called a kind of grain similar to far. But far is called a kind of grain hardest of all, and now is distinguished from spelt, now is confused with it. - St. Thomas 3 p., q. 74, a. 3 ad 2; 4 d. 11, q. 2, a. 2, q. 4.

504. Is both unleavened and leavened bread valid and licit matter of the Eucharist? - As regards validity, in the affirmative. The reason is that each is true bread, and is also simply so called in Scripture; and each is made from wheaten flour and natural water. This is also clear from the definition of the Church. For thus Florence, Decree of Union: "We define that the Body of Christ is confected in unleavened or leavened wheaten bread." - As regards liceity, Latins are bound under grave obligation to consecrate in unleavened bread, and Greeks in leavened, each according to the rite of his Church. This is clear from the practice of each Church, and from Florence in the cited Decree, where it is added: "And priests must confect the Body itself of the Lord in either one, each one namely according to the custom of his own Church, whether Western or Eastern." St. Pius V, Const.

Providentia Romani Pontificis, a. 1565; Benedict XIV, Const. on the rites of the Greeks § 6; St. Thomas 3 p., q. 74, a. 4; E. M.

505. Can a Latin in places of the Greeks celebrate in leavened bread, and a Greek in places of Latins in unleavened? - The doctors agree that if among Greeks there is found a Church of Latins in which the Latin rite is observed, a Latin priest must consecrate in unleavened bread, and so conversely. - If a Latin passes through Greece, or the contrary, and no Church of his own rite exists in that place, the doctors commonly and most probably teach that each can celebrate either in leavened or in unleavened bread.

The reason is that each indeed can follow the custom of the region where he is found, yet is not bound to this. - Simple faithful also, as regards communion, must observe their own rite. But it is permitted to communicate in another rite when they cannot do so in their own rite without grave inconvenience, because of the distance of their church. - L. 203; Benedict XIV, Const. *Etsi pastoralis* n. 10 ff.; Enc. *Allatae sunt* § 23; Const. *Eo quamvis tempore* § *Neque etiam*; Leo XIII, Bull *Orientalium dignitas*, Pr. Kal. Dec. 1894; Collectanea of S. C. de P. F. n. 2000, 2004, 2005, 2007, 2017; E. M. "Ruthenian faithful in the Canadian region, in those places in which neither a church nor a priest of their own rite is had, will be able to conform themselves to the Latin rite, and the same faculty is granted to them also where, because of the distance of their own church, they cannot approach it except with grave inconvenience. - To all faithful of whatever rite, whether Latin or Ruthenian, in the Canadian region, the faculty is given that, for the sake of piety, they may receive the Eucharistic sacrament confected in any rite; and moreover, where necessity presses and no priest of a different rite is present, it will be licit for a Ruthenian priest to minister the Eucharist in unleavened bread, and conversely for a Latin priest to minister in leavened bread; but each will observe his own rite in ministering. - Each of the faithful will satisfy the precept of Paschal Communion if he receives it in his own rite, and indeed from his own pastor. - Holy viaticum is to be received by the dying in their own rite from the hands of their own pastor; but, when necessity presses, let it be lawful to receive it from any priest whatever, who however will minister according to his own rite." S. C. de P. F., Aug. 8, 1913, art. 24, 29, 30, 31.

The first article of the aforesaid Decree is also had in the Constitution of Pius X *Ea semper*, XVIII Kal. Jul. 1907, for Ruthenians in the United States of North America, art. 21; but the others are not found. But in the Decree of S. C. de Prop. Fide, Aug. 17, 1914, for Greco-Ruthenians in the United States of North America, the first article of the same aforesaid Decree is not found; but the following articles of the same aforesaid Decree are found in art. 23, 24, 25.

But the general Apostolic Constitution of Pius X *Tradita ab antiquis*, Sept. 14, 1912, is had concerning the Most Holy Eucharist to be received in a mixed rite, in which the following things are established.

I. On The Celebration of Mass. "It is not licit for priests to perform sacred things in a mixed rite; therefore let each one confect and minister the Sacrament of the Body of the Lord according to the rite of his own Church."

II. On Ministering the Eucharist. "Where necessity presses, and no priest of a different rite is present, it will be licit for an Eastern priest who uses leavened bread to minister the Eucharist consecrated in unleavened bread, and conversely for a Latin or Eastern priest who uses unleavened bread to minister in leavened bread; but each one will observe his own rite of ministering."

III. On Receiving the Eucharist. - "To all faithful of whatever rite the faculty is given that, for the sake of piety, they may receive the Eucharistic Sacrament confected in any rite."

IV. On Paschal Communion. - "Each of the faithful will satisfy the precept of Paschal Communion if he receives it in his own rite and indeed from his own pastor, to whom certainly he will remain attached in performing the other duties of religion."

V. On Viaticum. - "Holy Viaticum is to be received by the dying in their own rite from the hands of their own pastor; but, when necessity presses, let it be lawful to receive it from any priest whatever, who however will minister according to his own rite."

VI. On Not Changing One's Native Rite. - "Each one will remain in his native rite, even if he has long held the custom of communicating in another rite; nor is the faculty of changing rite to be given to anyone unless just and legitimate causes support him, concerning which the Sacred Council for the Propagation of the Faith for affairs of Orientals will judge. But among these causes there will not be numbered the custom, however long-standing, of communicating in another rite."

506. In a case of necessity for providing viaticum to a sick person, can a Latin priest consecrate in leavened bread? - Some affirm, but the common and more probable opinion denies it. The reason is that the Church most gravely urges observation of the prescribed rite, which consequently in this case is to be preferred to the private utility of one's neighbor, to whom such a sacrament is not simply necessary, because of the common good, lest there be confusion of rites and so that their distinction be preserved. L. 203. Yet it would be licit and obligatory to consecrate in leavened bread in order to complete the sacrifice, if it could not be completed otherwise, e.g., if the priest noticed that he had consecrated corrupted matter and could not have another licit host.

507. Does a priest consecrating in wine becoming sour sin gravely? - Resp. In the affirmative, although that wine is still valid matter of the sacrament. Indeed mortal sin is admitted not only if the wine is close to vinegar, but also if it certainly begins to become sour and corrupted, because then grave irreverence seems to be inflicted upon the sacrament. This is clear from the Rubrics, tit. 4, n. 2: "If the wine has begun to become sour or corrupted, or has been somewhat sharp, or is must then pressed from grapes, or water has not been mixed, or rose water or water of another distillation has been mixed, the sacrament is confected, but the one confecting sins gravely." "Yet probably, when other wine is lacking, it is licit without scruple, as upright men are accustomed, to use wine becoming a little sour, or not notably acid." L. 207. Hence the rubric does not seem to be taken with such rigor that it comprehends all even the first degrees of sharpness, but only those which proximately begin to constitute wine becoming sour. "But when grave necessity presses, it would be licit to use wine still notably becoming sour, provided it is certainly wine." L. 207. The same consequently must be said of bread growing moldy. Rubr. *de Defect*. tit. 3, n. 1, 3. L. 206, 207; H. A., App. 3, Exam. ordinand. 98; Benedict XIV, Notification 77; St. Thomas 3 p., q. 74, a. 3, 5.

508. Is frozen wine valid matter? - Resp. More probably in the affirmative. The reason is, 1. because it remains substantially wine, since it retains the same color, taste, and odor; 2. because from the Rubrics of the Missal, the species of frozen wine after consecration must be liquefied by applying heated cloths, and then consumed, since it is a true sacrament. Rubr. *de Defect*. tit. 10, n. 11. Therefore it supposes that the species of frozen wine retain the Blood of Christ. Therefore the sacred species are not changed substantially by freezing after consecration. Therefore neither before. Thus

St. Liguori 207, where he says it is the truer opinion because of the reason drawn from the cited Rubric. But concerning the denying opinion he says ibid.: "I think it has no solid probability." - St. Thomas 3 p., q. 74, a. 4; Lugo d. 4, n. 14.

509. What quantity of water is to be mixed in the chalice? - A very small quantity of water suffices, as Florence says. Probably water can be poured in up to the eighth part of the wine, indeed up to the fifth part according to Lugo d. 4, n. 38. Busembaum adds that it suffices that the water not exceed a third part. But in practice this last opinion is not to be admitted, although a third part does not corrupt the wine if it is generous. Generally it is to be advised that the priest not exceed eight or ten little drops. But if by chance he has poured in too great a quantity of water, some quantity of wine can again be added. But one drop of water suffices, provided it is sensible. - L. 210; St. Thomas 3 p., q. 74, a. 8; q. 77, a. 8; E. M.

510. What about the proximate matter, or the use of the matter required in the consecration itself? - For valid consecration besides suitable matter there is required:

1. That the matter to be consecrated be physically present; because the demonstrative pronouns of the form, this, here, necessarily require this; otherwise the form would be false, because that which would not be present would be demonstrated as present. 2. That through the intention of the minister it be determined in the individual; because just as the minister does not consecrate unless he intends to consecrate, so neither does he consecrate this matter unless he determinately intends to consecrate it. Yet actual determination is not required, but virtual suffices. L. 211-214. - For licit consecration there is required that the priest in no way depart from the use of the Church, especially as determined by the Rubrics of the Roman Missal. Hence it is necessary: 1. That the matter to be consecrated be decent and clean because of the reverence due to so great a sacrament. 2. That it be placed on the altar and on the corporal, indeed also on the sacred stone, according to Benedict XIV, *de Sacr. miss.* sect. 2, n. 139. 3. That the ciborium or chalice to be consecrated be uncovered. 4. That it be done at the time of the Canon prescribed by the Rubric. Trent sess. 22, c. 4, 5, 8; L. 218, 219; St. Thomas 3 p., q. 78, a. 1 ad 4; q. 83, a. 3, 4, 5. 5. It is certain that it is necessary by necessity of precept to consecrate the Eucharist under each species. Likewise it is certain and common among all that it is not licit even at the point of death to consecrate one species for giving viaticum to the sick person. For the consecration of the Eucharist has the nature of sacrifice, and Christ instituted the sacrifice to be offered under each species. L. 195, 196. 6. From precept in the Latin Church the bread to be consecrated must be round in shape and whole. It is also licit to celebrate privately with a smaller host, such as is given to laymen, when no other can be had and scandal is absent; indeed, if a cause presses, even publicly on a feast day, because there is no precept nor is there certainty of a custom obliging under precept, and even from a cause of devotion, if scandal is absent. But it is not licit to take the small one and leave the larger, unless the priest in the same Mass also consecrated that one, because he must communicate from his own sacrifice. Wherefore a pastor acts badly who, about to renew the Eucharist, himself consumes a host consecrated by another and places in the tabernacle, or pyx, one consecrated by himself. L. 205; Diana tr. 1, *de Celebrat. missar.*, r. 234.

511. You will resolve: Hosts placed upon the corporal at the beginning of Mass are validly consecrated, although the celebrant actually no longer attends to them; likewise hosts hidden under others, or otherwise covered. For all are consecrated after the manner of one. Likewise wine in a chalice covered with a veil, pall, or in any way whatever is validly consecrated; because for true presence of the matter it suffices that it can be demonstrated by the pronouns this or here.

The consecration is valid if the priest thinks that only one or two hosts to be consecrated are present, when there are several placed either by himself or by another; the reason is that the priest certainly intends to consecrate whatever is present and decently consecrable. Whence if the celebrant notices after consecration that two hosts are joined together, let him consume each as consecrated. But if before consecration, after he has offered, he notices this, let him put one back, and after Mass let him himself or another consume it as blessed bread. - The same must be said if someone has brought several hosts to be consecrated to the altar, or before the sacrifice has been warned about hosts to be consecrated already placed upon the altar, or in a reasonable manner has noticed that they are brought by another so that they may be consecrated, even if while he consecrates he does not expressly remember them in that way, or even has not uncovered them at the oblation, provided they are present on the corporal; because the preceding intention virtually perseveres.

Hosts would not be consecrated if, unknown to the priest, they had been placed even on the corporal, because the priest, being wholly unaware, did not have a general intention of consecrating them, and therefore neither can an intention virtually persevere which did not exist. If small hosts for communicating the people are brought to the priest a little after the oblation has been made, he will be able licitly to consecrate them, the oblation being supplied mentally. Rubr. *de Defect*. t. 7, n. 1, 2, 4; L. 212, 215, 216, 217; Elbel 35, 36, 48.

512. Can hosts to be consecrated be brought once the Canon has begun? - Theologians and skilled rubricists commonly deny it. Yet several doctors of great weight permit it from a very grave cause. Thus Benedict XIV, *de Sacrif. missae* l. 3, c. 18, n. 5: "The common opinion is, and one confirmed by the consent of very many, that particles cannot be consecrated when the canon has begun to be recited, even if it were a question of consecrating a particle which would have to be brought for viaticum to a sick person.

For in that case, some small particle could be taken from the host of the Mass and reserved for the sick person... Anyone easily understands that the order of Mass is perverted if particles to be consecrated are received after the preface has begun. Moreover, if this is to be done, it must not be done without a legitimate cause, of which kind it would be if a great multitude prepared to receive the Eucharist would lack the sacrament." St. Liguori seems to subscribe to this doctrine: "If small hosts for communicating the people are brought to the priest a little after the oblation has been made, Aversa adds before the preface has begun, Diana, etc., teach that they are licitly consecrated, the oblation being supplied mentally. And this even if the canon has begun, as Tamburini, etc. At least when many would remain without communion," Busembaum and St. Alphonsus l.c. But it is certain that they can never be admitted after the consecration of the bread.

513. What kind of sin is it to consecrate a broken or stained host? - Scandal and reasonable cause being excluded, it is only venial, unless the stain or fracture is enormous. Yet if some fracture or stain is detected in the host after the oblation, such a host will licitly be consecrated, unless scandal of the

people is feared, because already by the oblation it has in some way been dedicated and sanctified to God. The same must be said proportionately of turbid wine. L. 204; La Croix 422.

514. Can doubtful matter ever be consecrated? - Never altogether, not even for avoiding death, is it licit to consecrate doubtful matter, namely because of the danger of material idolatry; and besides, if only one species is doubtful, because of the integrity of the sacrifice. But when this has been consecrated, to despise it or expose it to adoration, each is grave; but after the consummation, before purification, it will have to be consumed. And the same must be said if you doubt whether you have consecrated matter otherwise suitable; but this, if it can again be rightly consecrated conditionally, is to be consecrated again. St. Thomas q. 74, a. 3 ad 3; Rubr. *de Defect*. t. 3.

515. What must be done if unconsecrated particles are mixed with consecrated? - "If unconsecrated particles are mixed with consecrated, the whole heap is to be brought to the altar, so that the priest may intend to consecrate the unconsecrated; or rather let him consecrate the whole heap conditionally, if they are not consecrated. And this rather must be done, because in consecrating unconsecrated hosts, true determination of the matter is lacking, nor can the word this be verified; whence all the hosts must be consecrated conditionally, so that they may be validly consecrated." L. 216. - Lugo d. 4, n. 136; St. Thomas 3 p., q. 77, a. 8.

516. Is a ciborium left outside the corporal through forgetfulness to be judged consecrated? - It is controverted. The first probable opinion affirms. The reason is that there was already a positive will of consecrating that ciborium at the beginning of Mass, nor was that will retracted. Therefore it persevered virtually at the time of consecration. The second opinion denies. The reason is that that intention of consecrating outside the corporal would have been a grave sin, and therefore the priest is not presumed to have had it. - The second opinion is called by St. Alphonsus 217 common and more probable, namely because it could not have been consecrated without mortal sin, from the presumed intention of the celebrant. Thus indeed, if this was at some time certain for him, that he did not wish to do anything in celebrating Mass which could not be done without mortal sin. Otherwise one would have to say that he also does not consecrate who ignorantly celebrates with a chalice not consecrated or a corporal not blessed.

And indeed, excluding this preceding general will of not consecrating in such a case, that presumed will is nothing, since in reality it is not present because of ignorance of the thing, but on the contrary the will of consecrating the present matter is truly present. Since the matter is not without doubt, especially because of the extrinsic authority of the doctors, "in practice those particles are to be consumed after the Blood." L. ib. Rubr. *de Defect*. t. 3, n. 4, 5, speaking of a priest who consecrated a host either corrupted or not wheaten, prescribes that "if he has not consumed it, let him consume it after the reception of the Body and Blood." "But particles found outside the corporal, in doubt whether they are consecrated, are to be consumed even after the ablution." L. 251. - But there can be no doubt about the consecration if someone, not attending to the ciborium outside the corporal, had an actual intention of consecrating it together with the larger host. And the same consequently must be said of virtual intention, if, seeing the ciborium, he had the positive will of consecrating it.

517. Is a ciborium judged consecrated if it was indeed placed on the corporal, but through forgetfulness remained closed at the time of consecration? - Resp. In the affirmative. The reason is 1. because hosts certainly can be validly consecrated in a closed ciborium. Cf. 511. 2. because the priest

has the absolute intention of consecrating whatever, with his knowledge, is upon the corporal, and is honorably consecrable, and is had after the manner of a continuum.

518. Are drops of wine externally adhering to the chalice judged consecrated? - Drops externally adhering are never judged consecrated. The reason is that the intention of the priest is of consecrating that one thing which is consecrable within the chalice itself. L. 215.

519. Are drops of wine consecrated which are in the chalice separated, when the priest intended nothing concerning them? - Some deny, others affirm, and finally others affirm concerning near drops and deny concerning remote ones. More probably drops altogether separated from the greater quantity are in no way judged consecrated. The reason is that it does not seem to be the intention of the Church, and therefore neither of the priest, to consecrate anything except wine which after the manner of one drinkable thing is found gathered in the chalice. - "La Croix says it is expedient that the priest intend to consecrate them, lest there be wine in the chalice which is not consecrated. But it seems better to me," says St. Alphonsus, "to intend this concerning drops near the bottom, but not concerning remote ones." L. H. A. Ex. ordin. 99. "Gavantus orders them to be wiped away, which custom approves. Yet Tamburini teaches that one who omits this does not sin, indeed that it is not expedient if you notice them when, the chalice having been uncovered, you are now about to consecrate, and the people await the elevation. But after consecration they are in no way to be wiped away." L. 219. If the separated drops are near the whole mass, they can easily be united to it by tilting the chalice a little. L. 215.

520. Is consecration of one species without the other valid? - No one doubts that it is valid if this happens by chance and contrary to intention. But whether a priest consecrates validly who has a positive intention of consecrating only one species without the other, the doctors commonly affirm. The reason is that in every sacrament, whenever the minister pronounces the form over the matter with the intention of doing what the Church does, the sacrament is perfected. L. 196; St. Thomas 3 p., q. 78, a. 6; Lugo d. 19, n. 102, 104; Suarez d. 43, s. 2; Florence, Decree for the Greeks and Armenians.

521. What is the form of the Eucharist; what is its power? - The form in the consecration of the Body is: For this is my Body; but of the Blood: For this is the chalice of my Blood of the new and eternal Testament, the mystery of faith, which shall be poured out for you and for many unto the remission of sins. For the priest, speaking in the person of Christ, confects this sacrament. - But by the power of the words themselves the whole substance of the bread is converted into the Body of Christ, and the whole substance of the wine into the Blood: yet in such a way that the whole Christ is contained under the species of bread, and the whole under the species of wine. "Also under any part whatever of the consecrated host and of the consecrated wine, after separation has been made, the whole Christ is present." Florence, Decree for the Armenians. - Wherefore the words must signify the transubstantiation of the present thing in an instant. In an instant, that is, not in successive becoming, but in completed being; namely the form signifies not what is being done, but what has been done: This is, Here is. - Florence, Decree for the Greeks and Armenians; Trent sess. 13, c. 1, 3, 4; St. Thomas 3 p., q. 78; q. 75, a. 7; E. M.

522. You will resolve: The consecration is valid, but illicit, if the one consecrating says: This food is my Body; This chalice, This drink is my Blood; Here is my Blood; for it is the same thing, since those words, This is the chalice, etc., are said by metonymy; or if he says: This chalice is the New

Testament in my blood, Luke 22:20; 1 Cor. 11:25; or if the particle *enim* is omitted. Likewise if he pronounces *Colpus* for *Corpus*; *meus* for *meum*, *es* for *est*, *calis* for *calix*; *Sanguis* for *Sanguinis*, etc. - But he cannot be excused from sin who does not use due diligence for rightly pronouncing the words of consecration.

The consecration will be invalid if you say: *Hic* adverbially is my Body; This Body is mine; This Blood is mine, where Body and Blood stand on the part of the subject, not of the predicate; That is my Body; Behold my Body; This my Body; This bread is my Body; Let this become, This becomes, Let this be my Body. - The consecration is doubtful if you say: That is my Body; This is my Flesh; for although flesh in Sacred Letters also signifies body, nevertheless commonly and from its own proper signification it imports only a part of the body. - The words of the form must be pronounced in the person of Christ formally and assertively, or recitatively and significatively at the same time, but not only historically; namely the words of Christ are to be pronounced by applying their signification to the present matter, so that this may be transubstantiated into the Body and Blood of Christ. Hence the form is invalid if someone says: This is the Body of Christ. Yet a scruple is not to be had whether the words are pronounced in the due sense; for any priest is presumed to have the intention of doing what Christ did and instituted, and thus he sufficiently intends to pronounce the consecratory words in each aforesaid sense. - St. Thomas 3 p., q. 78, a. 1, 2; L. 220, 221.

523. Is omission of the word *enim* in the form of consecration grave? - The first opinion probably denies it, because that word is not found in the words pronounced by Christ, and from another side, as regards the precept of the Church, it does not seem to constitute grave matter. - The second opinion affirms. The reason is that in so grave a matter there does not seem to be light matter in any deliberate change whatever. L. 220; St. Thomas 3 p., q. 78, a. 2 ad 5.

524. Are those preceding words required as essential in the consecration: Who the day before he suffered, etc.; In like manner, etc.? - Resp. In the negative with the common opinion, which St. Liguori 222, Lugo d. 11, s. 3, etc. hold. The reason is that these words are pronounced only historically, and seem to have no sacramental efficacy, nor are they necessary so that the priest pronounce the words of consecration in the person of Christ, which depends only on the intention of the priest. Nor indeed are they counted in the Florentine Decree for the Greeks and Armenians, where the form of the Eucharist is explicitly handed down. St. Thomas 3 p., q. 78, a. 2, 3.

525. In the consecration of the chalice, are only these words, This is the chalice of my Blood, of the essence of the form? - The first opinion affirms. The reason is 1. because the words of consecration of the bread are these: This is my Body. Nor indeed are the other words, which shall be given up for you, essential.

Therefore, by parity, the words of consecration of the wine are only these other words: This is my Blood, or other equivalent words; 2. because those words alone of themselves express the presence of the Blood of Christ under the species of wine. Thus more commonly and more probably. The second opinion denies it, because the later words, which for you, etc., designate the power of the Blood poured out in the Passion, which operates in this Sacrament. Moreover, by these words it is explicitly signified that the Eucharistic sacrifice is representative of the sacrifice of the Cross. This is confirmed from Florence, Decree for the Greeks and Armenians, where those words are counted in the form of words in the consecration of the Eucharist. St. Thomas 3 p., q. 78, a. 3; Rubr. Missal. *de Defect*. tit. 5, n. 1.

St. Alphonsus 223 says that the opinion of the Angelic Doctor is very doubtful. Cf. Luke 22:20; 1 Cor. 11:25, and he adds: "For the rest, each opinion is speculatively probable; but in practice it is certain that the priest would sin gravely if he did not pronounce all the words which are had in the consecration of the chalice, and if perhaps he had said only the first words, he would certainly have to repeat the form integrally under condition." Thus indeed in the Rubrics *de Defect*. t. 10, n. 3 it is prescribed, where it is said: "If he [the priest] has died, the form of the Blood having been half-pronounced, then another is to continue the Mass, and over the same chalice let him repeat the entire form (understand conditionally, if perhaps he has already said the words: This is the Chalice of my Blood) from that place: In like manner, etc.; or he could pronounce the entire form over another prepared chalice, and consume the Host of the first priest and the Blood consecrated by himself, and then the chalice left half-consecrated."

III. On the Minister of the Eucharist

526. Who is the minister of consecration and dispensation? - Every priest and only a priest, although he is bad, is the minister for confecting the Eucharist. This is clear 1. from Scripture; for Christ, instituting the sacrament, said to all and only the Apostles reclining with him, and therefore to all and only those who were going to succeed them in the priesthood: Do this in memory of me, Luke 22:19. Therefore all and only priests received this power from Christ. 2. From Trent sess. 22, c. 2, 3; Florence, Decree for the Armenians. 3. Finally from universal and perpetual tradition. St. Thomas 3 p., q. 82, a. 1, 5. - Only priests or presbyters are ordinary ministers of the dispensation of the Eucharist. This is clear 1. from Trent sess. 13, c. 8, where it is said: "It has always been the custom in the Church of God that laymen receive communion from priests, but priests celebrating communicate themselves." 2. From the universal practice of the Church. St. Thomas 3 p., q. 82, a. 3. - Deacons, by force of their ordination, are extraordinary ministers of the Eucharist, so that its dispensation can be committed to them. This is clear 1. from the practice of the earlier centuries, in which deacons everywhere, from the commission of bishops or presbyters, whether general or particular, ministered the Eucharist. 2. From various Councils, e.g., the first general Council of Nicaea, the fourth of Carthage, etc. L. 237; St. Thomas 3 p., q. 82, a. 3 ad 1, ad 3; Trent sess. 14, c. 10.

By ordinary law only the pastor, or his superior, can dispense the Eucharist. For for this there is required jurisdiction, ordinary, or delegated, or at least reasonably presumed, or a privilege, or custom, not indeed for the validity of the act, as in absolution, but for the due order of ministering. It belongs to pastors to feed, which is done chiefly through the sacraments. This is besides clear from the Councils, especially from Carthage I, can. 7, and from Milevis can. 18, Clement 1, *de Privil.*, etc., and from the universal practice of the Church. Hence he who ministers the Eucharist without at least presumed permission of the pastor violates his right in a grave matter, and therefore sins gravely. - When the pastor grants others permission to celebrate in his church, he is always judged to grant also permission of ministering the Eucharist, unless he expresses the contrary; which is confirmed by common practice. Indeed custom has it that in whatever church a priest celebrates Mass, he can distribute the Eucharist to the faithful, which responds to the desire of Trent sess. 22, c. 6. - Yet permission is not so easily to be presumed if it concerns reception of the Eucharist from obligation. Wherefore as regards Paschal Communion, from Law and the universal practice of the Church, this is to be received in each one's own parish; likewise, to minister viaticum outside the case of necessity

without permission of the pastor is illicit. Yet reasonably presumed permission suffices in each case. Cf. vol. 1, n. 1562. "It is also probable outside the article of death, from a grave cause and with scandal removed, that it is licit for a priest to take the sacred host from the tabernacle, or, brought by a deacon, to give it to himself, e.g., if in a long illness he had not communicated for a long time... Indeed Croix 471, etc., say that from the cause of devotion alone, a priest can always communicate himself, because, scandal being removed, there is no irreverence, nor is it forbidden anywhere, unless another priest is present." L. 238. - Lugo d. 18, n. 19, 36; L. 230, 231, 234, 235, 236, 239; E. M.

527. In order that a deacon may minister, must the necessity be extreme? In extreme necessity is it licit even for a layman to minister the Eucharist?

Resp. To the first: In the negative with the common opinion; but grave necessity suffices, namely when no priest is present who can conveniently minister the Eucharist. But for this a commission of the bishop or pastor is required. S. R. C., Feb. 25, 1777, n. 2504; L. 236. "But in extreme necessity, namely if another priest is absent, a deacon can and is bound to minister viaticum, even without the commission of the pastor; thus likewise the common doctors. And the same runs in the administration of baptism." L. 805. - But a deacon solemnly ministering the Eucharist without the required commission, according to St. Alphonsus 234, incurs irregularity, which however others deny. Cf. 419, 423; Lugo d. 18, n. 7, 72; Suarez d. 72, s. 1, n. 8; La Croix 472; L. l. 7, n. 346.

A deacon carrying viaticum to a sick person, when a presbyter is lacking and with permission of the Apostolic Vicar, can make the sprinkling of blessed water, say the *Misereatur*, the Indulgence, sign the sick person, say *Dominus vobiscum* with the Prayer, and bless the sick person and those assisting with the Sacrament. S. R. C., Aug. 14, 1858; E. M.

A deacon can carry the Eucharist from one altar to another, even with priests present. S. R. C., Nov. 23, 1906.

Resp. To the second: In extreme necessity it is licit not only for a deacon but also for a layman, scandal being excluded, to communicate both others and himself. L. 237. - When such a necessity occurs, e.g., in time of plague, it can well be permitted by the judgment of the bishop even to laymen to minister the Eucharist. S. C. de P. F., July 11, 1841, n. 728; L. 237. - St. Thomas 3 p., q. 82, a. 3; 4 d., q. 1, a. 3; E. M.

528. Whether, and in what circumstances, can religious minister the Most Holy Eucharist? - They can always minister the Eucharist in their own churches either by themselves or through other priests, with Easter day previously excepted. This is clear from the privileges of the Supreme Pontiffs. At Rome, Thursday in the Supper of the Lord was also excepted. - For the law by which it is prohibited that on Easter day in non-parish churches, especially regular churches, the Sacrament of the Most Holy Eucharist be administered to the faithful even for the cause of devotion, is no longer to be observed. S. C. C., Nov. 27, 1912. Cf. Benedict XIV, *de Syn.* l. 9, c. 16, n. 3; Const. *Magno cum* § 22; Lugo d. 16, n. 62; d. 18, n. 50; L. 249. - In other churches they cannot minister the Eucharist except with at least presumed permission of the pastors or superiors; nor viaticum to seculars except with express permission of the pastors, except in a case of necessity. Cf. 526, 1197. - "Regulars licitly give the Eucharist... if the sick person has satisfied the precept concerning viaticum, with the intention of fulfilling it; because administration of the Eucharist is forbidden to regulars only when the precept of communion obliges.

Yet never, without permission of the bishop or pastor, is it licit for religious publicly to carry the Eucharist through the streets, since this derogates from the right of pastors obtained by custom; therefore in that case, in the oratory of the sick person, or another honorable place of the house (if legitimate faculty is had), sacred action having been privately done, the Eucharist is to be given." L. 239, 240; Elbel 57; La Croix 624, 626; Benedict XIV, *de Syn.* l. 9, c. 15, 16. Cf. here 536.

529. What about the obligation of dispensing the Eucharist? - A pastor, or any priest having care of souls, is bound from justice to minister the Eucharist to subjects, not only at Easter and in danger of death, but also as often as they reasonably ask, nevertheless excluding the cause of a legitimate impediment. The reason is that it belongs to the pastor from quasi-contract to provide, not only that the faithful fulfill precepts, but also that they not lack helps which greatly profit spiritual progress. Roman Ritual, *de SS. Euch. sacr., de Commun. infirm.*; L. H. A. 8. - Any priest whatever, whether secular or regular, is bound, the pastor lacking, to minister the Eucharist to one about to die; otherwise in other cases. The first reason is that anyone is bound from charity to aid his neighbor constituted in so great an extremity through this salutary and most efficacious remedy. The second reason is that no obligation intervenes, either from justice, since there is no contract, or from charity, since it is not supposed that a case of necessity is present.

530. Is the pastor also bound to seek out the sick, not asking the Eucharist, so that he may minister it to them? - Resp. In the affirmative, at least if they are in grave danger of death. The reason is that it is the office of a good shepherd to care that means so useful and efficacious be supplied to sheep constituted in so great a danger. It is also gathered from the Roman Ritual, *de Comm. pasch., de Comm. infirm.*, and from C. *Presbyter* 1, *de Celebr. miss.* And by a particular reason he is also bound to prepare children for receiving the Eucharist and to minister it to them.

531. Is the pastor bound to minister the Eucharist to subjects by himself? - Resp. In the negative. For it suffices that he provide lest one asking for that sacrament opportunely, or gravely needing it, lack it. Therefore ordinarily he can fulfill his obligation even through others. From the Roman Ritual, *de Comm. pasch.*, on Easter day he himself, unless legitimately impeded, will minister this sacrament by himself.

532. Does the pastor sin gravely as often as he denies the Eucharist to one reasonably asking? - Resp. In the negative; for if he does this rarely, e.g., toward one or another, scandal being excluded, and without grave sadness of those asking, he will sin only venially. The reason is that in these rare and particular cases there does not result grave injury, nor grave harm to the faithful asking, or if harm is present, it is easily repairable.

533. Is the pastor bound to minister the Eucharist even with danger to life, e.g., in time of plague or contagious disease? - Resp. St. Liguori 233 very probably denies this with others. Yet several affirm, relying on the doctrine of Benedict XIV, *de Syn.* l. 13, c. 19. - The same must be said of extreme unction. For neither the Eucharist nor extreme unction are sacraments of absolute necessity. L. 728. Cf. 362.

534. When is the pastor judged excused from ministering the Eucharist to subjects asking from mere devotion? - He is legitimately excused: 1. When the subjects, because of various circumstances, do not ask reasonably, e.g., if they ask before Mass with inconvenience of others. 2. If the pastor himself is impeded because of illness or other necessary occupations. - Yet in this one must act cautiously,

because from a denial of this kind the faithful can easily take scandal, and indeed, with due trust in the pastor having been lost, be kept from receiving the sacraments more often.

535. What is required for the licit dispensation of the Eucharist? - Besides due faculty, it is required that the minister be free from every excommunication, interdict, and suspension from sacred things; otherwise he would sin gravely and would contract irregularity. - It is required that the minister be in the state of grace, because the most august and most holy Body of Christ must not be treated by impure hands. L. 30 seq. Cf. 353. - It is required that the minister distribute the Eucharist according to the accustomed rite of the Church. Hence generally speaking, the administration of this sacrament is to be omitted when it cannot be done in the manner prescribed by the Roman Ritual or by the custom of the place. - The burse with the corporal must always be used, on which the sacred pyx is to be placed as often as Communion is administered outside Mass, as is suggested in the Rubric of the Roman Ritual, which is preceptive. S. R. C., Feb. 27, 1847, n. 2932. - If outside Mass, or immediately before or after Mass, Communion is to be ministered only to nuns, and the choir is situated either behind the altar or at a distance from the altar, the priest places the ciborium at the little window of the choir, and there, turned toward the nuns, says the *Misereatur*, and *Ecce Agnus Dei*, etc. S. R. C., July 13, 1893, n. 3800. - L. 241 seq.; E. M.

536. You will resolve: Excluding the case of necessity, outside Mass, it is grave to minister the Eucharist without any sacred vestment, without surplice or alb, and without stole. For there is grave indecency and irreverence from this, and it is against a grave precept of the Church. But without light, without confession, indeed without stole or without surplice, it is a light sin. For the irreverence appears light. But if a minister is lacking, the priest himself can perform all things. Having returned to the altar he will be able to say: O sacred banquet, etc. Roman Ritual, Order of administering sacramental communion. But the versicles, Lord, hear, etc., The Lord be with you, etc., with the proper Prayer, are of precept. S. R. C., Aug. 30, 1892, ad 10, n. 3792. And they must be recited during the ablution and wiping of the fingers. S. R. C., Jan. 14, 1898, n. 3975, d. 3, q. 1. Similarly it is held only venial to transfer the Eucharist, without sacred vestments, from place to place, e.g., from altar to altar. Reuter n. 168; L. 241. - It is not licit without cause to hand over several particles, or larger ones, so that the devotion of the recipient may be satisfied; yet this is light. S. C. C., Feb. 12, 1679; L. 245. If particles fail and necessity is present, e.g., if another Mass is lacking and the faithful cannot wait, consecrated particles can be divided into two or at most into three parts, because otherwise Communion could scarcely be given with due reverence. S. R. C., March 16, 1833, ad 1, n. 2740; La Croix 508. Indeed, when smaller hosts are lacking, the priest can take off part of the larger one to be consumed by himself, whether in the case of viaticum to be carried to a dying person, or if one or another of the faithful were about to communicate who otherwise would have to wait for Communion not without inconvenience. L. 217, 245. It is licit, in defect of smaller hosts, to consecrate several larger ones, and then distribute them divided into smaller parts. L. 245.

To the sick it is regularly to be carried manifestly and honorifically, always with a light preceding. Roman Ritual, *de Comm. infirm.* Regularly, since certain circumstances are excepted, e.g., places of heretics, where it cannot be carried manifestly. Likewise sometimes even in places of Catholics, if otherwise holy viaticum cannot be carried to the sick person without some inconvenience. Yet this should not be done without permission of the bishop, where he can be consulted. S. R. C., Jan. 12, 1878, ad 7, n. 3438. - From Benedict XIV, Const. *Inter omnigenas*, it is had how then the Most Holy

Sacrament is to be carried. "Let the priest," he says, "always have the stole, covered by the garments; let him place the pyx in a small bag or burse, which, suspended from the neck by cords, he places in his bosom; and let him never proceed alone, but let him be accompanied by at least one faithful person, in default of a cleric." S. R. C., Nov. 23, 1880, ad 3, n. 3525. "Some think that if the habit cannot be had, or there is a storm, or a journey must be made, it will not be irreverence if the priest secretly carries the Eucharist in a pyx, or wrapped in a corporal, in his bosom. This more truly seems licit in places of heretics, where also from necessity, and secretly, with scandal removed, he will be able to offer it without stole and surplice." L. 241. - The Eucharist is not to be carried to the sick by night, unless the necessity of one dying presses; and in such a case it is licit to carry it even on Friday of Parasceve, but privately, even without lights, even without sacred vestments, even running, provided scandal is absent. But it is never licit to minister even to the dying under the species of wine, which is grave. - S. R. C. grants that, with the consent of the bishop, because of the distance of places, difficulty of roads, and roughness of ways, viaticum can be carried by the pastor on horseback, and, when it is carried openly, because of the inclemency of the weather, with the head covered, with at least one man accompanying, if it can be done, carrying a lit lantern. S. R. C., May 23, 1846, n. 2908; Sept. 12, 1857, ad 19, n. 3059; Apr. 22, 1871, n. 3246; Aug. 31, 1872, n. 3276. - The Eucharist is not to be carried to a sick person only for the sake of veneration, so that he may adore or kiss it, if he cannot receive it. For St. Pius V prohibited this, whose prohibition De Lugo recalls, Resp. Mor. l. 1, d. 11; L. 243, and it is had in the Roman Ritual, *de Commun. infirm.* - Trent sess. 13, c. 6, can. 7; L. 241, 242, 243; H. A. tr. 15, n. 12.

A priest, within Mass, in some hospital, can carry it to sick persons distant from the altar, accompanied by two carrying a candle, with pyx, without humeral veil, but under an umbrella. Yet if, approaching the bed of the sick person, he does not lose sight of the altar, he can then carry Communion to him within Mass.

It must be noted "that if a priest carries Communion to a sick person in a hospital, and remnants remain on the paten or chalice, the priest can consume them if he is still clothed in sacred vestments. But he will also be able well to give them to the sick person immediately after the particle handed to him, because then it is judged morally one Communion, as Tamburini, etc., rightly say, who testifies that use so bears, that after Communion of the sick person, the pyx is washed, and the ablution is handed to him." L. 251. From the Roman Ritual, *de Comm. infirm.*, the ablutions must be given to the sick person. Likewise from the same Roman Ritual, Order of administering sacramental communion: "let him [the priest] consume the ablution, if he has celebrated, or hand it to be consumed by those who then communicated, or at least cast it into the sacrarium." But if the sick person cannot or does not wish to consume the ablutions, as is established in the Roman Ritual, then the priest can throw them into the fire at the sick person's own home, or carry them with him to the church, so that he may cast them into the sacrarium.

He could also, foreseeing the difficulty of the matter, wash his fingers with the purificator, first moistened. "Ordinaries can permit that for those affected by ill health, who cannot leave the house and ask holy Communion from devotion, especially when several ask in some parish, or someone asks frequently, the Holy Eucharist be carried privately, or without observing the prescriptions of the Ritual, from the church to the house, from a just and reasonable cause, with at least the rite proposed by Benedict XIV in the Decree *Inter omnigenas*, Feb. 2, 1744, § 23, preserved, namely: Let the priest

always have the stole covered by his own garments; let him place the pyx in a small bag or burse, which, suspended from the neck by cords, he places in his bosom; and let him never proceed alone, but be accompanied by at least one faithful person, in default of a cleric." S. C. de Sacram., Dec. 23, 1912, ad 3.

As to nuns of papal enclosure who are sick, "in default of the confessor or chaplain, a third priest, even a regular, although without a companion, legitimately called with permission of the bishop, who for this permission to be granted in the name of the bishop himself can also habitually designate the abbess or superior, may carry holy Communion to the sick Religious who cannot come down to the grates of the church. But it is necessary that four religious women of mature age, if it can be done, accompany the priest from his entrance into the enclosure until his exit; and he must carry the sacred pyx containing some consecrated Particles, administer holy Communion, return, and replace the same sacred pyx, with the rubrics established by the Roman Ritual for Communion of the sick preserved." S. C. de Relig., Sept. 1, 1912, *A. A. S.* v., p. 625 seq. "Our Most Holy Lord Pius Pope X deigned to establish and declare: That in the indult of a private Oratory there is understood to be included the faculty of distributing holy Communion to all those Christian faithful who assist at the sacrifice of the Mass, saving parish rights. Anything whatever to the contrary notwithstanding." S. R. C., May 8, 1907.

537. When can the Eucharist be ministered? - It can be ministered both outside Mass, and in Mass, both before and after Mass from a reasonable cause. Roman Ritual, Order of administering sacramental communion. Before or after a private Mass, not a solemn or sung Mass, or even a conventual Mass. S. R. C., Jan. 19, 1906, ad 3. But in Mass it can be ministered, whatever kind it may be; even of the dead, and in black vestments, whether within Mass, namely after the communion of the priest, even by extracting the pyx, or immediately before, from a just and reasonable cause, or immediately after, the blessing being omitted in either case, and in Paschal time Alleluia being omitted, although the Prayer and Versicles of the time must be said. Roman Ritual; S. R. C., June 27, 1868, General Decree n. 3177;

Nov. 26, 1878, n. 3465; Benedict XIV, *de Sacrif. miss.* l. 3, c. 18. It can be ministered on any day, except Friday of greater week, as is drawn from the Rubrics of the Missal on Thursday in the Supper of the Lord, and from universal custom, and this is prohibited under grave obligation. It can be given in the solemn Mass of Holy Saturday and after Mass, S. R. C., March 22, 1806, n. 2561; Apr. 28, 1914. Nor likewise can it be given in the Mass of the Nativity of Our Lord which is celebrated at midnight, outside the case of privilege or legitimate custom. - Benedict XIV, *De Sacrif. miss.* l. 3, c. 18. Likewise it can be ministered at any hour at which Mass is celebrated; indeed, if a special cause is present, at any hour of the day. But toward evening it is not to be ministered unless a grave cause is present; but at night only in a case of necessity, both because of present-day custom and because scandal or rather wonder is to be avoided; which, as is clear, is not verified in Communities which reserve the Most Holy Eucharist in a domestic chapel, where it concerns Communion of the sick. L. 252, 349; Suarez d. 66, s. 5; Benedict XIV, *de Sacr. miss.* c. 18, n. 14; E. M.

If a special cause is present; unless a grave cause is present; for from the general rule one must stand by the Decree of S. R. C. "Whether only from time to time, when Mass is permitted to be celebrated, Communion is to be ministered to the Christian faithful according to Decree 2572, ad 23; or whether

it is also licit to minister beyond the aforesaid time, namely until sunset? "Resp. In the affirmative to the first part; in the negative to the second." S. R. C., June 11, 1904; Sept. 7, 1816, n. 2572, ad 23.

From the indult which priests enrolled in the Eucharistic Priestly League have, it can be distributed from the first hour before dawn until sunset. It cannot be distributed within Mass only on the night of the Nativity, unless likewise an indult is had, which was granted to all religious Communities, seminaries of clerics, and pious houses having an oratory, with the faculty of reserving the Most Holy Sacrament. There can be celebrated there on the night of the Nativity of Our Lord Jesus Christ three Masses, and Holy Communion can be distributed to all standing by, the doors being closed. Holy Office, Aug. 1, 1907. - It is not licit to distribute Communion at an altar on which the Most Holy Sacrament is exposed, if other altars are not lacking in the church. Indeed neither is it licit to celebrate Mass at that altar without grave cause or indult. Cf. Ceremonial of Bishops l. 1, c. 12, n. 8, 9; S. R. C., Feb. 8, 1913.

Violet or white color is to be used in Communion administered outside Mass on the day of the Commemoration of all the Faithful Departed. S. R. C., Apr. 19, 1912, ad 10. "A priest clothed in the sacred vestments of the Sacrifice cannot administer Holy Communion before or after solemn or sung Mass, or even conventual Mass, as is permitted before or after private Mass." S. R. C., Jan. 19, 1906, ad 3.

Holy Communion can be ministered to a layman serving Mass within the presbytery and at the edge of the footpace of the altar, even if he is not clothed in clerical habit. S. R. C., June 8, 1911.

The print's appendix has more on this paragraph: Communion of the Minister. (ed.)

538. Immediately after consecration, can Communion, from some just cause, be distributed to the people by another priest from particles consecrated in the Mass before the celebrant communicates? - Some affirm, because just as particles of this kind can not be consumed by the priest or by other communicants, although they are after the manner of one victim, provided the priest receives another part of the matter then consecrated, so they can be carried by another priest into another place for the use of the faithful even before the Communion of the priest, provided as much remains as suffices for the integrity of the sacrifice. Others deny it, because all the following prayers and blessings equally regard them, nor is it fitting that another participate in the sacrifice before the priest himself, who is principally offering. Thus also from S. R. C., May 11, 1878, ad 7, n. 3443. St. Thomas 3 p., q. 82, a. 4; Diana tr. 1, *de Celebr. miss.*, r. 232, 233.

539. Can a priest laboring under infirmity in the thumb and index finger minister the Eucharist with other fingers? - It seems to be denied, at least more probably, apart from a case of very grave necessity. The reason is that, although the whole hand is consecrated, nevertheless the index finger and thumb from the rite of the Church are specially destined for exercising this function. L. 244. - La Croix writes thus concerning this matter, l. 6, p. 1, n. 480: "It is probable that a priest licitly distributes Communion with the later fingers, if he cannot with the first because of gout in the hand or another impediment, as Toletus, Arriaga, Leander, and others with Gobat have it... Because although only the first fingers are anointed, nevertheless the whole hand seems consecrated; hence Gobat infers that a priest who without cause touched the host with the last fingers would sin only venially." But St. Alphonsus 490 thinks it not improbable that Viaticum can be given to the dying by means of an instrument, e.g., a spoon, for example in time of plague.

540. What must be done if the host falls to the ground? - The place onto which the holy host falls must immediately be covered with some clean thing, and afterward washed. If it falls onto the cloth or little linen cloth by which the hands of the communicant are covered, the place is immediately to be marked with a pin, and afterward washed in the same way. Thus Rubr. *de Defect*. t. 10, n. 15, which however does not oblige under grave obligation according to the common opinion; yet it would oblige gravely to wash the place onto which the sacred species of wine had fallen, since it is imbibed by it; yet there is no need that that into which they fell be burned.

Rubr. n. 12: "If through negligence something of the Blood of Christ has fallen, if indeed upon the ground, or upon the table, let it be licked with the tongue, and let the place itself be scraped as much as is enough, and let the scraping be burned; but let the ash be placed in the sacrarium. But if it has fallen upon the stone of the altar, let the priest absorb the drop, and let the place be well washed, and let the ablution be cast into the sacrarium. If upon the linen of the altar and the drop has reached another linen; if even to a third, let the linens be washed three times, a chalice being placed beneath; and let the water of the ablution be cast into the sacrarium." And the same is said there if the Blood falls upon the corporal, vestments, or carpet. And n. 13: "But if it happens that the whole Blood is poured out after Consecration, if indeed something or a little remains, let that be consumed, and concerning the remaining poured-out Blood let it be done as was said. But if nothing at all has remained, let him again place wine and water, and consecrate from that place, In like manner after they had supped, yet first making the offering of the chalice, as above." St. Thomas 3 p., q. 83, a. 6 ad 7; L. 250; La Croix 484.

541. What must be done if the host falls onto the face, beard, or clothing of the one communicating? - In the aforesaid cases purification is to be omitted, because it is better to avoid the wonder, disturbance, or offense of the people than to observe the Rubric, which obliges only under light obligation. - L. 250.

542. What must be done if the host or its fragment falls into the bosom or within the clothing of a woman? - "It is fitting that not the priest, but the woman herself, seek the particle or fragment; and with her own hands place it into her mouth." Benedict XIV, *de Sacr. miss*. l. 3, c. 20, n. 7. But the fingers of the woman are to be washed, and the ablution cast into the piscina. If the woman cannot easily extract the host there, let her withdraw apart, e.g., into some chapel or into the sacristy.

543. What must be done if consecrated particles remain, and there is no tabernacle in which they may be placed? - They are to be consumed by the celebrant before purification and ablution, if this can easily be done, or if they are not in too great a quantity. Otherwise they would either have to be consumed by another priest soon to celebrate, or, if there is none, they would have to be carried to the nearest tabernacle with the accustomed rite; nor is it to be committed that several hosts be ministered to the faithful. But let the priest take care, insofar as circumstances permit, not to consecrate too great a quantity of particles. If an entire host of this kind remains after purification and ablution have already been consumed by the priest, and there is no other priest who may celebrate, nor is there a tabernacle, nor is there a way for it to be preserved honorably, then the priest, although not fasting, can consume it. Rubr. tit. 7, n. 3.

544. What must be done concerning fragments of hosts which are found? - If the priest finds fragments of his present sacrifice, he must consume them, even after ablution, whether they are small or large, because they regard the same sacrifice. Rubr. *de Defect*. t. 7, n. 2. But this must be

observed not only immediately after Mass, but also if the priest is in the sacristy, yet still clothed in the sacred vestments. But if the priest has already taken off the sacred vestments, he must place the fragments in the tabernacle, if it is present, or reserve them for another priest about to celebrate that same morning. If neither can be done, let him consume them himself. - But if the remnants were consecrated in another Mass, they are not to be consumed after purification, but must be placed in a decent place. The reason is that the Rubric permits the priest not fasting to consume only those remnants which regard the same sacrifice. Yet if this cannot be done, and there is grave danger of irreverence, then let the priest consume them even after he has taken off the sacred vestments. - If a layman finds fragments, let him warn a priest as soon as possible, if one is nearby, or summon him if he can be found. But the priest, reverently gathering the fragment, will place it in the ciborium, or in a decent and safe place if the tabernacle is lacking, so that it may be consumed in the next Mass. But if a priest cannot be had, let the fragment be reverently gathered by the layman himself in paper or a clean little linen, by means of a pin, and let it be placed inside a corporal or in a decent vessel until the priest has come. L. 251; Benedict XIV, *de Sacr. miss*. l. 3, c. 17, n. 5, 6.

From the Decree of S. C. R., Feb. 19, 1909, in hospitals of lepers the priest can abstain from taking the purification, in order to avert danger of contagion, if perhaps particles left behind have touched the lips and saliva of lepers. Wherefore let a small vessel with water and tow or cotton be prepared upon the altar, into which small vessel the purification of the pyx to be performed in the usual manner is put, and let it, as soon as can be done, be cast into the sacrarium.

545. What must be done if, on the altar or elsewhere, a host certainly or doubtfully consecrated is found? - If the host is believed certainly consecrated, and from elsewhere seems clean and recently consecrated, it is to be placed with the others in the ciborium.

It can also be consumed by the celebrant before purification and ablution. Cf. n. 543. But if it is not clean, or if it was extracted from an unclean place, or is not recently consecrated, it is not to be mixed with the others, but the celebrant will be able to consume it before purification and ablution; but if he experiences excessive repugnance, he will place the host separately in the tabernacle in a clean vessel until it is corrupted, and when corrupted it is cast into the sacrarium. Rubr. *de Defect*. t. 7, n. 3; t. 1, n. 14. - If it is doubtfully consecrated, it is to be consumed by the priest in Mass before purification and ablution. It cannot be consumed before then; because, if it is not consecrated, the natural fast would be violated; nor afterward, because, if it is consecrated, it would be consumed by a priest not fasting. It can also be kept separately in the tabernacle, so that in another Mass it may be consecrated conditionally. But if it provokes excessive nausea, it is to be placed in the tabernacle separately until it has been corrupted, as was just said. Rubr. *de Defect*. t. 3, n. 4, 5; t. 7, n. 3; t. 10, n. 3.

546. What must be done if the priest or sick person has rejected the sacred species? - If the species appear whole, let them be reverently consumed, unless nausea occurs. For then they must be carefully separated and collected in a clean vessel, carried into the church, and kept in a safe and well-closed place until they are wholly corrupted, so that they can be cast into the piscina without irreverence. - If they cannot be discerned, as being wholly mixed with filth, the mouth of the sick person is indeed to be wiped; but whatever has been rejected is to be collected with tow; then, the tow having been burned, the ashes are to be cast into the piscina. Rubr. *de Defect*. t. 10, n. 14.

547. Can a priest ministering viaticum omit those words prescribed in the Ritual: Receive Viaticum, etc.? - Resp. Probably in the affirmative, if the sick person is going to receive Communion by way of viaticum with great sadness of soul. The reason is that for satisfying the precept, the intention of satisfying is not required. But although all things in the Ritual would fall under precept, this is in no way grave; but that reason of sorrow is sufficient for excusing from a light precept. L. 285.

548. What must the priest do if, coming to the sick person with the Most Holy Sacrament and hearing his Confession, he finds him indisposed? - First the confessor must strive, as best he can, to bring the penitent to a better mind. If the matter does not succeed, and, for example, the sick person does not promise either to break off the proximate occasion of sin, or a grave and certainly owed restitution, he certainly cannot be absolved, and he must earnestly be induced, once confession has been completed, to declare publicly that he is not yet willing to receive the Eucharist. But if he makes this declaration, the difficulty now vanishes: for it is clear that the Eucharist is not to be ministered to him. But if he refuses to declare this, and wishes to communicate, the Eucharist is to be ministered to him, although indisposed, namely in order to keep the seal of Confession untouched. Gousset 237.

549. Where and how is the Eucharist to be reserved? - Resp. To the first: In any parish church or filial church of a parish, and in a cathedral, yet outside the major altar, the Eucharist must be kept, so that it can always be given to those opportunely asking. Roman Ritual, *de SS. Euch. sacr.* It can also be reserved by common law in churches of regulars emitting solemn vows, but not within the choir. S. R. C., Apr. 26, 1901. It is also permitted to be reserved "in churches of nuns living in enclosure... But it is not permitted in colleges constituted by the authority of the Ordinary alone, such as conservatories... The same Sacred Congregation decreed with respect to granges of regulars." L. 424, 428. But in other churches it cannot be reserved without special permission of the Pope. Benedict XIV, Const. *Quamvis iusto*, Apr. 30, 1749, § 14. Thus also the Sacred Congregations of the Council and of Bishops and Regulars established. Ferraris v. *Eucharistia*, a. 1, n. 45 ff.; L. 424. An indult for reserving the Eucharist is granted by S. C. de Sacram. "If in Oratories in which the Eucharist is reserved by special Indult, Mass cannot be celebrated daily, an Indult must be sought from the Apostolic See, which is accustomed to prescribe it at least once in any week." S. R. C., May 14, 1889, ad 2, n. 3706. And as regards public churches in which the Eucharist is reserved, access must be open for at least some hours of the day to the faithful wishing to visit the Most Holy Eucharist. S. R. C., Nov. 15, 1890, ad 1, n. 3739.

In cathedral churches the tabernacle ought not be on the major altar, because of the pontifical ceremonies which are done on it; but otherwise in other churches. S. C. EE. et RR., Feb. 10, 1579; Nov. 29, 1594; Roman Ritual.

Resp. To the second: The Eucharist is to be reserved on only one altar, and in a clean, blessed tabernacle, S. R. C., June 20, 1899, ad 4, n. 4035, placed in the middle of the altar, well closed, and in a fitting pyx placed upon a blessed corporal or pall, well closed, and covered with a white veil. The tabernacle in which the Most Holy Sacrament is enclosed must be covered with a canopy of silk cloth, or of hemp, wool, or cotton. Let the color be white, or let it be changed according to times and feasts. Let it never be black, but if the time required this, let it be violet. Roman Ritual, *de SS. sacr.*; S. C. R., July 21, 1855, ad 10, n. 3035; Dec. 1, 1882, n. 3562. But the tabernacle inside must be adorned with a silk cloth; but if inside it is gilded, this suffices. S. R. C., Aug. 7, 1811, ad 7, n. 3254; June 5, 1889,

n. 3709. - Nowhere is the Eucharist to be kept without a light, which must always burn. Roman Ritual, l.c.; Ferraris v. *Eucharistia*, a. 1, n. 45. Benedict XIV, Const. *Accepimus*, July 16, 1746; S. R. C., March 8, 1879, n. 3484; E. M.

The key of the tabernacle the priest, the rector of the church, must keep carefully with himself, or must preserve it in another safe place. S. C. EE. et RR., Feb. 9, 1751; S. R. C., Dec. 1, 1631, n. 579.

549 bis. Is exposition of the Most Holy Sacrament permitted, and what must especially be observed in it? - Public exposition of the Most Holy Sacrament in the monstrance cannot be done without permission of the bishop, even by Regulars. But private exposition, without its being drawn out from the tabernacle, and without the sacred host itself being seen in the pyx, is not prohibited; and Benediction can also be given with the pyx. - Regularly it is not licit either to celebrate Mass or to distribute Communion before the Most Holy Sacrament publicly exposed. - Yet the custom is tolerated of exposing the Most Holy Sacrament and celebrating Mass before it on the occasion of a novena, in which after the Gospel there is preaching of the word of God, provided however that a veil is placed before the Most Holy Eucharist while the sermon is had. S. R. C., May 10, 1890, ad 2, n. 3228.

In the solemn exposition of the Most Holy Sacrament and in Mass, within the ambit of the altar, candles of stearine cannot be used, not even besides the prescribed wax candles. S. R. C., July 30, 1910.

The bishop can, according to necessity, reduce to only twelve the candles which must burn continuously before the Most Holy Sacrament publicly exposed for perpetual adoration according to the track of the Institution 30, n. 24, of blessed memory Benedict XIV. S. R. C., Feb. 8, 1879, n. 3480.

It is not licit during private or public exposition to illuminate the inner part of the Ciborium with electric lamps placed in it, so that the sacred Pyx with the Most Holy Sacrament can be better seen by the faithful. S. R. C., July 28, 1911.

Immediately before Benediction of the Most Holy Sacrament it is not licit for prayers to be recited in the common idiom. S. R. C. n. 3530. Yet it is licit to use the public recitation of certain prayers in the common speech before the Most Holy Sacrament exposed (e.g., the honorable Amends), with the Ordinary consenting. S. C. n. 3157, and May 27, 1911.

By the edict of Clement XI, the faithful are prohibited from giving alms to the poor, who ought to be outside the church, ten canes distant from the door of the church, during the Exposition of the Forty Hours. Instr. Clem. § 28; Collect. S. R. C. vol. 4, p. 100 seq.

550. Can other sacred things be placed in the tabernacle? - Resp. In the negative. This is clear from the Roman Ritual, *de SS. Euch. sacr.* Hence neither Relics, nor Chrism, nor Oil of the sick, nor empty sacred vessels already purified can be placed in it. - Relics of Saints, and relics of the Most Holy Cross or of another instrument of the Lord's Passion cannot be placed upon the tabernacle in which the sacrament of the Most Holy Eucharist is reserved, so that the tabernacle itself serves as a base. S. R. C., March 12, 1836, ad 1, n. 3740. - Neither relics, nor images, nor a vase of flowers or anything similar may be placed and kept before the little door of the tabernacle. S. R. C., Sept. 6, 1845, n. 2906.

A dormitory above an oratory in which the Most Holy Sacrament is reserved, or Mass is celebrated, is not permitted. Yet, by special grace, it is permitted if a large umbrella, commonly a baldachin, is placed over the altar. S. R. C., Nov. 23, 1880, ad 2, n. 3525; May 11, 1641, n. 756; Jan. 24, 1908, ad 3.

551. Must the ciborium be consecrated and silver? - Resp. To the first: It need not necessarily be consecrated, but it suffices that it be blessed. This is clear from the Roman Ritual, in which the blessing of the pyx is noted among those things which do not need anointing with chrism. Likewise from the Roman Pontifical, where only the blessing of the pyx is had. - Hence it is altogether fitting that even the pyx, or ciborium, and the luna, or little sphere of the monstrance, and whatever containing vessel, and one immediately touching the Eucharist, and also the small vessel containing chrism, be blessed. But whether this is necessary, several and grave doctors, not improbably from St. Alphonsus, deny; and it is not necessary, they add, to place on the pyx a linen vessel blessed with the blessing of the corporal. The reason is that there is nowhere an expressed precept concerning this; nor does the Pontifical make us certain, since blessings are assigned there also for bells and cases of relics, which nevertheless are blessed not by precept, but only by fittingness. But others more probably from St. Alphonsus affirm that the pyx must be blessed by precept, because it is more conformable to the Rubric and to reason, and therefore in practice it is to be advised. L. 248, 383-385; St. Thomas 3 p., q. 82, a. 3; Rubr. Missal. t. 2, n. 3.

Resp. To the second: Nothing is established by common law. And indeed it would seem to have to be equated with the chalice and paten, which must be of gold or silver, or at least of tin, if the Church is very poor. But it cannot be of copper, nor of wood, or glass, etc. *De Consecr.*, Dist. 1, c. 45. For the rest, if the sacred vessels are not of gold, they must be gilded inside. S. R. C., Aug. 31, 1867, n. 3162, responded that a ciborium, or sacred pyx, of gilded copper can be permitted, likewise a monstrance (*ostensorium*) and lunula, which embraces the sacred host to be shown. Cf. 645; St. Thomas 3 p., q. 83, a. 3 ad 6; E. M.

552. Does one gravely sin who neglects to keep a light before the Most Holy Sacrament? - Resp. In the affirmative, of itself, if the time is notable. For it is a grave defect of due worship. Notable, i.e., if this happens for an entire day or for some entire nights. L. 248.

553. Whether olive oil is required for feeding the lamp of the church, or whether another oil from vegetables, e.g., from nuts, or from minerals, as petroleum, suffices? - Generally olive oil is to be used; but where it cannot be had, another oil from vegetables, insofar as circumstances allow, can be permitted by the bishop. S. R. C., July 9, 1864, n. 3121. Wherefore even petroleum, when necessity presses, can be permitted by the bishop. Indeed the lamp can also be fed from beeswax, at least in greatest part, which is used in the candles prescribed for the celebration of Mass. S. R. C., Nov. 27, 1908; Nov. 3, 1907.

And nothing prevents a composition of olive oil and beeswax from being used. S. R. C., Nov. 8, 1907.

Lights from gas upon altars, together with candles made from wax, for obtaining greater splendor, are prohibited. S. R. C., Nov. 29, 1901; May 16, 1902.

Electric light cannot be used for worship, but only for decently illuminating the church. - E. M.

Electric light cannot be placed on the altar with candles of wax, S. R. C., May 16, 1902, or in place of candles, S. R. C., Nov. 22, 1907, or in flower-bearing vases which are placed among the candlesticks

on the altar, or around the tabernacle, S. R. C., Jan. 17, 1908, or in place of lamps which are prescribed before the Sacrament of the Most Holy Eucharist or Sacred Relics or images of Saints. S. R. C., Nov. 22, 1907. "An abuse has prevailed, that around little shrines of Saints placed on the wall above the altar, and even on the steps themselves of the altar where candlesticks are placed, small electric lamps distinguished by various colors are arranged, which certainly is less fitting to the gravity and dignity proper to the sacred Liturgy and to the decorum of the House of God." S. R. C., June 25, 1914, *A. A. S.* v. 6, p. 353. "The doubt having been proposed: Whether electric light under the appearance of a candle, or in any other appearance, can be used on the table of the Altar near the Missal to illuminate it? It must be answered: If according to the decrees electric light is forbidden on the altar, a fortiori on the table of the same altar as is proposed in the case, on the day Feb. 15, 1911. Philip Di Fava, Substitute."

It is licit to encircle images of the Most Holy Heart of Jesus or of the Blessed Virgin Mary with electric lights, after the manner of a crown around the head, of the moon beneath the feet, or of solar rays at the sides; and to form fiery tongues on the heads of the Apostles with red lamps. S. R. C., Jan. 17, 1908.

Likewise, in lamps which hang from the vaults of the church, candles of wax can be substituted with fictitious electric candles. S. R. C., Jan. 17, 1908.

554. Whether, or when, must the ciborium be renewed? - The ciborium certainly must be renewed, the old consecrated particles not having been entirely consumed, lest the consecrated species be corrupted. Indeed it must be renewed frequently, Roman Ritual, *de SS. Euch. sacr.*, every eight or at least fifteen days. And this is the more common practice, and indicated in Benedict XIV, Const. *Etsi pastoralis*, May 26, 1842, *de Sacr. euch.* § 4, although the Ceremonial of Bishops l. 1, c. 6 prescribes that renewal of particles be done every eighth day, and S. R. C., Sept. 12, 1884, ad 2, n. 3621, declared this to be observed. Trent sess. 14, c. 6, can. 7; Plenary Council of Latin America 347; E. M.

555. How must the ciborium be renewed? - The renewal of the ciborium is to be done in the sacrifice of the Mass itself. The celebrant, having consumed the most precious Blood, will consume the old hosts, although they are many. But the priest will cast the smaller particles found in the ciborium into the chalice, and, wine having been poured over them, will consume them. He can also pour wine into the ciborium for collecting the smallest particles. Yet the wine is not to be drunk from the ciborium, but poured back into the chalice. - If the priest from inadvertence had first consumed the ablution, he could still purify the ciborium and consume the remnants, because for reception it is morally reputed one. Thus La Croix 486, 487; Elbel 77; Tamburini, *de Communione* c. 2, n. 54. "But after the ablution," says St. Liguori, "it is not licit to consume particles of another sacrifice which are in the ciborium, in order to cleanse it, as Suarez, Lugo with the common opinion teach, although Tamburini says the contrary is probable, unless there is danger of irreverence." L. 288, 251; La Croix 501, 502. Cf. here 544.

556. Note: Particles to be consecrated must be fresh. It would be desirable that they not exceed fifteen days, or, at most, a month from the time when they were made. Carelessness in this matter can constitute grave sin. The custom of consecrating hosts made three months earlier in winter, or six months earlier in summer, is an enormous abuse altogether to be removed; priests cannot use such hosts. S. R. C., Dec. 16, 1826, n. 2650.

IV. On the Subject of the Eucharist

557. Who is the subject of the Eucharist? - Only a baptized man can receive the Eucharist sacramentally, because only the baptized person is capable of the sacraments. Hence an unbeliever receiving the Eucharist would indeed receive it truly, but only materially, not sacramentally. But a man baptized yet indisposed receives sacramentally indeed, but not spiritually, or receives without fruit. But the baptized person disposed receives both sacramentally and spiritually, or with fruit. Trent sess. 13, c. 8, can. 8.

558. What is the obligation of receiving the Eucharist? - It is certain that the Eucharist is not necessary, by necessity of means, for obtaining first justification, as regards actual reception. But whether it is necessary at least in desire, by necessity of means, is disputed. As regards practice, however, the matter has no difficulty. For in the opinion of all, at least a virtual and implicit desire suffices. "Adults have such a desire when they receive the sacraments of Baptism or Penance; but little children have the desire, not from their own will, but from the implicit will of the Church." L. 192. Likewise it is disputed whether, in reality or in desire, it is a necessary means for adults for preserving spiritual life. Suarez and others deny this, because other means are not lacking. The Salmanticenses and others affirm it, because the life of the soul cannot be preserved without spiritual food; and therefore it is necessary at least in desire, and indeed explicitly in one who notices the necessity of this sacrament. Hence they hold that one is not excused from sin, even if he receives the Eucharist once a year, if he knows that such rare Communion is not sufficient for him to persevere, having regard to his own weakness. L. 192.

The reception of the Eucharist is necessary for adult faithful by necessity of divine precept obliging both at the article of death, by way of Viaticum, and also more often during life. This is proved both from Sacred Scripture, and from the Council of Nicaea can. 13, and Trent sess. 13, ch. 6, can. 9, and from the practice of the Church, and because the Eucharist was instituted by way of food, the use of which is more often necessary. L. 285, 290; Suarez disp. 69, sect. 3; Lugo disp. 16, n. 27. "Sometimes accidentally a man is held by this divine precept to communicate perhaps even more often in the year, if he judged this necessary for overcoming some grave temptation. Suarez, however, says that this can happen most rarely, since other remedies, prayers, penances, etc., can suffice for this. But in that case, in which Communion would be necessary, a man by omitting it would not sin against that precept, but against the virtue against which he suffers temptation. For the rest, it is certain among all that, speaking per se, each person satisfies this precept by communicating once in the year." L. 295. The reception of the Eucharist is necessary also from the grave precept of the Church once in the year, at least at Easter, unless perhaps by the counsel of one's own priest, for some reasonable cause, one has judged that abstaining from such reception is necessary. Lateran Council IV, c. *Omnis*, de Poenit. et remiss.; Trent sess. 13, can. 9.

The reception of the Eucharist under both species is not only not necessary for laymen, but is even prohibited; and this also in the necessity of receiving Viaticum. For both the reverence due to this sacrament, since especially in the case of death there is danger of spilling; and also that the error of heretics may be rooted out, who say that the whole Christ is not contained under each species, or that the use of the chalice is necessary, and that the Church erred by administering one species without the other, are sufficient motives for the Church to prohibit this with such rigor. Hence not even a drop of the consecrated chalice can be given to a dying man who cannot receive the species of

bread for Viaticum and could receive a drop of the Blood; because in a matter of such importance a door is not to be opened to other liberties, even if that man should die without Viaticum. Trent sess. 21, chs. 1, 2, 3, cans. 1, 2, 3; sess. 22, Decr. super petit. conc. Calc.; Roman Catechism, p. 2, nn. 65, 66; Lugo, *Responsa Moralia*, l. 1, disp. 10; Suarez disp. 71, sect. 3; St. Thomas 3 p., q. 73, a. 3; q. 74, a. 1 ad 3; q. 80, a. 11, 12; E. M.

559. Resolutions: Every faithful person in danger of life, which he foresees, is bound under mortal sin to communicate. L. 291. - One who after receiving Viaticum has sinned mortally is not bound to communicate again. L. 293. - One who did not communicate in danger of death is not bound afterward to make it up. L. 293.

560. When can, or must, children be communicated? - "For the greater reverence of this sacrament, the Latin Church rightly prohibited giving it to little children." L. 301. And this holds even in danger of death for such little children who are still without the use of reason, both because the same danger of irreverence is present, and because such is the usage of the Roman Church. And one who acted otherwise would sin gravely. L. 301; Trent sess. 21, ch. 4, can. 4.

But whether children, as soon as they have the use of reason, can and must communicate, was a disputed matter among earlier theologians. "The first opinion affirms... But the second opinion, very common and more probable, denies that they are bound... Of those, however, who defend this opinion, some say that such infants are neither bound nor able to communicate; but others say that they are not bound, yet are always able, provided they know how to discern this heavenly food from profane food. Commonly the doctors say that, regularly speaking, children are not obliged to Communion before the ninth or tenth year; nor is Communion to be deferred for them beyond the twelfth." L. 301. Certainly received custom has so interpreted this precept that children are not immediately bound by it before they have a more perfect use of reason, so that they may receive the Eucharist with greater reverence and fruit. "But when children already begin to have some use of reason, so that they can conceive devotion toward this sacrament, then this sacrament can be conferred on them." St. Thomas 3 p., q. 80, a. 9 ad 3; 4 Dist. 9, q. 1, a. 5, q. 4. "But at what age," says the Roman Catechism, *On the Sacrament of the Eucharist*, n. 63, "the sacred mysteries should be given to children, no one will be able to determine better than the father and the priest to whom they confess their sins. For it belongs to them to examine and to inquire of the children whether they have received some knowledge and taste of this admirable sacrament." And this pertains also to pastors, as regards children who are presented to them by their parents. Therefore it is not an exclusive right of the pastor to admit children to first Communion. This was never counted among the exclusive rights of the pastor. - Benedict XIV, Const. *Etsi minime*, Feb. 7, 1844, § 4; E. M.

This matter at present is already beyond all controversy from the Decree of the S. Congregation of the Sacraments *Quam singulari*, Aug. 8, 1910. The prescriptions of that Decree have already been reported in the first part of vol. 2, n. 1270 bis.

561. Is someone bound to receive sacred Viaticum when danger of death is imminent, if a few days before he communicated from devotion? - It seems that this must be affirmed, at least more probably. The reason is that this precept, from the interpretation of the Church, presses in danger of death, so that we may be fortified by this divine aid against spiritual enemies.

Therefore it is not fulfilled by Communion made before the illness, because although someone fulfilled the prescribed work, nevertheless he did not fulfill it at the time when he was bound. L. 285. Yet many deny this with Lugo disp. 15, n. 39. Their reason is that the precept of Communion has already been fulfilled in substance. St. Alphonsus, l. c., concerning this denying opinion says: "The more common opinion denies it, even if Communion preceded by about eight days; Laymann holds this, Lugo with the common opinion, as Roncaglia asserts, with Concina, Angelo, Filiucius, Tamburini, Henry, Molfesius, Suarez, who with Soto and Paludanus holds it if Communion was received three days before; and Palaus and the Salmanticenses think it probable.... This opinion is sufficiently probable, at least if the danger of death happens naturally, because during that brief preceding time it had already begun morally to be imminent, although it was unknown." Indeed some cited by Busembaum think that, at least, it is not mortal to omit Communion, provided you received it at Easter. But St. Liguori by no means acquiesces in this opinion, and rightly, 291, 297 at the end of the paragraph beginning *Dicit*.

562. Is one who communicated in the morning from devotion bound, or able, when danger of death presses, to receive Viaticum? - The first opinion affirms that he is bound, because then Viaticum must be received in order to fulfill the divine precept, which, since it was not yet pressing at the time when Communion was received, therefore could not be fulfilled by that reception. The second opinion says that he is not bound, but can communicate: 1. not bound, because the time in which he communicated is morally the same, since it is the same day; 2. able, because although strictly he does not seem to be bound, nevertheless he is not therefore prohibited, since favors are to be enlarged. - The third opinion contends that he is neither bound nor able to communicate. The reason is that since the precept obliges according to the intention of the Church, the practice of the Church is that no one communicate twice in one day; nor is there a reason why this case should be excepted.

Benedict XIV thinks all three of these opinions probable, saying thus: "In so great a disagreement of the opinions of the doctors, it will be open to the pastor to embrace that opinion which has more pleased him." *De Synodo*, l. 7, c. 11. - St. Alphonsus, 285, and *Quaestiones reformatae* 66, says more probably that one must distinguish between natural and violent illness, because in the latter case "one did not receive Viaticum while placed in the article of death; but otherwise, if one already placed in illness communicated in the morning from devotion."

563. Can the Eucharist be given to a sick person who suffers from a cough? - Resp. In the affirmative, because the danger that the sacred species be rejected together with phlegm is generally absent. And the reason is that the way through which spittle is expelled by coughing is not the esophagus, that is, the way through which food and drink are passed into the stomach, but is the trachea, through which breathing extends even to the lungs. If, however, the cough is so continual that it prevents the sacred host from being passed into the stomach, then Communion must be abstained from. Roman Ritual. But when a sick person suffers from constant vomiting, regularly he cannot communicate, unless perhaps he has been free from vomiting for at least six hours. In doubt, however, whether the sick person is going to vomit up the sacred particle, it must not be given to him. L. 291, 292.

564. In danger of death, is Communion to be given to children who have not yet been admitted to the sacred synaxis? - Resp. In the negative, if they have not yet obtained the use of reason. The reason is that this is against the present discipline of the Church. - In the affirmative as regards children who are possessed of reason and who have some notion of this sacrament. Indeed not only

can Communion be given to him, but it also must be. The reason is that, on the one hand, children placed in such danger are bound by divine precept to communicate; and, on the other, the usefulness of the Eucharist then does not demand a greater disposition. Benedict XIV, *De Synodo*, l. 7, c. 12; L. 301; St. Thomas 3 p., q. 80, a. 9.

565. In danger of death, is Communion to be given to the insane, the semi-fatuous, the delirious, and those deprived of the senses? - As regards the insane, if they have been perpetually insane, or phrenetic, Communion is never to be given to them. Roman Ritual, *de SS. Euch. sacr.* If they have lucid intervals and have manifested a desire of communicating, Communion can be given to them; indeed it also must be, excluding the danger of irreverence. Roman Ritual, ib.; St.

Thomas 3 p., q. 80, a. 9; Roman Catechism 64; L. 302. - As regards semi-fatuous persons, Communion is to be given to them when they have sufficient discretion to distinguish this heavenly food from others; but rarely, namely only in the article of death, and where the strict precept of communicating presses. L. 303. Nevertheless, if a semi-fatuous person shows a desire for Communion and approaches it with due exterior devotion, so that there is no irreverence, Communion can be permitted to him more frequently. Cf. Roman Ritual ibid.; John Sanchez, *Disputationes Selectae* 26, n. 5; St. Thomas l. c. - As regards the delirious, Communion can be given to them if they have manifested a desire for Communion, and if they are able to communicate, excluding danger of irreverence toward the Eucharist.

L. 292. - As regards those deprived of the senses, they are certainly dispensed from the precept, since they are capable of observing no law. But the pastor is not therefore dispensed from the obligation of ministering the Eucharist to them, if before the loss of reason they were prepared. For the sacraments work *ex opere operato* in those who desired to receive them before they lost the use of reason. Yet except the case in which there is danger of irreverence, or if it is feared that they will not be able to swallow the host. Gousset 232.

566. Is Communion to be given to deaf-mutes, the possessed, and epileptics? - Resp. As regards deaf-mutes, in the affirmative, if from signs it is clear that they have some discretion and are sufficiently instructed. If they enjoy not just any discretion and instruction, but some sufficient discretion and instruction, they will be able to communicate more often. L. 303; St. Thomas 3 p., q. 80, a. 9; cf. 385. As regards the possessed, a distinction must be made: Communion must be denied to them when they are not masters of themselves; otherwise it is to be granted. Indeed it is expedient that such persons communicate more often according to the prudence of the confessor, since the Eucharist is a special remedy for driving away demons. As regards epileptics: Communion cannot be given to them when they are in an actual paroxysm, because of the proximate danger of irreverence; but at other times it is not to be denied. L. 303.

567. Can Communion be given to those condemned to death? - Resp. In the affirmative. Benedict XIV indeed teaches that "that custom is to be followed which is known to exist respectively in each place," *De Synodo*, l. 7, c. 11. But he calls the usage of ministering the Eucharist to them more conformable to Christian piety, and says it is to be introduced where it is not, and he brings forward the testimony of St. Pius V on this matter. Gousset 230. Communion is then ministered by way of Viaticum. S. C. de Prop. Fide, July 21, 1841; E. M.

568. What dispositions of soul are required? - For receiving the Eucharist the state of grace is required, at least prudently estimated. Otherwise a most grave sacrilege is committed. The reason is clear from the nature of the thing, and also from the words of the Apostle, 1 Cor. 11:28: But let a man prove himself, and so let him eat of that Bread and drink of the Chalice. For he who eats and drinks unworthily eats and drinks judgment to himself, not discerning the Body of the Lord. - It is not sufficient that the state of grace be acquired by perfect contrition, but it is required that Confession of mortal sins be first made and sacramental absolution be received, except in a case of necessity of celebrating or communicating, and when the availability of a confessor is lacking. Trent sess. 13, ch. 7, can. 11. - In a priest celebrating, however, the state of grace is required both insofar as he is the subject receiving the Eucharist and insofar as he is the minister confecting it. St. Thomas 3 p., q. 80, a. 4, 5; q. 82, a. 5, 7. Besides the state of grace, it is required that someone at least discern spiritual food from bodily food, and have some devotion. - L. 256, 257; E. M.

569. When is the aforesaid necessity considered to exist as regards making Confession? - The necessity by which, if a confessor is lacking, after only contrition has been first made, someone could celebrate and receive the Eucharist is judged to exist in the following cases: 1. In danger of death, i.e., that a host may be consecrated for one dying. 2. If the sacrifice or Communion cannot be omitted without grave infamy or scandal. 3.

If a pastor must celebrate by office, and cannot through another, so that the people may hear Mass; nor can he omit the celebration without infamy or scandal, L. 261; and according to Suarez and others, even if he could abstain without infamy. Cf. Lugo disp. 14, p. 114; Suarez disp. 66, sect. 4. 4. If the precept concerning annual Communion presses, or if a priest cannot hear the prescribed Mass unless he celebrates. Thus many; but far more commonly and truly others deny it. As regards hearing Mass, St. Alphonsus 261 says that others better contradict this; but as regards Communion he says that each opinion is probable. 5. If a priest after the consecration commits a mortal sin, or remembers one committed before. St. Thomas 3 p., q. 83, a. 6 ad 2. But if this occurs before the consecration, and especially before the canon, he must confess, if he can without the mark of infamy, and therefore he can also interrupt the Mass. Indeed many more probably add that he is also bound to abandon the Mass if he cannot confess; and this is prescribed in the Rubrics *de Defectibus*, tit. 8, n. 5, if scandal is not feared. St. Thomas l. c. But, ordinarily speaking, danger of scandal is present, and in that case the mark of infamy will scarcely be able to be avoided. 6. If at the Communion rail you remember that you forgot to confess, and you cannot withdraw without mark or grave scandal. L. 260, 263.

570. When is the availability of a confessor considered lacking? - It is considered lacking: 1. If no confessor is present, and, considering the circumstances of weakness, age, business, distance, weather, shortness of time, etc., an absent one cannot be approached without grave difficulty. 2. If no other confessor is present except one ignorant of the language, or lacking jurisdiction, or one who is unwilling or unable to hear Confessions, or to whom you cannot confess without grave harm to yourself or another. - Nevertheless, in these cases perfect contrition is required. - But the availability of a confessor is not considered lacking if the one to whom you are accustomed to confess is absent; rather, any approved confessor whatever must be lacking. L. 264.

571. What distance is required for a priest to be considered lacking? - It cannot be determined rigorously, but depends on the circumstances. Some require a distance of two leagues; others a league and a half or a league and a quarter; others only one league. But besides the reason of the journey,

other reasons often press, e.g., illness or shortness of time. Thus a priest already about to celebrate can be excused from Confession, even if the confessor is fifty paces away. L. 264.

572. Is one who remembers a mortal sin which, from inculpable forgetfulness, he did not declare in Confession, bound to confess it before Communion? - Resp. Certainly in the negative, if the penitent is already sitting at the sacred table, or if a grave cause for communicating is present, so that he can confess again only with difficulty. The reason is that even if there were a precept of Confession, it would not press with such great inconvenience. - If the penitent can confess without inconvenience or omit Communion, it is controverted: more probably he is neither bound to confess nor to abstain from Communion, because a sin involuntarily omitted certainly has been remitted, though only indirectly; and therefore it in no way obstructs Communion being received. Nor should you say that the precept of Trent urges confessing before Communion; for since the penitent has already been duly confessed and justified by the sacrament of Penance, he has been sufficiently proved even according to the mind of Trent. Thus Gousset 249 and others against Lugo and others, who more commonly and not improbably held the opposite. St. Liguori comes closer to the former opinion, yet judges that the second should be advised in practice, provided some cause does not counsel otherwise. H. A. 23; L. 257.

573. Is a priest who celebrated, or a layman who communicated, conscious of mortal sin, without Confession, on account of an urgent necessity, bound to confess as soon as possible? - Resp. As regards the priest, in the affirmative. For so expressly Trent sess. 13, ch. 7, and prop. 38 condemned by Alexander VII. As regards the layman, more probably in the negative. The reason is that Trent speaks only of priests celebrating under urgent necessity. Therefore it does not touch priests who merely communicate. But there is doubt whether it touches one who celebrates on Good Friday, or one who completes the Mass of another who failed after the consecration, because the case is extraordinary, and Trent must be understood strictly of him who truly himself celebrates, i.e., consecrates and communicates. La Croix 539. - But it is very commonly asserted that it does not touch the priest who celebrates sacrilegiously when no necessity presses and the availability of a confessor is not lacking, for whom the law would rather be harmful, and a certain occasion of a new sin, without hope of fruit. "But Lugo rightly notes that if a priest from necessity, with contrition omitted, celebrated, he would indeed be bound to confess as soon as possible, because the precept of Trent by no means distinguishes between a priest having contrition and not having contrition, but speaks of any priest whatever celebrating from necessity." L. 266, 268; Lugo disp. 14, nn. 138, 139, 150; Suarez disp. 66, sect. 7; E. M.

574. How is that precept imposed on priests of confessing as soon as possible to be understood? - More probably it suffices that the priest confess within three days, because since this precept is only ecclesiastical, the word *quamprimum* can be understood morally, as it is understood in other human laws, where that word, or another similar one, by common interpretation is extended to a space of three days. Nevertheless such a priest cannot celebrate again before he has confessed, because he was not excused from Confession except because of the instant necessity. Hence, if the same necessity of celebrating presses on the following day, and he can confess, he cannot put Confession off to another day. - L. 266.

575. Note: Some said that the particle *quamprimum* was to be understood as soon as such a priest has celebrated. "But this opinion is altogether improbable, because then he would be bound to

Confession by reason of the celebration itself; but Trent, apart from celebration, imposes the precept of confessing as soon as possible." L. 266; E. M.

576. Is a priest celebrating after Confession, in which he inculpably forgot some mortal sin, bound to confess as soon as possible? - Resp. In the negative, if he remembers the sin after celebration, because he did not celebrate conscious of that sin, as Trent speaks. - In the negative also, more probably, if he remembers the sin before celebration, because since he first made Confession, although he forgot some grave sin, in reality he cannot be said to have celebrated conscious of mortal sin without previous Confession. St. Liguori says this opinion is probable, 266. Likewise in the negative if he remembers the sin or committed the sin after Mass was begun. For the Council speaks of a priest celebrating, under urgent necessity, without previous confession. Rubrics of the Missal, *de Defectibus*, tit. 8, n. 4; Lugo disp. 14, nn. 145, 146; L. 267.

577. Is one bound to confess who, because of narrowness of time, cannot confess everything; or who has even reserved sins for absolving all of which the confessor does not have faculty? - Resp. In the affirmative, since when Confession materially integral cannot be made, formally integral Confession suffices, and therefore, since Confession is still possible, one is bound to it. Many and grave doctors, however, deny that there is an obligation of Confession if someone has reserved and non-reserved sins, and St. Alphonsus judges their opinion probable, 265. But all agree that such an obligation of Confession is not present if someone has only reserved sins for absolving which the confessor does not have faculty. Cf. 802.

578. What if the penitent has a reserved excommunication? - "Suarez, Lugo, Coninck rightly judge that he can well receive the Eucharist when scandal or the mark of infamy presses. The reason is that the precept of the Church prohibiting excommunicated persons from receiving the sacraments does not oblige when the natural precept of avoiding scandal concurs, or it does not oblige with such great inconvenience of enduring infamy." L. 265. - But can he confess to one who does not have faculty over the excommunication? According to St. Alphonsus, the first probable opinion denies it; wherefore he can communicate, with contrition having first been made, although he has other non-reserved sins. For he cannot confess, "since he is bound by excommunication, which forbids him from receiving the sacrament of Penance." L. ib. But the second and more probable opinion affirms it. The reason is that in that case of necessity "excommunication, just as it does not deprive him of receiving the Eucharist, so also does not deprive him of receiving Penance, which must be received when it can be, so that the divine precept of first making Confession before Communion may be observed." L. ib.; Ithur. Cas. 52, nn. 24, 25. Cf. 802.

579. Do actual or virtual affections toward venial sins, or actual concomitant venial sins, e.g., voluntary distractions, impede the whole fruit of Communion? And what about frequency of Communion? - Resp. To the first, in the negative. Thus more commonly. The reason is that all the sacraments confer grace *ex opere operato* on those placing no obstacle. But the obstacle to the sacrament of the Eucharist is only consciousness of grave sin. Yet, although actual venial sins, or an actual affection toward them, do not remove the whole fruit of Communion, they nevertheless partly impede it. For "the effect of this sacrament is not only the attaining of habitual grace or charity, but also a certain actual refreshment of spiritual sweetness, which indeed is impeded if someone approaches this sacrament distracted in mind by venial sins; but the increase of habitual grace or charity is not taken away." St. Thomas 3 p., q. 79, a. 8, 4, 5. Actual venial sins, or an actual affection

toward them; "for it can happen that someone, after many venial sins committed, approaches this sacrament devoutly and obtains fully the effect of this sacrament." St. Thomas ib.; Decree of Innocent XI, 1679; L. *Praxis* 148 seqq.; Trent sess. 7, can. 6; sess. 13, ch. 7; Suarez disp. 63, sect. 3; Lugo disp. 14, sect. 3; L. 270.

Resp. To the second. By frequent Communion can be understood Communion several times in the year, monthly, weekly, several times in the week, daily. Now the Angelic Doctor has this: "Concerning the use of this sacrament two things can be considered: one indeed on the part of the sacrament itself, whose power is salutary for men, and therefore it is useful to receive it daily, so that a man may daily receive its fruit.... In another way it can be considered on the part of the one receiving, in whom it is required that he approach this sacrament with great devotion and reverence. And therefore, if someone finds himself daily prepared for this, it is laudable that he receive it daily.... But because often in many men many impediments to this devotion occur, because of indisposition of body or of soul, it is not useful for all men to approach this sacrament daily, but as often as a man finds himself prepared for it.... This sacrament is spiritual food; hence just as bodily food is received daily, so also it is laudable to receive this sacrament daily.... And therefore each pertains to reverence for this sacrament, both that it be received daily and that one sometimes abstain.... Yet love and hope, to which Scripture always provokes us, are preferred to fear." St. Thomas 3 p., q. 80, a. 10. And 4 Sent., dist. 12, q. 3, a. 1, q. 2: "If someone knew experimentally that from daily reception the fervor of love increased and reverence was not diminished, such a one ought to communicate daily; but if he felt that through daily frequency reverence was diminished and fervor was not much increased, such a one ought sometimes to abstain, so that afterward he might approach with greater reverence and devotion." Therefore no determined rule can be established in this matter, but "it can be taken solely from the particular state, devotion, and charity of each one." Benedict XIV, *De Synodo*, l. 7, c. 12, n. 7. According to the Decree of Innocent XI, for frequent Communion the criterion must be taken from a threefold head: from purity of soul, from the devotion with which one approaches it, and from the fruit which one receives from it. Trent sess. 13, ch. 8; sess. 21, ch. 2; sess. 22, ch. 6; Lugo disp. 17; Suarez disp. 69, sect. 4; La Croix 655 seqq.; L. *Praxis* 148 seqq.; E. M.

To counsel frequent Communion pertains to the confessor, also as regards religious and nuns, with attention to the dispositions of each penitent, and with no regard had to any prohibition of more frequent Communion which perhaps is found in the rules of nuns and religious. Trent sess. 23, ch. 18 de R.; Innocent XI, Decree of the S. C. C., Feb. 12, 1679; S. C. EE. et RR., Dec. 17, 1890; Aug. 17, 1891.

Now S. C. C., Dec. 16, 1905, Decree *Sacra Tridentina Synodus*, established and declared: "1. Frequent and daily Communion, as most desired by Christ the Lord and by the Catholic Church, is open to all the Christian faithful of whatever order or condition, so that no one who is in the state of grace and approaches the sacred Table with a right and pious mind can be prohibited from it." "2. But a right mind consists in this: that one who approaches the sacred table indulge neither usage, nor vanity, nor human reasons, but wish to satisfy the good pleasure of God, to be joined more closely to Him by charity, and by that divine medicine to meet his infirmities and defects." "3. Although it is most expedient that those using frequent and daily Communion be free from venial sins, at least fully deliberate ones, and from affection for them, it nevertheless suffices that they be free from mortal faults, with the purpose of never sinning in the future; and with this sincere purpose of soul, it

cannot happen that those communicating daily should not gradually free themselves from even venial sins and from affection for them."

Wherefore, "if the penitent, notwithstanding frequent or daily Communion, makes no progress, but keeps the will clinging to venial sins, the frequency of Communion is to be diminished; for it is a sign that the penitent lacks a right mind." Aertnys, ed. 8, n. 95. And this is much more to be said if he continues always to sin gravely as before, without any amendment appearing in him. "4. Since the Sacraments of the New Law, although they obtain their effect *ex opere operato*, nevertheless produce a greater effect the greater dispositions are applied in receiving them, therefore care must be taken that diligent preparation precede sacred Communion, and suitable thanksgiving follow from it, according to each one's strength, condition, and duties."

In the Council of Trent, sess. 13, ch. 8, these things are contained concerning the admirable use of this sacrament: "As regards use, however, our Fathers rightly and wisely distinguished three ways of receiving this holy sacrament. For they taught that some receive it only sacramentally, as sinners; others only spiritually, namely those who, eating that proposed heavenly bread by desire, with a living faith which works through love, perceive its fruit and usefulness; but a third class receive it both sacramentally and spiritually; and these are they who so prove and prepare themselves that, clothed in the wedding garment, they approach this divine table.... With paternal affection the holy synod admonishes, exhorts, asks, and beseeches, through the bowels of the mercy of our God, that... mindful of so great a majesty and so excellent a love of Jesus Christ our Lord, who gave His beloved soul as the price of our salvation and His flesh to us to eat, they believe and venerate these sacred mysteries of His Body and Blood with that constancy and firmness of faith, that devotion of soul, that piety and worship, and that they may be able frequently to receive that supersubstantial bread, and it may truly be for them life of the soul and perpetual health of mind." Roman Catechism p. 2, c. 4, q. 47. "5. In order that frequent and daily Communion may be done with greater prudence and be increased by more abundant merit, the counsel of the Confessor ought to intervene. Yet Confessors should beware lest they turn anyone away from frequent or daily Communion who is found in the state of grace and approaches with a right mind." "6. Since it is clear that from frequent or daily reception of the Holy Eucharist union with Christ is increased, spiritual life is more abundantly nourished, the soul is more richly furnished with virtues, and a firmer pledge of eternal happiness is given to the receiver, therefore pastors, confessors, and preachers, according to the approved doctrine of the Roman Catechism (Part II, c. 60), should exhort the Christian people to this so pious and so salutary use by frequent admonitions and with much zeal."

The Roman Catechism l. c. premises these things: "But whether monthly, or weekly, or daily, it is more expedient, no certain rule can be prescribed to all. Nevertheless that most certain norm of St. Augustine: Live so that you may be able to receive daily." "7. Frequent and daily Communion should be promoted especially in religious Institutes of every kind; for which, however, the Decree *Quemadmodum* of the 17th day of December 1890, issued by the Congregation of Bishops and Regulars, remains firm. It should also be promoted as much as possible in clerical Seminaries, whose students aspire to the service of the altar; likewise in other Christian schools of every kind."

In the praised Decree *Quemadmodum* these things are contained: "V. But as regards permission or prohibition to approach the Sacred Synaxis, His Holiness decrees that permissions or prohibitions of this kind pertain only to the ordinary or extraordinary Confessor, and that superiors have no

authority to insert themselves in this matter, except in the case in which one of their subjects, after the last sacramental confession, has been a scandal to the community or has committed a grave external fault, until he has again approached the sacrament of Penance. "VI. Hence all are warned that they should take care diligently to prepare themselves for the Sacred Synaxis and to approach it on the days established in their own rules; and whenever, because of the fervor and spiritual progress of someone, the confessor shall have judged it expedient that he approach more frequently, this can be permitted to him by the confessor himself. But one who has obtained permission from the confessor for more frequent and even daily Communion is bound to inform the superior of this; but if the superior judges that he has just and grave causes against more frequent Communions of this kind, he is bound to manifest them to the confessor, whose judgment must altogether be acquiesced in." "8. If there are any Institutes, whether of solemn or simple vows, in whose rules or constitutions, or even calendars, Communions are found assigned to certain days and ordered on them, these norms are to be regarded as merely directive, not as preceptive. But the prescribed number of Communions must be held as something minimum for the piety of Religious. Therefore a more frequent or daily approach to the eucharistic table must always be freely open to them, according to the norms handed down above in this Decree. But so that all religious of each sex may duly know the dispositions of this Decree, the moderators of each house shall take care that it be read every year in the vernacular language in common within the Octave of the feast of Corpus Christi." "9. Finally, after this Decree has been promulgated, all ecclesiastical writers should abstain from every contentious disputation concerning the dispositions for frequent and daily Communion."

His Holiness further commanded that local Ordinaries and Regular Prelates "inform the Holy See about the execution of those things which have been established in the preceding Decree in their reports concerning the state of the Diocese or Institute."

The preceding Decree on frequent Communion is obligatory as regards the nine prescriptions which are contained in it. - For exciting daily Communion and devotion toward the Most Holy Eucharist, the institution of three-day supplications is highly commended to bishops, which are to be celebrated in cathedral churches and also parochial churches within the octave of the solemnity of Corpus Christi or at another time. And they will always be carried out on Friday, Saturday, and Sunday. S. C. Indulg., Apr. 10, 1907. "Children who, according to the norms in the Roman Catechism ch. 4, n. 63, have once been admitted to the sacred table, must not be prohibited from frequent participation in it, but rather they should be exhorted to this, the contrary practice, in force somewhere, being reproved." S. C. C., Sept. 15, 1906.

580. What disposition of body is required for receiving the Eucharist? - By precept of the Church, natural fasting is required for Communion, or total abstinence after midnight from any thing whatever, however small, which is taken by way of food and drink, with certain cases nevertheless excepted. This is clear: 1. from the universal custom of the Church and unanimous tradition; 2. from all Catechisms and Rituals approved by the Church; 3. from various Councils, and especially from the Council of Constance, sess. 13.

For breaking that fast, three conditions are required according to the common opinion: 1. That what is taken be taken from outside and passed into the stomach, because what does not come from outside, even if it is voluntarily swallowed, is not called eating; for things which are eaten come from outside. Hence blood flowing from the mouth, tongue, gums, etc., does not break the fast. 2. That

something be taken by way of eating or drinking. The reason is that, according to the common sense of men, the natural fast is broken only in that way. Hence whatever is drawn in by way of breathing or saliva in no way breaks the fast. Thus you remain fasting even if by breathing you swallow dust or a fly. 3. That the thing taken have the character of food or drink, that is, that it be something alterable in the stomach. The reason is that otherwise, according to the common mode of conceiving, it is not eating, nor drinking. For no one is said to eat iron, glass, wood, etc. L. 279-281; St. Thomas 3 p., q. 80, a. 8; 4 dist. 8, q. 1, a. 4, q. 2 ad 3; E. M.

581. Does swallowing remnants of food which cling between the teeth break the fast? - Resp. In the negative, if it is involuntary, because it does not have the character of food. This is also clear from the Rubrics of the Missal, *de Defectibus*, tit. 9, n. 3. - If it is voluntary, it is controverted. The first probable opinion denies it, because such remnants are not taken by way of food, although deliberately, but by way of saliva. St. Thomas 4, dist. 8, q. 1, a. 4, q. 2 ad 3: "Eating," he says, "is principally said from the taking of exterior food, although it is terminated at the passage of food into the belly, and further at nutrition; and therefore things which are done interiorly without the taking of exterior food do not seem to dissolve the fast of nature, nor to impede the reception of the Eucharist, as the swallowing of saliva; and similarly it seems concerning those things which remain within the teeth, and also concerning eructations." Cf. also Rubr. tit. 9, n. 3. The second opinion affirms it, because swallowing of this kind, since it is done intentionally, seems to be a new eating. St. Liguori says this opinion is more probable, 279. - Lugo disp. 15, n. 36.

582. Do little drops of water or broth tasted, mixed with saliva, break the fast if they are swallowed? - Resp. In the negative, if they are passed down by chance, beyond intention, provided they are not in great quantity. The same must be said of little drops which are involuntarily passed down while washing the mouth. The reason is that they are not taken by way of nutrition.

This is also clear from the Rubrics of the Missal, *de Defectibus*, tit. 9, n. 3; St. Thomas 3 p., q. 80, a. 8 ad 4. St. Alphonsus 279 says: "It is doubtful if they are swallowed intentionally. Coninck and Henry, cited by Croix 566, think that they do not break the fast, provided they are mixed with saliva; and Lugo and Tamburini seem to think the same, when they say that since it is not drinking to swallow saliva, therefore one does not violate the fast by passing down these little drops by way of saliva; but it must altogether be affirmed with the common opinion....

And the same Doctor Thomas teaches this, l. c., where after he said that remnants of food do not break the fast if they are accidentally swallowed, he said that the same reason applies to remnants of water or wine with which the mouth is washed.... This is confirmed from the Rubrics l. c., where it is thus held: the same must be said, namely that the fast is not broken, if while washing the mouth little drops of water are swallowed beyond intention. Therefore, if intentionally, it is broken. The same must be said if someone before midnight put sugar in his mouth, and after midnight passed down something. The reason is that this is not a remnant of eating from the preceding day, but a continued eating.... Thus also he would break the fast if someone sucked blood from a finger, or tears flowing from the eyes. But otherwise it must be said if someone swallows blood flowing from the head or gums, or pus issuing from a pustule of the mouth, even intentionally. The reason is that whatever comes from within is not truly eaten and does not dissolve the fast."

583. Does snuff taken through the nostrils dissolve the fast? - Resp. In the negative, even if something is transmitted into the stomach. The reason is that although such matter is nutritive,

nevertheless it is not taken by way of eating. L. 280; St. Thomas l. c.

584. Does tobacco smoke or something similar dissolve the fast? - Resp. In the negative, because tobacco smoke is neither food nor drink; nor is it taken by eating or drinking. Otherwise we would have to say that those also break the fast who, in the kitchen, draw in the smoke of foods both through the mouth and through the nostrils. And this holds even if the smoke is voluntarily introduced into the stomach. The same seems to be said concerning the juice or odor of camphor, which is drawn in after the manner of tobacco smoke. L. l. c.; St. Thomas l. c.

585. Does one dissolve the fast who takes a tobacco leaf, or a spice, so that he may crush it with his teeth and spit out the phlegm? - Resp. Probably in the negative, even if some small amount of juice inseparably mixed with saliva is swallowed beyond intention, because if this is swallowed by chance, it is passed down not by way of food, but by way of saliva. But all agree that chewing of this kind before Communion is indecent; hence it does not seem to be excused from venial fault, unless some reasonable cause intervenes. "The same must be said of one who would swallow dust, or rain, a flake of snow, a gnat, or a fly; for if this happened by chance through breathing, it would certainly not dissolve the fast, because such an action is not eating, but breathing." L. 280; St. Thomas l. c.; Lugo, *Responsa Moralia*, l. 1, disp. 9.

586. Does eating hairs, nails, wood, paper, little stones, and similar things impede Communion? - The first opinion universally denies it, because all these things do not have the character of food, or at least in usage are not held as edible; and Busembaum thinks it probable. The second opinion universally affirms it, because it does not matter whether something nourishes or does not nourish, provided it is taken by way of food. The third, common opinion affirms it if digestible things are eaten, such as paper or wax; but denies it if the things are altogether indigestible, such as woolen or silken threads. For indigestible things do not have the character of food; and the Church forbids the Eucharist to be received after food or drink. Council of Toledo VII, can. 2; St. Thomas 3 p., q. 80, a. 8 ad 4; L. 281.

587. Can one communicate who doubts whether after midnight he took food or drink, or swallowed something on the very day? - Resp. More probably in the affirmative. The reason is that in the case it is not clear that the fast has been violated, and therefore it is not clear that Communion is forbidden; for the fact of the violated fast would have to be proved before the law prohibiting the Eucharist to one not fasting is invoked. L. 282, l. 1, nn. 38, 39.

Midnight can be computed according to true time, or mean time, or legal time.

588. Among several disagreeing clocks, is it licit for someone to follow the latest one for receiving Communion? - Most commonly they affirm it, provided its error is not clear, and it is not one of those which for the most part err, because these are presumed always to err. L. 282.

589. Can one communicate who swallows food after the first stroke of the clock, but before the last? - The Salmanticenses and others affirm it, because, as they say, the last stroke morally completes the same hour, so that all the strokes are counted as one. But Lugo and others better and more commonly deny it. The reason is that at the first stroke of the hour midnight is already completed. The first stroke of the clock announces the following hour, and therefore the preceding is understood already to have passed. L. 282.

590. Is it licit to eat and drink immediately after Communion? - Formerly indeed after Communion fasting was prescribed until Sext. *De Consecrat.*, Dist. 2, cap. 23. But this precept has long since been abrogated. Nevertheless, from fittingness, some delay must be observed between reception of this sacrament and other foods, at least as long as the consecrated species have not yet plainly been corrupted in the stomach, unless some reasonable cause for taking something immediately is present; otherwise such eating is not excused from venial fault because of irreverence. Since thanksgiving after Communion is customarily made for a quarter hour, or for twenty minutes, after such a space of time has now passed, food and drink can licitly be taken. The species then regularly have already been corrupted. - L. 225, 283; St. Thomas 3 p., q. 80, a. 8 ad 5, 6.

591. Is it illicit to spit after Communion? - Resp. In the negative per se, provided no fragment of the host remains in the mouth. For there is no danger of irreverence toward the sacred species, since the way through which spittle flows into the mouth is not the esophagus, or the way of food and drink, but is the way of breathing. Yet all agree that it is suitable for communicants to abstain from spitting for some interval of time. L. 283.

592. When is it licit for someone not fasting to communicate? - One not fasting licitly communicates: 1. in danger of death, from whatever cause it comes; 2. in danger lest the Eucharist perish or be badly treated, e.g., by heretics or impious men; 3. in proximate danger of grave scandal from omission of the Sacrifice or Communion; 4. in necessity of completing the sacrifice or Communion, e.g., if for the species of wine the priest has taken water, etc., "because necessity has no law." St. Thomas 3 p., q. 80, a. 8; L. 284, 285; Roman Ritual, *de Comm. infirm.*

593. Note: "If a priest remembers after the consecration that he is not fasting, it is certain that he is not bound, nor able, to abandon the Mass, since the divine precept of completing the sacrifice outweighs the ecclesiastical precept of communicating fasting.... But if he remembers the dissolved fast before the consecration, and especially before the canon, he certainly must desist from the Mass, if he can without the mark of infamy or scandal, as they also commonly say... from St. Thomas 3 p., q. 83, a. 6 ad 2.... St. Bonaventure judges, and Soto and others think it probable, that because of this reason of scandal one must never desist from a Mass begun, because it could almost never be omitted without scandal. On the contrary, Concina says that scandal can rarely occur in this. I think it better to say that scandal can always be feared, unless the celebrant is of known, or at least presumed, probity." L. 287.

"If for the species of wine the priest took water, if he notices this while he has it in his mouth, it is not to be spit out, because of the danger of ejecting a fragment of the host and of irreverence, but is to be swallowed.... If a part of the host after the ablution has been taken adheres to the chalice or palate, more fittingly it is moved by a new ablution, i.e., purification, than by the finger, although the Missal also permits it to be drawn with the finger to the lip of the chalice and received before the ablution; in this way also those are excused who, from devotion, retaining the host in the mouth for a long time, by chance first take something of the ablution; nevertheless this is not licit voluntarily, unless good faith and holy simplicity excuse." L. 288.

"It is licit to give a sick person a smallest particle together with ablution, if because of dryness he cannot swallow it.... An ablution of water or wine is also licitly given to a healthy person, so that he can swallow fragments of the particle which have adhered to the mouth... because Communion is not

morally judged to have preceded... then that whole from the ablution and particles is taken by one reception....

And therefore on Good Friday the Church instituted that the particle consecrated on the preceding day be received together with wine; and in the Rubrics of the Missal tit. 10, n. 8, it is said: if the particle adheres to the chalice, wine can be poured in and it can be received; and Lugo and the Salmanticenses add that wine can be poured in again until the particle is received." L. ib. "That because of fear of death it is licit to celebrate after food, contempt excluded, several doctors admit." L. 289. For in such necessity there is no irreverence, and there is a legitimate excuse for not observing the precept of the fast.

594. Can a priest, for ministering Viaticum, celebrate not fasting? - Resp. The first opinion affirms it. The reason is that the divine precept of Viaticum is to be preferred to the ecclesiastical precept of fasting. The second opinion denies it. The reason is that since this sacrament is not of such necessity, the reverence due to the sacrament, on account of which fasting is prescribed, is to be preferred. "I think the first opinion probable," says St. Alphonsus 286, "but this second seems to me more probable, unless the dying person could not be fortified by the sacrament of Penance or Extreme Unction; for in that case the Eucharist will be able to be a sacrament of necessity, so that from attrite he may become contrite. But otherwise it must be said if a priest, when he was near death, had to celebrate in order to give Viaticum to himself, because then he could well celebrate not fasting, so that he might satisfy the precept of Viaticum; for then in the same person the ecclesiastical and divine precepts concur, and the divine must be preferred: thus commonly." If it is known that the priest is not fasting, practically it will indeed be difficult, because of scandal, to follow the first opinion.

595. Can a priest who is not fasting celebrate so that the people may hear Mass and satisfy the precept? - The sole reason of taking care that the people hear Mass does not suffice, according to the common opinion, for celebrating when the fast has been violated, because it is preferable that the people be deprived of Mass than that the priest celebrate not fasting. If another grave reason is added, namely public scandal which could not easily be impeded, e.g., by warning the people that from some accident the priest is no longer fasting, celebration of Mass would be licit. Nevertheless, practically one must attend lest perhaps greater scandal result from this, for example if it is not hidden that the priest is not fasting, or if afterward it is learned. La Croix 582 seq.; D'Annibale ed. 3, p. 3, n. 411; E. M.

596. Is moral certainty of danger of death required so that Viaticum can be ministered to one not fasting? - In the negative, but a founded doubt, or probability of danger, suffices, especially when it is to be feared lest the sick person be seized by sudden death. Indeed pastors and parents or relatives of the sick are gravely to be rebuked who, through neglect or vain fear, delay the administration of sacred Viaticum with the danger that these persons may die without the Eucharist. L. H. A. 46. And St. Alphonsus 285 shrewdly warns that in this matter one must not proceed scrupulously, since in the Council of Constance, sess. 13, the sick are simply excepted from the law of fasting. "The sick," says St. Thomas 3 p., q. 80, a. 8, "are to be communicated immediately, even after food, if there is doubt of danger for them, lest they die without Communion." Roman Ritual, *de Comm. infirm.*

From the S. C. de Prop. Fide, Feb. 20, 1801, n. 361, a missionary can minister Viaticum to a sick person suffering from hectic fever, who will still live several months, but at that time when that sick

person is near death the missionary will not be present.

597. Is it ever licit to give Communion to a sick person not fasting, and not dangerously lying ill, if the illness is long-lasting? - It must be denied, with attention to the actual practice of the Church, unless the illness is such that of itself it can induce danger of death. Nevertheless there are not lacking several and grave theologians who sometimes permit this, if the illness is long-lasting and the sick person is never able to communicate altogether fasting, provided it is done rarely, e.g., some times in the year. But the more common opinion of the doctors contradicts this, who assert that only the Pope can dispense in this law. In fact the Supreme Pontiff sometimes dispenses. This dispensation is customarily sought from the Holy Office.

And it is customarily granted with the clause that something be taken by way of drink, and twice in the month for laymen, twice in the week for religious. It seems, however, that then there is sufficient reason for the Eucharist sometimes to be administered to the sick person after midnight. - But there is no doubt as regards the case of annual, or Easter, Communion, which is prescribed not by merely ecclesiastical law, but also by divine law, because the divine command is more excellent than the human. And the Roman Ritual, *de Comm. infirm.*, seems to concede this tacitly, since it forbids it to be given only to sick persons not fasting who communicate from devotion. - Gury-Ballerini 334; Elbel 90.

At present the Supreme Pontiff Pius X "benignly granted that the sick, who have already lain ill for a month without certain hope that they will soon recover, by the counsel of the confessor, can receive the Most Holy Eucharist once or twice in the week, if it concerns sick persons who live in pious houses where the Most Holy Sacrament is reserved, or who enjoy the privilege of celebration of Mass in a domestic oratory; but once or twice in the month for the rest, even if they have previously taken something by way of drink, with the rest of the Rules prescribed for the matter by the Roman Ritual and by the S. R. C. being observed." S. C. C., Dec. 7, 1906.

This can also be done by those sick persons who, although seized by grave illness, and according to the judgment of the physician not able to observe the natural fast, nevertheless cannot lie in bed, or are able to rise from it for some hours of the day. S. C. C., Mar. 6, 1907.

The words, "have taken something by way of drink," of the Indult of Dec. 7, 1906, for the Communion of the sick, are to be so understood that it is licit to take, e.g., broth, coffee, and other liquid drinks, even if some substance of flour has been mixed in, provided nevertheless that the mixture does not lose the nature of liquid food. 597.

598. Is it licit to minister Communion again to a sick person not fasting, who has already been fortified with Viaticum? - Resp. In the affirmative. The reason is that this sacrament is not given to the sick precisely for satisfying the precept, but as a protection against temptations which press more at the time of death. Wherefore this is licit not only if a new danger recurs, but also if the same danger continues. Roman Ritual, *de Comm. infirm.*; L. 285; Benedict XIV, *De Synodo*, l. 7, c. 12.

599. How much time must one Communion be distant from another, if a sick person communicates not fasting? - From the general rule, about eight days, and even less if the sick person desires; and even daily if the sick person was accustomed to communicate often, and if from the external arrangement there is no inconvenience, as for sick religious, or other pious persons living in a monastery, when the sacred Eucharist is not to be carried publicly through the streets. Benedict XIV,

De Synodo, l. 7, c. 12, warns bishops that in this matter, abstracting from the various opinions, they should suggest to pastors that "the Most Holy Viaticum can and must be administered a second and third time in the same illness, especially if the sick person asks and wishes it." Therefore particular local statutes must be attended to. L. 285; H. A. tr. 5, n. 47. Cf. here 579, 597.

600. What about the exterior decency of the body? - By natural law that exterior habit and that bodily composure are required which exhibit internal reverence and devotion of soul. The reason is clear: for not only internal but also external veneration is owed to this most august sacrament, since Christ Himself, by means of the species, exists and is treated in it in a certain sensible way. - No bodily stain at all of itself impedes Communion, since the Eucharist is only the food of the soul, nor is purity diminished by stains of the body, which contribute nothing to moral goodness or malice. Yet decency and reverence due to so great a sacrament require that if externally apparent filth can be removed, it be removed diligently. - There is no obligation to abstain from Communion because of hidden stains of the body, or even stains apparent externally but indelible. If, however, external stains, here and now indelible, are very notable and ought to cease shortly, it will be fitting, where it can conveniently be done, to defer Communion. But when they last longer, there is no reason why someone should be deprived of heavenly nourishment. L. 271, 275; St. Thomas 4 dist. 9, q. 1, a. 4, q. 2.

601. Resolutions: Women must approach sacred Communion in holy adornment, redolent of modesty; if some should present themselves to the sacred table very indecently, Communion would have to be denied to them, with due cautions, however, for preventing scandals as far as possible. Leprosy, flow of blood, and similar things, which occur without the fault of the sufferer, of themselves do not prohibit Communion, because those blemishes do not obstruct devotion, which is the disposition required for Communion. - A priest infected with leprosy or another illness exciting horror can celebrate, but not in public, c. *Tua nos* 4, de Cler. aegrot. - It is fitting from decency and Christian humility that soldiers about to communicate approach the sacred table with arms laid aside. Yet they are bound to this by no law. The same should be said about laymen wearing gloves. - When a priest receives the Eucharist in the manner of laymen, he must be vested in a stole. Some excuse this from mortal sin but not from venial; others excuse it even from venial.

A deacon also must approach Holy Communion vested in a stole. It is fitting that clerics be vested in a surplice. S. R. C., Dec. 18, 1896, n. 3940. To the Missionaries of the Most Sacred Heart of Jesus it responded: lay brothers can approach Holy Communion vested in a pallium or mantle, but not clerics. - L. 275, 276; St. Thomas 3 p., q. 80, a. 7.

602. Because of pollution is someone bound to omit Communion? - Resp. In the negative, if it was involuntary, and this even if it came from a venially culpable cause, provided notable disturbance of mind, arisen from that commotion of the body, does not continue, or some just cause of necessity or devotion is present; otherwise, speaking per se, it will be venial. The reason is that the external stain, since it is now past, does not impede present bodily decency. - In the negative, if it was culpable and has already been retracted by due penance, provided there is a just cause of necessity or even usefulness for approaching Communion; otherwise it will be venial because of the reverence due to so great a sacrament; but sufficient provision is made for this by that proportionate reason which is present for receiving Communion. - Rubrics of the Missal, *de Defectibus*, tit. 9, n. 5; L. 272; St. Thomas

3 p., q. 80, a. 7, 4, q. 2; Suarez disp. 68, sect. 2; Lugo disp. 15, n. 4 seqq. Cf. here n. 579, par. 1, Frequent Communion.

603. Does conjugal intercourse impede one from the Eucharist? - "It is venial to approach the Eucharist on the day on which intercourse was had for pleasure, unless some reasonable cause excuses. But if intercourse was had for the sake of procreating offspring, or also for avoiding incontinence, then abstaining from Holy Communion is only counsel, c. *Si vir* 7, caus. 33, q. 7. And likewise it is counsel to abstain on that day on which the spouse rendered the debt.... But after Communion has been received, it is no sin to render it. But to ask for it? Some say it is venial; others, no sin." L. 922, 273, 274; Sporer, *de Matr.*, n. 494; St. Thomas 3 p., q. 80, a. 6 ad 2; 4 Dist. 32, q. 1, a. 1 ad 1. Cf. St. Jerome, Ep. 48, n. 15, Migne vol. 22, col. 506, and here n. 579, par. 1, Frequent Communion. "A married Greek presbyter, before he approaches the sacred sacrifice, or the celebration of Holy Mass, should take care to abstain from his wife either for a week or for three days." Benedict XIV, Const. *Etsi pastoralis*, May 26, 1742, *de Sacr. Ord.*, § XXVIII.

604. What is spiritual Communion, and how far is it to be commended? - Spiritual Communion is called a pious desire of receiving the sacrament of the Eucharist, when it cannot be received really. Hence for it there is required: 1. An act of faith, by which the one about to communicate spiritually presents to himself Christ truly present in the Eucharist. 2. An act of desire, by which he longs to receive Christ in the sacrament and to be united with Him with his whole heart. 3. A humble and fervent prayer, by which he asks our Lord Jesus Christ kindly to bestow on him those graces which He is accustomed mercifully to impart to us by His sacramental presence. - This Communion was very much in the delights of the Saints, and is commended by Trent sess. 13, ch. 8; sess. 22, ch. 6.

This is very useful to pious faithful. For if God rewards the pious desire of any virtue whatever, how much more the desire of possessing Him Himself! Therefore it is to be diligently suggested and most vehemently commended by confessors to the faithful, their penitents. - Spiritual Communion can be made at every time and in every place, both morning and evening. Yet the more opportune time is the time of Mass itself, namely when the priest communicates; for then, since the most august sacrament is presented to the eyes and is more vividly represented to the mind, it will more ardently inflame the heart with divine love. - St. Thomas 3 p., q. 80, a. 11.

V. On the Nature and Power of the Sacrifice of the Mass

605. What is a sacrifice? - A sacrifice is: The offering of a sensible thing made to God, by the ministry of a priest, by which, in destroying or changing that thing, we profess that God is Lord of life and death. Trent sess. 22, ch. 3; St. Thomas 2.2, q. 86, a. 1.

606. Is the Eucharist a sacrifice, and what kind? - Resp. It is clear from Trent sess. 22, ch. 1, can. 1, that the Eucharist is a true sacrifice. - And from the same Trent ib., ch. 2, it is clear that this sacrifice is essentially the same as the sacrifice of the Cross, and differs from it only accidentally. For the Victim of each is the same; the Priest is the same, Christ offering in the Eucharist by the ministry of priests; each is effected by the pouring out of blood; only the manner of offering is different. For in the former the pouring out of blood was real and Christ was immolated bloodily; in the latter the pouring out of blood is mystical and Christ is immolated bloodlessly. Suarez disp. 75, sect. 5.

But the sacrifice is latreutic, because it is the most absolute act of latria. For it is offered to God in recognition of His supreme dominion. It is eucharistic, because it pertains especially to giving thanks to God for benefits conferred. It is propitiatory, because it is offered to God for obtaining pardon of sins. It is expiatory or satisfactory, since it is offered to God for obtaining also the remission of punishment due to sins, namely temporal punishment; for the remission of eternal punishment is not the effect of this sacrifice, since it is not remitted except when mortal sin has been destroyed. It is impetratory, for it is offered to God also for obtaining other necessities and benefits. Trent ib., chs. 2, 3, cans. 3, 5; St. Thomas 3 p., q. 83, a. 1. - The Eucharist, as sacrifice, is customarily called Mass, from the word *mittere*, either because at the end of the celebration of this sacrifice the people are dismissed with those words, *Ite, Missa est*, or because Christ in it is the Host sent by God. - E. M.

607. Note: The Mass does not have the power of remitting sins per se immediately, nor of immediately effecting an increase of sanctifying grace, but only of obtaining helps for penance by which they are remitted, and of obtaining helps for performing acts by which grace already acquired is increased; and also of obtaining other goods, both spiritual and temporal. But it does have power per se immediately to remit the punishments of sins for just men for whom it is offered, and also for souls dwelling in Purgatory. Trent sess. 22, ch. 2, can. 3; sess. 25, Decree on Purgatory, at the beginning; Lugo disp. 19, n. 153; L. 311.

As satisfactory, the Sacrifice is infallibly efficacious, if there is no obstacle in the subject, yet in that mode and measure in which the fruit belongs to it from divine institution, and more or less according to the dispositions of the subject. As impetratory, it is also infallibly efficacious, but with the limitations and conditions which impetration has. Hence the fruit of propitiation, which is by way of impetration, can be impeded by the obstacle of the bad disposition of him for whom the sacrifice is offered, and by the freedom of the man himself. Trent sess. 22, ch. 2. And from the greater or lesser guilt of fault it can well happen that God is not altogether appeased unless the sacrifice is offered to God several times. But impetration, as regards other gifts of the natural and supernatural order conducing to eternal salvation, is not infallible unless the ordinary conditions are present both in the one for whom it is sought through the sacrifice, and in the thing which is sought, and in the manner of seeking. Impetration through the sacrifice, for this reason, consequently is not infallible. - Lugo disp. 19, sect. 9; St. Thomas 3 p., q. 79, a. 5, a. 7 ad 2. "We must not confuse the power which the sacrifice of the Mass has for expiating and purging from sins with the power for merely obtaining.... That power for obtaining has a formally different term from that which the power for satisfying or expiating has. For the former tends to move the liberality of God, from whom it obtains goods; but the latter tends to clemency, or to appeasing God, lest He be angry, indignant, and bring evil.... For God is appeased by the sacrifice, not as impetratory, but as propitiatory; for precisely as such it tends to appease. Therefore we admit that God granting help for contrition is moved also by the sacrifice as it is impetratory; nevertheless we say that some effect intervenes there which corresponds to the same sacrifice as it is propitiatory. For because of sins, God, retaining just indignation and aversion, was deservedly denying those helps, at least more abundant ones, for contrition; but when the sacrifice has been offered He is appeased, and, indignation having been laid aside through clemency, He grants from liberality the helps which He would deny while unappeased. Hence the sacrifice as propitiatory indirectly contributes to obtaining helps, insofar as it directly removes the obstacle of indignation which stood in the way of their being granted. Therefore it contributes to destroying sins

not by obtaining only, but by propitiating and appeasing, which is the proper effect of sacrifice as it is propitiatory." Lugo disp. 19, n. 141.

608. What are the principal parts of the Mass? - There are three: the Oblation, by which the sacrifice is as it were prepared; the Consecration, in which the essence of the sacrifice is had, for in it is had the mystical slaughtering of the victim, Suarez disp. 75, sect. 5; and the Consummation, by which the sacrifice is completed and perfected. St. Thomas 3 p., q. 82, a. 4.

Hence none of these can be omitted without enormous sacrilege. St. Thomas 3 p., q. 83, a. 6 ad 1, 2. - Wherefore if the priest has omitted the oblation, he must mentally supply it before the consecration. Benedict XIV, *de Sacr. miss.*, l. 3, c. 18, n. 5. If either species has not been consecrated, before the consummation of the other it must altogether be consecrated; after the consummation of the other, each must be consecrated, if this can be done without any scandal and within a brief time, i.e., within about an hour; otherwise it would not seem to be the same sacrifice. Rubrics of the Missal, *de Defectibus*; St. Thomas 3 p., q. 83, a. 6 ad 4; L. 335. Cf. 323, 329 seqq. Finally, if the celebrant dies or is affected by some illness before the consummation of the wine, or after the consecration of the bread, and cannot continue the sacrifice within a brief time, the Mass must be completed by another priest, even one not fasting or one to be avoided, from that place where the other ceased, if this can be done within a brief time, within an hour, and without most grave inconvenience. But if the one who consecrated recovers, even after several hours he can continue and complete the sacrifice. St. Thomas, Suppl., q. 29, a. 2 ad 3, says: "If after the consecration of the bread the priest dies, another priest can proceed to the consecration of the wine, beginning where the former left off, or even begin from the beginning over other matter." Yet when one whole hour has elapsed, the obligation of seeking another priest ceases, since it is no longer judged the same sacrifice. But if the priest has failed before the consecration or after the consummation, there is no necessity of supplying or continuing anything, because in the first case the sacrifice has not yet been begun, and in the other it has already been completed. Rubrics of the Missal ib., tit. 10, n. 3. - La Croix 548; L. 305, 354, 355; St. Thomas 3 p., q. 82, a. 4; q. 83, a. 4, 6 ad 1, ad 3; Suarez disp. 71, sect. 3; Lugo, *Responsa Moralia*, l. 1, disp. 10.

609. Note: These things are in the Rubrics of the Missal, tit. 4, n. 8: "If the matter which would have to be placed, by reason of a defect either of bread or of wine, could in no way be had, if this is before the consecration of the Body, one must not proceed further; if after the consecration of the Body, or even of the wine, the defect of the other species is detected when the one has already been consecrated, then if it can in no way be had, one must proceed and the Mass must be completed, yet so that the words and signs which pertain to the deficient species are omitted. But if by waiting for some little while it can be had, one must wait, lest the sacrifice remain imperfect." Hence Gavantus here, and Azor, note that if the deficient species could be had only with very great difficulty, and a notable offense of the people would arise from this, the Mass must be completed, because the natural law of avoiding scandal prevails over the positive divine law of making the sacrifice integral. L. 306. But what must be done if a fly or spider, or something else poisonous or which provokes vomiting, has fallen into the chalice, you have in the Rubrics *de Defectibus*, tit. 10, nn. 5-7.

610. For whom can the sacrifice of the Mass be offered? - It can be offered for all those for whom the sacrifice of the Cross was offered, unless the Church forbids it for someone. For "the fruits of the bloody oblation are most abundantly received through this unbloody one." Trent sess. 22, ch. 2.

Wherefore it can be offered: 1. For baptized wayfarers; also infants, or energumens, or sinners not excommunicated, even for unbelievers, not only generally for all, but also for individual unbelievers, even for kings, insofar as it is propitiatory, expiatory, and impetratory. Trent ib. - 2. For souls in Purgatory, to whom it is profitable from the infallible promise of Christ, insofar as it is expiatory. Trent ib. and sess. 25, Decree *De Purgatorio*. Nevertheless the satisfactory fruit is not infallibly applied to that soul for whom the priest celebrated Mass. S. C. Indulg., July 28, 1840, n. 283. And how far it helps each one is among the divine secrets. Cf. n. 619. - 3. For the Blessed, insofar as it is eucharistic.

Trent sess. 22, ch. 3. - But it is forbidden to offer it for the excommunicated. Benedict XIV, Const. *Ex quo*, Mar. 1, 1756, § 27. Yet for an excommunicated tolerated person, a priest can licitly offer Mass both in his own name, as a private person, and more probably in the name of the Church as a minister of the Church. The reason is that it is granted to the faithful to communicate with them, even in divine things.

But for an excommunicated person to be avoided, a priest can still licitly offer Mass in his own name or *ex opere operantis*; but by no means in the name of the Church, or *ex opere operantis* of the Church herself, whose application of fruit would be illicit and invalid, and *ex opere operato* of the sacrifice of the Church, whose application of fruit would be illicit but not invalid, if he is capable, since the priest has this power by force of order. - It is forbidden to apply Mass for heretics, whether now dead or living, unless for the living it is applied to obtain their conversion to the true faith. Holy Office, Nov. 18, 1767; Apr. 19, 1837; Apr. 7, 1875. Wherefore the sacrifice of the Mass is by no means to be offered publicly for those who are alien from the communion of the Church by profession of heresy. - C. 28, 38, de Sent. excomm.; La Croix 33; L. 308, 309; St. Thomas 4, dist. 12, q. 2, a. 2, q. 2 ad 4; E. M.

611. How many kinds of fruit of the sacrifice of the Mass are there? - The fruit of the sacrifice of the Mass can be considered in three ways: 1. on the part of the cause, 2. on the part of the good itself which is to be obtained through the Mass, 3. on the part of the person for whom such a good is obtained, or to whom the Mass is applied.

On the part of the cause, one is *ex opere operantis*, namely that which is conferred in view of the prayer, devotion, and merit of the celebrant and of others cooperating; another is *ex opere operato*, which is conferred in view of the merits of Christ and by force of His promise. From this it happens that a sacrifice offered by a holy priest, insofar as it is considered *ex opere operato*, is not more profitable than if it were offered by an unworthy minister; because the sacrifice, viewed thus, is the work of Christ, and the fruit flows only from the merits of Christ, and in this respect the priest does not bear his own person, but Christ's. Wherefore in this sense it can rightly be said that the Mass of a bad priest is worth as much as the Mass of a good priest. But otherwise it must be said if merit *ex opere operantis* is attended to; for the more worthy the priest is and the greater the devotion with which he is endowed while he performs the rites and prayers of the Church, the greater the fruit of the Mass becomes. But the priest offers the sacrifice bearing the person of the whole Church, since "he consecrates the Eucharist, which is the sacrament of the whole Church." St. Thomas, Suppl., q. 37, a. 4 ad 2. And thus under the name of the celebrating minister also comes the Church, insofar as she herself offers through the minister. "Whence I infer," says Suarez disp. 79, sect. 2, dictum III, "that this value proceeding from the Church is better called *ex opere operantis*, as Cordoba and others speak, than *ex opere operato*, as Scotus and others speak.... And hence it is inferred that this value can increase and

diminish, according as there have been holier persons in the Church." Therefore the priest offers the Sacrifice in the name of Jesus Christ, the principal offerer; in the name of the Church, to whom Christ left this sacrifice; and in his own name, as a private person. Trent sess. 22, chs. 1, 2. "After the priests, all the faithful offer the sacrifice mediately through the hands of the priests, in three ways indeed: 1. in a general way, namely through the priests, who, by offering the sacrifice as public ministers, are said to offer for any faithful person whatever; 2. in a more special way, by procuring that priests celebrate for themselves; 3. by assisting at the sacrifice." St. Alphonsus l. 6, n. 307.

On the part of the thing, one fruit is meritorious, namely the merit which is had from it by the priest celebrating and by those assisting; another is propitiatory, and is the remission of sins, not indeed per se and immediately, but through the obtaining of help for penance by which sins are remitted, Trent sess. 22, ch. 2; another is satisfactory or expiatory, insofar as it per se immediately remits the punishments of sins for just men for whom it is offered, both in this life and in Purgatory, Trent sess. 25, ch. 1, not the whole at once, but according to the measure established by God and corresponding to the dispositions of the man; finally another is impetratory, and is first the obtaining of helps for performing acts by which sanctifying grace is increased in us; moreover it is the obtaining of other spiritual goods, and also temporal goods, Trent sess. 22, ch. 2. And this impetration, insofar as it is from Christ, is *ex opere operato*; insofar as it is from the sacrificing priest and the offering Church, it is *ex opere operantis*. Suarez disp. 79; Lugo disp. 19, sect. 9.

On the part of the subject, or of those to whom it is applied, one fruit is general, another special, another most special. The general fruit is that which corresponds to the sacrifice insofar as it is a work placed by the priest, as he works in the name of Christ and in the name of the whole Church. Trent sess. 22, ch. 6. And all the faithful indeed, although the priest does not think of them, receive this fruit *ex opere operato*; but it is attributed to them only by way of impetration, insofar as impetration also includes propitiation; not however, as seems more common and more probable, by way of satisfaction, because from thousands of sacrifices which are offered daily, every just man, even unknowingly, would obtain the remission of immense punishment, which appears incredible. But there are not lacking those who judge that some part of the fruit *ex opere operato*, even satisfactory, corresponds to all the faithful, and that all the just obtain *ex opere operato* some remission of punishment through each and every sacrifice, by this alone, that they are said to offer insofar as they are members of the Church offering through priests, even if they themselves have no act concerning the sacrifice, nor the priest by a special intention applies the fruit of the sacrifice to them. Yet the sole denomination of offering through a certain remote and extrinsic relation does not seem sufficient for receiving the fruit of satisfaction *ex opere operato*. "For the fruit of the Passion of Christ is not applied *ex opere operato* except either through some proper action, or sensible reception, or through the special application of another. But in the present case this fruit is not given through the special application of another, as is supposed; nor here do those offering in this way receive anything through which such fruit is applied to them; nor do they do anything, because they are called offerers only habitually or extrinsically. Hence that denomination is not founded in any act of man which per se pertains to the worship of God, so that it could avail for the merit or satisfaction of the one so offering." Suarez disp. 79, sect. 8, par. *Secundo*. "Although all the faithful in some way are offerers in each Mass, insofar as the priest offers by commission of the Church, and offers in her name, which consists of all and each of the faithful, nevertheless this does not suffice so that from each Mass the just should have the fruit of remission of punishment *ex opere operato*. Yet it brings the effect of impetration *ex opere operato*,

because all pray through the priest, and he also prays and offers for obtaining for all." Lugo disp. 19, n. 237. "And in this sense we say that he truly offers for all the faithful, living and dead, for whom we also wish to obtain the condonation of due punishment by way of impetration." Lugo l. c., n. 222.

Of this general fruit, those standing by at the sacrifice participate in a more abundant or more special way, and a fortiori those cooperating with it, e.g., those serving the priest, giving alms; and it is more abundant according as the devotion and holiness of those assisting and cooperating is greater. Wherefore they can be offerers in various ways, according as actually they join themselves to the priest offering, or by the intention of the Church alone. The priest in the Canon prays for those standing around and says: "for whom we offer to Thee, or who offer to Thee." Hence those who are offerers and offer must be distinguished from those for whom it is offered. The reason is "because the oblation of this sacrifice is fruitful *ex opere operato*. Therefore it is consonant with reason that all who truly concur in it through their own act or moral concurrence participate in this kind of fruit of such oblation. Secondly, because from this concurrence of many offerers with the minister there results as it were one moral offerer with greater devotion, reverence, and dignity. Therefore a greater fruit corresponds to it *ex opere operato*, other things being equal.... Therefore for this reason, some part of that fruit corresponds to individual offerers, as they are such, according to each one's devotion. Thirdly, just as the use of a sacrament consists in reception, so the notion of sacrifice consists in oblation. But all who receive a sacrament participate in its fruit. Therefore similarly all offerers through some proper concurrence or action participate in the fruit of the sacrifice." Suarez disp. 79, sect. 8, par. *Quarto*.

Hence Suarez infers that a twofold fruit corresponds to the priest himself *ex opere operato*: one to him as he is a private person, the other as he offers in the name of Christ and in His person.

The former increases from the better disposition of the offerer; the latter is always equal, because it always corresponds to Christ offering. But in reality it seems that only the oblation of the priest brings fruit *ex opere operato*, precisely insofar as he acts in the name of Christ. For Trent sess. 22, ch. 2, founds the efficacy of this sacrifice on this, that now the same Host and the same one offering by the ministry of priests is present, who offered Himself on the cross. "Therefore, because the priest alone offers in the person of Christ, it follows that the oblation has this kind of power and efficacy, not insofar as it is from the person of the priest, but insofar as it is from Christ." Lugo disp. 19, n. 233; Trent sess. 22, chs. 1, 6. And, although several hear Mass or minister at it, each one will receive the whole fruit proportioned to his oblation and devotion, no otherwise than if he alone were hearing or ministering. And thus this general fruit is extensively infinite or indefinite. And for those ministering and assisting at the sacrifice of the Mass in this way, there comes not only a fuller fruit of impetration *ex opere operato*, but also satisfactory fruit. But since, as is clear from the Offertory, it is offered also for souls existing in Purgatory, this satisfactory fruit is applied from the oblation of the Church's sacrifice of the Mass also for them, whether they are fewer or more.

The special fruit is that which comes to him or those to whom the priest specially applies the sacrifice. These participate *ex opere operato* in the sacrifice as it is impetratory and propitiatory; indeed also, provided nothing obstructs, as it is satisfactory. This special fruit is customarily also called ministerial and middle.

The most special or personal fruit is that which comes to the priest offering, insofar as he is a private person offering. For if any cooperators whatever receive from the sacrifice their own wholly special

fruit, much more must the priest who sacrifices receive this. Moreover, "the oblation of the priest, as it is made by him representing the person of Christ, is properly the actual sacrifice, or the sacrificing itself. Therefore to it especially corresponds the fruit *ex opere operato*, because as such the oblation is properly sacrificial, infinite in its own kind and always clean and pleasing to God." Suarez disp. 79, sect. 8, p. *Tertio*. But whether the priest can apply this fruit to others is uncertain. Yet this is certain: that the priest cannot apply this most special fruit to another so as to receive another stipend from this; understand this, however, unless this very thing is done with the consent of the one giving the other stipend. - Lugo disp. 19; Suarez disp. 79; L. 311, 312; St. Thomas 3 p., q. 82, a. 6; E. M.

612. Does a Requiem Mass benefit the dead more than a Mass of the Saints? - Resp. In the negative as regards the substance, or on the part of the sacrifice; but certainly as regards accidentals, or on the part of the prayers, the defect of which can be supplied by the devotion of the one who says the Mass or orders it to be said, or by the intercession of the Saint whose suffrage is implored in the Mass. - L. 309; St. Thomas, Suppl., q. 71, a. 9; E. M.

613. Is the value and fruit of the sacrifice of the Mass infinite? - "It must be noted that one thing is the value, another the fruit of the Mass. The value is that efficacy which the Mass has from the dignity of the one offering and of the thing offered, for conferring goods on the one offering and on those for whom it is offered. But the fruits are the goods themselves which God confers in view of the sacrifice. Hence value differs from fruit as cause from effect." L. 312. Wherefore here fruit is taken for the fruit which is actually received. - Now the value of the sacrifice of the Mass on the part of the Church offering and on the part of the priest celebrating is certainly finite, for their dignity, in which it is founded, is finite. On the part of Christ, the principal priest offering and the victim, there is no doubt that the value of the Mass, like the value of the sacrifice of the Cross, is truly infinite, since Christ Himself is the host and the one offering now by the ministry of priests. Trent sess. 22, ch. 2. Hence the Mass can cause a fruit always greater intensively, according as someone needs more and is better disposed, and extensively insofar as it can benefit infinite men without anything being detracted from individuals, whether it is applied for only one, or for several and all.

There is dispute about this actually received fruit, how much someone really receives. But the question is not about the fruit of impetration on the part of the Church and the offerers. As regards this fruit, it is clear that it always comes to all, although there are several offerers. Nor likewise is the question about the fruit *ex opere operato*, by force of the sacrifice of the Mass itself, but general, coming to all the faithful; for since the Mass is the sacrifice of the Church, the fruit of this sacrifice comes to all the faithful, and therefore in this way that general fruit is extensively indefinite; and likewise intensively it also is indefinite, insofar as greater fruit comes to those who are more joined with the priest celebrating. But the question concerns the special fruit coming *ex opere operato* to those to whom the Mass is applied, or for whom the sacrifice of the Mass is offered. It concerns the impetratory, propitiatory, and satisfactory fruit which comes to men. For the latreutic, eucharistic, propitiatory, and satisfactory fruit with respect to God, by reason of Christ the priest and victim, is actually infinite, and fully satisfies the adoration, thanksgiving, and propitiation and satisfaction owed to God.

The first opinion, more probable to St. Alphonsus, holds that this fruit is infinite, or rather indefinite, or to be received indefinitely, both intensively insofar as less or more is really received, according to the measure of the disposition of the man, and extensively, insofar as it really benefits one as much as

several. Wherefore, if this fruit, afterward actually received, is always finite, this certainly is not because from divine institution only so much fruit and no greater is to be received, but it is only from the finite capacity of the men for whom it is offered, each of whom receives richer fruit according to his own disposition and that of the offerer; yet the Mass always benefits individuals equally when applied to several as if it were applied to one. The reason for this opinion is that the eucharistic sacrifice does not differ from the sacrifice of the Cross except only by the different manner of offering. Therefore, as the sacrifice of the Cross works after the manner of a universal supernatural cause according to the capacity of the subjects, so also the eucharistic sacrifice. The abundant redemption of Christ is thus applied, with no limit placed except that which arises from the finite capacity of men. And for this opinion St. Alphonsus affirms that St. Thomas 3 p., q. 79, a. 5, clearly stands.

The second opinion, which the same St. Alphonsus calls probable, holds that the fruit actually to be received is finite from the very institution of this sacrifice, because namely a certain and individual degree was determined by Christ in each sacrifice, and therefore the more it is distributed among several, the less comes to each. The reason for this opinion is taken from the usage and sense of the Church, while Masses for one and the same person and thing are repeated and multiplied, which is a sign that it does not have an indefinite effect, but a certain and limited one from the will of Christ. And Christ so established it, that He might compel men to offer the sacrifice continually. If it were otherwise, the special application itself of the fruit of the Mass would be useless, and the usefulness of the Church herself would require that all Masses always be celebrated for all the faithful, living and dead. But the reason of the sacrifice of the Cross, by which the whole price of Redemption was paid, is one thing; the reason of the eucharistic sacrifice, by which the application of that price is had, is another. And St. Thomas 4, dist. 45, q. 2, a. 4, q. 2 ad 2 seems to favor this opinion. But this does not prevent the fruit which comes to the faithful insofar as they are offerers from being extensively indefinite, because a proper corresponding fruit belongs to each oblation. The same must be said of the fruit which comes to all the faithful, insofar as the sacrifice of the Mass is offered by the Church for all, because whether they are more or fewer, the Church's sacrifice is always offered for the whole Church, for all Christian faithful, living and dead, indeed even for the salvation of the whole world. Thus the Offertory of the Mass. - Suarez disp. 79, sects. 11, 12; Benedict XIV, *De Synodo*, l. 5, c. 8, n. 6; c. 9, n. 4.

613 bis. Note: The fruit of expiation, or remission of punishment, in relation to the dead is infallible, because they oppose no obstacle to it; but in relation to the living it is not always infallible in act and effect, because the state of grace and the remission of sins, which is necessarily presupposed to the remission of punishment, is not always in them. But the fruit of propitiation, or remission of sins, likewise is not always infallible in act and effect; for actual help for justification is indeed conferred, and thus indeed the fruit of the sacrifice is infallibly had, but man does not always cooperate with it; and, with attention to his unworthiness, there would be need of several and greater helps, for obtaining which the sacrifice of the Mass would have to be repeated several times. Likewise the fruit of impetration of other graces is not always infallible, because those graces are not always expedient for the glory of God and eternal salvation, to which the sacrifice offered to God is ordered.

614. Is application of the Mass necessary for receiving the fruit of the sacrifice? - Application of the Mass is the intention by which the priest wills that the fruit of the sacrifice yield to the advantage of a certain person. - Now the application of the priest is not required that part of the general fruit be

received; but it suffices that he wish to celebrate according to the mind of the Church, for such application is always implicitly included in the general intention of the celebrant. And it is expressly contained in several places of the whole Mass. Likewise, that the most special fruit come to the priest himself, it is not necessary that he wish to apply it specially to himself; for this is always applied to him per se. Indeed there are some who think this fruit so proper to him that it cannot be applied to another. L. 318. - But the application of the priest is required so that the special or ministerial fruit come to someone. For the priest, and indeed he alone, bears the person of Christ; therefore just as he alone offers the sacrifice for others in the person of Christ, so also he alone applies the fruit of the same sacrifice.

- A priest, although he has promised to celebrate Mass for no one, must make some application of the special fruit of the sacrifice. The reason is: 1. because in his ordination he received from Christ's institution the power of confecting the sacrifice, and consequently of applying its fruit, as is clear from the very words of ordination: "Receive the power of offering sacrifice both for the living and for the dead." But that power would remain useless if the priest did not use it. 2. If no application is made, there is no reason why it should benefit one more than another; therefore the unapplied fruit remains in the general treasury of the Church, and consequently becomes less useful. "If it is applied to no one, or to one incapable, the fruit remains in the treasury of the Church, as Suarez teaches, or it yields to the priest himself, or to those for whom he is bound specially to offer, because he is judged implicitly to have intended this," Busembaum cited by St. Alphonsus 336, or to those for whom in the name of the Church he generally offers the sacrifice in the offertory. - Suarez disp. 78, sect. 5; Lugo disp. 9, sect. 10; E. M.

Second intention: In the application of the Mass there is a certain conditioned intention, so that if perhaps the Mass cannot be applied to him for whom it is celebrated by the primary intention, for satisfying one's own obligation, another application may be substituted for this application. Moreover it also has this force, that, if perhaps the opinion about the intensively infinite fruit of the Mass is true, the Mass is applied also according to this second intention. Finally, the second intention has the force of a certain special Memento. 613.

615. When must the application of the fruit of the Mass be made? - It must be made at least before the consecration. For the application of the Mass made after both consecrations is not valid. The reason is that the sacrifice has already been perfected, and a past action already made for one end, or for no end, can no longer be offered for some determinate end. For a past action made for some end in general, and for an end afterward determined, cannot be understood. But an application made before the consecration is valid, although it is better to make it before Mass, or at the beginning of Mass. The reason is that, since the sacrifice is situated in the consecration, and in it alone, it can well be offered before the consecration. Indeed, according to several, the application made between the two consecrations is also probably valid. The reason is that the sacrifice is perfected by the consecration of the chalice, and consequently the priest is then said to sacrifice, and therefore before the consecration of the chalice he can still apply the sacrifice. Tamburini, *Methodus celebrandi missam*, c. 2, § 10; L. 336.

616. Must the application of the fruit of the Mass be actual? - Resp. In the negative; but it suffices that it be habitual, namely that once made it is not retracted. The reason is that this application is made by way of donation, and therefore through an intention once had, the priest has already donated the fruit of his sacrifice, and consequently it is owed to him to whom he donated it, and when the Mass is celebrated, it comes to the same unless the donation is revoked. Cf. vol. 1, n. 21; L. 335.

617. If a priest has accepted stipends from ten persons, does he satisfy by celebrating with a confused and indeterminate intention? - Resp. Altogether in the negative, because a determinate intention is required, at least to a certain person; otherwise there is no reason why the Mass should be applied to one rather than another, and thus it would be applied to no one. Nevertheless, if he intended to apply each Mass to those ten persons, by applying to each one a tenth part of each Mass, he would satisfy the obligation, because the fruit of the sacrifice is divisible, and what is owed to each one is attributed to him. For each one, receiving in each of the ten Masses a tenth part of the fruit, when the tenth sacred rite has been done, has now obtained the whole fruit owed to him, or even will receive the whole fruit from each of the ten Masses. If this is done, however, the Masses are not to be delayed beyond the due time. Sacred Penitentiary, Dec. 7, 1852. - L. 335.

618. How is the application to be determined when stipends are given by many unknown persons, as usually happens in pious pilgrimages? - The intention is to be made for those who gave the earlier stipends. This easily succeeds when the same priest is going to satisfy all the obligations; nor does it obstruct that he perhaps distributes part of the Masses to be celebrated to other priests, because he can distribute them in the same order in which he received them; and thus the application seems sufficiently determinate. Thus also the sacristan or another who collected many stipends from different persons and distributes the confused money to several priests can distribute it successively in the same order; nor can anything else often be done morally than that distribution and application be made according to the order of time, to the intention of the giver, according to the axiom: He who is prior in time is stronger in right; namely unless a graver cause is present for interrupting this order, e.g., if a greater stipend is given for this reason, that the sacred rite not be deferred, etc. Indeed it is not necessary that the priest explicitly and reflexively attend to this; since he is judged to wish to act thus when he accepts the stipend in the aforesaid manner. For natural equity requires this.

619. Is an application valid when made for a living person whom you believe dead, if you would have had to celebrate for him only when already dead? - Resp. In the negative. The reason is that the obligation falls on an application to be made for the deceased, for relieving his soul from the punishments of Purgatory; but that end is not obtained while the sacrifice is offered for a living person. Nor is it valid to say that the satisfactory fruit of the sacrifice can benefit even a living person and exempt him from the punishments of Purgatory, nor that a living person is capable and becomes participant also of those fruits of which the dead are not capable. For the will of the one giving the alms stands in the way, who wants the Mass applied not to himself living, but to himself dead. Moreover, the impetratory and propitiatory fruit can also benefit the soul of the deceased, for obtaining that God may remit His just anger and stir up other faithful to offer prayers and other satisfactory works for it.

620. Is the application of Mass valid when made for the first person who will give a stipend? - An oblation made for the first person who will give a stipend is per se valid, but illicit, as prohibited by

Clement VIII, Nov. 15, 1605. But often such application of Mass is also invalid, both because of the uncertain intention and because it often happens that the Mass is said for a cause not yet existing, e.g., if the one who will offer a stipend is going to ask a Mass for deliverance from an illness which has not yet been contracted; for the effect of the Mass would have to remain suspended, which cannot be admitted. "For according to the ordinary law, to which the tradition of the Church bears witness, God does not customarily punish or reward men, or confer on them the grace of the sacraments or the fruit of the sacrifice, according to foreknowledge of future contingent and free effects, but only according to the present state and condition of men." Laymann l. 5, tr. 5, c. 2, n. 14. Nevertheless, "if a priest foresees that Masses will be requested for some deceased person, he can well offer them now and afterward receive the stipend, because in this case they would already be offered for a determinate person." L. 337.

621. In the application of Masses, is it licit to divide the fruits of the sacrifice and apply them for various ends and persons? - Resp. In the negative, if someone, by obligation from justice, must apply a Mass for another. For that person is always judged to ask for himself the whole fruit of the sacrifice. Nor is it certainly clear that the sacred rite offered for several benefits each as much as when applied for one alone. Wherefore one cannot receive a double or triple stipend for one and the same Mass.

And this is clear also from props. 8 and 10 condemned by Alexander VII. - But as regards Masses altogether free, namely those which the celebrant is bound to apply for no one, or those which he is bound to apply from fidelity alone and a liberal promise, or from obedience alone, or by command of a superior or statute of an order, it is per se licit to divide the fruits, namely latreutic, eucharistic, propitiatory, impetratory, satisfactory. The reason in the first case is that the Mass has all these fruits, and the celebrant has the power of applying the fruits of the sacrifice, which, since they tend to different ends, can be applied for those various ends. The reason in the second case is that every liberal promise is always understood as least burdensome to the one promising. Hence one who is bound by only a gratuitous promise and by no title of justice can also apply one and the same sacrifice for several, according to the opinion concerning the indefinite application of the fruit of the sacrifice of the Mass. The reason in the third case is that every obligation of law or precept is not to be extended beyond the end of the law. Hence, if, e.g., a superior commands Mass for others rather than for the dead, the application for freeing a soul remains free to the priest, as St. Francis Borgia, Superior General of the Society of Jesus, declared for his subjects in 1654. Wherefore, if Mass had to be celebrated in thanksgiving, the application of the impetratory, propitiatory, and satisfactory fruit remains free. - E. M.

VI. On the Obligation of Applying Mass

622. Is there an obligation of applying Mass for another? - Resp. In the affirmative; for it is had 1. from the law itself, for bishops, pastors, chapters of cathedral or collegiate churches; 2. from the will of testators, for beneficed persons, chaplains, heirs, legatees, etc.; 3. from a pact, when a stipend has been accepted, or from a gratuitous promise. And these Masses are customarily called manual, so that they may be distinguished from other founded Masses, owed from foundation. L. 314-317. But it is not simoniacal to accept a stipend for Mass; for "the priest does not accept money as the price of the consecration of the Eucharist... for this would be simoniacal, but as a stipend of his support." St. Thomas 2.2, q. 100, a. 2 ad 2. Nonetheless even rich priests can accept a stipend, "both because today

it is permitted by the custom of the universal Church, and because every workman, whether rich or poor, is worthy of his wage." L. 317. And St. Thomas favors this, Quodl. 6, a. 10. - E. M.

622 bis. Note: On the feasts suppressed by the very recent Motu Proprio, which is immediately in force, namely Corpus Christi, Purification, Annunciation, and Nativity of the B. V. Mary, St. Joseph Spouse of the same B. V. Mary, St. John Apostle and Evangelist, and the Patron of each place or diocese, the obligation remains of offering the sacred rite for the people. S. C. C., Aug. 8, 1911. - During the present condition of affairs, in France, pastors are altogether bound to continue worship in their church and to remain in the parochial buildings until they are violently expelled. - For supplying pious legacies abolished in France, it has been established perpetually that every year, on one of the Sundays of the month of November, in all the churches of France, a Requiem Mass be celebrated for the aforesaid end.

The print's appendix has more on this paragraph: Mass for the People. (ed.)

623. Is a priest guilty of simony who celebrates chiefly by reason of the accepted stipend? - Resp. In the negative per se, namely if he does not hold the stipend as the price of the sacrifice of the Mass and has accepted it only as a stipend for support. - But he cannot be excused from sin, since it is most odious and shameful that someone abuse the sacred ministry for the sake of gaining money. Yet a priest does not sin who celebrates accessorily in view of the remuneration to be received, especially if it is necessary for him. Nor per se is he stained by any blemish who, with a stipend accepted, is determined to celebrating, although otherwise he would have omitted the sacred rite; for then he is moved not by reason of the stipend, but by the obligation to be fulfilled. Cf. vol. 1, nn. 511, 512; E. M.

624. Is the obligation of applying Mass grave? - Resp. In the affirmative, if it proceeds from law, or from the will of the deceased, or from a pact when a stipend has been accepted. For the matter is grave, since another is deprived of a great fruit. And one is bound to restitution. L. 315. - If the stipend accepted is not grave matter, some deny that it is grave; others more probably affirm it, because, a pact from justice standing, a grave harm is always unjustly inflicted on another. There is added the grave precept of the Church in this matter, as is more than sufficiently clear from so many published Constitutions and Decrees. And this is confirmed from the common estimation in this matter; for the stipend taxed for Masses of one or two lire is not matter grave in itself, and yet all who do not celebrate Masses owed from an ordinary stipend believe that they sin gravely and are bound to restitution. L. 317. And this holds even if someone knowingly and willingly accepted small stipends, unless they are so small that he seems to have promised gratuitously. Innocent XII, Const. *Nuper*; L. 320. - If Mass is owed from a simple promise, it is not grave to omit it, because a simple promise does not oblige under grave sin. L. 317. "But all agree that he sins gravely who omits a Mass owed from vow or precept of a Prelate, because no one can doubt that this is grave matter in a vow or precept." L. 317. Nevertheless, if a religious knowingly applies the sacred rite against the will of the superior, the application will be valid. The reason is that the application of Mass is an act of the power of order. But an act of the power of order by no means depends on the faculty of the superior. Therefore, as the intention of confecting the sacraments, so the application of the sacred rite cannot be made invalid by the will of the superior. L. 334. Cf. *A. A. S.* vol. 6, p. 231.

Personal obligation otherwise excluded of celebrating and applying Mass, commonly speaking it does not matter whether someone celebrates through himself or through another, provided the Mass is

celebrated in the due place and time, and the full stipend, not a smaller one, accepted under the sole title of celebration, is conferred on the other, prop. 9 condemned by Alexander VII; this has place only in manual Masses, which are not given in view of the person but in view of the Mass to be celebrated. And this is so that every base profit may be removed. Innocent XII, Const. *Nuper*; Benedict XIV, Enc. *Quanta cura*; L. 321. Wherefore whoever subtracts part of the stipend is guilty of sacrilege and injustice, and is bound to restitution toward the celebrant, even if that part is small and is spent for a pious use, unless the other wholly spontaneously, and therefore not asked, remitted the excess. Benedict XIV, Enc. *Quanta cura*; prop. 9 condemned by Alexander VII; L. 321, 322. Indeed one sins gravely, regularly speaking, not only if he omits the Mass, but also if he does not celebrate it within the defined time; or, if none is determined, within a moderate time, i.e., within one month, unless the one giving the alms consents to the delay. Innocent, Const. *Nuper*, ad 1; L. 317. Once the designated time has elapsed, he will still then be able to celebrate, although he has already sinned, unless the cause of the celebration has ceased; for then he is bound to restitution, even if he afterward celebrates. L. 317. - Likewise it is grave if someone does not celebrate in the prescribed place, and the place, from a grave cause, is intended per se. The same must be said of day and hour, if they have been determined for a grave cause. Yet one who, having accepted a stipend for celebrating Mass on a privileged altar, celebrated it on another altar in good faith, having made a proportionate compensation by afterward gaining a plenary indulgence applicable to the dead, need not restore the stipend. L. 328, 329. Cf. nn. 1238, 1375, 1377; E. M.

625. Resolutions: The whole stipend is not to be handed over to another celebrant if someone has received a richer stipend under another title and in view of the person, e.g.: 1. If Mass is to be celebrated by reason of a benefice. Innocent XII, l. c. - 2. By reason of a chaplaincy. S. C. C., Mar. 15, 1745; *A. S. S.* vol. 8, p. 79. - 3. By reason of a legacy left to someone for life. L. 321. - 4. By reason of the parochial office. S. C. C., July 25, 1874; *A. S. S.* vol. 8, p. 84. - 5. By reason of a special obligation and burden undertaken. S. C. C., Mar. 24, 1906; *A. S. S.* vol. 4, p. 40. - 6. By reason of the poverty of the priest, friendship, consanguinity, etc. L. 321; provided this intention of the giver is morally certain. S. C. C., July 25, 1874; *A. S. S.* vol. 8, p. 94. - 7. And the same holds if a richer stipend is assigned to a pious place and for its benefit. - E. M.

It is not licit to accept several stipends for several Masses and satisfy all by one Mass. Prop. 10 condemned by Alexander VII. If satisfaction can no longer be made for the omitted celebration of Masses, recourse must be had to the Holy See, so that the Supreme Pontiff may deign to supply from the treasury of the Church, by applying the satisfactions of Jesus Christ and the Saints and also by directing the prayers of the Church, to supply the fruit of satisfaction and impetration. Likewise, if Masses to be celebrated cannot be celebrated, recourse must be had to the Holy See for their reduction. Decree of Urban VIII, S. C. C., June 21, 1625; Benedict XIV, *De Synodo*, l. 13, c. 25, n. 15.

When the revenues of founded Masses fail without any fault of him on whom the burden of celebrating falls, every obligation of celebrating them ceases. S. C. C., Aug. 18, 1705. When revenues are diminished, it is licit to diminish the number of Masses to be celebrated when the founder determined a certain alms to be attributed for each Mass. But if the number of Masses is determined by the founder, and the revenues do not suffice for the ordinary tax of each Mass, the Apostolic See must be approached, which reserved this reduction to itself. Innocent XII, Const. *Nuper*, Nov. 23, 1697, unless "he who left the legacy had given the Bishop express faculty of diminishing the number

of designated Masses; for then it would be licit for the Bishop, without consulting the Apostolic See, to use that faculty." Benedict XIV, *De Synodo*, l. 5, c. 10, n. 2.

Administrators of churches can subtract expenses for the celebration of Masses from the stipend of those who celebrate in them by reason of chaplaincy or foundation. But from other priests they can exact the payment of the aforesaid expenses as a condition that they be permitted to celebrate Mass in the church. S. C. C., July 6, 1726; Benedict XIV, Inst. 56, n. 13.

625 bis. Note: An Indult is granted to bishops by the S. C. C. for three years, so that in his diocese he can absolve the truly poor concerning past omissions of perpetual Masses and legacies, and can reduce perpetual burdens of Masses which for various causes and especially because of diminution of the revenues of legacies, or the poverty of those who are bound to fulfill the burdens, have been neglected in past years and will not easily be able to be fulfilled in the future.

626. How much may be accepted for the stipend of Masses? - It is licit to accept the stipend determined by diocesan law or custom. Trent sess. 22, Decree *de observ.*, etc. - It is not licit to demand a greater stipend, unless from a just cause, e.g., some extraordinary labor; nor is it licit to accept less if this has been prohibited by the Ordinary. S. C. C., July 16, 1689; *A. S. S.* vol. 3, p. 558. Yet this does not prevent one from being able, from another title, from charity or friendship, to admit a smaller stipend, as also a greater stipend from the mere liberality of the giver. - Regulars also are bound to the diocesan tax, S. C. C., Jan. 15, 1639; July 16, 1689; May 8, 1905; and the heirs of those who left Masses with no determinate alms must observe it. Innocent XII, Const. *Nuper*, par. V, *Posito*. - "If beyond the alms taxed by the Bishop the priest about to celebrate demands more, he sins not only against the law of the Church, but also violates commutative justice." Benedict XIV, *de Sacrif. miss.*, l. 3, c. 21, n. 13. - Trent sess. 25, chs. 4, 5 de R.; L. 319, 320; Lugo, *Responsa Moralia*, l. 5, disp. 18; *A. S. S.* vol. 38, p. 14; E. M.

627. Is it licit to collect stipends of Masses so that the Masses to be celebrated are then handed over to others? - Resp. If this is done for the sake of profit, it is forbidden, especially to merchants and booksellers, so that every occasion, appearance, and suspicion of base profit may be removed from the holiness of so great a sacrifice, although the collectors afterward take care that they are celebrated by poor priests, with books, religious and pious newspapers, etc., being given in place of the stipend, or spend for pious uses the profit which is taken from the exchange of books or merchandise with alms. If this is not done for the sake of profit, the matter per se is often dangerous, because often Masses of this kind must be celebrated at the established time, place, etc. Hence collectors sin gravely, and those also who confer stipends on them or accept them from them, as accomplices. Moreover, collectors are guilty of theft if they subtract anything for themselves beyond the just price of the office and labor. But this collection is explicitly and simply prohibited by the following Decrees of the S. C. C., not only because of gain and profit to be made, but also because of any other end whatever, although the best, unless it is that someone celebrate Masses, either through himself or through his subjects. Benedict XIV, Const. *Quanta cura*; S. C. C., Sept. 9, 1874; Apr. 24, 1875; L. 332; E. M.

Decree of the S. C. C., May 11, 1904. "That the celebration of manual Masses may be fulfilled with due solicitude, and that dispersions of alms and forgetfulness of assumed obligations may be avoided, the Congregation of the Sacred Council has established many things even in most recent times. But amid so great a mobility of affairs and fortunes in our age and with the growing malice of men,

experience has taught that even greater precautions must be applied, so that the pious wills of the faithful may not be defrauded and a matter most grave among all may be carefully and holily guarded. For this reason the Eminent Fathers of the S. Congregation, after counsel had been taken more than once, judged that some things must be established, which our Most Holy Lord Pope Pius X carefully weighed, approved, and ordered to be published, as follows. "In the first place the Sacred Congregation declares that by manual Masses in the present Decree are understood and held all those which the faithful, with a manual offering made, ask to be celebrated, to whomever or in whatever way they hand over this offering, whether directly or in testaments, provided they do not constitute a perpetual foundation, or one such and so long-lasting that it must be regarded as perpetual. "Likewise counted among manual Masses are those which indeed burden the patrimony of some private family perpetually, but are established in no church, which Masses can be satisfied anywhere by any priests, at the discretion of the head of the family. "But after the manner of manual Masses are those which, established in some church or annexed to benefices, cannot for this or that reason be applied by the proper beneficed person or in the proper church; and therefore either by law, or with an indult of the Holy See, they must be handed over to other priests so that satisfaction may be made for them. "Now concerning all these, the S. Congregation decrees: "1. That no one can seek and accept more Masses than he can probably celebrate within the limits of time established below, and through himself, or through priests subject to him, if it concerns a diocesan Ordinary or a regular Prelate. "2. That the useful time for fulfilling obligations of manual Masses is one month for one Mass, six months for one hundred Masses, and another longer or shorter space of time, more or less, according to the greater or lesser number of Masses. "3. That it is licit for no one to assume so many Masses that he probably cannot satisfy them himself within one year from the day of the obligation undertaken, always preserving nevertheless the contrary will of the offerers, who either explicitly or implicitly, because of some urgent cause, request a shorter time for the celebration of Masses, or grant a longer time, or spontaneously assign a greater number of Masses. "4. Since in the Decree *Vigilanti* of May 25, 1893, it was established 'that in the future all and each everywhere, beneficed persons and administrators of pious causes, or those in any way obliged to fulfill burdens of Masses, whether ecclesiastics or laymen, at the end of each year should hand over to their own Ordinaries the burdens of Masses which remain and for which they have not yet satisfied, according to the manner to be defined by them'; to remove ambiguities, the Eminent Fathers declare and establish that the time fixed by these words is to be taken in such a way that for founded Masses or those annexed to some benefice, the obligation of depositing them runs from the end of that year within which the burdens should have been fulfilled; but for manual Masses the obligation of depositing them begins after one year from the day of the burden undertaken, if it concerns a great number of Masses, or otherwise according to the diverse will of the offerers. "But concerning the entire and perfect observance of the prescriptions which have been established both in this article and in the preceding ones, the conscience of all whom it concerns is gravely burdened. "5. Those who have an overflowing number of Masses, concerning which they may freely dispose, without detriment to the will of founders or offerers as regards the time and place of the celebration of Masses, can assign them, besides to their own Ordinary or the Holy See, also to priests well-disposed toward them, provided they are certainly and personally known to them and beyond every exception. "6. Those who have handed over Masses with their alms to their own Ordinary or to the Holy See are relieved from every obligation before God and the Church. "But those who have handed over to others to be celebrated

Masses accepted from the faithful, or in any way entrusted to their good faith, are held by the obligation until they have obtained proof of the completed celebration; so that if, from the dispersal of the alms, from the death of the priest, or from any other cause whatever, even accidental, the matter has fallen void, the one committing them must supply from his own goods and is bound to satisfy the Masses. "7. Diocesan Ordinaries, the Masses which by the disposition of the preceding articles they shall gather together, will immediately enter in order in a book with the respective alms, and will take care according to their strength that they be celebrated as soon as possible, yet so that first satisfaction be made for manual Masses, then for those which are after the manner of manual Masses. But in the distribution they will observe the rule of the Decree *Vigilanti*, namely: 'they will distribute the intentions of Masses first among priests subject to themselves whom they have known to need them; then they will commit others either to the Holy See or to other Ordinaries, or also, if they wish, to priests outside the diocese, provided they are known to them and beyond every exception,' the rule of article 6 concerning the obligation always remaining firm, until they have exacted from the priests proof of the completed celebration. "8. It is altogether forbidden to anyone to hand over to booksellers and merchants, to administrators of daily papers and periodicals, even if they are religious men, and also to sellers of sacred utensils and vestments, although they are pious and religious institutes, and generally to any persons whatever, even ecclesiastics, who seek Masses not specifically so that they may celebrate them either through themselves or through priests subject to them, but for any other end whatever, although the best, the obligations of Masses and their alms accepted from the faithful or from pious places. For it has been established that this cannot be done except by carrying on some kind of commerce with the alms of Masses, or by diminishing the alms themselves; and the S. Congregation judged that both must altogether be guarded against. Wherefore in the future, whoever shall presume to violate this law, either by knowingly handing over Masses as above or by accepting them, besides the grave sin which he will commit, will incur the penalties established below. "9. According to those things which have been established in the preceding article, it is decreed that, for manual Masses, the offering assigned by the faithful, and for founded Masses or Masses annexed to some benefice, which are celebrated after the manner of manual Masses, the proper alms according to the following articles, can never be separated from the celebration of Mass, nor changed into other things or diminished, but must be handed over to the celebrant whole and in its own species, declarations, indults, privileges, rescripts, whether perpetual or for a time, granted anywhere, under whatever title, form, or by whatever authority, and contrary to this law, being removed. "10. And therefore to sell or buy books, sacred utensils, or any other things, and to enter associations, as they call them, with daily papers and periodicals by means of Masses, is wicked and altogether prohibited. But this holds not only if it concerns Masses to be celebrated, but also if it concerns Masses already celebrated, whenever this turns into usage and habit and inclines to the support of some commerce. "11. Likewise, without a new and special permission of the Holy See, which will not be given unless true necessity has first been established and with due and opportune cautions, it is not licit to subtract anything from the alms of Masses which the faithful are accustomed to hand over to more celebrated Sanctuaries, so that provision may be made for their dignity and ornament. "12. But whoever shall have dared in any way or under any pretext to break the statutes in the preceding articles 8, 9, 10, and 11, if he is of the priestly order, will be subject to suspension *a divinis*, reserved to the Holy See and incurred by the fact itself; if he is a cleric not yet initiated to the priesthood, he will likewise be subject to suspension from the orders received, and

moreover will become incapable of obtaining higher orders; but if he is a layman, he will be bound by excommunication *latae sententiae* reserved to the Bishop. "13. And since in the Constitution *Apostolicae Sedis* it was established that those are subject to excommunication *latae sententiae* reserved to the Supreme Pontiff who 'collect alms of a greater price and seek profit from them by causing Masses to be celebrated in places where Mass stipends are customarily of a lesser price,' the S. Congregation declares that nothing is detracted from this law and sanction by the present Decree. "14. Nevertheless, lest a sudden innovation be harmful to some pious causes and religious publications, it is granted that associations already entered into by means of Masses may be prolonged until the end of the year from which they were instituted. Likewise it is conceded that indults of reduction of the alms of Masses, which are found to have been granted to some in benefit of Sanctuaries or other pious causes, may remain in force until the end of the current year. "15. Finally, as regards Masses annexed to benefices, whenever they are handed over to other priests to be celebrated, the Eminent Fathers declare and establish that the alms must be no other than the synodal alms of the place in which the benefices were erected. "But for Masses founded in parishes and other churches, the alms which is assigned must be no other than that which in the foundation or in the subsequent indult of reduction is found to have been taxed perpetually, always preserving nevertheless rights, if there are any, legitimately recognized, whether for the fabric of churches or for their rectors, according to the Declarations presented by the S. Congregation in the Munich case of July 25, 1874, and in the Hildesheim case of January 21, 1898. "For in the Munich case, 'with attention to the fact that the alms of Masses of certain legacies partly hold the place of a parochial support, the Eminent Fathers judged it licit for the pastor, if he cannot satisfy them through himself, to commit those Masses to another priest, with the ordinary alms of the place assigned, whether for low or sung Masses.' And in the Hildesheim case it was declared that 'in legacies of Masses founded in some church, one can retain in favor of ministers and of those serving the churches that portion of revenues which at the beginning of the foundation, or in another legitimate way, was assigned to them independently of the special work to be performed for the fulfillment of the legacy.' "Finally, it will be the duty of each Ordinary to take care that in individual churches, besides the table of perpetual burdens and the book in which manual Masses handed over by the faithful are recorded in order with their alms, there also be books in which satisfaction for the said burdens and Masses is marked. "It will likewise be their duty to watch over the full and complete execution of the present Decree, which His Holiness orders to be observed inviolably by all, anything contrary notwithstanding."

An exchange of the alms of Mass with food and service is licit, provided that no more is retained than an honest compensation demands. S. C. C., Feb. 25, 1905; *A. S. S.* vol. 38, p. 20.

627 bis. Is transmission of Masses outside the diocese licit? - The following Decrees are held on this matter.

On the Satisfaction of Masses. - "In the recent Decree *Ut debita* of May 11, 1904, this S. Congregation, embracing various laws already issued before concerning the religious fulfillment of burdens of Masses, with opportune declarations added and a severe sanction interposed, strove to provide that the holiest matter of all be held in highest honor among all, and that the danger be removed lest anyone in any way detract anything from the pious wills of the faithful. Yet although these were the cares of the Apostolic See and the solicitude of the Bishops, abuses and violations of the law were not lacking, concerning which the same Sacred Congregation judged that the vigilance of Prelates should

again be stirred up. "For indeed it is clear that not a few, notwithstanding the very well-known canonical prescriptions, by no means doubted to subtract something on their own initiative from the offering accepted for Masses, and, having retained for themselves part of the money, to commit the Masses themselves to others to be celebrated, perhaps led by the opinion that this was licit for them either because of the consent of the priest receiving with a more or less even mind, or because of the end of helping some pious work or exercising charity. "There were also those who, contrary to laws so often inculcated, especially contrary to n. 3 of the same Decree, adopted this kind of industry for themselves, that they gathered from everywhere the greatest number of Masses they could. From this it has more than once happened that an enormous abundance of them was heaped up in the hands of private men; and therefore it remained subject to danger, which indeed, even when human malice has been removed, always threatens matters entrusted to private faith. "Finally there were found those who, departing from the law expressed in n. 5 of the Decree, committed Masses to be celebrated, not only more abundantly than was licit to give to private persons, but also more inconsiderately, since they entrusted them to priests unknown to them, deceived by the appearance of some name or title, or moved by the recommendations of others who neither knew them plainly nor had sufficiently examined the gravity of the burden assumed. "That these disturbances of discipline may be met, and that the most grave harms which customarily follow the violation of the Decree *Ut debita* may be repelled as far as possible, this S. Congregation, carrying out the commands of our Most Holy Lord Pope Pius X, admonishes all Bishops and other Ordinaries to apply every care and vigilance in a matter of such importance, and to teach the clergy and administrators of pious legacies what dangers arise from the non-observance and contempt of the law; with what burden their conscience is weighed down; how rashly they place their own judgment before the laws which long experience of affairs has placed for the protection of the most august matter; finally, by what fault they bind themselves and to what penalties they become subject. "But for rooting out the evil radically, the Eminent Fathers further judged it necessary to add certain new things to the prescriptions hitherto made. Therefore, the matter having been discussed first in the Congregation of March 23, 1907, and again in the following Congregation of April 27, they established these things to be observed by all under a grave bond of conscience: "I. That in the future whoever wishes to commit Masses to be celebrated to priests, whether secular or regular, residing outside the diocese, must do this through their Ordinary, or at least after he has been heard and has assented. "II. That each Ordinary, as soon as it is permitted, make a catalogue of his own priests, and describe the number of Masses which each one is bound to satisfy, so that afterward he may proceed more safely in assigning Masses. "III. Finally, if any Bishops or priests should wish in the future to send Masses, of which there is an overflowing abundance, to Prelates or priests of churches which are situated in the East, they must always and in each individual case do this through the S. Congregation of Propaganda Fide. "All these things having been reported by the undersigned Secretary to the same Most Holy Lord in the audience of April 28, His Holiness held ratified and confirmed the deliberations of the Eminent Fathers and ordered them to be published, anything contrary notwithstanding. "Given at Rome on the 22nd day of May 1907." Letter of the S. C. C.

On the Transmission of Masses to the Eastern Churches. - "... III. Finally, if any Bishops or priests should wish in the future to send Masses, of which there is an overflowing abundance, to Prelates or priests of churches which are situated in the East, they must always and in each individual case do this through the S. Congregation of Propaganda Fide." S. C. C., Decree *Recenti*, May 22, 1907.

"Apostolic Delegates are not comprehended in the preceding article 3 of the Decree *Recenti* of May 22, 1907, so that Mass intentions can be sent to the aforesaid Reverend Delegates with the respective alms, that they may distribute them only to Prelates and priests of their Delegation. Superiors of Orders and Religious Institutes can directly and specifically send Mass intentions with the respective alms to their own religious subjects, but not to the rest." S. C. C., May 22, 1907.

Alms of Masses to be celebrated by missionaries in Eastern regions, and everywhere, must be sent, as before, to the S. Congregation de Propaganda Fide, or also to Apostolic Delegates, who can hand them over only to their own prelates and priests; likewise to the Moderators of religious institutes, who will be able to send them on to their subjects, but not to others. S. C. C., Sept. 9, 1907. "1. If any wish to send Masses, of which there is an overflowing abundance, to Churches of the Eastern rites, they can do this not only through this S. Congregation, as is prescribed in the Decree *Recenti* of the S. C. C., May 22, 1907, but also through the Reverend Apostolic Delegates established in Eastern regions. In that case it is necessary to signify to them how many Masses and what sum of stipends must be handed over to Eastern Prelates existing within the scope of each Delegation. "2. It is in no way licit to send alms to laymen, who afterward distribute them to priests who will celebrate Masses. "3. Nor is it licit to commit the celebration of Masses directly to Eastern presbyters. "4. It is also forbidden to send alms directly to Superiors of Eastern Religious Congregations. "5. Indeed neither is it licit to commit Masses directly to Eastern Prelates who are either titular Bishops or simple Patriarchal Vicars. "6. But if it concerns Prelates having ordinary episcopal jurisdiction in the East, Mass intentions with the relative alms can be sent directly by Bishops and Priests to those Prelates themselves for the necessities only of priests subject to them, as the S. C. C. declared on March 18, 1908. But lest from several places at the same time many alms flow together into one and the same Diocese, which would bring with it an excessive delay in the celebration of Masses, therefore one who commits alms to some Eastern Prelate should also make the Apostolic Delegate of the region certain of the number of Masses, to whom it belongs to watch that the Masses be celebrated with the solicitude which is fitting." Instruction *Cum plures*, S. C. de Prop. Fide, July 15, 1908; *Monit. Eccles.* vol. 20, p. 439.

*The print's appendix has more on this paragraph: Decree of the Sacred Congregation of the Council *Ut debita*, May 11, 1904 and On the Satisfaction of Masses. (ed.)*

628. Can a priest to whom a rich stipend is offered for today's Mass, while retaining this, ask another priest to celebrate for him, promising to celebrate on the following day for the same person for whom the other is going to celebrate for the ordinary alms? - Resp. In the negative, if this is done often, or deliberately, namely by studied seeking of a richer stipend. For this bears before itself a certain appearance of trade and of base profit on the occasion of Masses. This is confirmed from S. C. C., May 6, 1865; *A. S. S.* vol. 2, p. 203; vol. 3, p. 98. - If it concerns some occurring case, it is controverted. "Concina rightly denies it," says St. Alphonsus 322, "because this could not be excused from the appearance of base commerce; nevertheless he rightly does not dare to condemn it of grave sin.... La Croix and Mazzotta affirm it, because this would not be retaining part of the price, which the Pontiff condemned, but only exchanging Masses and days." This latter opinion is altogether probable by the solidity of its reason and the weight of authority, and is approved by the very common practice of pious priests. Nor indeed is any prohibition of this case contained in the Decree *Ut debita*. Except, however, if the one giving the alms is reasonably and gravely unwilling that the Mass be celebrated by another. L. 321.

629. Is one bound by stipend to celebrate on a privileged altar for a deceased person required to read a Requiem Mass when the rite permits it? - Resp. This has been declared several times. S. R. C., Aug. 27, 1836, Rennes, ad 5. But now, after the Decree of the Holy Office of Feb. 19, 1913, a Requiem Mass, or a Mass of the feria or vigil with the proper prayer of the deceased, is no longer required. Yet this is laudably done, when it is licit and fitting for the sake of piety toward the deceased. - L. 339; E. M.

630. Does one bound by stipend to read a Requiem Mass, or a votive Mass, satisfy if he says another Mass? - Resp. In the affirmative. The reason is that the Mass is the same as regards substance; and if a just reason is present, there will be no sin. Except unless the quality of the Mass was strictly prescribed because of some peculiar reason. Hence, if the Rubrics do not permit that day a Requiem or votive Mass to be read, the Mass of the day must be read, and thus the obligation is truly satisfied by celebrating Mass conformable to the Office. S. R. C., Aug. 5, 1662; Mar. 3, 1761, ad 7; Apr. 23, 1875, de Venezuela; June 13, 1899, Plur. Dioeces., ad 4, n. 4031; L. 328, 422; St. Thomas 4, dist. 45, q. 2, a. 3, q. 1 ad 5; E. M.

It is not prohibited to apply a Requiem Mass for the living. Yet it cannot be applied for the living so that it may avail for them, not while living, but after their death.

631. Can a stipend be received for a Mass to be celebrated on the day of the Commemoration of all the faithful departed? And for the three Masses of the Nativity of Our Lord Jesus Christ? - Resp. To the first, in the affirmative. The reason is that not all priests are bound on this day to apply Mass for all the dead; indeed they are not obliged even to celebrate. Therefore they can apply Mass at will either for all the dead dwelling in Purgatory, or only for some. S. R. C., Aug. 4, 1663, n. 1275. But this being posited, nothing at all prevents a stipend from being accepted for the Mass. - L. 338.

Resp. To the second, in the affirmative. For this is prohibited by no special law.

632. Can priests of the Society of Jesus accept a stipend of Masses? - A priest of the Society can accept a stipend neither for himself nor for another for Masses which he reads. The same also must be asserted if it concerns any other sacred ministries whatever. This is clear from the Institute of the Society, *Epitome Inst. Soc. Iesu*, p. 2, c. 1, sect. 6, n. 27; p. 4, c. 2, sect. 1, n. 30. - If money is offered for Masses to a priest of the Society or to the Community, it can be admitted by the superior, not indeed with a rigorous obligation, but with a broad promise of saying some Masses, or even one or another each year from gratitude.

Likewise money can be accepted liberally, and in turn Masses can liberally be promised, yet so that the later promise is not as it were a compensation, or reciprocal payment as if for stipends, but the money is admitted under the mere title of alms; so that the offerer plainly understands that it cannot be accepted under another name, and that he himself gives it on this same basis. La Croix l. 4, n. 136 seqq.; l. 6, p. 2, n. 146; Lugo, *Responsa Moralia*, l. 4, disp. 30.

633. Resolutions: 1. A priest of the Society of Jesus, to whom money is offered for Masses to be read, can say to the offerer that he will read the Masses gratuitously for his intention, and in turn ask him that he be willing liberally to apply the offered money to this or that pious cause; thus the offerer will have a twofold fruit: namely, the ordinary fruit of the Mass, and then the fruit of cooperation toward that pious cause. - 2. Titius, a priest of the Society, can read Masses for the intention of Sempronius, a secular priest, who has accepted stipends for Masses to be read, when the latter can neither restore

them nor satisfy for all the Masses, because in these circumstances Titius is judged to read gratuitously and from pure charity. - 3. If Titius, a priest of the Society, does not indeed receive the stipend, but nevertheless disposes concerning it, e.g., says to Caius: give the stipend to this poor man, and I will read the sacred rite for your intention; or if he says to Sempronius: you accept the stipend, and I will read the sacred rite in your place, he acts illicitly, because by thus disposing of the stipend through a certain tacit quasi-contract, "I do that you may give," he virtually accepts the stipend and gives it back to another; each of which is against the vow of poverty. - 4. If Paulus, a man of the Society, supplies for a chaplain bound from foundation in singing Mass, he by no means sins, although the chaplain receives his revenue, because he disposes concerning nothing. The same must be said if he preaches, or exercises another function for someone who receives the customary rights from it. - 5. If Sempronius, a pastor, having already accepted a stipend, asks Titius, a priest of the Society, to supply for him in reading Mass, Titius will licitly supply, provided he disposes nothing concerning the stipend. The reason is that the stipend is not received by Titius even virtually, since he disposes nothing concerning it, and it is altogether indifferent to him who gave the stipend by whom the Mass is read.

This is confirmed: If Titius, about to go to Paris, in favor of Sempronius, gratuitously carried letters which Sempronius had been hired for a wage to carry, Titius would certainly not act against poverty, nor would he be judged to acquire that wage for himself and donate it to Sempronius. Therefore similarly in our case. - La Croix l. 4, nn. 138, 139; l. 6, p. 2, n. 146.

634. What is the obligation in the Society of Jesus as regards Masses and prayers customarily enjoined? - Religious of the Society who do not pay the prescribed prayers and Masses, speaking per se, do not sin, because no rigorous precept is given; for there is no other obligation except from the rule, which per se does not oblige under sin. But superiors will sin if from negligence they do not take care that those be designated who celebrate Masses or pray, especially for benefactors and founders. But those who have Masses to be read read by others do not satisfy the rule, because it is a personal burden. Nevertheless, he satisfies who asks another to celebrate today or this week in his place, with himself compensating on another day or another week.

Likewise those satisfy who, foreseeing difficulties for the following week, anticipate the sacred rites in the week which precedes. - Masses enjoined for the dead of the Society, whether they are determined by the general Constitutions of the Order, or from particular rules, or from the prescription of superiors, introduce no other obligation than that of a simple rule or simple ordinance, and therefore they oblige neither under grave nor under light sin per se, a special precept always excluded. - Masses affixed to time, e.g., those which must be read each week or each month, if they could not be celebrated at this time because of impediment or illness, do not necessarily have to be supplied afterward, but can be omitted. On the contrary, if they were omitted from negligence, they must afterward be supplied. La Croix ib., n. 171. - If Masses or prayers are indicated for an indefinite time, it is enough to say them for two or three months. La Croix l. 6, p. 2, n. 168 seqq.; Pellizzarius tom. 1, tr. 5, c. 9, n. 12; Suarez, *de Relig.*, tr. 10, l. 8, c. 2, n. 5.

VII. Various Adjuncts of Mass

635. On what days and at what hour is it licit to celebrate? - On Thursday of Holy Week and Holy Saturday only the solemn Mass is permitted to be celebrated in churches in which the Most Holy

Sacrament is reserved. On Holy Saturday it is to be celebrated in parish churches because of the blessing of the font, where it exists. Decree of Clement XI, Mar. 15, 1712; S. R. C., Dec. 19, 1654, n. 980; Feb. 12, 1690, n. 1822; June 14, 1659, n. 1120; Sept. 4, 1875, n. 3366; Benedict XIV, Note 38; L. 350. Nevertheless, where the custom is in force that the pastor celebrate on these days, it is to be tolerated. And thus according to the Ambrosian Rite a low Mass by only one priest is permitted. S. R. C., July 18, 1902. - Moreover, in rural parishes in which three or at least four clerics cannot be had for carrying out the sacred functions on Friday and Holy Saturday, with lesser solemnity, according to the small Ritual of Benedict XIII, S. R. C., July 28, 1821, n. 2616, pastors, with the license of the Bishop, which in many places is not sought, to be obtained each year, can celebrate low Mass on Thursday in the Supper of the Lord, before the Conventual Mass begins in the Cathedral or Mother church. Likewise it is licit on Thursday in the Supper of the Lord for Cardinals, cf. vol. 1, n. 260 bis, 3, and also for the Superior of Regulars, properly so called, to celebrate in a private oratory, and, if an oratory is lacking, in the church, with doors closed, in order to minister Communion to the religious. S. R. C., Aug. 31, 1839, n. 2799; Dec. 9, 1899, n. 4049. And if on that day there falls a feast of precept of St. Joseph, or of the Virgin greeted by the Angel, or of the principal Patron, it is licit to celebrate as many Masses as will be necessary by the command and judgment of the Bishop; but the ancient custom of Communion of the clergy in the solemn Mass must not be omitted. S. R. C., Sept. 12, 1716, n. 2240; Sept. 23, 1897, ad 1, n. 2769; Sept. 26, 1868, n. 3179. But on Friday of Holy Week it is altogether prohibited under grave sin to celebrate. But in all churches in which on Thursday in the Supper of the Lord the customary function was had, the Mass of the Presanctified must be celebrated, which is not a true Mass, but only the Communion of the priest. S. R. C., Dec. 9, 1899, n. 4049. - With these days excepted, it is permitted to celebrate daily. - Decree of Clement XI, Mar. 15, 1712; S. R. C., Sept. 13, 1692, n. 1883; Jan. 10, 1693, ad 6, n. 1890; Mar. 9, 1877, n. 3414; L. 349, 350.

By decree of the S. R. C., Dec. 10, 1703, it was established that all the functions of Holy Week are not rights merely parochial. S. C. de Prop. Fide, Aug. 10, 1841, Collect. vol. 1, n. 936.

The *Memoriale Rituum* of Benedict XIII is to be used in the more solemn functions throughout the year by pastors in smaller Parishes in which clergy are not present. According to this *Memoriale*, the functions of Holy Week and other similar functions cannot be performed in smaller non-parochial churches and oratories of Regulars and Nuns without faculty of the Holy See. By special indult it can be used in non-parochial churches in which the conditions of small churches are verified, in Latin America and the Philippine Islands.

Holy Week: The sacred functions proper to this week are not exclusively parochial, and therefore can be permitted by Bishops in churches in which the Most Holy Sacrament is reserved. S. R. C., Jan. 12, 1704, ad 7, n. 2123; May 9, 1884, ad 1, n. 3608.

In the Supper of the Lord, there is an obligation of celebrating Mass in Cathedral Churches, and all Canons are bound to receive Communion from the hand of the Bishop; and all of the clergy serving the pontifical Mass are bound to receive sacred Communion from the hand of the celebrant.

Holy Saturday: Private Masses are prohibited on this day. Sacred Communion can be distributed to the faithful on this day during the solemnities of Masses and after them.

Private Mass can be said at any hour from dawn until noon. Rubrics of the Missal, *de Defectibus*, tit. 10, n. 1. Dawn is to be computed according to the variety of times. "But all agree that there is no fault

in finishing Masses at dawn, and beginning them a little before noon; the reason is that the time both of dawn and of noon is not to be taken mathematically, but morally." L. 341. In the same way, the privilege of celebrating one hour before dawn or after noon must be understood of one hour before or after the time assigned for others not privileged; otherwise the privilege would be of little advantage. L. 346. - Where dawn is very late, or appears very early, a legitimate custom can be observed; and where it does not appear, it is licit to celebrate Mass from the beginning of civil and usual life. S. R. C., Sept. 18, 1634, n. 614; St. Thomas 3 p., q. 83, a. 2; E. M.; Council of Trent sess. 22, Decree *de observ. et evit.*; Benedict XIV, Inst. 13, 63.

At what hour the conventual and solemn Mass is to be celebrated, see in the General Rubrics of the Missal, tit. 15. Cf. here n. 225.

636. Does one sin gravely who celebrates before dawn or after noon? - Resp. In the affirmative, if he greatly anticipates or prolongs the time established by the Church; but otherwise if the change is slight; indeed, if a just cause is present, he will be free from every fault. But what change is considered notable is controverted. According to the more common and more probable opinion, it is not held grave unless the celebration is begun a whole hour before or after the established time. L. 343, 346.

On the night of the Nativity of Our Lord Jesus Christ it is licit to celebrate only the solemn Mass, and without indult of the Holy See it is not licit immediately afterward to celebrate the other two Masses. S. R. C., Apr. 20, 1641, n. 752; Sept. 18, 1781, n. 2520. Cf. Rubrics of the Roman Missal; E. M.

The indult of celebrating three Masses on the night of the Nativity has been granted to religious and pious houses and seminaries of clerics having a public or private oratory, with faculty of reserving the Most Holy Sacrament. Sacred Communion can be distributed, and hearing the Mass avails for all those standing by for satisfying the precept. But this is not licit except with closed doors, nor in churches or public oratories which serve for the public use of the faithful people. The same Indult has been granted to Cardinals.

637. When is it licit to anticipate or prolong the time of celebration? - It is licit to anticipate: 1. In necessity, e.g., so that Viaticum may be ministered to one dying, in which case it would be licit to celebrate even at midnight. 2. Where there is a reasonable custom, e.g., so that workers and servants may be able to hear the sacred rite very early in the morning. 3. By force of privilege, with permission of the Pope or Bishop. L. 343. - It is licit to prolong: "1. After the solemn Mass on a feast, if the solemn Mass is prolonged to an hour and more after noon, indeed probably even after two hours... lest a great part of the people lack Mass. 2. Because of a journey, for an hour after noon or before dawn. 3. Thus also because of the funeral of some nobleman, or a sermon, or a public supplication. 4. If the Bishop dispenses in some particular case from a reasonable cause. And La Croix rightly says that all superiors, privilege excluded, have the same faculty toward their own religious, since they are their Ordinaries." L. 344.

To complete Mass within a quarter hour is regularly grave, because in so brief a space of time the entire prayers cannot be recited and the rites completely performed and with due reverence, nor without scandal of the people. Mass ought neither to be shorter than a third part of an hour nor longer than half an hour, so that all things may be done duly and that it may not affect the people with weariness. L. n. 400.

638. Whether and under what conditions is it licit to celebrate Mass more than once in a day? - Outside the case of true necessity, it is not licit to repeat Mass. Except the day of the Nativity of the Lord, and, where the privilege has been granted, namely in Spain, Portugal, Latin America, the Philippine Islands, the Antilles, and the other islands of the Caribbean Sea, the day of the Commemoration of all the faithful departed. And regulars can accept three stipends, seculars only two, in Aragon, Catalonia, Valencia, and Majorca; only one in the remaining places. C. *Consuluisti* 3, de Celebrat. missar. But on the night of the Nativity no one, not even a pastor, is bound to celebrate three Masses, but can omit one at will. L. 351. - There is necessity if a pastor before the ablution is warned about communicating a sick person, and he has already received his host, and no other fasting priest is found, which however is scarcely practical. L. 351. Necessity more practically exists lest many lose the sacred rite on a feast day, e.g., if one pastor governs two distant parishes, if a part of the people cannot gather at the same church because of the distance of places, or at the same Mass because of the narrowness of the church. - This necessity of celebrating two Masses is to be recognized by the Bishop, according to those things which Benedict XIV has in Const. *Declarasti nobis*, Mar. 16, 1746, *de Sacrif. miss.*, l. 3, cc. 5, 6, and permission is to be given by the Bishop. But what distance is needed, or what number of the faithful, so that Mass can be repeated, is left to the judgment of the Ordinary. And if they are distant by one mile, or there are twenty who otherwise would not satisfy the precept of the Church, he will be able, indeed he must, permit it. S. C. C., July 31, 1851; Jan. 12, 1847. - A pastor is bound to apply the second Mass for the people, just like the first, with no stipend accepted, on feast days in united parishes, except in the case in which the union of parishes is such that one parish altogether arises from it. Wherefore a pastor governing two parishes, and therefore celebrating twice, is bound to apply his Mass to each parish. On the contrary, a pastor celebrating twice in one and the same parish is bound to apply only one Mass for the people. - Never can an alms be received for celebrating the second Mass, even for pious causes, and whoever he may be who celebrates it; nor can the title of poverty or defect of revenues be alleged for receiving this alms. But if he suffers any inconvenience, he is not prohibited from demanding wages for it. S. C. C., Mar. 23, 1861; Feb. 22, 1862. - The celebrant, when he celebrates again, must be fasting; and therefore he does not receive the purification, but puts it into a prepared vessel. S. R. C., Mar. 11, 1828, n. 3068. A priest making Mass in two different churches on the same day can carry with himself the purification of the first Mass in some clean vessel to be carefully kept, so that he may receive it with the purification of the second Mass. S. R. C., May 9, 1893, ad 5, n. 3798. Cf. E. M. - St. Thomas 3 p., q. 83, a. 2 ad 5; Suarez disp. 83, sect. 3; Lugo, *Responsa Moralia*, l. 1, disp. 10, 12.

Sometimes, but much more rarely and with greater difficulty, faculty is granted for celebrating also a third Mass because of more special reasons of necessity. S. C. C., Dec. 20, 1879; *Monit. Ecclesiast.* vol. 12, p. 145 seq.

639. In what place is it licit to celebrate? - Commonly it is not licit to celebrate except in a church, and one consecrated or at least blessed, which is not polluted, execrated, or interdicted; or in an oratory dedicated only to divine worship; and upon an altar not execrated. Under grave sacrilege a consecrated altar, fixed or portable, is required. Trent sess. 22, Decree *de Observ.*, etc.; L. 373. "In a church internally violated, unless it is first reconciled, it will not be licit under grave sin, except in necessity, with permission of the Bishop if he can be approached, otherwise without it, to celebrate or to bury the dead. But necessity is considered sufficient if the people have no other church where

they may hear Mass. But if the church is polluted after the Canon has been begun, the priest certainly must continue the Mass." L. 361.

To celebrate Mass in the open air is grave, unless from a graver necessity and with license of the Ordinary, if it can be sought, e.g., if the church has collapsed, or if on a solemn feast it does not contain those who have gathered. C. 11, de Consecr.; Rubrics of the Missal; Lugo disp. 20, n. 48; L. 356.

Without Apostolic indult or privilege it is not licit to celebrate Mass at sea. S. R. C., Mar. 4, 1901, Vicenza. But when this Indult is had, it is necessary that the place where Mass is celebrated present nothing indecent or unbecoming. An Indult of this kind was granted to Cardinals, with due cautions observed. The same Indult was granted to Bishops of America, Oceania, and Australia coming to Rome or returning from Rome. S. R. C., June 30, 1908. But then it is necessary that the sea be calm and that there be no danger of spilling the sacred species from the chalice; and, if another priest is present, vested in surplice, he should assist the Prelate celebrating, and the place should be decent. Likewise to presbyter-chaplains of the Spanish Society of Transatlantic Navigation faculty was granted "of celebrating Mass at sea, with the assistance, however, if it can be done, of another priest vested in surplice, provided the sea is calm and there is no danger of irreverence; power also having been given to those who have assisted at Mass to approach the sacred synaxis... likewise of celebrating and admitting the faithful to sacred Communion, even in fulfillment of the Easter precept, on Thursday in the Supper of the Lord."

A Bishop can no longer, as formerly, grant faculty of celebrating in private homes, nor in a private oratory. Trent sess. 22, Decree *de Observ*. This is also clear from S. C. C., May 27, 1617; Jan. 23, 1847, in which it is said: it is not licit for any Bishop to grant licenses of this kind, not even for a passing act; this faculty is reserved to the Roman Pontiff alone. Yet an exception is made if grave and urgent causes are present, and only by way of a passing act. S. C. C., May 27, 1617; Aug. 27, 1836, Verona, ad 7; July 7, 1850; Dec. 20, 1855; L. 359. But at present this faculty has been enlarged by the following Response of the S. Congregation. "I. Whether and for what causes Ordinaries can permit by way of an act that the most holy Mass be celebrated outside a sacred place, in private homes. - Resp. To I, in the affirmative, from just and reasonable causes, by way of an act, not however in a bedroom, but in a decent place, with the other things to be observed by law being observed, and altogether gratuitously under whatever title." S. C. de Sacram., Dec. 22, 1912; *A. A. S.* vol. 4, p. 725.

A Bishop can indeed grant faculty of making the sacred rite in public oratories, Trent l. c., and of performing there the other sacred functions which are not strictly parochial. - St. Thomas 3 p., q. 83, a. 3; cf. vol. 1, n. 262; E. M.

The consecration of a church and altar is to be made by the Bishop of the place. Cardinals, however, can consecrate altars in the churches of their title. The consecration of a church consists in anointing with sacred chrism twelve crosses carved or painted on the walls of the Church, with the form of words. Wherefore the consecration adheres to the walls themselves of the Church; hence a church is not execrated if the plaster, *intonaco*, on which the crosses were painted, is removed from the whole church, or if the roof collapses. A church can be consecrated in reinforced concrete, provided the places of the twelve crosses and the parts of the principal door are of stone. S. R. C., Nov. 12, 1909. In the consecration of a church, the high altar must be consecrated; or, if this is lacking, a lesser or lateral altar can be consecrated. S. R. C., May 24, 1901, n. 4073. The consecration of a church in

which the consecration of the altar has been omitted is valid, but not licit. S. R. C., May 19, 1896. But an altar can be consecrated without the church first being consecrated. The fast prescribed in the Roman Pontifical, as regards consecrations of churches, is of strict obligation for the Bishop consecrating and only for those who request that the church be consecrated for them. S. R. C., July 29, 1780; July 3, 1909. Latins cannot celebrate Mass, without a portable altar of stone, in the churches and on the altars of united Greeks, which are from cloth consecrated by the Greek Bishop with anointings and relics.

It is not licit to consecrate a church in whose subterranean part shows, after the manner of a theater, are to be performed for exercising youth; for the church with its subterranean part is consecrated by way of one thing. S. R. C., May 4, 1882, n. 3546, ad 1. Nor indeed is it licit in that subterranean part of the church to keep wines and other merely profane things. S. R. C., Aug. 31, 1867, ad 5, n. 3157; 639.

The print's appendix has more on this paragraph: Notes to nn. 639 and 657 bis. (ed.)

640. In what oratories can Bishops give license of celebrating? - They can permit that this be done in every religious and pious place. But a religious place is called that in which works of religion, piety, and mercy are exercised, and which has been erected by the authority of the Bishop or of another ecclesiastical Prelate. Such are monasteries, any religious communities, seminaries, etc. But a pious place is called one which is constituted and deputed for works of piety and mercy, even without the authority of a Bishop or ecclesiastical prelate. Hence any hospitals and orphanages must be held as pious places, in which therefore the Bishop can permit the erection of an oratory, even if places of this kind were erected and constituted by civil power. Add also oratories to be erected in prisons. - Indeed the Bishop can permit that Mass be celebrated in these and other similar Oratories, to which by institute the Christian faithful approach for hearing Mass, even in fulfillment of the festal precept, with the master of the place consenting, and the authority of the Ordinary intervening. These Oratories are now called semi-public, so that they may be distinguished from public ones, in which access is open to all, and from private ones, which are constituted in private houses only for the convenience of some person or family. - In these oratories it can be celebrated with closed doors; nor is it necessary that the oratory be separated from other places by four walls, but for the fourth wall there can be arranged a cloth which is opened for the convenience of those hearing Mass. - Trent sess. 22, Decree *de Observ.*, etc.; S. R. C., Mar. 8, 1879, n. 3484; Jan. 23, 1899, n. 4007; Oct. 18, 1901; L. 357; E. M.

Private oratories are neither consecrated nor solemnly blessed, but are blessed only by the simple blessing of a place. S. R. C., June 5, 1899, ad 6, n. 4025. Semi-public oratories can be blessed solemnly or only privately. S. R. C. l. c. ad 5. By a simple blessing they are not deputed perpetually to divine worship, as happens by solemn blessing, but only for the time in which the divine mysteries are celebrated in them. Wherefore afterward those places can be converted to profane uses.

Faculty must be obtained from the Holy See for erecting in pious Communities another oratory besides one principal oratory. S. R. C., Mar. 8, 1879, ad 2, Nevers, n. 3484.

641. How is a church polluted, and how must it be reconciled? - Resp. To the first. A church is polluted or violated when certain base or indecent actions and actions injurious to a sacred place are exercised in it, on account of which it is considered indecent that the immaculate Host be offered

there and divine offices be celebrated until it is reconciled. Therefore the Church is polluted: 1. By homicide, voluntary, mortally evil, or at least injurious to ecclesiastical immunity. 2. By the shedding of human blood from a blow or a gravely injurious wound. 3. By illicit voluntary emission of human seed. 4. By the burial of one not baptized, or an unbeliever. Except more probably if he is a catechumen, because he is not judged an unbeliever. Likewise, if he is an infant whose parents are Christians, because then the parents desire Baptism for him. Thus Pichler, Gousset 310, against others. 5. By the burial of an excommunicated person to be avoided. - But for a church to be judged polluted, these crimes must be notorious, so that they can in no way be hidden. They must also be committed in the church itself, not only in the tower, roof, sacristy, or other places adhering to the church. C. 19, 20, 27, de Consecr. dist. 1; c. 4, 7, 10, de Consecr., etc.; c. un. h. t. in 6; c. 5, de Adulter.; S. R. C., Apr. 23, 1875, n. 3344; L. 362, 364. "Note the expression 'shedding of blood,' which signifies abundance.... Hence it does not violate if from a slight blow or wound, e.g., of the nostrils in a quarrel of boys, even abundant blood flows, because in this there is commonly no mortal sin." L. 365. - A church is not polluted "by desolation, heretical exercise, filth of men or of animals stabled there, etc., although it is fitting and practice has it that it be reconciled and washed by the Bishop, or at least a priest, with some ceremony; understand this likewise of an altar in a similar case." L. 367.

Resp. To the second. 1. If the church was only blessed, it can be reconciled by a priest delegated by the Bishop, with the customary prayers and with blessed water. But the water can be blessed by the priest himself. Indeed Benedict XIV, *De Synodo*, l. 13, c. 15, n. 2, says: "If the church was simply blessed, then the same Gregory IX, in c. *Si ecclesia*, de Consecr. eccl., established that, no delegation having first been obtained, a polluted church can be reconciled by a simple priest, with blessed water, which they call holy or lustral, being used." But S. R. C., July 8, 1904, in Nolana, responded that delegation of the Ordinary is necessary, as is had in the Roman Ritual, tit. 8, cap. 18. - 2. But if that church was consecrated, it must be reconciled by the Bishop himself, or by a priest delegated by the Pope according to the rite of the Roman Pontifical. Nevertheless, if the divine offices cannot be omitted without grave inconvenience, the Bishop, detained by some impediment, can delegate a priest to bless the church with a simple blessing, until he himself can reconcile and consecrate it. - 3. But private oratories, although blessed and deputed to worship, are not judged to be polluted, and therefore do not need reconciliation. Suarez disp. 8, sect. 4, n. 6; Lugo disp. 20, nn. 58, 59. - Giraldi p. 1, sect. 598; L. 362, 363; St. Thomas 3 p., q. 83, a. 3 ad 3; E. M.

642. How are a church, altar, and sacred vessels execrated, and how are they rendered fit again for worship? - "Execration is said to occur when a sacred thing loses its consecration, so that it must be consecrated anew, which happens when it is so destroyed that it loses its form and use." L. 368. - Now a church is judged to be execrated when it falls down or is destroyed totally or for the greatest part, so that it must be built anew, at least for the greater part. S. R. C., Aug. 31, 1872, n. 3269. "A church is not execrated if one part is destroyed after another. And this even if through intervals of weeks or days the whole church becomes new, because whatever part is added remains consecrated, since the more worthy greater thing draws to itself the less worthy. And this proceeds even if there is an intention of destroying the whole church, because that intention does not prevent the consecration from enduring. Nor if the roof falls, because the consecration is in the walls." L. 368. Likewise a church is not execrated if the whole coating of the walls, commonly *intonaco*, is removed even at once. For the consecration adheres to the whole church. S. R. C., May 4, 1882, n. 3545; May

19, 1896, n. 3907. - An execrated church must again be blessed or consecrated, according to the rite and form prescribed for the blessing or consecration of churches.

A fixed altar, whose mensa must consist of one and entire stone, loses consecration when the mensa or upper stone is removed from its support. S. R. C., May 15, 1819, n. 2599; May 19, 1896, n. 3907; Feb. 12, 1897, n. 3947; Nov. 10, 1906. Altars, whether portable or fixed, lose their consecration through an enormous fracture, or through violation of the tomb in which the sacred Relics are enclosed, or through the loss of the same Relics. S. R. C., Mar. 14, 1861, n. 3106. Nor does it suffice to bury other authentic Relics in them; rather, the altars must be consecrated again. S. R. C., Dec. 7, 1844, n. 2880.

Sacred vessels and other consecrated things are execrated when they lose their form and can no longer serve their use. Moreover, "the chalice and paten lose their consecration through new gilding, and thus they need a new consecration." S. R. C., June 14, 1845, n. 2889. A sacred vestment, of which a notable part has been torn, so that it cannot serve its due use, remains execrated, although it is immediately mended, because it has now lost its form. "To use sacred vestments, even worn out ones, for profane uses is mortal. Yet sacred vestments used in profane uses do not lose their blessing." L. 370, 371, 376.

When part of a church is polluted, the entire church is judged polluted, even with the adjacent cemetery. On the contrary, when the cemetery is polluted, the church is not polluted. But when the church is execrated, the cemetery is not therefore execrated, nor do the fixed and entire altars lose consecration. - St. Thomas 3 p., q. 83, a. 3 ad 2, ad 3, ad 4, ad 5; L. 367 seqq.; Suarez disp. 81, sect. 2; E. M.

642 bis. Note: The altar must be stone, consecrated, and adorned with three blessed cloths; this is required under grave sin for the celebration of Mass. - One altar is consecrated fixed, another consecrated portable, and finally another simply fixed by reason of the fixed structure of the whole altar, not by reason of the mensa upon which Mass is celebrated, which can be a portable sacred stone. - For the consecration of a fixed altar it is necessary that the upper mensa be immediately supported by stone columns placed beneath it, S. R. C., May 24, 1901; July 5, 1901, or that, with cement, the stone mensa in which the receptacle of relics is located be joined to the lower base. - For the valid consecration of a fixed or portable altar, it suffices that in the sepulcher there be enclosed Relics of one Martyr and of Confessors or Virgins, or of only one Martyr. S. R. C., Feb. 16, 1906; Apr. 13, 1867. - A fixed altar, otherwise than a portable one, is consecrated with a title, which cannot be changed without pontifical indult, and for which it by no means suffices that it be expressed behind in a glass tablet or in a window. S. R. C., Nov. 10, 1906. - Bodies must be distant from the altar by three cubits; and three cubits are almost one meter in length; and this distance of tombs from the altar suffices. S. R. C., Jan. 12, 1867. - The celebration of Mass cannot be permitted in chapels in which the prescribed distance of the altars from burial niches is not had. S. R. C., Jan. 12, 1899; June 19, 1908. - An altar can be consecrated in a church only blessed. But nothing is to be placed upon the altar which does not pertain to adorning it and to the sacrifice of the Mass. - All privileges of the portable altar granted before the Council of Trent and not afterward confirmed have been removed. - All Bishops, whether diocesan or titular, are honored with the same privilege which the Cardinal Fathers enjoy, namely that not only can they themselves celebrate Mass in the oratory of their own dwelling or on a portable altar wherever they stay, and permit another Mass for their own

convenience, but also all the faithful hearing either of those Masses fulfill the precept of the Church as often as needed.

At papal altars, or at the greater altars of the Basilicas of the City, Mass cannot be celebrated by others than the Supreme Pontiff himself except by special faculty of the same Supreme Pontiff. *A. A. S.* vol. 5, p. 151.

The altar is also to be adorned with a frontal of the color, as far as possible, suitable to the feast of the day or Office. Thus it is prescribed by the Rubric. Hence St. Alphonsus n. 305 judges that it is required under venial sin. But if the altar is of marble, almost everywhere this is not observed, and in many places it is never used.

643. What things are required for celebrating Mass? - These are required: 1. a stone altar, fixed or portable, consecrated by a Bishop; 2. a triple cloth made of linen or hemp; 3. sacred vestments, or vestments blessed by the Ordinary; 4. a chalice and consecrated paten; 5. a corporal of linen or hemp, blessed by the Ordinary; 6. a pall likewise of linen or hemp; 7. a purificator of linen or hemp; 8. a missal with cushion; 9. a crucifix, not merely a cross; 10. two lighted candles of wax; 11. burse, veil, hand towel, glass cruets; 12. a male minister. - As it is grave or light to celebrate without some thing from these, so likewise it is grave or light to celebrate with it not blessed, if however it necessarily must be blessed, although in reality the indecency is less. Nor does it suffice that someone has already celebrated with these things not yet blessed. S. R. C., Aug. 31, 1867, n. 3162. - But as regards the candles, under grave sin they must be of wax. In private Masses it is not licit to light more than two wax candles, unless a Bishop celebrates, or unless some extraordinary solemnity, or Mass in place of a solemn or sung Mass, or exposition of the Most Holy Sacrament requires a greater number. Prelates lower than a Bishop cannot use more than two candles on the altar in a private Mass, neither a Canon nor a Vicar General. Collect. S. C. R. Ind. v. *Candela*. - Rubr. *Rit. Serv.*, etc., tit. 1; *de Defectibus*, tit. 10, n. 1; St. Thomas 3 p., q. 83, a. 3; L. 378-389, 394; Benedict XIV, Const. *Imposito nobis*, Mar. 29, 1751, § 4; Pius VII, Const. *Decet Romanos*, IV Non. July 1823; S. R. C., Aug. 7, 1627, n. 441; Mar. 15, 1664, n. 1287; Dec. 14, 1904; E. M.

Priestly vestments, chasubles, stoles, maniples, albs, amices, cinctures, are blessed by the Bishop, or also by Regular Prelates by privilege, but only for their own churches.

The custom of using gold or silver cruets is tolerated. Nor is a small spoon prohibited for pouring water into the chalice. S. R. C., Apr. 28, 1866, n. 3149; Feb. 6, 1858, n. 3064.

643 bis. Wax: It is made by the labor of bees. For candles which must be of wax, it suffices that for the celebration of Mass they be for the greatest part of wax, according to the following Decree of the S. R. C., Dec. 14, 1904, n. 4147. "Bishops should take care according to their strength that the Paschal candle, the candle to be immersed in baptismal water, and the two candles to be lit at Masses be from beeswax at least in greatest part; but the matter of the other candles which are to be placed upon Altars ought to be from the same wax in the greater or a notable quantity. In this matter pastors and other rectors of churches and oratories can safely stand by the norms handed down by their respective Ordinaries; nor are private priests about to celebrate Mass bound anxiously to inquire about the quality of the candles." - Candles of stearin are prohibited for sacred use. S. R. C., nn. 2865, 3376, ad 3.

Bell: It is consecrated with oil of the infirm for the external anointing, and with chrism for the internal anointing, by a solemn blessing made by the Bishop. - Yet there is a threefold blessing of a bell. The solemn blessing which is had in the Roman Pontifical, to be made by the Bishop; another blessing which is had through a new formula, and for a bell for the use of a church or chapel, to be made by the Bishop or by his delegate, S. R. C., Jan. 22, 1908, n. 4211; but the third blessing is for a bell serving for profane use, S. R. C., Mar. 4, 1892, n. 3770; Appendix of the Roman Ritual. - The ringing of bells on Holy Saturday is not among parochial rights, but must be done by the more worthy church. S. R. C., Jan. 12, 1704, n. 2123. - A Bishop cannot prevent Regulars from celebrating Mass and ringing the bell before the parochial Mass.

During the divine offices laymen cannot remain within the presbytery, nor outside together with clerics. Collect. S. R. C. Ind. v. *Presbyterium*.

644. What kind of sin is it to celebrate without chalice, paten, corporal, pall, purificator? - To celebrate without chalice and paten, unless from a most grave cause, is grave; without corporal, unless from a grave cause, is grave; without pall or purificator is light. - The purificator does not necessarily have to be blessed. S. R. C., Sept. 7, 1816, ad 12, 13, n. 2572. If a purificator cannot easily be had, it is probably licit to celebrate without it, and a clean little cloth can be used in its place, which afterward is not to be used for profane uses. - In necessity, if a pall is lacking, another corporal, or a purificator or burse, can be used. The pall more probably is to be blessed with the corporal by the same blessing, and it can be used for a corporal.

A pall covered with silken cloth and woven with gold is permitted, provided the linen pall joined beneath covers the chalice, and the upper cloth is not black or does not bear signs of death. - As it is grave to celebrate without a corporal, or without a blessed corporal, since it immediately touches the Body of Christ, unless grave necessity presses, so it is grave to celebrate with a very unclean corporal; but venial if it is not very unclean. Indeed in necessity, if the priest himself or others would otherwise have to omit the sacred rite of precept, there is no sin. The corporal can be silk or worked with gold at the edges; nor must it be blessed again after washing. - Rubr. *Rit. serv.*, etc., tit. 1, n. 1; *de Defectibus*, tit. 10, n. 1; S. R. C., Sept. 4, 1880, ad 3, n. 3524; L. 376, 386-389; St. Thomas 3 p., q. 82, a. 3; q. 83, a. 3 ad 7, ad 8; E. M.

645. Must the chalice and paten be consecrated under grave sin or only under light sin; and from what material must they be made? - Resp. To the first.

They must be consecrated under mortal sin, for the precept concerns a grave matter. Gousset 323; L. 379.

Resp. To the second. At least the cup of the chalice must be gold, or silver, or tin, in case of necessity, gilded inside; not bronze or glass. A chalice of aluminum is permitted, with the prescribed conditions observed. But the Decrees of Sept. 1 and Dec. 6, 1866, have been struck from the new Collection. But it cannot be made of brass or copper. An indult was sometimes granted to missionaries of using chalices made from the metal commonly called *cuivre blanc*, or fashioned from white bronze. - The paten likewise must be of gold, or silver, or another solid metal, but always gilded. Rubr. *Rit. serv.*, etc., tit. 1, *de Praepar.*, etc., n. 1; *de Defectibus*, tit. 10, n. 1; St. Thomas 3 p., q. 83, a. 2 ad 6; Suppl., q. 37, a. 5; L. 370; Benedict XIV, Const. *Etsi pastoralis*, May 20, 1742; Const. *Imposito nobis*, Mar. 29, 1751; cf. 551; E. M.

646. Is the chalice execrated if the gilding perishes? - "Azor and others affirm it, because the immediate subject of consecration is taken away, since the whole anointing is made on the surface of the chalice. But Lugo disp. 20, n. 94, and others more probably deny it with the common opinion. The reason is that although the anointing is made only on the surface, nevertheless the whole mass of the chalice, or the whole chalice, and not only its surface, is consecrated." L. 370. Cf. 642.

647. Is it licit to celebrate without veil, hand towel, cushion, burse, and must these be blessed? Also without a cross, and must it be blessed? - Resp. To the first. "Busembaum rightly says that these are not blessed.... La Croix says that to celebrate without a veil, when none is had, is not a sin, for veil, hand towel, and cushion, he says, are required only for decency; and he judges the same concerning the burse with Sporer." L. 395. "If something from these is lacking, it can be borrowed from profane things suitably clean, and afterward returned to its previous use." L. 395.

Resp. To the second. Likewise it is light to celebrate without a cross; nor is it of precept that it be blessed. And Pignatelli teaches the same concerning all images to be placed on the altar. It must stand out between the candlesticks, so that it can easily be seen by the celebrant and by others. On an altar on which the Most Holy Sacrament is exposed, the cross can be exposed or not exposed according to the custom of each diocese. Benedict XIV, Const. *Accepimus*, July 16, 1746; S. C. C., Sept. 17, 1822; S. R. C., Sept. 2, 1741, n. 2365; L. 393. - Yet it is not licit to celebrate Mass before the Most Holy Sacrament publicly exposed without necessity, or grave cause, or special indult. Likewise it is not licit before the Most Holy Sacrament publicly exposed to distribute Communion at the same altar, either within or outside Mass.

S. R. C., May 11, 1878, ad 1, n. 3448; May 18, 1878, ad 3, n. 3449; Feb. 5, 1879, n. 3482; S. R. C., Sept. 4, 1880, ad 4, n. 3524. - E. M.

648. Is it ever licit to celebrate without a missal? What kind of missal is required? - "Under grave sin there is required a missal containing at least the canon.... But the very common opinion... probably says that sometimes a priest can celebrate without a missal, if he could not easily have one, and if from past experience the moral danger of erring were absent. Hence Lugo and others probably infer that a priest who, because of weakness of sight, recites the Mass from memory celebrates licitly," etc. L. 390. - But one must use his proper missal. Yet if someone celebrates Mass in another church, he can use both the Roman Missal and the missal of the regulars which the church uses, with the rites peculiar to Orders nevertheless excluded. S. R. C., July 9, 1895, n. 3862.

649. Do two cloths suffice, or one doubled? - "Suarez, Laymann, Holzmann, Palaus with Sa and Azor affirm it; likewise Bonacina, Henry, and Gobat cited by La Croix 322. Nevertheless I think one must not depart from the Rubric, which prescribes three cloths.... Yet Escobar and Roncaglia with Pasqualigo probably say that this does not exceed venial fault. But to celebrate without any cloth is not excused from mortal sin...; on the contrary, no fault is committed if there is grave necessity of celebrating thus." L. 375. That the upper cloth "reach to the ground," according to the rubric, "today is not in use." L. 375. But this custom is not sustained by S. R. C., June 9, 1899. - Rubr. *de Defectibus*, tit. 10, n. 1.

650. Must the cloths necessarily be blessed? - Resp. In the affirmative from the clear Rubric *de Defectibus*, tit. 10, n. 1. Yet Suarez and others deny it, saying that blessing is required only from decency. And St. Alphonsus says: "This opinion does not seem improbable because of the authority of

these authors, especially Suarez, who testifies that the custom is to the contrary." L. 375. For the rest, "such a defect, as they probably say, does not exceed venial fault," from which "any reasonable cause" excuses. L. 373.

651. What kind of sin is it to celebrate without sacred vestments? - To celebrate without any sacred vestments, i.e., blessed ones, namely chasuble, stole, maniple, alb, amice, and cincture, at least regularly speaking, is never licit, even in necessity of receiving Viaticum. For the reverence due to this sacrament and sacrifice is a just cause why the Church does not permit this sacrament to be celebrated and ministered without sacred vestments, because of the grave inconveniences which can arise from this permission. At least regularly speaking: for if death is threatened unless the priest celebrates without sacred vestments, altar, or chalice, some say it is licit, others that it is not licit. Leo XII granted to the Apostolic Vicars in China the faculty of permitting priests to be able to celebrate without sacred vestments, in time of persecution, and especially when necessity of ministering the Most Holy Eucharist to the people or to the sick is urgent. Collect. S. C. de Prop. Fide, n. 853. - To celebrate without amice or cincture is a light sin, from which a just cause excuses; without stole and maniple, and probably without stole or maniple, unless in grave necessity, is grave; without alb or chasuble, unless in most grave necessity and scandal removed, is likewise grave.

The cincture probably is to be blessed by the Bishop. It is more suitable to use linen than silk. Wool can be used, and of the color of the vestments. But when it is grave not to use some sacred vestment, it is likewise grave to use it not blessed, unless grave and proportionate necessity excuses. For it is the same as if no vestment were used, since it becomes sacred only through blessing. Nonetheless, a somewhat lesser necessity excuses, for enough provision has been made for external decorum. - To make sacred vestments of profane ones, e.g., a chasuble from a woman's silk garment, is not prohibited. - In the Roman Ritual there is a blessing of priestly vestments in general; but in the Pontifical there is both a blessing in general and a special blessing of each vestment. But when an inferior priest having faculty blesses some priestly vestment, he must use the blessing of the Roman Ritual. S. R. C., Mar. 16, 1876, n. 3392. - La Croix 327, 328, 339, 392; L. 289, 367, 377; St. Thomas Suppl., q. 37, a. 5; q. 40, a. 2 ad 2, a. 7; Benedict XIV, Notification 21, n. 10; Pius VII, Brief *Quo luctu*.

Amices, albs, and towels, or little cloths, cannot be made from any other material than linen or hemp. S. R. C., May 15, 1819, n. 2600.

The cincture can be made from linen, or from wool, or silk, S. R. C., Jan. 22, 1701, n. 2067; Dec. 23, 1862, n. 3118, of the color of the vestments, n. 2194 ad 3. - Chasubles, stoles, and maniples cannot be made from linen cloth or cotton, commonly percale, dyed or painted with the prescribed colors. S. R. C., Sept. 23, 1837, n. 2769.

652. Is the color of the vestments of precept? - "Tamburini, Quarti, Diana with Homobonus, likewise Suarez and Aversa cited by La Croix 340, deny it... but Sporer and Quarti contradict this. And I think this is more probable.... Yet Sporer and Quarti rightly judge that this Rubric does not oblige under grave sin unless scandal is present, for example if on the day of Easter or in any festal Mass whatever one celebrated in black vestments. Sporer adds that on whatever day it is better to make the sacred rite in any color than to omit it; hence he rightly says that a fortiori every reasonable cause excuses, as if vestments of the due color would not suffice for the concourse of priests." L. 378. According to the S. R. C., the color of the vestments is commanded to be observed.

Both the yellow and the blue color are prohibited. Vestments woven of gold can be used for white, red, or green color. S. R. C., Feb. 23, 1839, n. 2788; Dec. 5, 1868, n. 3191. - E. M.

653. What sort of sin is it to celebrate without a minister? - It is mortal, according to all. Nevertheless the doctors commonly say that it is lawful to celebrate without a minister when there is urgent necessity of administering Viaticum. Others grant the same so that the people may hear Mass of precept. In that case a minister could be used even though he does not know how to make the responses to the priest. At least a greater external decorum is preserved. - It is lawful for the celebrant to continue a Mass already begun without a minister, if the minister happens to be absent and does not return after a short time, especially if the oblation has already been made. If necessity urges, especially among nuns, it is permitted that a woman answer from a distance, provided that she does not immediately serve at the altar by handing the cruets. For this is prohibited under grave sin. C. *Inhibendum* 1, de Cohabit. cler.; S. R. C., Aug. 27, 1836, ad 8, n. 2745. And therefore, when necessity urges, it would be better to celebrate without a minister than with a woman serving. L. 391, 392; St. Thomas, 3 p., q. 83, a. 5, ad 12.

Two ministers are tolerated by reason of celebrity and solemnity. - E. M. "I. Can clerics initiated only by first tonsure, according to the mind of the decree of March 14, 1906, touch sacred vessels and sacred linens and prepare the chalice in the sacristy without a special indult? - Resp. In the affirmative. "II. Must all who wear the cassock, whether tonsured or not, according to the Rubrics of the Missal (*Ritus servandus in celebratione Missae*, tit. II, 1), put on a surplice while they serve Mass? "Resp. In the affirmative, unless, for laymen of some religious family, special approved statutes stand in the way." S. R. C., Nov. 23, 1906.

654. What sort of sin is it to celebrate without light? - "It is certain among all that to celebrate without any light is mortal, from C. *Litteras*, ult., de Celebr. miss.... And this even if the necessity of administering Viaticum urges.... If the light fails before the consecration, one must entirely desist from celebrating; otherwise if it fails after the consecration.... There is no obligation of lighting a third candle after the Sanctus; for so the common usage has it today.... Commonly and probably they say that it is lawful to celebrate with oil, or with tallow, in necessity.... But I do not approve what Pasq., Gob., and others say, with whom Suarez agrees, speaking of light from oil, namely that it is not illicit to celebrate with candles of oil or tallow, even from devotion alone, if others cannot be had: for this does not seem a sufficiently grave cause to excuse from mortal sin.... To celebrate with one single wax light I think more probably and more commonly to be only venial; from this, therefore, I think that any reasonable cause, even of devotion alone, scandal being excluded, excuses." L. 294; La-Croix 392 ff.; E. M.

But from the response of the S. R. C., Sept. 7, 1850, n. 2985, it does not appear so indecorous to celebrate without light that it would not be lawful even in the necessity of administering Viaticum; nor is it so less decorous to celebrate with a light other than wax that it would not be lawful to celebrate from devotion alone. For the Sacred Congregation at times permitted both to missionaries.

It cannot be tolerated that upon the altar, besides candles of wax, there be illumination from gas or from electric light. S. R. C., March 8, 1879; May 16, 1902. Likewise candles cannot be of stearin, or of whale-fat, commonly called spermaceti. But in a case of true necessity the S. C. R., Sept. 7, 1850, permitted candles made of oil or of whale-fat, which are commonly called spermaceti. E. M.

655. Is it lawful to celebrate with the head covered, without the cassock, without shoes? Is it lawful for canons to wear a ring? - Resp. To the first: it is not lawful to say Mass with the head covered by a skullcap, without permission of the Apostolic See. C. *Nullus*, de Cons., d. 1. Whether this is grave or light is disputed. But, scandal being excluded, it does not bind with grave inconvenience, and therefore it is lawful for one infirm or old, the Canon being excluded. - It is not lawful to celebrate with an artificial wig. But this has already fallen into disuse in many places. Cf. Ferraris, v. *Coma adscititia*. - Rubr. *Rit. serv.*, tit. 1, n. 2 prescribes the cassock for the celebrant; nevertheless the obligation does not seem grave, and therefore a reasonable cause can excuse from it. - Nor likewise, from the same Rubric there, is it lawful to celebrate barefoot without cause, which would be only light. "Clerics, especially in sacred functions, must use stockings or footwear of the kind that approved clerics of the place or diocese publicly use." S. R. C., Aug. 31, 1872, n. 3268. - L. 396, 397, 398; Benedict XIV, Inst. 34, n. 14; *de Syn.*, l. 11, c. 9.

Resp. To the second: in the negative, notwithstanding any custom whatever. S. R. C., April 11, 1840, n. 2805; March 9, 1894, n. 3821. - E. M.

656. Is it lawful to pronounce everything in a low voice or in a loud voice? - To pronounce in a low voice everything which is to be said secretly, so that one is neither heard by those standing around nor hears himself, contrary to what the Rubric prescribes, is probably not mortal. But this is not excused from venial fault, since in the Rubric it is expressly commanded that the celebrant pronounce in such a way that he hears himself. Nor is he excused from mortal sin who would so utter the words of consecration.

For there can be danger lest that sufficient sensible mode of pronouncing the words be lacking, so that they can be the form of the sacrament. - To recite in a low voice what is prescribed to be recited aloud is not mortal; but it can by no means be excused from venial sin, since the opposite is expressly prescribed in the Rubric. Nevertheless it is not necessary that the whole people hear, but it suffices that the attentive bystanders, namely those who are near the altar, be able to perceive what is read. But those things which by the Rubric are to be read in a clear voice can be read in a less elevated voice, lest other priests celebrating, for example in the same chapel, and others perhaps assisting at Masses there, be disturbed.

He also cannot be excused from venial sin who loudly pronounces in Mass what is to be said in a low voice, since this is against the Rubric, which prescribes that the priest hear himself and not be heard by those standing around. - "I would readily agree that he can sin mortally who would pronounce the words of consecration or a great part of the Canon so loudly that they could be heard at forty paces.... Outside this case I cannot recognize grave sin in this." L. 414-416. - Rubr. *Rit. serv.*, etc.; La-Croix l. 6, p. 2, n. 439.

657. Is it lawful to change anything in Mass? - It is lawful to omit, add, or vary nothing. - To omit something of those things which in Mass are extraordinary and are not always said, such as *Iudica me*, the Gloria, commemorations, added collects, the Passion, Creed, Sequence, Tract, Preface, special *Communicantes*, special *Hanc igitur*, is not grave of itself, unless several things are omitted which make notable matter. To omit those things which are constantly said and are ordinary in Mass is grave of itself, unless lightness of matter excuses. The gravity of the matter is taken here both from quantity and from quality. And thus, as to those things which are contained in the Canon, which immediately touches the sacrifice, a small quantity suffices for grave fault. - Hence it is commonly asserted that it

is grave to omit the Confession with the other things at the beginning of Mass, the prayers proper to the Mass, the Epistle, the Gospel, the Preface, the Offertory, ten or eight names of the Saints in the Canon, any prayer in the Canon, the Our Father, *Libera nos*, the breaking of the host, or its commingling with the Blood, many signs over the offerings, the purification of the paten and chalice after the consumption, etc. - It does not seem grave not to read privately the Gospel and Lesson in a solemn Mass; for they are sung by the deacon and subdeacon. But certainly it is a venial sin, since they are prescribed by the Rubric. - It is venial to omit only one of the three principal prayers, the *Kyrie eleison*, the Gospel of St. John at the end, one or another sign over the offerings, the striking of the breast, the washing of the fingers in Mass, wine in the purification of the chalice, the washing of the hands before Mass because of reverence for the sacrifice; after Mass it is no sin, as also to omit the prayers to be said according to the priest's opportunity before or after Mass. To omit them while putting on the vestments, according to the common opinion, is venial. For those prayers, as also that one when the priest washes his hands before Mass, are prayers to be said from the Rubric, whereas the prayers before Mass can only be recited according to the priest's opportunity; the same must be said of the prayers after Mass, which are a thanksgiving for the priest's devotion. To mangle words or to introduce syncopation, the sense being preserved and scandal excluded, is venial. It is also venial if the priest omits saying in a low voice in solemn Mass the things which are sung by the choir, since the priest and ministers in a Mass of this kind make one. L. 403-410.

St. Pius V admonishes that only as much wine be used for the purification as at the consecration, and that it be poured through the same part of the chalice through which the Blood was drunk.

To add is more gravely prohibited because of the danger of novelty and because it is expressly prohibited by the Bull of St. Pius V prefixed to the Missal. Wherefore, if something is added which is notable and which is not contained in the Missal, it is grave, even though it is done from devotion. "But if from importunate devotion several collects from the same Missal are added, or the Creed, or Gloria, Our Father, Hail Mary, or something similar, this does not exceed venial fault.... It would be mortal to add the Gloria and Creed in a Mass of Requiem; because this seems a sufficiently grave disorder." L. 411. To add from special devotion and for a just cause a commemoration of some Saint, or a collect for those in tribulation, for asking rain, etc., is not even a light sin; nevertheless it is always better to observe the Rubric, L. 412, "which permits several prayers at the will of the celebrant only in a Mass of a simple feast, or of a feria, or a private votive." S. R. C., July 17, 1895, ad 8, n. 3832.

To vary is grave or light according as a grave or light deformity arises from it in the rite. Wherefore it is grave to read the Gospel before the Epistle, La-Croix 437. But of itself it is light to read one Mass, prayer, epistle, gospel, preface, etc., for another. La-Croix 371; L. 409. - The Mass must agree with the Office, lest the worship of the Saint or Mystery be discordant, except on days on which votive Masses or Masses of the Dead are permitted, and saving the right of Masses of a feria or vigil according to the newest Rubrics, tit. 10, n. 2, or unless it is celebrated in another's church or oratory, whether public or semi-public. S. R. C., Dec. 9, 1895; March 14, 1896; May 23, 1896. - Scandal and contempt being excluded, it is not mortal to celebrate a votive or Requiem Mass on prohibited days. L. 420. - Here it must be noted that Masses of the Dead cannot be said during the Exposition of the Most Blessed Sacrament for the Forty Hours. L. 418. But when the Most Blessed Sacrament is

exposed, even in a double Mass, a commemoration of it can be made. L. 411. - St. Thomas, 3 p., q. 83, aa. 4, 5; L. 418, 419, 421, 423, 424.

Note: privileged octaves are five, namely, the Nativity of the Lord, Epiphany, Easter, Pentecost, Corpus Christi. Privileged vigils are three, namely, the Nativity of the Lord, Epiphany, Pentecost. Privileged ferias are seven, namely, Ash Wednesday and all the ferias of Major Week. S. R. C., Sept. 28, 1675, n. 1549.

Mass in another's church. - A celebrant in his own church and in private oratories must use his own Calendar, saving the right of Masses of a feria or vigil according to the newest Rubrics, etc., as has already been said. "All and each priests, both secular and regular, coming to a church or public oratory, are altogether to celebrate Masses, whether of Saints or of Blesseds, even those proper to Regulars, in conformity with the Office of the same church or oratory, whether they are contained in the Roman Missal or in the Missal of Regulars; peculiar rites proper to Orders, however, being excluded," for example, PP. PP., O. S. B. "But if in the said church or oratory an Office of a rite lower than double is being performed, let each of the celebrants be free to perform a Mass of Requiem, or a votive Mass, or even one of the occurring feria; i.e., of a major feria, New Rubrics of the Missal, excepting nevertheless those days on which the aforesaid Masses are prohibited by the Rubrics of the Roman Missal or decrees of the S. R. C." Dec. 9, 1895.

A Mass conforming to the Office of the celebrant, even if it is votive with respect to the Calendar of the church where it is celebrated, "is not votive, nor to be said in the manner of a votive," March 14, 1896; that is, it is celebrated with *Gloria in excelsis*, etc., according to the Calendar of the celebrant.

In the prayer *A cunctis*, at the letter N., the Patron or Titular of that church where the celebration takes place is to be named, S. R. C., Sept. 23, 1837, n. 2769; and in a private oratory the Patron of the city or place, S. R. C., Sept. 12, 1840, n. 2814; and regulars can besides name their own holy Founder. S. R. C., Dec. 2, 1891, n. 3578.

On the Calendar to be used by priests in oratories of nuns. - Chaplains and other priests celebrating in the internal oratories of nuns are bound to celebrate Mass conforming to the office of the same oratory, because such oratories are not to be held as merely private. - S. R. C., May 16, 1901, n. 4072.

On priests of the Roman rite with respect to the Ambrosian rite. - I. Priests of the Roman rite celebrating in churches of the Ambrosian rite are to observe the Calendar of the Roman rite of their own diocese, provided that on the more solemn local days, for example, of the Title or Dedication of the Church, the principal Patron of the place, etc., they conform themselves, as to color and Mass, to the Calendar of the church in which they say Mass.

II. The same priests, when celebrating a parochial Mass on some occasion in those same churches, must follow the Ambrosian Calendar and rite.

III. This is also valid for Regulars, who by a grave precept of the Constitutions are bound to the Roman rite. - S. R. C., Jan. 10, 1902, n. 4088.

657 bis. Conventual Mass. - Its obligation has been reduced to one only, apart from those of the Nativity of Our Lord Jesus Christ and a few others. Constitution of Pius X, *Divino afflatu*, Rubr. serv., tit. 12, which reads as follows: "In churches in which there is an obligation of choir, only one Mass with the assistance of the choir members is always to be celebrated; and indeed of the Office of the

day, unless the Rubrics dispose otherwise. Other Masses, which up to this time were celebrated with the aforesaid assistance, shall in future be read outside choir, after their proper Canonical Hour. Nevertheless there are excepted from this rule Masses in the greater and lesser Litanies, and Masses on the Feast of the Nativity of the Lord. Likewise there are excepted Masses on the anniversaries of the Creation and Coronation of the Supreme Pontiff, of the Election and Consecration or Translation of the Bishop, and also on the anniversary of the last deceased Bishop, and of all Bishops or Canons; and all Masses from foundation." "Although according to the new rubrics, tit. VIII, n. 2, the obligation of reciting in choir the office of the dead has ceased, nevertheless the rubric of the Missal, tit. V, nn. 1 and 2, concerning the Mass to be celebrated for the dead, must still be observed, whether in chant with the presence of the choir members, if it is a question of a conventual Mass, or read outside choir according to the new rubrics tit. XII." S. R. C., June 12, 1912, ad 7.

Moreover in the aforesaid rubric of the Missal these things are contained: "V. On Masses of the Dead. - 1. On the first day of any month (outside Advent, Lent, and Eastertide) not impeded by a double or semi-double office, the principal Mass is said generally for deceased priests, benefactors, and others. But if on that day there is a simple feast or feria which has its own Mass, or the Mass of the preceding Sunday is to be resumed, which was impeded, and within the week no other day occurs on which it can be resumed, then in cathedral and collegiate churches two Masses are said, one for the Dead, the other of the simple feast or the aforesaid feria. But in churches which are not cathedral or collegiate, let the Mass be said with a commemoration generally for the Dead. "2. Furthermore, on Monday of any week in which the office is of the feria, the principal Mass can be said for the Dead. But if there is a proper Mass of the feria or of a simple feast, or the Mass of the preceding Sunday is to be resumed, as above, in the Mass of the day let a commemoration be made, as was said, for the Dead. Lent, however, and the whole Easter season are excepted, and when during the year the office is double or semi-double; during these times the Conventual Mass for the Dead is not said, unless on the day of the burial of the deceased and on the anniversary for the Dead, nor is a commemoration made for them...." "A conventual Mass without chant can be considered as solemn, whether as regards collects, or as regards the prayers at the end of Mass, or as regards the number of candles lit on the altar.... Nevertheless in doubles of the second class the commemoration of a simple is not to be omitted, when by reason of solemnity another Mass is sung." S. R. C., Dec. 7, 1888, n. 3697; March 12, 1836, ad 7, n. 2740; Jan. 19, 1906.

Private Masses of a feria or vigil. - They are permitted on Lenten ferias, Ember Days, the second day of Rogations, and on vigils throughout the year, even on semi-double and double feasts, unless these are of the first or second class, with a commemoration of them. Rubr. serv., tit. 10, n. 2.

In this Mass of a feria or vigil, however, a third prayer must be added if the office recited was of semi-double rite; otherwise not, if it was of double rite. S. R. C., March 22, 1912, ad 5. "To forestall doubts which may arise over the right interpretation of tit. X, nn. 2 and 5 of the new rubrics.... the Sacred Congregation judged that the following declarations should be published: "1. Whenever on major ferias having their own Mass and on the other days of which tit. X, nn. 2 and 5 of the new rubrics speak, a Mass of the feria is celebrated, provided that it is in fact applied for the dead, the prayer for the dead for whose suffrage it is celebrated can be added, even if in it a commemoration of an occurring lesser or greater double feast must be made. "2. Such prayer for the dead does not in this case exclude prayers of the season, unless a commemoration of a double occurs. "3. When this prayer

for the dead is added, attention is not to be paid to whether the number of prayers is odd or not. "4. This same prayer for the dead must always be recited in the penultimate place among the prayers prescribed or permitted that day by the rubrics, not counting collects imposed by the Ordinary. "5. The prayer for the dead for whose suffrage the Mass of the feria is applied can be added, even if on that day the rubrics prescribe the prayer *Omnipotens sempiterne Deus* for the living and the dead, or *Fidelium* for all the dead. "6. In order that the indulgence of a privileged altar may be duly and legitimately applied for the dead, it is necessary that on days on which it is permitted by the new rubrics the Mass of the feria be altogether celebrated, with the prayer added as above for the dead for whom the Mass itself is celebrated." S. R. C., June 12, 1912. Cf. the following decree of the Holy Office below.

Mass on Sunday. - In a Mass of Sunday, the color is always of Sunday. The Preface is of the Trinity, or of the Season, or of the octave of a feast of the Lord. Rubr. serv., tit. 10, n. 4.

When the office of the Second Sunday after Epiphany, according to the norm of the Decree of March 2, 1912, is anticipated on Jan. 16, and there also occurs a day within some octave, a commemoration of this octave must be made in the office of the same anticipated Mass. But the suffrage must not be added at Lauds nor the Prayers at Prime. S. R. C., March 22, 1912, ad 7, 8.

The third prayer of the season, on Sunday, in Mass, is omitted when there occurs a double, or an octave, or a day within an octave, and in Passiontide. Rubr. serv., tit. 7, n. 4; tit. 10, n. 1.

In doubles of the second class which do not have a proper Preface, when they occur on a lesser Sunday and at the same time on the octave day of some feast of the Lord or of the Blessed Virgin Mary or of the Apostles, the Preface to be used is the one which would be said in the Mass of Sunday. S. R. C., March 22, 1912, ad 6.

The proper Gospel must always be read at the end, when a commemoration has been made of a Sunday, feria, or vigil. Rubr. serv., tit. 10, n. 3.

Votive Mass. - In votive Masses which do not have a proper Preface, the Preface of the Office of St. Mary on Saturday is to be read, which has a commemoration in the same Masses. S. R. C., April 19, 1912, ad 11.

In votive Masses another Gospel is never read at the end except that of St. John, *In principio*, according to Rubr., tit. 12. - Cf. General Decree on votive Masses, June 30, 1896, n. 3922.

A private votive Mass can be said of the Most Holy Trinity, of the Holy Spirit, of the Name of Jesus, of the Most Blessed Sacrament, of the Sacred Heart of Jesus, of the Cross, of the Passion, of the Most Precious Blood, and not of other Mysteries nor of the Season.

It can besides be said of the Blessed Virgin Mary, by reading one of the five which are contained in the Missal, according to the quality of the time. Likewise the Mass of the Seven Sorrows of the Blessed Virgin Mary, and of her Immaculate Conception and of the Apparition of the Immaculate Blessed Virgin Mary, can be said. S. R. C., June 25, 1909, ad 11.

Even a private votive Mass can be said of any Saint recorded in the Roman Martyrology; not also of a Blessed, unless an office of him has been granted and, with the office, a special indult for a votive Mass. S. R. C., June 30, 1896, n. 1922.

At the discretion of the priest it can be read whenever the office is not double and it is not Sunday. But it is prohibited within the octaves of the Nativity, Epiphany, Easter, Pentecost, Corpus Christi; throughout the whole Lenten season; on Ember ferias; on the second feria of Rogations; on the days of Rogations, if the procession is made, in parochial churches which have one Mass; on vigils; on the Commemoration of All the Faithful Departed; on a feria on which the Mass of Sunday is to be anticipated or replaced. - S. R. C., June 21, 1620, n. 1403; Sept. 28, 1675, n. 1549; Aug. 31, 1680, n. 1649; Pius X, Constitution *Divino afflatu*, Rubr. serv., tit. 10, nn. 2, 5.

A solemn votive Mass for a grave matter, or a public matter of the Church, by appointment of the Ordinary, for example, on account of asking rain, etc., is prohibited on double feasts of the first class, on Sundays of the first class, Ash Wednesday, Major Week, the Vigils of the Nativity and of Pentecost. On these days, unless the identity of the mystery stands in the way, the prayer of the votive Mass is added under one conclusion with the first prayer, even if another commemoration is made. S. R. C., June 30, 1896, n. 2922.

In these Masses the Gloria and Creed are said, unless they are celebrated in violet color; and on Sunday, even in violet color, the Creed is said. The Preface is proper, or proper to the octave, or of the Season; otherwise the common Preface. Only one prayer is said, and the Last Gospel is that of St. John.

The votive Mass of the Sacred Heart of Jesus, which can be celebrated on the first Friday of any month in churches and oratories where in the morning, with the approval of the Ordinary, special exercises of piety are performed in honor of the Most Sacred Heart, has one prayer only, and has the Gloria and Creed, the Alleluia being omitted outside Eastertide at the Introit, Offertory, and Communion.

It is held as solemn; therefore after it the prayers prescribed by Leo XIII for private Masses are omitted. S. R. C., June 28, 1889, n. 2712; May 20, 1890, ad 1, n. 3731; Feb. 19, 1892, ad 3, n. 3769; May 20, 1892, n. 3773; Aug. 30, 1892, ad 1, n. 3792; June 8, 1911.

This Mass, however, is prohibited on feasts of the Lord; on the Vigil of Epiphany; on Friday in Parasceve; within the octaves of Epiphany, Easter, Pentecost, Corpus Christi; on the feast of the Purification of the Blessed Virgin Mary; on doubles of the first class; on feast days, even suppressed ones, in parochial churches which have even one Mass; on the Commemoration of All the Faithful Departed. S. R. C., June 28, 1888, n. 3712.

In the exposition of the Most Blessed Sacrament for the pious exercise of the Forty Hours, the votive Mass of the Most Blessed Sacrament is said. The Gloria and Creed are said, the Preface is of the Nativity, and every commemoration and collect is omitted. This Mass is regularly sung at the altar on which the Most Blessed Sacrament is to be exposed or is exposed. Within the octave of the Most Holy Body of Christ the Mass is of the same octave, with the sequence and one prayer, without commemorations and collects. - S. R. C., n. 1332, ad 7, 8.

Nevertheless the Mass of the current day is said with commemoration of the Most Blessed Sacrament under one conclusion, all commemorations and collects being omitted, on Sundays of the first and second class, on feasts of the first and second class, Ash Wednesday, the triduum of Major Week, all days of the octave of Easter, Pentecost, Epiphany, the Vigils of the Nativity and Pentecost, and a proper privileged octave. - But the commemoration of the Most Blessed Sacrament must be omitted if

the feast of the first or second class, or the proper privileged octave, is of the Passion, of the Cross, of the Most Holy Redeemer, of the Most Precious Blood, of the Most Sacred Heart of Jesus. - If some feast of the first or second class occurs on Sunday, then in the second place the commemoration of Sunday is made and its Gospel is said at the end.

The votive Mass for peace, to be sung for the second day during the time of the Forty Hours Prayer, must be celebrated, insofar as it can be, according to the Clementine Instruction, at an altar on which the Most Blessed Sacrament is not reserved. Nevertheless outside Rome it can be supplied by another votive Mass from those contained in the Missal, at the judgment of the Bishop. S. R. C., May 9, 1857, ad 4, n. 3049.

The aforesaid Mass for peace is without Gloria and without Creed, with the prayer of the Most Blessed Sacrament under one conclusion. The Preface is common, or of the season, and at the elevation the little bell is not rung. On Sundays the commemoration of Sunday is added under one conclusion, and the Creed is said, and the Preface of the Trinity is said, unless another is to be said of the season. On excepted days, just mentioned in the paragraph "Nevertheless the Mass," the Mass is as above, with the prayer for Peace under one conclusion, the prayer of the Most Blessed Sacrament being omitted. Within the octave of the Most Holy Body of Christ the Mass is said as above in the paragraph "In the exposition," with the prayer for peace added under one conclusion.

Private Masses during the exposition of the Most Blessed Sacrament are said of the feast or of another current office, with the prayer of the Most Blessed Sacrament after the others prescribed by the Rubric; this, however, is omitted in doubles of the first and second class. S. R. C., Dec. 2, 1684, ad 4, n. 1744. In these Masses the little bell is not rung at the elevation. But the priest, passing before the Most Blessed Sacrament publicly exposed, first genuflects and then uncovers his head, adores, covers his head, and rises.

Votive Mass for spouses. - In it the Gloria and Creed are omitted, at the end *Benedicamus Domino* is said, and the Gospel of St. John; and three prayers are said. If it is celebrated on a double feast, only commemorations are made, and the third prayer of the season is omitted. S. R. C., May 1912.

On impeded days the Mass of the day is read with the commemoration for the spouses after the prescribed prayers; and after the Our Father and before the Blessing the proper prayers of the aforesaid Mass are recited.

When nuptials have been celebrated in a prohibited time and the spouses afterward seek the nuptial blessing, one need not wait for a day on which the votive Mass for spouses can be said; rather the nuptial blessing can be imparted within Mass, for example of a double feast of the second class, with the commemoration for the spouses. S. R. C., May 27, 1911.

The aforesaid Mass is prohibited on Sundays and double feasts of the first and second class, on feast days of precept, the Vigil of Pentecost, the whole octave of Pentecost, the whole octave of Epiphany, the whole octave of Corpus Christi, and other days excluding doubles of the second class, the Commemoration of All the Faithful Departed, and on Rogation days, if the Procession is made, in parochial churches which have only one Mass. S. R. C., July 28, 1911.

The Mass for bridegroom and bride must be omitted, and likewise the blessing of nuptials, if the woman is a widow and has previously received this blessing, S. R. C., June 30, 1896, n. 3922, or if the

man passing to second nuptials has previously received the blessing, unless a custom is in force of imparting the blessing if only the man has received it. Holy Office, Feb. 28, 1912.

Mass for the Dead. - A solemn Mass, or one with chant, of Requiem on the day or for the day of death or burial, with the body present, unburied, or even buried, but not beyond two days, is prohibited on double feasts of the first class: Nativity, Epiphany, Easter, Ascension, Pentecost, but not also on Monday and Tuesday within the octaves of Easter and Pentecost; of the Most Holy Trinity; of the solemn Commemoration of the Body of Christ; and on the Sunday to which the external solemnity of the Commemoration of the Most Blessed Sacrament is transferred; - on the feasts of the Immaculate Conception, Annunciation, Assumption of the Blessed Virgin Mary; - on the Nativity of St. John the Baptist, on the Commemoration and solemnity of St. Joseph, on the feast of the holy Apostles Peter and Paul, All Saints, the Patron of the place, the Dedication and Titular of the church, the last triduum of Major Week, and during the time of exposition of the Most Blessed Sacrament. - It is prohibited besides on Ash Wednesday, on Sundays and feast days of precept, even suppressed, the Vigil of Pentecost if the blessing of the font must be made, and on the days of St. Mark and Rogations, if the procession is made, in parochial churches having only one Mass. S. R. C., March 3, 1761, ad 6, n. 2461; Dec. 7, 1844, ad 7, n. 2872; Jan. 27, 1883, n. 3570; Dec. 2, 1891, n. 3755; Feb. 13, 1892, ad 26, n. 3767; May 19, 1896, n. 3903; Jan. 12, 1897, ad 5, n. 3944; Jan. 15, 1897, n. 3946; Nov. 16, 1898, q. 1, ad 1, 2, 3, n. 4003; July 5, 1901, n. 4076; Jan. 8, 1904, n. 4130; July 28, 1911, ad 6, 7, n. 4274.

The body is considered present when a grave cause excuses its lack of presence, not only if it still remains unburied, but also if it has already been buried, but not beyond two days from the burial.

A solemn Mass, or Mass with chant, of Requiem on the day or for the day of death or burial can be sung, for the first time only after the death or after the report has been received, on the first day free from double feasts of the first or second class, and from Sundays or feasts of precept even suppressed, and excluding the Vigils of the Nativity, Epiphany, and Pentecost, days within the octaves of Nativity, Epiphany, Easter, Pentecost, and the solemn Commemoration of the Most Holy Body of Christ, Ash Wednesday, and the whole of Major Week. Constitution *Divino afflatu*, Rubr. serv., tit. 10, n. 5; S. R. C., July 28, 1911, ad 5.

In the same manner, that is, under the same clauses and conditions, a read exequial Mass for a poor deceased person is permitted as well as a Mass with chant. S. R. C., May 9, 1889, n. 4024.

By the day of death or burial is understood the whole space of time from death until burial, even if it is several days.

A solemn Mass or Mass with chant on the third, seventh, thirtieth, and anniversary day from death or burial, or on another stably determined day, if it is impeded on these days, can be anticipated or transferred to the first free day.

The aforesaid Mass is prohibited on Sundays and feasts of precept, even suppressed; in doubles of the first and second class; on the Vigils of the Nativity and Pentecost; within the octaves of Nativity, Epiphany, Easter, Pentecost, Corpus Christi; on Ash Wednesday; during the whole of Major Week; during solemn exposition of the Most Blessed Sacrament; on Rogation days, if the procession is made, in parochial churches having one Mass.

In lesser doubles, excepting these days just mentioned, anniversaries taken broadly, that is, not from the day of death or burial, which are customarily celebrated once in the year by Chapters, Communities, Confraternities, and other pious Societies for deceased confreres, can be celebrated. Similarly within the octave of All the Faithful Departed, anniversaries taken broadly can be celebrated for the piety of the faithful. Also in these Masses one prayer is said with the sequence. - S. R. C., Aug. 23, 1766, ad 1, 2, n. 2482; Dec. 2, 1891, n. 3753; Constitution *Divino afflatu*, Rubr. serv., tit. 10, n. 5.

Private Masses of the Dead on the day or for the day of death or burial, with the body present, unburied, or even buried, but not beyond two days, cannot be celebrated without application for the deceased whose body is physically or morally present. Nor can they be celebrated in churches and public oratories unless on the same day his funeral is held with an exequial Mass. S. C. R., Jan. 12, 1897, n. 3944, ad 3.

In churches and public and semi-public oratories of seminaries, colleges, and religious communities, private Masses can be read only once on one of the three days from death until burial. But in private oratories they can be read on all and each days from death until burial, provided that the body is still physically present in the house and it is not a prohibited day. S. R. C., May 16, 1902, n. 4096; Nov. 10, 1906, n. 4192.

For they are prohibited in doubles of the first and second class; on Sundays and feasts of precept, even suppressed; on the Vigils of the Nativity, Epiphany, and Pentecost; on the octave day of Epiphany and Corpus Christi; within the octaves of Easter and Pentecost; on Ash Wednesday; during the whole of Major Week; during solemn exposition of the Most Blessed Sacrament. - S. R. C., Jan. 12, 1897, ad 3, ad 4, ad 5, n. 3944; May 28, 1897, n. 3957; July 28, 1911, ad 5.

Other Masses for the Dead, whether solemn or private, are prohibited on Sundays; on double feasts, even not of precept; within the octaves of Nativity, Epiphany, Easter, Pentecost, Corpus Christi; on the Vigils of Nativity, Epiphany, Pentecost; during solemn exposition of the Most Blessed Sacrament; on Rogation days, if the procession is made, in parochial churches having only one Mass. - Private Masses are also prohibited on the ferias of Lent, except, in each week, the first day free from an office of double rite, on Ember Days, on the second day of Rogations, and also on other Vigils, and on days on which the Mass of Sunday is anticipated or replaced. Collection of the S. R. C., General Index, v. *Missa privata de Requie*; Constitution *Divino afflatu*, Rubr. serv., tit. 10, n. 2.

Nevertheless, in private Masses of the enumerated ferias and vigils (in the preceding paragraph), it will be lawful for a prayer to be added for the Dead for whom the sacrifice is applied, in the penultimate place, as the Rubric of the Missal permits; and thus the indulgence of the privileged altar can be gained. Pius X, Constitution *Divino afflatu*, Rubr. serv., tit. 10, n. 5. - Cf. the following decree of the Holy Office below.

But in churches or chapels of a cemetery, Masses of Requiem can be said on any day whatever, except, however, double feasts of the first or second class; Sundays and feasts of precept even suppressed; Vigils of the Nativity, Epiphany, Pentecost; Ash Wednesday; the whole of Major Week; and privileged octaves. - S. R. C., May 19, 1896, n. 3903.

In these daily Masses at least three prayers must be said: the first for the one for whom the application is made, the second at choice, the third is *Fidelium*. But if the Mass is celebrated for the dead in general, or it is not known whether it is for a deceased man or deceased woman, for one or

several deceased, for the living or the dead, the prayers must be said which are provided in the Missal for daily Masses. S. R. C., June 30, 1896, n. 3920.

In the same daily Masses several prayers can be added, the odd number being preserved with the other prescribed prayers, and the prayer for all the Dead being assigned the last place. S. R. C., June 30, 1896, Decr. Geneven., n. 3920.

Decree on the quality of the Mass for gaining the indulgence of a privileged altar. - "For gaining the indulgence of what is called a privileged altar, in the future it is no longer required, under penalty of nullity, that a Mass of Requiem or of a feria or vigil with the prayer proper to the deceased be celebrated; nevertheless this is laudably done, when it is lawful and fitting, for the sake of piety toward the deceased." Holy Office, Feb. 19, 1913, A. A. S., vol. 5, p. 122.

Collects, Prayers. - Collects imposed by the Bishop, unless they have been prescribed by the Ordinary for a grave matter, are omitted in doubles of the first and second class, on Sundays of the first and second class, on the Vigils of the Nativity and Pentecost, within the octaves of Nativity, Epiphany, Easter, Pentecost, Corpus Christi, and whenever more than three prayers are prescribed by the Rubric. Rubr. serv., tit. 11.

The faculty of adding prayers in Mass up to seven in simples and ferials is not to be considered suppressed by the new Rubrics, which exclude collects when there is a fourth prayer. But if there are two collects, both must be added after the third prescribed prayer. S. R. C., March 22, 1912, ad 10, 11. "Collects imposed by the Bishop or Ordinary of the place, according to the new rubrics, tit. XI, must be omitted whenever in Mass more than three prayers prescribed by the rubric for that day are to be said. Therefore it is asked: Must collects be omitted when, in private Masses, after three prayers prescribed for that day, there has been added the prayer of the Most Holy Sacrament publicly exposed, or for the Pope or Bishop on the respective anniversaries of election, or consecration or coronation? Resp. In the affirmative." S. R. C., June 21, 1912, ad 5.

On the anniversary of the election and consecration of the Supreme Pontiff throughout the whole world, and of the Bishop in his own diocese, a collect is to be said. The anniversary of the election or translation of a Bishop, for the purpose of the Mass or Collect according to the Ceremonial of Bishops, l. 2, c. 35, is, from the decree of the S. R. C., *Urbis et Orbis*, Jan. 8, 1910: 1. for residential Bishops elected or translated in Consistory, the day of the Consistory; - 2. for residential Bishops elected or translated by Brief before the Consistory, the day of the date of the Apostolic Letters; - 3. for Coadjutor Bishops with future succession after the death of the one assisted, the day of the date of the Letters.

A collect imposed by the Bishop of the place is to be said even by Regulars, even by foreign priests. It is to be omitted in a conventual or solemn Mass. "Collects imposed by the Bishop or Ordinary of the place, which together with the prayers prescribed by the Rubric exceed the number seven, must be omitted." S. R. C., Jan. 19, 1906.

Inclination of the head at the name of a Saint on his vigil. - "On the vigil of the feast of some Saint whose name is contained in the Canon of the Mass, the celebrant must incline his head when he pronounces the same name, according to the Rubrics of the Missal concerning the Rite of celebrating Mass, tit. V, n. 2." S. R. C., Nov. 24, 1911.

Prayers at the end of Mass. - The prescribed prayers at the end of Mass are to be omitted if the Mass is celebrated with some solemnity, or if immediately and duly after the Mass, without the celebrant departing from the altar, some sacred function or pious exercise follows. S. R. C., June 20, 1913, A. A. S., vol. 5, p. 311.

Thanksgiving. - Priests, after the sacrifice of the Mass, reciting the prayer *Obsecro te, dulcissime Domine*, etc., and, unless impeded, on their knees, obtain, if duly disposed, remission of the defects and faults contracted in offering it, and an indulgence of three years. Holy Office, Aug. 29, 1912, A. A. S., vol. 4, p. 642.

The Passion in Mass. - It is not an ordinary part of Mass. A sick priest who otherwise could not celebrate Mass could omit it in the celebration of Mass, reading only the last part and celebrating privately to avoid scandal.

The Gospel. - It is an ordinary part of Mass, which it is grave to omit. A priest celebrating before a Cardinal, the Archbishop of the Province, or the Ordinary of the place, after the Gospel has been read, does not kiss the book nor say: *Per evangelica dicta*, but immediately begins the Creed or waits until the Bishop's chaplain, vested in surplice, or, if he is lacking, the minister, has brought the Missal to the Bishop to be kissed. Cerem. Episc., l. 1, c. 30, n. 1.

The blessing to be given by the priest at the end of Mass, from Rubr., tit. XII, n. 399: if the priest celebrates before the Supreme Pontiff, a Cardinal, Patriarch, Archbishop, or Bishop existing in his own Province, City, or Diocese, after saying *Placeat*, etc., he says: *Benedicat vos omnipotens Deus*, and, turning toward the Supreme Pontiff, kneeling, but toward a Cardinal and the others named above, with head inclined, he continues: *Pater et Filius et Spiritus Sanctus*, blessing those present on the side where the Pontiff, Cardinal, etc., is not present. But the blessing is to be given by the Bishop himself in a solemn Mass when he assists in his own diocese vested in cappa magna or cope.

Holy water. - In the last triduum of Major Week it is removed from the sacred vessels. The priest signs himself with it, if he can conveniently do so, when leaving the sacristy to celebrate Mass. Its sprinkling is to be made in collegiate churches before the conventual Mass on Sundays; on these days it can also be done in other churches, but it need not be. On Sundays the sprinkling of the people with blessed water is to be made at the rails of the presbytery. - It is numbered among the sacramentals.

The assistant priest, in solemn Mass, of itself is owed only to Bishops and other inferior Prelates while they are actually exercising pontifical functions. For a newly ordained priest an assistant priest is permitted, with cope without stole, and even with stole if there is a custom. A priest who gives assistance to a Bishop celebrating privately cannot wear the stole, unless likewise there is a custom.

657 ter. Chant, Music, Organ, Vernacular Language. - "Any vernacular songs whatever are altogether prohibited in all Masses which are celebrated either solemnly or only in chant; so that to the melodies which the Rubrics prescribe in the liturgical idiom, no one is permitted to add or mix in others.... While the Most Blessed Sacrament, whether under one species or the other, is elevated, the singers are altogether to be silent, according to the Rubrics, and together with the others they are to adore the Sacrament." S. R. C., May 22, 1894, General Decree n. 3827. Cf. S. R. C., Jan. 31, 1896, n. 3880. - E. M.

Women and girls are also prohibited from singing within or outside the enclosure of the choir in solemn Masses. S. R. C., Sept. 17, 1897, n. 3964. And Gregorian Chant is prescribed in churches. S. R. C., Jan. 8, 1904. But music according to the line of the Motu Proprio of Pius X, Nov. 22, 1903, is rightly admitted.

The present usage of assisting Gregorian chant with organs can be sustained, except only those parts of Offices and Masses which, according to the laws now in force, must be sung entirely without accompanying organs. And in a case of necessity, even in offices and Masses in which the sound of the organ is prohibited, it is lawful to use the organ only to accompany and sustain the chant, the organ being silent when the chant is silent, whether Gregorian or polyphonic chant is used. S. C. R., May 11, 1911; March 22, 1912. "Since in the Motu Proprio of our Most Holy Lord Pope Pius X, *Inter pastoralis officii*, on sacred music, Nov. 22, 1903, it is prescribed that 'care is to be taken that Gregorian chant be restored to the use of the people, so that, after the manner of the ancients, the faithful may contribute a more active part in celebrating the divine praises and mysteries,' it is asked: Will it be permitted to allow girls and women, sitting in benches assigned to them in the church separately from the men, to sing the invariable parts of the Mass in Gregorian chant; or at least, outside liturgical functions, to sing hymns or vernacular songs? "Resp. In the affirmative to both, and according to the mind. The mind is: 1. 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 nevertheless not being excluded, especially in their absence; and 2. that where a choral service is held, the exclusive singing of women, especially in cathedral churches, is not to be admitted, unless for a grave cause to be recognized by the Ordinary, and caution always being taken that any disorder be avoided." S. R. C., Jan. 17, 1908, ad 2. - "Men are to be altogether separated from women, any inconvenience being avoided, and the consciences of the Ordinaries being burdened concerning these things." S. R. C., Dec. 18, 1908. "Whether in solemn Mass and other functions, in churches in which there is a lack of an organ master or singers, even lay ones, it is lawful to use a machine commonly called a Gramophone for the strictly liturgical Gregorian chant of the variable parts of solemn Mass, hymns, and other canticles? Resp. In the negative."

Canticles in the vernacular idiom are prohibited in sacred functions, and therefore also in Masses celebrated with chant. Outside functions, however, and in the very Masses called private, the contrary custom is tolerated. S. R. C., Jan. 8, 1904. "Liturgical prayers and hymns, for example the Introit, Communion, the hymn *Lauda Sion*, cannot be sung by the choir of musicians in the vernacular language during a private Mass." S. R. C., March 31, 1909.

In the exposition of the Most Holy Sacrament of the Eucharist, the vernacular language can be used in canticles and prayers, unless it is a question of liturgical texts, for example *Tantum ergo*, the Litany of Loreto, etc. S. R. C., March 31, 1909.

As to the use of the Slavonic language in the sacred Liturgy, one must stand by the decree of the S. R. C., Dec. 18, 1906, by which the privilege is declared to be local, adhering to certain churches, and by no means personal, as though it pertained to certain priests. "It will be lawful for absolutely no one to introduce the Paleo-Slavonic language into the sacred liturgy in other churches, for any cause or pretext whatever. But if any secular or regular priest does otherwise, or attempts it, by that very fact he remains suspended from the celebration of Mass and the other sacred functions, until he obtains pardon from the Apostolic See."

658. Is it ever lawful to interrupt Mass? - It is never lawful to interrupt Mass essentially, or in such a way that the sacrifice begun remains truncated, unless a most grave or extreme necessity urges, as in the case of an imminent fire or of an enemy rushing in to kill; for then the priest, omitting the consecration of the chalice, could consume the host already consecrated, or carry it away with him while fleeing. But if he has completed both consecrations, let him immediately consume both species, if he can; or if he cannot, let him carry them with him, to be consumed very quickly in a nearby place. - Nor is it lawful to interrupt Mass accidentally, unless for a just cause before the oblation, for example, because of a sermon after the Gospel, because proclamations of banns are to be made. S. R. C., March 23, 1881, n. 3529.

Nor is it lawful to interrupt Mass except for a grave cause before the Canon, for example: 1. To receive a procession, in honor of an arriving Prince, or a crowd of pilgrims on a feast day, if otherwise they cannot hear Mass. And if the oblation has not been made, the priest can begin anew, so that they may hear the whole sacred rite. 2. If the priest remembers some impediment, e.g., that he is not fasting, or not in the state of grace, or is irregular, provided the Mass can be left without scandal or disgrace. - 3. If the church is polluted or one to be avoided arrives. - But it is not lawful to interrupt Mass once the Canon has begun, unless for a graver cause; and after the consecration has been completed, unless for a most grave cause, e.g., if a dying person must be baptized or absolved. But it is not lawful to administer other sacraments between the consecration and communion, because they are not of such great necessity. Nevertheless Holy Viaticum could be administered to a dying person who was nearby, so that the priest would not have to remove the sacred vestments. But for this it is also required that the celebrant not lose sight of the altar. S. R. C., Dec. 19, 1829, ad 1, n. 2672. Cf. S. R. C., Dec. 7, 1844, n. 2885; Feb. 7, 1874, n. 3322; May 11, 1878, ad 8, n. 3446. "Most theologians... permit a priest to interrupt Mass in order to administer extreme unction to a sick person near death to whom no other sacrament could be conferred." Benedict XIV, *de Syn.*, l. 8, c. 6, n. 5; L. 728. - If Mass has been interrupted, if the celebrant returns shortly, it is to be resumed by him from the place where it was interrupted; but if after an hour, and the consecration had not yet been made, it must again be begun from the beginning. And if another priest completes the Mass begun by another after at least one consecration has been performed, he cannot then celebrate another Mass. S. R. C., Dec. 16, 1823, n. 2630. - L. 352, 353, 355; St. Thomas, 3 p., q. 83, a. 6, ad 1; Rubr. Miss., *De defect.*

659. Can a sick priest celebrate, although he cannot observe all the Rubrics? - Resp. In the affirmative, if he omits only a few and lighter ones, especially if he celebrates privately. Indeed several authors of weighty note permit an infirm celebrant even to use a cane, if he needs it. St. Alphonsus reports and approves these things, 492: "La-Croix says, l. 6, p. 2, n. 402, etc., that one who could not celebrate without a cane can lawfully use it. And Gobat adds that if someone could not celebrate unless leaning on the altar with both arms, he would lawfully celebrate thus privately, but not publicly, unless he did this from necessity. Nevertheless I think this does not exceed venial sin, from which he seems able to be excused who, because of infirmity, could not stand upright and wished to celebrate from his devotion, provided the wonder of the people is avoided. La-Croix, n. 427, etc., also says that if someone cannot elevate the host, but can do the remaining things, he can celebrate privately and even publicly, if necessity is present and the people are warned; but I think it is enough that the people merely be warned, if someone celebrates from devotion." - E. M.

660. Are the Rubrics of the Roman Missal preceptive? - Some are preceptive, some directive. Which are the former and which the latter is not sufficiently clear. The more common opinion holds that those are directive which hand down the things to be done or said before or after Mass, and that the others are preceptive; and therefore that these alone oblige according to the gravity of the matter. L. 385. Nevertheless there are not lacking those who think that those things which are contained under the title *De Defectibus* are doctrinal instructions, which oblige no more than the doctrine on which they are founded. Cf. Suarez, d. 83, s. 3. And if, while performing this mystery, some doubt occurs to someone, let him do what has less danger, St. Thomas, 3 p., q. 83, a. 6, ad 2; or what he has judged to be more expedient. This must always be kept before the eyes: that scandal be avoided. From the opinion of St. Alphonsus, *Exam. ordin.*, 112, not all Rubrics to be observed outside Mass are merely directive, but only some. - Trent, sess. 22, C. 4, 5, 8; cc. 6, 7, 9; Decr. de Observ., etc., sess. 23, c. 5; S. R. C., Feb. 27, 1847, nn. 2928, 2932; St. Thomas, 3 p., q. 83, aa. 3, 4; Suarez, d. 84, s. 1; d. 85, s. 2; Diana, tr. 1, de Celebrat. missar., r. 235, n. 3; L. 401; E. M.

St. Pius V, in the Bull prefixed to the Missal, strictly commands in virtue of holy obedience that they read Mass according to the norm prescribed in the Missal; this precept is not had for the other things to be observed outside Mass. Therefore those Rubrics are preceptive which prescribe things to be observed in the very celebration of Mass, under grave or light obligation by reason of the matter. The rest are directive; nevertheless it is wrong to neglect them without cause with impunity. But if a reasonable excusing cause is present, there is no sin.

On Penance

I. On the Nature and Remote Matter of Penance

661. What is penance? - Penance is a virtue, and it is a sacrament. Under the first respect, it is a moral virtue inclining to hatred, abomination, or detestation of sin and to sorrow or sadness, insofar as sin is an offense and injury against God, namely insofar as it makes God turned away from us and indignant, on account of the due honor of God being harmed by reason of his supreme dominion; and consequently it inclines to the efficacious purpose of avoiding it in the future and of satisfying divine justice, so that God may be reconciled to us. Hence penance is a virtue pertaining to justice, as its potential part. Suarez, d. 2, s. 3, n. 4 ff.; Lugo, d. 2, nn. 50, 52; St. Thomas, 3 p., q. 85. - Hatred, because it is evil; sorrow, because it is present or because it is apprehended as present.

Under the other respect, it is a sacrament of the New Law instituted by Christ the Lord after the manner of a judgment, for remitting, through priestly absolution, sins committed after baptism to a man who is contrite and has confessed. After the manner of a judgment: for there is present the penitent, at once the accused, witness, and accuser, and the priest, the judge pronouncing sentence, who is held by the strictest obligation of secrecy. But this judgment tends toward absolving the accused and reconciling him with God. Hence the difference is evident between this sacramental judgment and a forensic judgment. - Florence, Decr. pro Arm.; Trent, sess. 14, C. 1, 2, 3, 4, cc. 1, 2, 3; Decree of the Holy Office *Lamentabili*, July 3, 1907, props. 46, 47; St. Thomas, 3 p., q. 84, a. 1; L. 246; E. M.

662. Is it lawful in the sacrament of penance to follow probable opinions? - Resp. In the affirmative, in those things which pertain to the judgment, provided the form of the judgment is preserved: for form gives being to the thing, and judgment pertains to the validity of the sacrament. And thus in those things which pertain to the integrity of Confession, to the jurisdiction of the confessor, etc., it is lawful to follow probable opinions. L. 468; H. A., tr. 16, n. 29. To jurisdiction, for when its probability stands, the Church supplies it. - In the negative in those things which pertain to the validity of the sacrament, because the sacrament would be exposed to the danger of nullity; except, however, in a case of necessity; for the sacraments are for men. Wherefore it is not lawful to follow probable opinions concerning the very substance of Confession and of contrition. For sins pertain to penance, as sacrament, under the generic aspect of sin; as judgment, as individual things in themselves; and the same must consequently be said of the Confession of sins. Hence Confession pertains to penance especially insofar as it is a judgment. Contrition, on the other hand, pertains to penance especially insofar as it is a sacrament. But satisfaction rather looks to integrity, since it is added extrinsically. Finally, in the words of absolution is contained the form of the sacrament and the sentence of the judgment. - Cf. 348.

663. Is the sacrament of penance necessary? - Resp. In the affirmative, for those who have fallen after baptism. It is necessary for justification both by necessity of precept and by necessity of means, at least in desire. Trent, sess. 6, C. 14; sess. 14, C. 2, 4, 5; St. Thomas, 3 p., q. 84, a. 5; q. 87, a. 6; Suppl., q. 6, a. 1. - Hence the sacrament of penance is customarily called the second plank after

shipwreck. Trent, sess. 6, C. 14; St. Thomas, 3 p., q. 84, a. 6. - But since no actual sin can be remitted in this life without the virtue of penance, it is also evident that this virtue is altogether necessary for the justification of adults who have fallen after baptism. Trent, sess. 14, C. 4; St. Thomas, 3 p., q. 86, a. 2; q. 87, a. 1. - St. Thomas, Quodl. 4, a. 10; E. M.

664. What is the effect of the sacrament of penance? - The effect of this sacrament is absolution from sins and reconciliation with God, and, as a consequence, remission of eternal punishment. Florence, Decr. pro Arm.; Trent, sess. 14, C. 3, cc. 12, 15; sess. 6, C. 7; St. Thomas, 3 p., q. 86, aa. 3, 4, 6. "For him who through contrition has obtained remission of sins as to guilt, and consequently as to the debt of eternal punishment, which is dismissed together with guilt, by the power of the keys... grace is increased and temporal punishment is remitted, the debt of which had still remained after the remission of guilt, though not entirely, as in baptism, but a part of it.... By the power of the keys, which works in the sacrament of penance, not all punishment is remitted, but something of the temporal punishment whose debt could remain after absolution from eternal punishment; and not only from that punishment which the penitent has or undertakes from absolution in confessing... but also something is remitted of that punishment which is due in Purgatory, so that one absolved who dies before satisfaction is punished less in Purgatory than if he died before absolution." St. Thomas, 4 d. 18, q. 1, a. 3, q. 2. - E. M.

665. What are the parts of the sacrament of penance; what is their efficacy? - The parts of the sacrament of penance are, as in the other sacraments, matter and form. The form is the words of absolution which the priest pronounces. The matter or quasi-matter is the acts of the penitent, which are distinguished into three parts. The first is contrition of heart. The second is confession of mouth. The third is satisfaction. Florence, Decr. pro Arm.; Trent, sess. 14, C. 2, 3, c. 4. "Every sacrament produces its effect not only by the power of the form, but also by the power of the matter; for from both there is one sacrament.... Hence remission of guilt is the effect of penance principally indeed by the power of the keys, which the ministers have, from whose side that which is formal in this sacrament is received; but secondarily by the force of the acts of the penitent pertaining to the virtue of penance, nevertheless insofar as these acts are in some way ordered to the keys of the Church. And thus it is clear that remission of guilt is an effect of penance according as it is a virtue, but more principally according as it is a sacrament." St. Thomas, 3 p., q. 86, a. 6; q. 90, aa. 1, 2. - E. M.

666. What is the remote matter of the sacrament of penance? - The remote matter is all sins committed after baptism. But they are called the matter about which, because absolution is concerned with destroying them. - Necessary remote matter is all mortal sins committed after baptism and not yet directly remitted through the keys of the Church, even if already destroyed by perfect contrition, or inculpably omitted in a preceding Confession. Hence they must be manifested in the immediately following Confession, since they are not free matter but necessary; and therefore the penitent must necessarily be absolved from these, and a new penance must be imposed, even if someone confesses them immediately after absolution. L. 513. Nevertheless, as to sins omitted from forgetfulness or another just cause, there is no obligation to confess them as soon as possible, since they have already been destroyed, nor therefore is there danger to the soul in delay.

Wherefore their Confession can be deferred until, by force of another obligation, or spontaneously, someone confesses again. - Sufficient but free remote matter is all venial sins committed after baptism, and all sins, whether mortal or venial, already otherwise duly subjected to the keys of the

Church. Their remission is confirmed and grace is increased. C. 12, de Poenit.; Extrav. 1, de Privileg.; 2, de Haeret.; Trent, sess. 14, C. 5, C. 7; prop. 11 condemned by Alexander VII; L. 425, 427. - For a certain greater security, besides ordinary light sins, it is expedient to add either some certain sin for which one grieves more vehemently, or at least a generic accusation of all the sins of one's past life. Reuter 202; Elbel 19. - St. Thomas, 3 p., q. 84, a. 2; E. M.

667. Resolutions: "Venial sins can be omitted, either all or some; likewise mortal sins once duly confessed, e.g., in a general Confession. In this, it is also not necessary to add to a mortal sin that it was committed after the last Confession..., unless some circumstance, e.g., one changing the species, or reservation of the case, or a proximate occasion of sinning, requires otherwise, and a sufficient penance is imposed." L. 425; St. Thomas, 4 d. 17, q. 3, a. 3, q. 5, ad 4; d. 18, q. 1, a. 3, q. 2, ad 4. - Insufficient matter consists in imperfections which are not sins: that someone did not do the good which he could have done, did not respond to divine inspirations in those things which are of mere counsel. La-Croix, l. 5, n. 211; L. 425. - The Confession of all lethal sins, certainly invalid, must necessarily be repeated. For all mortal sins must of themselves be subjected to the keys. Nevertheless, Confession need not be repeated unless its invalidity is morally certain. The reason is: 1. Because when an act has certainly been placed, if a doubt arises whether it was rightly placed, that rule of Law obtains: one must stand for the value of the act. 2. Because the obligation of the divine law concerning making Confession has already probably been satisfied. L. 505; La-Croix 1221; Elbel 263. "Even if through culpable mortal error you have omitted such a sin, e.g., of self-abuse, or its number, or another necessary circumstance, you are not therefore bound to repeat the intervening Confessions made in good faith and legitimately, in which from natural forgetfulness you did not confess that defect, since they were valid and remain valid." L. 503. - Lugo, d. 16, s. 2, §§ 1, 2.

668. What is the proximate matter of the sacrament of penance? - The proximate matter, from which, intrinsic and essential, consists in the acts of the penitent, namely contrition, Confession, and satisfaction to be accepted, which however, as to its execution, pertains to the integrity of the sacrament. Lugo, d. 12, n. 40. But these acts are called quasi-matter by Florence, Decr. pro Arm.; by Trent, sess. 14, C. 3; and by St. Thomas, 4 d. 18, q. 1, a. 3, q. 1; not because "they do not have the nature of true matter, but because they are not matter of that kind which is applied extrinsically, as water in baptism and chrism in confirmation." Roman Catechism, n. 13. Several, who with Scotus think that the whole substance of the sacrament consists in absolution alone, raise a doubt about the mind of St. Thomas, whom they affirm stands for them. But, to pass over other things now, this holy Doctor has it in 3 p., q. 84, a. 1, ad 1: "In those sacraments which have an effect corresponding to human acts, the sensible human acts themselves are in place of matter, as happens in penance and matrimony." Cf. ibid., ad 2, ad 3. And a. 2 of the same question: "The proximate matter of this sacrament is the acts of the penitent, whose matter is the sins for which he grieves, and which he confesses, and for which he satisfies." Cf. ibid., q. 90, aa. 1, 2. But from the Council of Trent the acts of the penitent are parts of this sacrament. Moreover, in chapter 2 it says that this sacrament is completed by matter and form, and in chapter 3 it assigns the form, namely the words of absolution. Therefore the acts of the penitent are the matter, which immediately there it calls quasi-matter.

669. Note: A sin is said to be directly remitted when it is remitted by the power of the keys of the Church. For this it is necessary that the penitent confess the sin and that the confessor have jurisdiction over it. It is said to be indirectly remitted when it is remitted by the power of sanctifying

grace, which is infused in the sacrament of penance, because this grace is incompatible with any grave sin whatever, and one grave sin cannot be remitted without another. This has place when the sin has been inculpably omitted or reserved. La-Croix 597; L. 478, 504.

670. Are mortal sins committed in the very reception of baptism matter of this sacrament? - "They very commonly affirm it.... The reason is that these sins, although they are simultaneous in time with baptism, nevertheless by nature are posterior to it. - But the reason which they adduce... does not seem to prove conclusively... for the sin of fiction, namely if he were to receive baptism while existing in mortal sin without sorrow." L. 427. D'Annibale, ed. 3, p. 3, n. 301, generally denies it for all sins admitted in the very reception of baptism, and says this is the true opinion. The reason is that the material object of penance, from Trent, sess. 14, c. 2, is the sins which one has committed after he began to be subject to the Church through baptism; and the sin is completed by the fiction itself of the one feigning in his entrance into the Church.

But if the sin is continued for some space of time after baptism, it is already matter of penance. - St. Thomas, 3 p., q. 69, a. 10; 4 d. 4, q. 3, a. 2, q. 3; Lugo, d. 16, s. 1.

671. Must an adult to be baptized conditionally, in doubt about a preceding baptism, confess sins already accused? - Resp. In the negative. The reason is that those sins either are already destroyed if the prior baptism was valid; or if it was invalid, they are destroyed by the later valid baptism and are not matter of Confession. Reuter 118; E. M.

672. Must the aforesaid adult confess sins committed since the last Confession and not yet accused? - It is disputed. The first opinion affirms it, because the obligation of confessing sins urges whenever it is not established that they were committed before baptism. Wherefore, after the later baptism has been conferred, those sins are then to be accused. This is confirmed from the response of the Holy Office, Dec. 17, 1868. The second opinion denies it, because, given the probable invalidity of the prior baptism, those sins are probably not matter of Confession; and therefore there is no certainty about a certain obligation. The matter of Confession consists in sins committed after baptism. Therefore whenever it is not established that those sins were committed after baptism, the obligation of Confession is not established. In order that the obligation of Confession can be urged, sins committed after baptism must be proved. Trent, sess. 14, C. 2, 4. But if the prior baptism was in fact valid, those sins will be able to be remitted either through perfect contrition, or indirectly through absolution with attrition. Nor does the praised response of the Holy Office settle the controversy generally, because it was given for Neoconverts in England, on account of special reasons of that region. His Eminence the Cardinal Secretary of the Holy Office publicly declared at St. Apollinaris in 1897 that that response was not a general decree, when this question was being debated expressly in the customary conference of cases of conscience. This also D'Annibale, assessor of the Holy Office and afterward Cardinal, explicitly affirms, ed. 3, p. 3, n. 301, note 3. And the Plenary Council of Latin America, adopting the same rule of acting, since it well knew that that response was not a general decree, carefully added in a note: "having before the eyes the norm of the decrees of the Holy Office, July 17, 1715, and Dec. 2, 1874," Collect. S. C. de P. F., nn. 644, 957, which contain almost the same prescription as the praised response of the Holy Office, Dec. 17, 1868. Mention of that decree is in fact omitted, and in place of it another decree, still more particular, of June 17, 1715, is cited, to which the response of Dec. 17, 1868, refers itself. And those words "having before the eyes," etc., after I myself proposed them to His Eminence Cardinal Vives, President of that Council, were then

added in the note without any difficulty, for precisely this reason, since they were lacking in the prior schema: that there should be no place for a false interpretation of the mind of the Council concerning the universality of the decree cited. - Hence, when there was doubt about the priestly ordination of a certain beneficed coadjutor with care of souls, the Holy Office, Jan. 17, 1900, decreed that the ordination was to be repeated under condition, that the Masses celebrated were to be supplied from the treasury of the Church, and it said nothing about Confessions heard being repeated by penitents. Cf. 674; La-Croix, l. 6, p. 1, n. 324; L. 473, 474, 505; *Monit. Eccles.*, vol. 11, p. 523; vol. 12, p. 540 ff.; E. M.

Nor indeed can a demonstrative argument, as is evident of itself, be taken from the Instruction of the Holy Office, July 20, 1859, cf. Ferraris, Supplementum, v. Baptismus, n. 15, in which an order is established, if baptism is to be repeated under condition, that there be: 1. abjuration, or profession of faith; 2. conditional baptism; 3. sacramental Confession with conditional absolution.

Formal abjuration of the sect is to be made by heretics who are converted to the Catholic faith and are baptized under condition. But from those who have not yet completed the fourteenth year of age only profession of faith is required. Collect. S. C. de P. F., n. 1680.

672 bis. The adversaries object against the preceding opinion set forth that the decree of the Holy Office, Dec. 17, 1868, is universal by reason of the matter. The argument of the adversaries in fact does not prove what is intended, and contradicts itself. For if in fact in the case of doubtful baptism one must stand for its validity until its nullity is established, and consequently the one doubtfully baptized is certainly held by the laws of the Church, among which is the law of confessing sins committed after baptism, it would follow from this also that he cannot be baptized again even under condition, and that a layman doubtfully baptized, who after that baptism has committed no grave sin, can and must approach Holy Communion at Easter time. Indeed the parish priest and Bishop doubtfully baptized could and would have to celebrate Mass for the people, etc.

Moreover, what they say, that a very slight doubt suffices for repeating baptism, but does not suffice for exempting from the certain law of confession, is in fact nothing. For first, the doubt in the case is not always very slight. Moreover, in order for it to suffice for repeating baptism, there must be at least some true probability, in the lowest degree. And consequently the principle remains entire and unshaken: a doubtful law does not oblige.

Finally the response which is brought forward as unknown, S. C. de P. F., July 12, 1869, in fact was not unknown, but was already known by private knowledge. But that response also does not prove the matter, because it is not a decree of the Sacred Congregation de Propaganda Fide. And therefore it was not related in the first edition of the Collectanea of this Congregation. But in the other edition it was placed not in the series of decrees, but in a certain note. And besides, even in that response of July 12, 1869, Collectan. n. 1338, it is not said absolutely that the decree of Dec. 17, 1868, concerning the law of confession after repeated baptism by reason of the preceding doubt, is absolutely universal, but at most universal for neoconverts, of whom alone there is question in that decree and in the praised response. And the decrees in fact are always referred to Protestants converted to the Catholic faith. Cf. Ferraris, Supplementum, v. Baptismus, n. 15, and if they are read well, it will surely appear that they wholly cohere with those things which have been handed down here, and that it does not seem gratuitously asserted that they do not cohere.

673. Is a sin accused only in general ever sufficient matter of Confession, as to its validity and liceity, e.g., if someone says: I accuse myself of all the sins of my life? - Resp. In the affirmative as to validity. For all agree that, in order that sick persons at the point of death, soldiers when battle is imminent, sailors when shipwreck is imminent, etc., be validly absolved, some external sign of Confession is sufficient, e.g., the taking of the hand, striking of the breast, etc. But since the essence of the sacrament is not changed outside a case of necessity, but is always the same for various cases, both in a case of necessity and outside a case of necessity, the aforesaid Confession will be sufficient as to the validity of the sacrament.

La-Croix 620; Reuter 303; Lugo, d. 17, n. 8; L. 480, 481, 482, 486, 504. - It seems that the same must probably be affirmed also as to liceity, for, granted the certain validity of the sacrament, illicitness cannot arise from elsewhere than from a positive divine precept. But this precept is not had, as is clear from Trent, sess. 14, C. 5, according to which the divine precept of explaining sins both as to number and as to species is had only for grave sins not yet directly remitted through the keys of the Church. Therefore where grave sins necessarily to be accused in Confession are lacking, there is no remaining obligation to accuse sins both in a determinate number and in a definite species. Dicastillo, de Sacr. poenit., d. 9, n. 760 ff.; Apicella, *Ai Confessori Studio sull'assoluzione*, etc.; A. S. S., vol. 4, p. 320.

674. Is there an obligation of confessing doubtful sins? - There is no obligation of confessing a positively doubtful mortal sin, namely when "on both sides there are probable reasons that a mortal sin was or was not committed." Thus "the very common opinion.... The reason: each person can licitly conform himself to a truly probable opinion." L. 473.

There is likewise no obligation of confessing a mortal sin doubtfully committed, namely when there is no prudent reason for affirming that the said sin was committed. The reason is, "because Trent, sess. 14, C. 5, does not oblige penitents except to confess all mortal sins of which they have consciousness... which imports having certain knowledge of the sin; for conscience is nothing other than knowledge of the heart and practical judgment concerning a sin committed. But a doubtful conscience is neither knowledge nor judgment, but a suspension of judgment; hence he who has no reason that he committed it can by no means be said to have consciousness of sin." L. 474. And indeed, if according to the very common opinion there is no obligation of confessing a positively doubtful sin, namely when it can probably be affirmed that it was committed, although it can also probably be affirmed that it was not committed, how will an obligation be able to be present when it could not even probably be said that the sin was committed? Since such a doubt does not rest upon a solid foundation, it cannot arise except from vain suspicion and fear of a sin committed, as frequently happens to scrupulous and fearful consciences. Ithur., Cas. 44, nn. 15, 18, 20 ff.

If it is a question of a sin certainly committed, and certainly grave in itself or objectively, but there is doubt about the consent given and about sufficient advertence, the following rule is handed down by St. Alphonsus, 476: "Those who are of a fearful conscience must be exempted from the obligation of confessing doubtful mortal sins. For these, in doubt, can reasonably, indeed morally certainly, believe that they did not consent, because presumption is taken from what commonly happens.... Conversely, the opposite must be judged about one who is accustomed easily to fall into mortal sins, because in doubt he is presumed to have consented. For if he had resisted, he would certainly remember that effort which he brought upon himself to repel the temptation. Hence La-Croix rightly concludes, 612,

that scarcely ever in men of this kind, whether of the first or second genus, is there given a merely negative doubt; for presumption founds a probability of consent given or dissent." Ithur., Cas. 44, n. 15 ff.

If it is a question of a sin doubtfully grave, namely in itself and objectively speaking of itself, there is no obligation of confessing such sins. For after diligence has been applied, one can form for himself a practical judgment from the very well-known rule "that there is no certain obligation where the offense is doubtful." L. 474. Speaking of itself; for he "who is certain about his evil action, and does not know how to discern whether it was mortal or not, is indeed bound to stand by the judgment of the confessor, whose office it is to discern between leprosy and leprosy." L. 474; St. Thomas, 4 d. 21, q. 1, a. 3, ad 3. But, scrupulous persons excepted, generally speaking, it is useful to confess doubtful sins, both for greater peace of conscience and so that the confessor, knowing the dangers in which the penitent is placed, can admonish him and suggest suitable remedies for avoiding them. L. 476.

If there is doubt whether someone has or has not confessed a mortal sin certainly committed, and the doubt is negative, he is certainly bound to confess it. For the law of Confession is certain, and no prudent reason suggests that it has been satisfied. But if the doubt is positive, St. Alphonsus, 427, holds that the penitent must confess it, "since the obligation of Confession is certain and the satisfaction doubtful." But Lugo, d. 16, nn. 58, 59, says: "All commonly teach that someone is not bound to confess that sin which he probably judges he has already confessed.... Nothing is more frequent among theologians than to excuse from repeating Confession one who confessed... according to some probable opinion concerning its validity." And St. Alphonsus himself handed this down, in the Roman edition of 1757, dedicated to Benedict XIV, l. 6, n. 477, as common doctrine.

The reason is clear: for although the general law is certain, nevertheless, with probable satisfaction of it standing, its obligation in the concrete, in the particular case, now becomes doubtful. Besides, the same holy Doctor adds in the same place "that one who was diligent in confessing his sins, if afterward he doubts whether he omitted some sin, after much time has elapsed since he committed it, is not bound to confess it, since in that case he can believe morally certainly that he has already confessed it.... If someone previously, from a bad habit, had fallen into several sins, and afterward has been truly converted through constant integrity of life, if then he doubts whether in a general or particular Confession made with due diligence he omitted some sin or circumstance, let the confessor forbid him even to think back over his past life." But scrupulous persons, as the doctors very commonly say, are never bound to confess past sins unless they are certain that they were mortal and certain that they have never confessed them. L. ibid.

674 bis. Whether one who has confessed a sin as doubtful must confess it again if he recognizes it as certain is disputed. - St. Alphonsus, 478, 504, affirms it, because that sin was not accused as to its individual substance; for the accusation of a certain sin is not included in the accusation of a doubtful sin. Thus several other grave theologians. Reuter 332, Tamb., Meth. conf., l. 2, c. 1, § 4, n. 24, and also several other grave theologians deny it, since that sin was directly remitted through the keys of the Church; therefore it is not to be subjected to the keys again. - "Sanchez, etc., very commonly and most probably say that if someone confesses a sin which neither he nor the confessor knew to be mortal, and afterward knows that it is mortal from its genus, he is not bound to confess it again. The reason is that in this case the penitent has already exposed his sin to the confessor as it then was in

his conscience and now is; and in the present nothing new occurs except that he now knows the matter of that sin to be grave, which he previously did not know." L. 478, 500.

Strictly speaking, someone can approach the sacred synaxis, without a preceding Confession, with a doubtful or probable mortal sin. The reason is that Trent requires Confession before Communion only for those who are conscious of mortal sin. Hence a priest doubting whether he adhered to a bad thought, or judging probably that he did not adhere to it, can celebrate, contrition nevertheless having been made first, without Confession, although he has abundance of a confessor. Yet contrition should first be made, lest he rashly expose the sacrament to the danger of being frustrated of its effect, and perhaps in fact lack the fruit of the Eucharist; and lest Jesus Christ be exposed at least to material irreverence and dishonor, if perhaps, really coming into us, the soul is defiled by mortal sin.

At least; for there seems to be a certain formal irreverence in this, that someone knowingly and prudently receives Christ himself in himself while doubtfully approved. L. 475. In practice, however, Confession is to be counseled. - Lugo, d. 16, s. 2, §§ 3, 4.

675. If the penitent offers only doubtful sufficient matter, is the confessor bound to seek certain matter from the past life, so that he can absolve? - Resp. In the affirmative, if he wishes to absolve, because otherwise the sacrament would be exposed to the danger of nullity. Except unless a case occurs in which the penitent can be absolved conditionally, concerning which below. In the negative, if he does not wish to absolve, but to dismiss the penitent with only a blessing, because the penitent who does not bring certainly sufficient matter does not have a right to absolution. Likewise, if the penitent seems to have doubtful sorrow about venials alone, the confessor is not ordinarily bound to apply great diligence to move him to sorrow, although he would do this much better. But it would have to be said otherwise if it were a question of doubtful mortals, because of the danger to the penitent. - L. 432.

676. Must one who brings not necessary matter, but free and certain matter, necessarily be absolved? - Resp. In the affirmative, speaking of itself. The reason is that, on the one hand, the penitent duly disposed, after he has performed confession, has an acquired right to absolution; but on the other hand, the confessor has no right to grant or deny absolution according to his own judgment, and thus to defraud the penitent of those spiritual gifts of grace which follow absolution. L. 604.

II. On Contrition

677. What is contrition and how many kinds are there? - Contrition is sorrow of soul and detestation concerning sin committed, with the purpose of not sinning thereafter. Sorrow is displeasure and bitterness of soul; detestation is reprobation and condemnation of sin. Trent, sess. 14, C. 4; St. Thomas, 3 p., q. 85, a. 1, ad 3; Suppl., q. 1, a. 1. - One is perfect from the special motive of charity, and is customarily called contrition simply; another is imperfect from another motive, e.g., from consideration of the foulness of sin, from fear of hell and punishments, etc., and is customarily called attrition. Trent, ibid. - L. 435, 436; St. Thomas, 3 p., q. 87, a. 1; E. M.

678. What is the necessity of contrition? - Contrition, either perfect with the desire of the sacrament, or imperfect with the sacrament itself, is altogether necessary to the sinner by necessity of means for obtaining justification and salvation. But that desire is implicit in contrition itself, from the very institution of the sacrament of penance and the obligation of confessing sins; nor must it necessarily

be explicit. Trent, sess. 14, C. 1, 4; sess. 6, C. 6, 14; St. Thomas, 3 p., q. 87, a. 1; L. 434. It is necessary besides by necessity of divine precept at some time in life, Luke 13:3, 5, and at the point of death, on account of the precept of obtaining the last end. L. 437. "Speaking of itself, a sinner delaying penance outside danger of death probably does not commit a special sin. The reason is that affirmative precepts, as St. Thomas teaches in 4 d. 17, q. 3, a. 1, q. 4, must have a determined time in which they must be fulfilled; but nowhere is it established what time is determined for satisfying this precept of contrition. Hence the same holy Doctor, 2. 2, q. 14, a. 2, said that final impenitence is not a special sin, in these words: impenitence, not indeed in that mode in which it means permanence in sin until death..., in this way would not be a special sin, but a certain circumstance of sin, etc. Nevertheless that is indeed to be understood apart from a positive precept; for from the precept of annual Confession, prescribed by the Church, each person without doubt is bound to penance at least once in the year." L. 437. Wherefore the precept of penance does not oblige immediately after mortal sin has been committed.

But by accident the aforesaid precept obliges when another precept urges which cannot be fulfilled without contrition, e.g., when one guilty of grave sin is about to receive or administer a sacrament; as often as the sacrament of penance is received even for the sake of devotion. - Likewise when someone, existing in mortal sin, would defer penance for a notable time. The reason is clear from what St. Thomas teaches, 1. 2, q. 109, a. 8, where he says: "Without justifying grace, that one remain for a long time without mortal sin cannot be." "But what this notable time is, the doctors greatly disagree." L. 437. Concina and others think it is a week; St. Alphonsus in the cited place and others think it is a month; others a trimester, others six months, others a year. The more common opinion, as Palaus says, de Poenit., d. un., p. 3, n. 9, admits at least that delay which the precept of the Church also admits concerning annual Confession; St. Alphonsus there also attributes this doctrine to St. Thomas, 4 d. 17, q. 3, a. 1, q. 4, although he himself "does not altogether acquiesce." Cf. Laymann, c. 2, n. 6; L., l. 6, n. 473; St. Thomas, Quodl. 1, a. 11. - Besides, as the same St. Alphonsus has it in the cited place, "sinners, especially the uneducated, can for the most part, indeed almost always, be excused from this sin of delayed penance on account of inadvertence." Cf. Lugo, d. 15, nn. 55, 56; Suarez, d. 15, s. 6, nn. 7, 8; d. 35, s. 3, n. 10.

679. What are the qualities of contrition? - Contrition 1. must be altogether true and real, not supposed; altogether formal, but virtual suffices, even for venials. Trent, sess. 14, C. 4; L. 443, 449.

2. It must be supernatural, even for venials, because it is part of the sacrament and a positive disposition for supernatural grace. But it must be supernatural not only because elicited with the help of grace, but also, at least in some way, on the part of the motive. The reason is that, as Lugo says, d. 5, n. 141, "for every justification, even in the sacrament, there is required a conversion of man to God, at least imperfect." But since that conversion is to God as supernatural end, hence that motive, at least considered inadequately, must be supernatural, proposed not by the light of natural reason, but by the light of faith. Busemb. 433; L. 440; Suarez, d. 20, s. 2. This is openly established from Trent, sess. 14, C. 4, where, after it had recounted among other motives the fear of hell and punishments, which seemed especially to be known by the natural light of reason, it immediately adduces the example of the Ninevites, whose object was certainly manifested not by natural reason but by the light of faith.

3. It must be appretiatively supreme, even for venial sins; that is, so that one detests sin more than every other evil, whence the sinner is prepared in soul to lose and suffer all things rather than commit sin. - Contrition and sorrow must be supreme not in the sensitive part, but in the will, insofar as by the soul's judgment and estimation sin is held as graver than any other evil, which the will therefore turns away from and rejects before other evils. - It is not required that a formal comparison be set up in the appreciation between various evils and sin, which someone would indeed do foolishly. St. Thomas, Quodl. 1, a. 9; L. 433.

Nor indeed must contrition be supreme intensively, since intensity is something merely accidental. Lugo, d. 5, nn. 84-87; L. 441, 442; St. Thomas, Suppl., q. 5, a. 3; 2. 2, q. 24, a. 12; q. 45, a. 4. - Nor likewise is any duration of time required, because this too is something merely accidental. L. 433.

4. It must be universal, if it is a question of grave sins, but by no means if of venial sins. The first reason is that the remission of mortal sins is made through the infusion of sanctifying grace, which is incompatible with any mortal sin whatever. But it suffices that contrition be universal from a universal motive, nor are individual acts of sorrow required for each individual sin. For then one virtually detests each of his individual sins. Otherwise one could not be cleansed from hidden sins through universal sorrow. Trent, sess. 14, C. 5; L. 438; St. Thomas, de Verit., q. 29, a. 5, ad 4; 4 d. 17, q. 2, a. 3, q. 5, ad 2. The second reason is that since sanctifying grace is not incompatible with venial sin, one can be remitted without another. "Hence it suffices to repent and purpose concerning only one venial sin, since venials are not necessary matter, but only sufficient matter. But Lugo, d. 14 from n. 138, etc., says that it also suffices if someone grieves for each one in particular.... La-Croix, 913, etc., also rightly says that someone can well grieve for deliberate venials and purpose to avoid all of them; but concerning semi-deliberate ones it suffices to grieve that he committed them, and in the future to wish to attend to avoiding them insofar as human frailty permits. And these things are according to the doctrine of St. Thomas, 3 p., q. 87, a. 1, ad 1." L. 449; Lugo, Resp. Mor., l. 1, D. 29; E. M.

Wherefore contrition or attrition is also necessary as regards the remission of venial sins. St. Thomas, 3 p., q. 87, aa. 1, 2, 3. And lest efficacy be altogether taken away from the sacrament of penance as regards the remission of venial sins, it seems that one must say that outside the sacrament, for the remission of graver venials, a more perfect attrition is required, and for lighter ones a less perfect attrition; but in the sacrament of baptism, extreme unction, and penance, a lesser attrition is required. - Suarez, d. 11, s. 3; Lugo, s. 9, n. 28.

680. Must the contrition required for the sacrament of penance also be vocal? - It must indeed be sensible, but by no means necessarily vocal. The first reason is that it is part of the sacrament. The second reason is that otherwise dying persons unable to speak, although they give other signs of contrition, could not be absolved, which is against common practice and doctrine and against the Roman Ritual. - But it becomes sufficiently sensible by the very sorrowful Confession of sins, by the petition or expectation of absolution, and by other signs. - L. 445; H. A., tr. 16, n. 20.

681. Must contrition precede Confession? - It must certainly precede absolution, or at least coexist with it; it surely does not suffice that it follow absolution, since one who has not yet detested sins neither deserves nor can be loosed from the bond of sins. Trent, sess. 14, C. 4. - For the validity of the sacrament, sorrow need not necessarily precede accusation. The reason is that all things required

for the sacrament are present, provided sorrow precedes absolution; nor can a precept be proved of placing sorrow for sins before Confession. Lugo, Suarez, and others more commonly, against others. Besides, when other theologians require a sorrowful Confession, and therefore say that sorrow must precede, they seem to demand nothing else than that the Confession not be a mere narration of sins, but an accusation of oneself in order to obtain absolution.

The Roman Ritual, de Sacram. poenit., favors this, where it is said: "having heard the Confession, the confessor will strive with efficacious words to lead him to sorrow," etc. From this the Ritual seems to suppose that sorrow elicited after Confession suffices well. Thus St. Alphonsus, 445. - Nevertheless the same St. Alphonsus, H. A., tr. 16, n. 20, says that the other opinion is probable and therefore to be followed in practice; and he adds: "But they commonly agree... that it suffices if, after the acts of sorrow, the penitent again says, I accuse myself of all the sins confessed."

But the same holy Doctor himself had previously handed down the first opinion in earlier editions of the Moral Work and of the Italian edition of the *Homo Apostolicus*; afterward, however, in later editions of the Moral Work, he changed it. - Ithur., Cas. 11, n. 4, says: "That sorrow is sufficient for the sacrament of penance seems to me certain, even if it does not precede Confession, provided it follows Confession and together with Confession is ordered to absolution; and this the very sense of the faithful and the practice of confessors sufficiently teach. It is founded on this: although the whole prior narration of sins, preceding sorrow in time, had not yet had the complete nature of accusation, nevertheless, afterwards informed by subsequent contrition, and thus subjected to the keys by the penitent both asking for and expecting absolution, it is sufficiently completed in the nature of sacramental accusation." E. M.

682. Through what space of time does an act of sorrow morally endure for validly receiving the sacrament? - Suarez, d. 20, s. 4, n. 29, and others judge that sorrow suffices which preceded Confession by a long time, provided it has not been retracted. For since such sorrow virtually perseveres in the flight from sin and in the very Confession which is made for preserving the state of grace, there seems to be no reason why such sorrow should be held insufficient. And Ballerinius seems to adhere to this opinion, Gur. Baller. 448. Cf. Lugo, d. 14, nn. 35, 50. - But others, such as Cardenas, in prop. 2 of Innocent XI, p. 65, n. 88, etc., say that sorrow preceding by one day suffices; for since Confession is the effect of that sorrow, sorrow virtually perseveres. Roncaglia, c. 3, q. 2, r. 2, agrees, even if sorrow preceded by several days, provided it virtually perseveres in some means, for example if the penitent, by force of the sorrow conceived, has persisted in frequent prayer, flight from occasions, penances, etc. L. 446. Gury 447 also agrees, even if sorrow preceded by one or several days, provided it was elicited from the intention of Confession and was not retracted by another sin. - D'Annibale, ed. 3, p. 3, n. 315.

683. In order that sorrow be apt matter, must it be elicited from or with the intention of Confession? - Several affirm it, and St. Alphonsus says this opinion is probable and more safely to be followed. But Lugo, d. 14, nn. 37-40, and others deny it; Tamburini thinks this probable, St. Alphonsus himself, 447, more probable, and Ballerinius, Gur. Baller. 447, as certain. The reason is both that, from Trent, sess. 14, C. 4, that attrition is said to dispose for obtaining grace in the sacrament which excludes the will to sin with hope of pardon, all of which is verified in our case; and that then sorrow, although it was not ordered to Confession by an antecedent relation, is nevertheless ordered by a concomitant relation from this, that then sorrow is still verified as being laid open through Confession.

684. Is a new act of sorrow required for receiving a new absolution when the penitent immediately after absolution confesses a mortal sin omitted from forgetfulness? - The first opinion denies it, because the prior contrition certainly perseveres, and since it was universal it extended to all sins, even those omitted from forgetfulness; and it can well serve for another form of absolution. Nor otherwise is it required that contrition be explicitly ordered to the sacrament. Besides, once a new accusation has been made, it is already sufficiently ordered. Indeed there seems to be sorrow, in some way explicit, in the act of accusing that sin. For when vocal Confession is repeated, at least virtually the sorrow of the preceding Confession is repeated, still persevering morally and virtually. - The second opinion affirms it, because through absolution the judgment has been completed; therefore if a new absolution is to be imparted, new proximate matter is required; and although sorrow perseveres in itself, it nevertheless does not persevere in order to absolution. - St. Alphonsus, 448, speaking of this second opinion, says: "Since it is probable, indeed more probable, Croix and Concina say that it must altogether be followed in practice; at least I judge that the safer opinion must be held." But of the first he says: "It is more common, and Lugo, Anacletus, Viva with Perez, Henriquez, and the common opinion, Roncaglia who calls it morally certain, Sporer, Elbel who thinks it most probable with Gobat, Dicastillo, Henriquez, Bosco, etc., likewise apud Croix, Leander, Salas, Escobar, and Moya, who says it is undoubted among all, hold this." But for it Lugo says, d. 14, n. 27, "common practice also stands," which Dicastillo also testifies, de Sacr., tr. 8, disp. 6, dub. 22, n. 160, and Diana, t. 1, tr. 3, r. 95, n. 3, and many other grave theologians adhere to it absolutely. Fr. Gury, 448, says the second opinion rests on a light foundation.

But Ballerinius there says that "neither authority nor any solid reason supports the same second opinion," but that the first "can be held in practice as very safe." D'Annibale, ed. 3, p. 3, n. 315, says, "To me, if you wish to confess something forgotten, the first opinion seems truer, because this is contained, as in the same Confession, so also in the same sorrow; if you confess the same things again, the other opinion seems truer, because it is a new Confession, which in no way pertains to the prior one." But although it is a new Confession, nevertheless virtually persevering sorrow can well suffice for it. For as it suffices for the new Confession of a forgotten sin, so it can well suffice for the new Confession of sins already accused. - Elbel 75.

685. Does one sin who confesses some venial sin without sorrow? - If he opens this very defect of sorrow and purpose to the confessor, then the priest must not absolve from such a sin, nor should the penitent say it for this end, namely as matter of the sacrament, since in fact it cannot be such. Yet it can licitly be said either for humility, or for counsel, or for excitation to true penance. - If he opens a venial sin for which he does not grieve, like the others, as matter of absolution, "then," says Suarez, d. 39, s. 6, n. 7, "many think it is a mortal sin....

But although it cannot be denied that this is some fault, nevertheless I do not judge it mortal, because the matter of such fault is light; because the defect of that sorrow or purpose of itself and by its nature is not contrary to grace and justification, which is the primary effect of this sacrament signified by the form..., nor even does it impede the remission of other venial sins, concerning which a true accusation capable of true absolution is made, notwithstanding the obstacle of some venial sin." Cf. Lugo, d. 14, n. 48. Besides, even that light fault of which Suarez speaks will often be absent, either because the penitent does not advert to this defect of sorrow or to the disorder of the same defect, or because all displeasure is rarely absent, although it is not sufficiently efficacious; in this

matter it is often difficult to avoid deception. - To approach the sacrament with light matter, without any sorrow, is grave, on account of the grave irreverence inflicted upon the sacrament by frustrating it of its effect, whether from grave or light matter. Lugo, d. 14, n. 108 ff.; L. 449.

686. Does fearful attrition, or attrition conceived from fear of hell, suffice for justification in the sacrament of penance? - Resp. In the affirmative, provided it is truly supernatural, absolutely efficacious, and only materially servile, not formally or servilely servile. The reason is: 1. because attrition of this kind is a true conversion to God and a true aversion from sin; 2. because this is clearly drawn from Trent, sess. 14, C. 4, where it says that attrition conceived from fear of hell and punishments is honest and disposes the sinner for obtaining justification in the sacrament of penance. And this is certain and common among the doctors. - But attrition is called servilely servile when someone indeed grieves over sin and wishes to avoid it because of the punishments which he knows are to be inflicted by God, yet he would still be ready to sin if those punishments did not exist. But it is called simply servile when someone abstains from sin indeed because of fear of punishments, yet is not so disposed that he would wish to sin if those punishments did not exist. The former is evil, not because it is fear of punishments, but because of the depraved disposition of soul. - L. 440, 442; St. Thomas, 2. 2, q. 19; q. 225; Quodl. 4, a. 10; 4 d. 22, q. 2, a. 1, q. 3; E. M.

687. Whether attrition suffices for the sacrament of penance when conceived from fear of the punishments of this life, insofar as they are inflicted by God as avenger of sins? - The first opinion denies it. The reason is that Trent, sess. 14, C. 4, speaks conjointly of fear of punishments and of hell, when it teaches that "sorrow conceived from fear of hell and punishments" suffices, taking both for the same thing. For the punishment of mortal sin is eternal, and the sinner must fear this. The second opinion affirms it. The reason is that the particle *and* is to be taken disjunctively in the obvious sense, understanding hell for hell, Matt. 10:28, and punishments for temporal punishments, whether of Purgatory or of this life. This is confirmed by the example of the Ninevites, which Trent itself adduces, sess. 14, C. 4. St. Alphonsus, 443, says this second opinion is more probable, but that the first is not lacking its own probability, at least extrinsic; hence he concludes: "I think the safer one must be observed in practice." But others call the second opinion most probable, La-Croix 884; others morally certain, Elbel 59; others altogether certain, and Ballerinius seems to adhere to these, Gur. Baller. 452.

Insofar as they are inflicted by God as avenger of sins. For the aforesaid punishments must always be considered with relation to God as punisher of sins. Contrition sufficient for the sacrament cannot exist without relation to God.

688. Does attrition from fear of the punishments of Purgatory suffice for venial sins? - Resp. In the affirmative, with the very common and morally certain opinion; because all the reasons adduced above for the sufficiency of attrition from fear of hell are valid here also. Gur. 452.

689. Does attrition suffice for the sacrament of penance if it is conceived from the foulness of sin? - Resp. In the affirmative. Trent, sess. 14, C. 4.

But this foulness, the motive of sacramental attrition, is that which offends the eyes of God; which defiles the soul by deforming in it the image and likeness of God; which is known by faith; by no means, however, that which is contained in infamy among men, and which naturally belongs to vice, since it offends the order of right reason and is proposed merely by natural reason. The reason is that

attrition must not be sorrow for sin in any manner whatever, but with some respect to God, the supernatural end of man; for there must be a certain conversion to God, at least imperfect. - Lugo, d. 5, n. 140 ff.; Suarez, d. 20, s. 2, n. 10; E. M.

690. Can there be a valid but unformed sacrament of penance because of a defect of sufficient sorrow? - There can be a twofold case: 1. When someone guilty of a double sin, from invincible forgetfulness, grieves over one only because of its special foulness, and confesses this alone. 2. When someone, from invincible ignorance, would believe that it is not a mortal sin to approach the sacrament without sorrow for all, while nevertheless sorrow was present for some sin because of its special foulness, e.g., because it is against justice, against chastity, etc., but not because it is simply an offense and injury against God. - Moreover the first opinion holds that such a sacrament is valid and formed, because the penitent places no obstacle to grace. The second opinion holds that it is not only unformed but invalid, because the sorrow is insufficient. The third opinion holds that it is valid but unformed: valid, because no essential part of the sacrament is lacking; unformed, because one mortal sin cannot be remitted without another, and the other cannot be remitted because sorrow is lacking. The first opinion seems true to D'Annibale, ed. 3, p. 3, n. 312; the third is more probable to St. Alphonsus, 444. - If contrition sufficient for the sacrament cannot exist without relation to God offended and with the purpose of not sinning thereafter, it certainly does not appear how it can be so particular that it is not at least virtually universal. Nor indeed does it appear how someone could with sincere soul detest the specific foulness of sin without also detesting the generic foulness. - Nor indeed does it appear how, according to what the Council of Trent has about the parts of this sacrament, sess. 14, C. 2, 3, it can still be an essential part of the sacrament with confession without contrition, as St. Thomas explicitly has it, Suppl., q. 9, a. 1, or with attrition, but not sufficient for grace, as others have it. Moreover this question is raised for this reason: that it may be known whether the penitent is bound again to confess the sins which he has already confessed, which indeed is doubtful in this variety of opinions. - Lugo, d. 14, n. 65 ff.; Resp. Mor., l. 1, d. 29; St. Thomas, Suppl., q. 9, a. 1; 4 d. 17, q. 3, a. 4, q. 1.

691. Is one who at the point of death has received the sacrament of penance with attrition bound besides to elicit an act of contrition? - The first opinion affirms it, and Suarez, d. 14, s. 6, n. 18, Sanchez, in Dec., t. 1, l. 1, c. 1, n. 34, etc., hold this. The reason is that at the time of such great necessity safer means for salvation are to be chosen. The second opinion denies it, and Lugo, d. 7, n. 263, Laymann, c. 11, n. 7, etc., hold this. The reason is that there is only an obligation, whether in the time of life or in the time of death, of choosing safe means, not safer ones. But from Trent, sess. 14, C. 4, it is certain that attrition suffices in the sacrament for obtaining grace. L. 440. - Each opinion, says St. Alphonsus, 437, is probable; but the first is altogether to be counseled, which is evident of itself, since it is a question of the supreme business of salvation. The holy Doctor adds besides that the first must be altogether followed, because of another reason, namely because of the obligation of eliciting then an act of charity. But since this obligation too is disputed, namely for a man already justified through the sacrament, who already has sanctifying grace and habitual charity, a certain obligation does not seem to be imposed. - Gur. Baller. 445.

692. In order to obtain grace in the sacrament of penance, besides sorrow are explicit acts of faith and hope also required? - Resp. In the negative. The reason is that it cannot be proved by any probable argument that these acts are explicitly required. Besides, a penitent eliciting an act of

sorrow also in some way explicitly and in exercise elicits these acts, although not reflectively; because then without doubt he believes in exercise, and hopes that through the sacrament of penance, in virtue of the merits of Christ, his sins are to be remitted. - L. 439; E. M.

693. For obtaining justification in the sacrament of penance with attrition, is the beginning of love also required? - Resp. In the negative, if by the beginning of love is understood some degree of perfect charity, by which God is loved above all things. The reason is that for rightly receiving the sacrament there is not necessarily prerequired an act which outside the sacrament essentially justifies. But an act of charity, and therefore "sorrow which suffices for the nature of contrition, however small it may be, deletes every guilt," as St. Thomas says, q. 5, a. 3. Therefore. St. Alphonsus, 440, says this is morally certain. - But it can and must be conceded that some beginning of love is required, insofar as attrition, in order to dispose for the sacrament, must exclude, as Trent speaks, the will to sin; and as St. Thomas says, 2. 2, q. 17, a. 8, "someone is introduced to loving God through this, that fearing to be punished by him he ceases from sin." - And here it must be noted that contrition not only remits guilt and eternal punishment, but also, if very intense and perfect, can abolish every punishment; yet from its own nature it does not necessarily have this efficacy. - Trent, sess. 6, C. 6, 14, c. 30; sess. 14, C. 8, c. 12; E. M.

III. On Purpose

694. What is purpose and how many kinds are there; what are its qualities and necessity? - Resp. To the first: Purpose is the will not to sin thereafter. It is twofold: 1. explicit or formal, by which someone, thinking about the future, resolves not to sin any more; 2. implicit or virtual, which is included in contrition itself, without the future time being kept before the eyes.

Resp. To the second: Purpose must enjoy a threefold condition; namely it is required that it be firm, efficacious, and universal. 1. Firm: namely, the penitent must have a sincere will not to fall back into sin, notwithstanding any inconvenience or human fear whatever; otherwise he would not wish totally and sincerely to be converted to God. Nevertheless the confessor must not test the mind of the penitent by applying comparisons suited to disturb his imagination. But it must be firm also when it is a question only of venials. L. 451.

2. Efficacious, i.e., the penitent must not only firmly determine that he does not wish to sin any more, but also apply the means necessary for avoiding sin and fleeing proximate occasions, etc. Purpose must be efficacious also as regards venials which are matter of Confession. - But if the penitent immediately and with almost no resistance falls back, it can sometimes offer some indication, or at least suspicion, that he lacked a truly firm purpose; for one who firmly purposes almost does not so easily forget his purpose, but usually perseveres constant at least for some time and applies efforts to resist temptations or occasions of sin, and therefore ordinarily falls with greater difficulty and more rarely. L. 459; Lugo, d. 14, n. 160. Nevertheless the foresight and fear of relapse from past frailty and the inconstancy of the human will in no way impedes a sincere, firm, and efficacious purpose. La-Croix 1733, 1822; Sporer 310; L. 451. - A difficulty occurs practically when a penitent otherwise of good will, but terrified by the difficulty of the matter, says that he cannot promise this or that, lest afterward he break the pledged faith. Let the confessor raise him up by answering that it suffices that now he seriously

wills, that he strive, that he pray; for God does not deny grace to one doing what is in him. It suffices, therefore, that the purpose be efficacious affectively, that is, it suffices that the sinner be prepared in soul to apply the necessary means; future amendment in fact is not of the essence of purpose.

3. Universal, or it must extend to all mortal sins, not only those committed, but also those which could be committed. The reason is that full and true conversion to God cannot be given without aversion from any lethal sin whatever. But it is enough "that, with the foulness of sin, the goodness of God, and the danger of damnation, etc., proposed in general, the penitent conceive a general purpose of never again sinning mortally." Suarez, d. 33, s. 2, n. 2; Cajetan, Summ., v. Confessio, ad 12 qualit.; Lugo, d. 7, nn. 199, 238; Laymann, c. 4, n. 8. - Wherefore neither is a special purpose concerning each grave sin to be avoided required, nor indeed is it always expedient. - But as concerns venials, just as universal sorrow is not necessary, so neither is universal purpose. - L. 451; St. Thomas, 3 p., q. 87, a. 1; cf. here 679.

Resp. To the third: Purpose, at least implicit, is altogether necessary for the remission of sin; because purpose is a necessary consequence of contrition, and at least virtually included in it, and this is established from its nature and definition. - But whether even explicit purpose is required is disputed. According to St. Alphonsus, 450, there is a threefold opinion. The first, which certain few hold, affirms absolutely: because, although sorrow necessarily includes purpose, nevertheless an explicit purpose seems to be required by Trent when it says: "with the purpose of not sinning thereafter."

The second opinion, which Cardenas calls morally certain, absolutely denies it. The reason is that sorrow, if it is elicited from a general motive, includes a plainly efficacious purpose. Otherwise, from Trent, when attrition excludes the will to sin, it sufficiently disposes a man for obtaining grace in the sacrament. Elbel 87; Laymann, c. 4, n. 6; Salmant., c. 5, n. 55; Lugo, d. 14, n. 51, who says this opinion is common among the more recent authors. - The third opinion, which St. Alphonsus testifies is called common, teaches that if the penitent thinks about future life, he must formally purpose amendment; otherwise, if the penitent thinks nothing about the future. But if he thinks about the future, all agree that it can scarcely happen that a sincere penitent does not at the same time elicit an explicit and formal purpose. - But St. Alphonsus there interposes his judgment about these things thus: "These last two opinions are indeed more probable; but because the first is not lacking its probability, in practice before the fact the safer opinion is to be followed."

But since, as St. Alphonsus testifies in the cited place, most even of those who are alleged for the first opinion agree "that if in good faith with true sorrow you confessed without formal purpose, you are not bound to repeat the Confession," it is evident that in this conclusion, which alone serves practice, all opinions and finally the suffrage of all doctors agree. But although the holy Doctor says that he "cannot acquiesce in this opinion," nevertheless this is most openly opposed to the doctrine which he himself hands down elsewhere, 505: "Carefully note that penitents are not to be compelled to repeat Confessions unless it is morally certain that they were invalid, as La-Croix, Gobat, etc., rightly say with the common opinion." - To this is added the authority of the Roman Council under Benedict XIII, celebrated in the Lateran Basilica in the year of the universal Jubilee, 1725. Tit. XXXII, c. 3, reads: "Instructions pertaining to the use and worship of the Sacraments of Penance and Eucharist, to be first received by children, brief and clear at the same time, we shall give at the end of this our

Council." Moreover, in the Instruction for children about to approach the Sacrament of Penance, which is seen appended at the foot of the same Council, these things are had, part III, p. 303: "Penitent. Does one who confesses without sorrow for sins and without purpose of sinning no more receive pardon? - Confessor. If he does not have at least imperfect sorrow, that is, attrition, with the firm purpose, at least implicit, of never sinning again, certainly, if he confesses, the Confession is not valid, and he does not receive pardon of sins." In these words, both imperfect sorrow or attrition and implicit purpose are manifestly equated together as sufficient. Hence D'Annibale, ed. 3, p. 3, n. 313, asserts that this opinion can today be called certain. And St. Thomas, according to Bellarmine himself, who stands for the third opinion, does not distinguish between implicit and explicit; and entirely rightly, for the efficacy of tacit and express is the same.

The necessity of that explicit purpose, however, is either from some positive precept independently of the nature of justification outside the sacrament and in the sacrament, or dependently upon it. The first cannot be said, for 1. penance, if it is commanded, is commanded only because of justification; 2. St. Alphonsus himself admits that the matter is controversial and doubtful, and that explicit purpose is more probably not required; but a doubtful law does not oblige. Nor indeed can the second be said. For either that explicit purpose is demanded by justification outside the sacrament, or by justification in the sacrament. The first cannot be; for a formal act of charity immediately justifies, without that explicit purpose; therefore contrition perfected by charity also does. The other likewise cannot be; for no greater disposition is required for justification in the sacrament than outside the sacrament. - But it is one thing for Trent, in declaring the nature of contrition, explicitly to commemorate the purpose included in it; it is another thing to commemorate an explicit purpose. It does the former, not the latter. Nor does the latter follow from the former; otherwise other explicit acts also would be required, which Trent explicitly commemorates: of hope, confidence, desire of Confession, desire of satisfaction, etc. Nor indeed does Trent uselessly commemorate explicitly the purpose of not sinning thereafter. For it did this to explain the force and connatural effect of contrition, since otherwise sorrow and contrition can be given which do not contain a universal purpose. Then Trent immediately adds that this contrition was necessary at every time for justification. Contrition justifying at every time does not necessarily comprehend explicit purpose, as is also clear from the example of David, the prodigal son, etc. Cf. also Trent, sess. 6, C. 14. And since, from Trent, even attrition suffices for justification in the sacrament if it excludes the will to sin, contrition certainly suffices if it excludes the same will, without anything else being required. - E. M.

IV. On Confession

695. What is Confession? - Confession is the accusation of sins committed after baptism, made to an approved priest, in order to absolution. Trent, sess. 14, C. 1, 5; L. 445.

696. Is Confession necessary? and when does it oblige? - Confession is necessary by divine law for all who, after baptism, have fallen into mortal sin. Trent, sess. 14, C. 5, cc. 6, 7. - This precept certainly obliges of itself in danger, and all the more at the point of death, and at some time in life. The first reason is that all positive precepts oblige at least in a time of necessity; otherwise they would never oblige and would be imposed in vain. The second reason is that affirmative precepts do not oblige only in extreme necessity, but also when their fulfillment is reasonably judged necessary. It often obliges by accident, namely: 1. When the Eucharist is to be received. 2. When the precept of

reconciling oneself with God urges, or the state of grace is required, e.g., for administering sacraments, or for receiving those which are called sacraments of the living, and an act of perfect contrition cannot be elicited.

3. When a grave temptation urges which otherwise cannot be overcome. But "scarcely can an occasion be thought of in which temptation cannot be overcome, or sin avoided, except through the means of Confession." Suarez, d. 35, s. 3, n. 10. Therefore a scruple about this obligation is not to be injected into the faithful. 4. If it is probable that one will never afterward have an opportunity of a confessor. L. 665. - E. M.

697. Does the divine precept of Confession oblige immediately when sin has been committed, or at what time does it urge? - It does not oblige immediately after sin. The reason is that such an obligation rests on no certain foundation. - It cannot easily be determined how often in life and at what precise time the divine precept urges. Whatever may be the case, there is no doubt that one satisfies it who confesses even only once in a year, because it is not established that the divine precept urges more frequently. According to many, Christ left the time of the obligation to be determined by the Church. Moreover the Church has prescribed that Confession be made once in the year. Lateran Council under Innocent III, C. *Omnes utriusque sexus*; Trent, sess. 14, c. 8; St. Thomas, Quodl. 1, a. 11.

698. Must Confession be vocal, or must it be made by the voice itself? - Resp. In the affirmative. Florence, Decr. pro Armen. "Holzmann and Sporer adduce the reason that, although Confession is prescribed by no law to be made vocally, nevertheless, since the manner of confessing thus has been received by the common use of the Church, hence it now obtains the force of a precept; and therefore without grave cause Confession made otherwise would be illicit." L. 429. - But a grave cause would be "if someone because of constriction of the throat, an impediment of the tongue, or if a girl exceedingly modest, should feel a very grave difficulty in explaining her sins by her voice." L. ibid.

Speaking of this last case Busemb., 493, says: "After the writing has been read by the confessor, let her add by voice: of these I accuse myself." And thus there will be no difficulty. St. Alphonsus, 493, besides says: "Tamburini thinks the same about a scrupulous person who thinks he explains himself better in writing." - Besides, Confession through writing to a present confessor is valid. Confession made by letters to an absent confessor is invalid, even if afterward absolution is given by the confessor when present. Decree of Clement VIII, June 20, 1602; Paul V, July 14, 1605; L. 428. - But one who cannot confess by voice, because he is, e.g., mute, is indeed bound to confess at least by gesture, according to the common opinion, L. 493; but he is not bound to confess by writing, both because of the danger of revelation, and because writing is an extraordinary means which in fact has never been held in the Church as prescribed, and because writing of itself is public while Confession of itself is secret.

Diana, t. 1, t. 3, r. 72, n. 2; Ithur., Cas. 38, nn. 6-10. Nevertheless the opposite seems more probable to St. Alphonsus, 479. But St. Thomas has these things, 4 d. 17, q. 3, a. 4, q. 3, ad 2: "It must be said that in one who does not have the use of the tongue, such as a mute, or one who is of another language, it suffices that he confess by writing, or gesture, or interpreter, because more is not demanded from man than he can do... and therefore, when we cannot confess in one way, we must confess according as we can." Cf. also Quodl. 1, a. 10. - E. M.

699. Resolutions: Mutes and the deaf are bound to confess in some way, at least by signs, unless they are so ignorant and dull that nothing can be drawn out from them. The reason is that the precept of Confession regards all the faithful who can manifest their sins in some way by reason. Hence mutes sufficiently instructed are bound to confess integrally, at least by signs, if these are understood by the confessor; but if they are less instructed, or can be understood by the confessor only with difficulty, it will suffice for them to manifest only one or another sin, or to confess only in general and to give signs of sorrow. But the deaf, having the use of the tongue, are bound on their part to confess the sins which occur to memory; but the confessor is not bound to question them in order to procure the integrity of Confession, because of the excessive difficulty of questioning and the danger of revelation. - Mutes who know how to write are not bound to confess in writing in order to procure the integrity of Confession. For the matter is at least disputed among the doctors, and therefore the law is doubtful.

Those ignorant of the language of the place in which they are staying, and lacking a confessor by whom they can be understood, are bound, when the precept of annual Confession urges and at the point of death, to confess in some way, at least by general signs. The reason is that the divine and ecclesiastical precept urges. For although they cannot confess integrally, they are nevertheless bound to what they can do. Nor indeed are they bound to confess through an interpreter; for this is a very grave burden and exposed to many dangers, e.g., revelation, mockery, etc. And the Lateran Council, C. *Omnis utriusque sexus*, de Poenit., says: "Let him alone confess his own sins." Likewise Trent, sess. 14, C. 5: "As to the manner of confessing secretly before the priest alone," etc. Ithur., Cas. 38, n. 11 ff.; L. 179. - E. M.

V. On the Integrity of Confession

700. Must Confession be integral; what is this kind of integrity; what is its force? - Resp. Confession must be integral. The reason is that no judgment can be exercised when the cause is unknown; because the confessor must impose salutary penances and prescribe efficacious remedies; because the whole infirmity must be known in order that it may be healed. Trent, sess. 14, C. 5, c. 7; St. Thomas, Suppl., q. 9, a. 2. - Integrity is one thing material, another formal. Material integrity is situated in the accusation of all mortal sins which were simply committed, or which after diligent examination of oneself occur to the mind. Formal integrity consists in the accusation of all sins which, after diligent examination of oneself, occur to the mind, and which one here and now, with the circumstances considered, morally can or is bound to confess. Material integrity is not always necessary; for sometimes it is morally impossible because of inculpable forgetfulness; and although sins occur to the mind, from other just causes Confession becomes morally impossible. Wherefore only formal integrity is necessary. Trent, sess. 14, C. 5. - By reason of integrity, the lowest species of sins and their exact number are to be accused under grave obligation, so that it is lawful neither to increase nor to diminish sins. If someone cannot confess the lowest species of sins, he must confess them according to the higher species or genus which he can. Likewise, if someone cannot confess the precisely determined number, he must confess the number which comes nearer to the truth, using, e.g., the particle "about," or, if he cannot even do this, he must say how often approximately in a year, in a month, in a week, in a day, whether frequently, whether rarely, etc. "Sporer rightly notes that the confessor should not be too anxious about seeking the number of sins in a habitual penitent, because it is often impossible to have such a certain number." L. 466; Ithur., Cas. 38, n. 3. - But the particle

"about" is generally understood by theologians in this way: about three is 2-4; about ten is 8-12; about thirty is 27-33; about one hundred is 95-105; about one thousand is 950-1050. L. 466; Lugo, d. 16, nn. 78, 81, 94 ff., 644. - E. M.

701. Resolutions: If someone in Confession has omitted a circumstance necessary to be explained, he must afterward confess it. Wherefore he must again confess the substance of the sin if he cannot otherwise explain it, e.g., if he sinned with a married woman; by no means, however, if he can explain it without that, e.g., if he sinned with a person consecrated to God. "Long-lasting hatred, just as also carnal concupiscence toward a woman, must necessarily be expressed in Confession... because of the number of sins which are repeated in that long delay." L. 467. One who has declared the number of sins around about as much as he can, afterward finding a notable excess, must declare it, because a greater number is not contained in a lesser; but if, on the contrary, he afterward finds a number notably lesser, he is bound to nothing, for the true number was comprehended in the greater. - One who has confessed the number of sins confusedly, as the uneducated, children, and habitual sinners for the most part do, if afterward the sins distinctly come into memory, or only some in particular, must not confess them again; for he already explained all sufficiently in that confused way in which he then could. And therefore he is much less bound afterward either to confess again with greater diligence applied, or with the help of a more learned confessor, in order to explain those sins more distinctly; which would also be exposed to innumerable scruples and anxieties. - For the integrity of Confession, diligent examination is prerequired, Trent, sess. 14, C. 5, according to the capacity of the penitent, the delay of time, and the other circumstances. But for this a moderate diligence suffices, such as a prudent man applies in difficult affairs, such as, morally speaking, learned and fearful persons are accustomed to apply, even if someone thinks he would find more things with greater diligence. Bonacina, t. 1, d. 5, q. 5; Laymann, l. 5, tr. 6, c. 8. But by reason of inadvertence it rarely happens that Confession is sacrilegious because of defect of previous examination. This examination can prudently be supplied by the confessor through discreet questions, and with no greater diligence than the penitent himself is bound to have, according to his condition, especially as regards the uneducated and others concerning whom there is reason to fear that, once dismissed, they will not return again. But it is not necessary to write down sins lest they fall from memory; nor is this to be counseled, because of the danger of publication. - L. 471, 504; Lugo, d. 16, n. 573 ff.; E. M.

702. Must the external act of sin necessarily be accused? - Resp. In the affirmative, because it is one and the same thing with the internal act in the moral genus, and these two constitute one total act. Besides, the external act is directly prohibited by divine law, e.g., You shall not commit homicide. Moreover, without the declaration of the external act, the confessor for the most part could not perform his office as is fitting, concerning admonitions to be offered, etc. This is also established from the universal custom of the faithful, which explains the law in this sense, and from proposition 25 condemned by Alexander VII. - E. M.

703. Must the effect of sin necessarily be expressed in Confession? - Some affirm it, because it is evil or a sin at least in its cause; others deny it, because it is evil or a sin only denominatively.

St. Alphonsus affirms it, l. 5, n. 10. "A voluntary omission in its cause," says the holy Doctor, "is also imputed as sin, even if afterward the will cannot operate; for example, if someone makes himself drunk, foreseeing that by reason of the drunkenness he will omit Mass, then he is bound to confess the cause and its effect, namely drunkenness and the omission of the sacred rite, as Salm., etc., with

others commonly, better say against Vazquez, etc., provided the will is not retracted before the effect follows, as Sanchez, etc., probably teach; for then it is probable that he is not bound to confess the effect which followed. From this it is also deduced that if the effect happens after retraction, a censure imposed against sinners is not incurred, because this requires contumacy in the act of sin." Cf. also l. 4, n. 149, and l. 7, n. 40.

But Lugo denies it, who has these things: "It must be supposed in a sin, e.g., by which you killed another with poison, that there intervenes first the internal act of the will by which you wished to give him poison; then the external action by which you prepared and gave the poison; then the effect which followed, namely his death.... The first and sufficiently common opinion affirms that the external effect must be explained.... The contrary opinion is broadly defended by Fr. Vazquez, etc. This opinion has always seemed truer to me.... The more common reason... is that the external act, which is denominated free from the actual freedom of the internal act, is truly and properly a sin; but the effect afterward following, e.g., in sleep, is not properly a sin..., but the effect of sin. But in Confession all and only sins must be explained; therefore the external act must be explained when it is a free act, but not the effect afterward following..., because there cannot be actual sin in one who does not actually sin, nor can he actually sin who does not actually act. But the one who sleeps, while his enemy dies from the poison, then does nothing; therefore he does not then sin." De Poen., d. 16, nn. 437, 439, 440, 449. - But this opinion must be limited, unless the penitent has incurred a censure or reserved case because of the effect which followed. Lugo himself has this limitation; indeed he adds: "It can also happen that a censure is incurred by one who has already been justified from the past sin through contrition, or through attrition with the sacrament," n. 453. Cf. also n. 460 and Laymann, l. 1, t. 2, c. 2, n. 5. But, as Ithur., Cas. 40, n. 31 ff.; Cas. 50, n. 26 f., excellently observes, there is no reservation where there is no subject of reservation, or sin, since it has already been absolved. For of no being there are no properties. What is not, is not such. But where only retraction of the will preceded, the cause having been retracted through the will, the effect is no longer culpable in itself. But reservation or censure cannot be incurred when one does not sin through the act.

The same opinion must besides be limited unless the confessor, performing not only the office of judge but also of teacher and physician, prudently questions the penitent about the effect which followed. Instr. pro parv., etc., p. 4, at the end of the Roman Council, published by command of Benedict XIV.

704. Does it harm the integrity of Confession if someone accuses venials to his ordinary confessor, but mortals to another? - Resp. In the negative, speaking of itself, provided he never receives absolution unless he has first manifested all mortals to one confessor and is absolved by the same. The reason is that grave sins are necessary matter of Confession, and that Confession is integral which embraces all mortals, since venials are not necessarily to be accused. - But in practice attention must be given to the circumstances of penitents and to the motives by which they are led. For those are not to be condemned who sometimes confess graver sins to an unknown confessor, but subject lighter ones to the ordinary, if from shame, by which they would be overwhelmed with a confessor familiarly known, they would commit themselves to the danger of confessing sacrilegiously. Wherefore the confessor would inquire about this matter only from imprudent curiosity; "unless nevertheless on that occasion the penitent remains in a moral occasion of sinning, or goes around for this reason, that he may sin more freely; for then he will sin gravely, and because of defect of attrition

the Confession will be null." Hence, although neither occasion nor habit is of itself necessarily to be accused, the confessor nevertheless has a right to inquire both about proximate occasion and about habit, both if there is a prudent suspicion that he is deceived by the penitent concerning his dispositions, and if from this there is a special sin, and so that he may impose a salutary and suitable satisfaction. - Prop. 58 condemned by Innocent XI; Lugo, d. 14, nn. 172, 173; d. 16, n. 57; Suarez, d. 22, s. 3, n. 10; L. 471. Cf. here 707.

705. Does it harm integrity if someone disguises another voice, lest he be recognized by the confessor? - Resp. In the negative, of itself. Provided he opens all mortals, he performs an integral Confession. Nor is it necessary that he be known by name by the confessor; for it suffices that the confessor intend to absolve the present sinner. But the intention of the confessor of itself is always determined to the penitent. La-Croix, l. 6, p. 1, n. 68.

706. Must circumstances of mortal sins which notably aggravate them necessarily be confessed? - "There are three opinions, all very probable. - The first opinion affirms it. It is proved, 1. from the Roman Ritual, de Sacram. poenit., from the Roman Catechism, p. 2, c. 5, n. 47.

It is proved, 2. by reason, because the same reason which persuades that circumstances changing the species are to be confessed also urges for circumstances notably aggravating, since both notably change the judgment of the confessor. - The second opinion says that the circumstance *what* must necessarily be confessed, namely that which touches the substantial integrity of the sin in the individual, as is the quantity of theft. The reason is that otherwise the confessor will not be able to form a due judgment about the substance of the sin. - The third opinion, more probable to me, denies that there is an obligation of confessing aggravating circumstances. It is proved, 1. from St. Thomas, 4 d. 16, q. 3, a. 2, q. 5, who by his authority has indeed given great weight to this opinion. It is proved, 2. by reasons. The first reason: because from the words of Trent, sess. 14, C. 5, the Council seems not obscurely to exclude the obligation of confessing circumstances other than those changing the species, because it sufficiently suggests that these suffice for this: that the confessor form a right judgment about the gravity of crimes and about the punishment to be imposed. The second reason: because otherwise penitents would always fluctuate amid anxieties, since they could always doubt about the integrity of their Confessions in determining which circumstances are or are not notably aggravating. St. Thomas, l. c., q. 5, ad 2. Hence Lugo assigns a reason *a priori* for this opinion, saying that Christ prescribed nothing other than Confession of sins; but one who explains the circumstances changing the species of sin already truly confesses and explains the essence of the sin, since the quiddity or essence of sin is taken from its specific nature. The third reason: because if we were bound to manifest circumstances notably aggravating, we would also be bound to confess those notably diminishing, namely if someone sinned from anger, fear, more intense passion, from the inducement of others, and similar things, which obligation even the adversaries deny. The last and stronger reason: because no one is bound to observe a doubtful law; hence since the law of confessing aggravating circumstances is very doubtful, we are not bound to it. And therefore, Lugo rightly says, Trent did not explain this obligation of confessing them because the Council could not sufficiently gather it from the words of Christ and the institution of the sacrament." L. 468. - Except: "if the circumstance brings in a censure or reservation, or if the penitent is prudently questioned by the confessor for his necessary direction." L. 467. - Instr. pro parvul., etc., p. 4, at the end of the Roman Council, published by command of Benedict XIII; Lugo, d. 16, s. 3.

707. Does the circumstance of habit of sin change the species; and must it be manifested in Confession? - Resp. To the first: "It must be said that duration is not a circumstance drawing into another species; similarly neither frequency nor assiduity, unless perhaps by accident from something supervening. For something does not acquire a new species from the fact that it is multiplied or prolonged, unless perhaps in the prolonged or multiplied act something supervenes which varies the species, such as disobedience, or contempt, or something of this kind." St. Thomas, 1. 2, q. 88, a. 5, ad 1.

Resp. To the second: "It is necessary to distinguish a twofold habit: one which induces to perpetrating similar sins with one's freedom and advertence; the other which induces to perpetrating sins without freedom and advertence, and therefore in such a way that they are not a new sin, but the sin (in its cause) consists in this, that the habit was freely acquired, or in this, that due effort is not applied to obliterate it; as happens when someone from habit blasphemes or perjures himself without adverting here and now to the malice of blasphemy or perjury. This latter habit, freely induced or not uprooted, must be confessed as a special sin; for we are gravely obliged to lack it. For although one who perjures himself or blasphemes without advertence does not sin here and now, nevertheless he sins if he does not strive to uproot the habit of perjuring or blaspheming thus. But the former habit is then also to be subjected to the keys when someone adverts that through it he is placed in proximate danger of perpetrating new faults; for since exposing oneself to proximate danger of sinning is a sin, one who adverts that through the habit of sinning he is in that danger commits this special sin: that he subjects himself to this danger, or that he does not strive to turn himself away from it. But because men rarely advert to this, for this reason they rarely accuse themselves of this habit, and therefore rarely is there an obligation of manifesting it before the confessor questions about it. "It is indeed true that one who exposes himself to danger of sinning and immediately sins sufficiently explains both sins by confessing the sin committed, with which that other sin, by which he exposed himself to the danger of sinning, morally makes one. But when a notable delay intervenes between one sin and the other, sufficient for a moral interruption, or when someone only exposes himself to the proximate danger of committing some sin, yet does not commit it, then that by which one exposed himself to proximate danger of sinning must be explained separately; for in that very thing there is sin, according to that of Ecclesiasticus 3: 'He who loves danger will perish in it.'" Viva, on prop. 60 condemned by Innocent XI, last part. - Lugo, de Poenit., d. 16, n. 200 ff.; cf. here 704; E. M.

708. Must the penitent declare the diverse persons with whom he sinned? - Resp. In the negative, of itself. The reason is that it suffices that the number of sins and their species be declared; but sins do not change species for this reason, that they were committed with several persons. - Hence one who fornicated with three different persons, or three times with the same person, satisfies by saying that he fornicated three times; nor is he bound spontaneously to say whether the accomplice was one or several, whether they were prostitutes or others. Nevertheless, if the confessor asks about this, the penitent is bound to respond, because it is expedient that the confessor know whether perhaps there is a proximate occasion of sinning, as is likely if the sin was committed several times with the same person. But different satisfaction and different remedies will have to be prescribed by the confessor according to the multiplicity and diversity of the persons with whom one has sinned. - La-Croix 1040; Bonacina, de Integr., diss. 3, n. 14; Tamburini, in decal., l. 7, c. 7; Elbel, de Act. hum., 103.

709. Is one bound by a vow of chastity who sins with another similarly bound required to declare both circumstances? - Resp. In the affirmative. The reason is that there are two plainly distinct sins there, namely a sin against one's own vow, and a sin of cooperation with another toward violating that person's vow. - The very same must be said of a married man having relations with another's wife. "Different in species is the obligation by which he himself must not violate his own marriage, and that by which he must not bring it about that the other violate his own." Lugo, d. 16, n. 258. - La-Croix 1063; Salmant., c. 6, n. 63; L., l. 1, n. 46.

710. Must a priest or religious sinning against chastity disclose his condition, or only the circumstance of the vow of chastity? - It probably suffices that each manifest the circumstance of the vow, because the species of obligation does not seem to be changed by the special condition either of priest or of religious. For the vow of each is solemn. Therefore the sin of each pertains to the same species of personal sacrilege. The controversy can only be about a simple vow, concerning which cf. vol. 1, n. 500. - Lugo, d. 16, s. 4, § 2.

711. Must one who has committed incest explain the quality, namely: 1. with one related by blood, or with one related by affinity; 2. the degree of consanguinity or affinity; 3. the line in spiritual relationship; 4. the line and degree in legal relationship? - Resp. To the first: Lessius, l. 4, c. 3, n. 79, and others affirm. Lugo, d. 16, nn. 313-316, and others deny. This opinion is judged more probable by St. Alphonsus, 469, and is proved by authority and reason from St. Thomas, 2. 2, q. 154, a. 9, ad 2. "A person related by affinity," he says, "is joined to someone on account of a person joined by blood; and therefore, because one is on account of the other, consanguinity and affinity make an unbecomingness of the same nature."

Resp. To the second: Suarez, d. 22, s. 3, n. 12, Diana, t. 1, tr. 7, r. 107, and others, from St. Thomas, 2. 2, q. 154, a. 9, and Cajetan there, think that all incests are of the same nature, and that as concerns degree, from this there is had only an aggravating circumstance because of the same virtue of piety and the reverence due to relatives, which is harmed; but greater or lesser connection does not change the species. Ballerinius apud Gur., 486, seems to approve this opinion. - Navarrus, Man., c. 7, n. 4, and others hold that the species of incest is changed from the various degree of connection, because between degree and degree there is special reverence. St. Alphonsus, 470, says this opinion is less probable. - Salmant., de 6 Dec. praec., c. 5, nn. 28, 36, and others, relying also on the authority of the Angelic Doctor, hold that incest differs in species only in the first degree, both of the direct line and of the transverse line, because the reverence due to relatives in that first degree is of a different nature. St. Alphonsus in the cited place says this opinion seems equally probable as the following. - Tamburini, Meth. Confess., l. 2, c. 5, § 2, n. 6, and others judge that all incests among blood relatives, except only the first degree in the direct line, are of the same species. The reason is that only in the said first degree is there present a special nature of connection and of reverence due. "And for this opinion," says St. Alphonsus in the cited place, "St. Thomas, 2. 2, q. 154, a. 9, seems undoubtedly to stand," and he says that it seems altogether to be held, and he adds: "indeed Lugo, d. 16, n. 314, etc., rightly teach that one must explain whether a father sinned with a daughter, or a son with his mother, whose fault has a diverse malice by reason of the special reverence due to the mother." Indeed the first degree of the direct line invalidates marriage by natural law. - But Tamburini, ibid., c. 7, n. 48, states that any incest, whether on account of consanguinity or on account of affinity, whatever the degree may be, does not differ in species. And by reason of parity he affirms that the

same is to be said not improbably also about other injuries inflicted as regards parents, brothers, and wife, concerning which he had treated properly, c. 5, § 2, n. 6.

The Angelic Doctor, l. c., ad 3, says: "In the mingling of related persons, there is something which is unbecoming in itself and repugnant to natural reason, such as when mingling is made between parents and children, whose kinship is of itself and immediate.... But other persons, who are not joined according to themselves, but through order to parents, do not have unbecomingness in this way from themselves, but fittingness or unfittingness varies about this according to custom and human or divine law, because the use of venereal things, which is ordered to the common good, is subject to law." But it must be noted that by reason of superiority and the obligation arising from it, the sin is truly different if a father seduces a daughter, stepdaughter, or daughter-in-law, from that which a son commits when seducing his mother, stepmother, or mother-in-law.

Resp. To the third: The line in spiritual relationship does not change the species, whether one sins with her whom he held in baptism, or with her mother. L., l. 3, n. 450.

Resp. To the fourth: As for consanguinity and affinity, so consequently and much more for legal relationship the matter is disputed. - Cf. vol. 1, n. 798.

712. Must the nearness of persons be declared in sins of hatred or injury? - Resp. To the first: As to hatred, in the affirmative, if it is a question of nearer relationship on account of the strict bond of the virtue of piety. Hence grave hatred toward parents, children, grandparents, grandchildren, a spouse, brothers, sisters, and relatives by affinity in the first degree must be declared. - But in the negative, more probably, if it is a question of more remote relationship, namely among other blood relatives or relatives by affinity. For when the connection is more remote, there is had only an aggravating circumstance, and not also one changing the species and necessarily to be expressed in Confession. - Lugo, d. 16, n. 303 ff.

Resp. To the second: Lugo has these things, de Poenit., d. 16, n. 299 ff.: "I think that one universal rule cannot be given on this point; for sometimes the circumstance of the related person against whom one sins will have to be explained; sometimes it will not. This indeed depends on the quality of the offense and on the degree of connection. Hence if parents are struck by a child, if they are killed, if they are affected with insults, if they are defamed, those sins without doubt have a special circumstance against piety, love, and reverence due to parents, which are gravely harmed by sins of this kind. From this, however, it does not follow that every grave injury which is against a father has that other specific malice against piety and must be explained in Confession. For if a son steals from his father that which suffices for a mortal sin of theft against justice, he does not always sin gravely against piety or is bound to explain that circumstance... because... it is not... gravely opposed to that which piety and reverence toward a father demands."

713. Must the circumstance of dignity and office of the person necessarily be accused, e.g., if the sinner is a superior, magistrate, priest, etc.; if he is a confessor? - Resp. To the first: In the negative, more probably, of itself, i.e., the reason of scandal or office or particular obligation being excluded. The reason is that the circumstance of the dignity of the person sinning does not of itself change the species of sin, but at most aggravates the sin. - But the crime of injured majesty is equated with parricide, e.g., if someone kills the Pope, Emperor, King, or Prince, on account of the same virtue of observance and piety to which it is opposed. - Lugo, d. 16, nn. 309-311.

Resp. To the second: Resp. In the negative, more probably, provided it has no relation to Confession. The reason is that the confessor from his office is bound only to right direction in the tribunal of penance; from this direction no spiritual relationship arises. Moreover no injury is done to the sacrament through this sin, since it has no respect to Confession. Nevertheless it is easily evident that both a penitent of this kind must be entirely deterred from confessing further to that priest, and a confessor of this kind from admitting that penitent further to Confession. - Lugo, d. 16, n. 351 ff.; L., l. 3, n. 451.

Therefore a distinction must be made between the excellence and dignity of the person and his office. The circumstance of excellence and dignity of the person is of itself only aggravating, because from this no special virtue is gravely harmed. But the circumstance of office changes the species if the office induces a peculiar obligation of procuring the spiritual good of another. "For a Bishop, e.g., or a parish priest, from his own office, is pastor and physician of his subjects, and therefore is specially bound to impede their sins and to procure their salvation. Therefore they sin against the duty of their office if they positively attempt to stain those souls for whom they ought specially to watch. This sin not only pertains to the species of scandal, but is also specially against the duty of satisfying the proper office of Bishop or pastor, etc.... On the contrary, this malice is not found in any confessor whatever. For although in the very act of Confession he is pastor and physician, and has a peculiar obligation of governing and caring for the penitent, afterward, however, one who from office does not have that duty does not retain some peculiar obligation by this alone, that he once heard that person's Confession.... This could more easily be conceded in one who, although he is not parish priest or prelate, has nevertheless been specially chosen and assumed by the penitent himself as spiritual father by whom he is governed, which duty he has habitually accepted and retains, and therefore from the habitual duty itself seems to be obliged at least to moderate diligence concerning the salvation of his client, and much more to not positively bring upon him so grave a danger of eternal damnation." Lugo, de Poenit., d. 16, nn. 356-358, 179-181; L., l. 1, n. 451; Elbel, de Act. hum., n. 97.

714. Must the circumstance of sacred time necessarily be accused? - Resp. In the negative. This is evident from the universal practice both of confessors and of penitents; since it is established that neither are the former solicitous about questioning concerning such a circumstance, nor are the latter accustomed to declare it.

Therefore the circumstance of sacred time does not seem to have to be explained, unless certain things are specially prohibited on account of reverence for the time, e.g., lest someone on Good Friday exhibit public games, comedies, or theatrical spectacles. - Lugo, d. 16, n. 520; L., l. 3, n. 273.

715. Does one satisfy the integrity of Confession who accuses a recent sin as if committed formerly? - "Resp. 1. In the affirmative, of itself, because the circumstance of time by no means pertains to Confession. Hence a penitent satisfies the obligation of Confession who mixes new sins with old ones, or who, making a general Confession, does not distinguish from the others mortal sins committed since the last Confession, even if he does this intentionally to cover the time at which he committed the sins. - 2. But if the penitent lies about the time, e.g., if he denies that he sinned today and declares the sin as if committed at another determined and remote time, the doctors more commonly think that he does not satisfy his obligation. The reason is that the act which the penitent placed today is not an act placed in the preceding year. Hence he lies in two ways, namely by

concealing the sin committed today and by accusing a sin committed at another time. Thus Tamburini, l. c. - Nevertheless there are not lacking theologians who think this lie light." Thus Fr. Gury, 488. - The reason which is adduced for the second case does not exceed mere probability. And indeed it seems to prove too much; for then a lie about any accidental circumstance whatever would render Confession void. Moreover Gury himself in the first case says: "The circumstance of time by no means pertains to Confession." And rightly indeed: for the intrinsic substance of sin, which pertains to Confession, is one thing; the extrinsic accident of sin, which of itself is irrelevant to Confession, is another. Hence the aforesaid reason, insofar as it is urged for denying the sufficiency of that Confession, Lugo himself, d. 16, n. 53, calls merely probable. - Baller., ibid.; D'Annibale, ed. 3, p. 3, n. 309; Lugo, d. 16, s. 2, § 1.

Busembaum apud St. Alphonsus, 425, also affirms it as probable, "unless some circumstance, e.g., changing the species, or reservation of the case, or proximate occasion of sinning, requires otherwise, and sufficient penance is imposed." And St. Alphonsus himself implicitly affirms the same, H. A., tr. 16, n. 4.

716. Is it always a mortal sin to lie in Confession? - Of itself one sins mortally only when the lie concerns necessary matter of Confession concealed without a just cause, or grave matter falsely supposed, namely by accusing a grave sin not committed. Therefore a lie about matters not pertaining to Confession or to the conscience of the penitent is not of itself mortal, because it is neither gravely harmful to the penitent, as is supposed, nor gravely injurious to the sacrament, since it is not referred to it. "Hence the denial of a venial sin committed, or of a mortal sin already confessed, does not exceed the malice of a simple lie," L. 496, and therefore of itself is neither mortal nor invalidates the sacrament.

Of itself: for "it is sacrilege and the absolution is null... if you deny or lie about sins otherwise duly absolved, when the confessor, as judge or physician, asks something about them as necessary for the present Confession, Lugo, d. 14, s. 10; Tamb., l. 2, c. 10, § 2; otherwise, if it does not concern the present Confession." - "If someone affirms a mortal sin which he did not do, or denies having done what he did, he commits a twofold mortal sin: one of sacrilege against the virtue of religion because of the reverence due to the sacrament, the other of a lie gravely pernicious to himself against the virtue of truthfulness." L. 495-497; H. A. 28; Lugo, d. 16, s. 2, § 6.

717. Is the penitent bound to unfold the whole Confession again if he notices that the confessor, because of sleep or distraction, did not perceive some sins and he does not know which ones; or did not judge rightly about them? - Resp. To the first: In the affirmative, if the Confession was brief, because he can prudently doubt about each one whether it was understood by the confessor or not. But otherwise if the Confession was lengthy and only a few things seem not to have been perceived; because then he can presume that each thing was understood, nor does it appear likely that Christ imposed the precept of integrity with so great a burden. If, however, the doubt concerned only one or another sin, that would have to be repeated. But the Confession will be invalid if the confessor understood no sin, whether because of sleep, or because of deafness or distraction.

Resp. To the second: "Salmanticenses, etc., teach that a Confession made in good faith to a confessor who does not know how to discern species and number, nor between mortal and venial, even in obvious cases, is not to be repeated. The reason is that... absolution is valid when on both sides the things required for the validity of the sacrament already concur. For thus one must judge that Christ

the Lord instituted this sacrament, since such defects happen everywhere. Nevertheless I say this must be understood unless it is established that the number or species were not explained; otherwise the integrity of Confession must certainly be supplied." L. 500. In good faith, because if in bad faith, when the penitent knows that the confessor is of insufficient knowledge, or when he clearly sees that the confessor does not perceive the gravity of his sin, the Confession is to be repeated. For a sin which the confessor did not hear, or did not understand, and consequently about which he did not pronounce sacramental judgment, cannot be remitted by the power of the keys. - L. 198-499.

718. Are there sometimes causes excusing from the integrity of Confession? - Resp. In the affirmative, because sometimes that integrity is physically or morally impossible.

In order that someone be judged excused from the integrity of Confession by reason of moral impotence, although sins occur to the mind, these conditions are to be observed: 1. That only those sins be omitted which cannot be declared, or from whose manifestation there would follow a most grave extrinsic inconvenience, whether spiritual or temporal, either to the penitent, or to the confessor, or to some third person. 2. That another confessor cannot be found to whom an integral Confession may be made without such inconvenience. 3. That Confession is here and now necessary. From the common opinion of the doctors, this necessity is judged to be present if the precept of annual Confession or Communion must be fulfilled; if the reception of the Eucharist or the celebration of Mass cannot be omitted without disgrace or scandal; if otherwise someone must long lack the benefit of the sacraments; indeed, as Suarez adds, de Poenit., d. 23, s. 2, n. 7, if someone otherwise would be deprived of the great utility which the sacrament of itself brings. Wherefore the penitent's fear suffices lest he remain in the state of mortal sin for one or another day.

But a difficulty intrinsic to Confession never excuses, however grave it may be. The reason is that Confession from its own nature is essentially laborious; and therefore, if a grave difficulty, e.g., great repugnance or shame or the loss of one's own reputation before the confessor, excused from integrity, the faithful would for the most part be excused from accusing mortal sins, and therefore the institution of the sacrament of penance would collapse for the greatest part. Besides, the Church could not reserve atrocious crimes, because it creates no light inconvenience for penitents.

When the cause excusing from material integrity ceases, the divine precept of confessing all omitted mortal sins urges again; for when an impediment occurs, the obligation of Confession does not cease simply, but is only suspended. Therefore, when the excusing cause ceases, the obligation of the law revives integrally; and since the precept of confession is not fixed to a time or to a circumstance, but affects the whole life, therefore sins not yet accused are afterward, if it can be done, necessarily to be accused. This is established besides from proposition 11 condemned by Alexander VII. - L. 487, 490; Lugo, d. 16, s. 13.

719. Resolutions: The following chiefly excuse from the integrity of Confession: 1. Extreme infirmity, i.e., when a dying person can express only one or another sin, or, already deprived of the use of the tongue, shows penance and asks absolution only by some sign. - 2. Defect of speech and hearing; thus mutes and deaf persons who cannot confess integrally by signs are exempted from integrity; likewise foreigners wholly or almost wholly ignorant of the language of the region in which they confess. - 3.

Defect of time, e.g., if soldiers must immediately proceed to battle. But the mere multitude of penitents does not excuse. - 4. Danger to the life of the penitent, confessor, or a third person, e.g., if enemies arrive, if many are in danger of shipwreck or contagion. - 5. Danger to reputation, e.g., if a priest soon about to celebrate, and needing general Confession, could not confess integrally without the bystanders suspecting the matter. - 6. Danger of revelation or violation of the seal, e.g., if a confessor cannot confess integrally without manifesting sins heard in Confession, or if the penitent, from a grave cause, fears that the confessor will break the law of the seal. - 7. Danger of scandal or fall, both on the part of the penitent and on the part of the confessor, e.g., if a woman certainly knew the very great frailty of the confessor. - 8. Another grave extrinsic harm, whether one's own or another's, whether spiritual or temporal, deservedly feared, e.g., in a scrupulous person who is perpetually distressed about forgotten sins. - L. 479, 488-494.

720. Is there an obligation of confessing a mortal sin which cannot be explained without manifestation of the accomplice? - "For explaining a venial sin, or a mortal sin otherwise confessed, it is not lawful to manifest the grave crime of another. But the penitent is bound, when he can conveniently do so, to seek another confessor to whom the person of the accomplice is unknown, so that his reputation may be preserved; nor does the opinion seem sufficiently probable... that this is only of counsel; for commonly they say that this is of precept." L. 489. - Therefore the proposed question regards only the case in which it is a question of necessary matter, and someone cannot conveniently go to another confessor to whom the accomplice is unknown. And for this case there are two opinions: one affirming that he is bound to confess the sin; the other affirming that he is bound to keep it silent until another confessor is found.

The reason of the second opinion, which Ballerinius apud Gury, 499, holds, is that the natural precept of preserving the neighbor's reputation must be preferred to the precept of preserving the integrity of Confession. The reason of the first opinion, which St. Alphonsus follows in the cited place, is "because the precept of confessing integrally must be observed whenever it can be observed licitly; but it can be observed sufficiently licitly in our case, since the manifestation of another's crime is not illicit when it is made from a reasonable cause, as St. Thomas teaches, 2. 2, q. 73, a. 2. Therefore it must be observed. And thus answer is made to the opposite reason of the contrary opinion." L., l. c.; Suarez, d. 34, ss. 1, 2; Lugo, d. 16, s. 7.

721. What are the causes excusing from seeking another confessor to whom the accomplice is unknown? - 1. If danger of death urges, or the precept of annual Confession; 2. if it is grave for the penitent to omit Confession or Communion; 3. if someone would open his conscience to another confessor only with difficulty; 4. if someone otherwise would have to remain in sin even for one day; 5. if someone otherwise would be deprived of the benefit of some extraordinary indulgence; 6. if, by going to the confessor to whom the accomplice is known, better direction and notably greater consolation would be had. - Hence by reason of seeking counsel, of lessening sorrow, etc., mothers and wives are often excused when they manifest to a confessor the sins of sons or husbands, although he knows them. For it would be too hard for those women to be bound to seek another confessor. But generally there is not held to be a grave obligation of going to another confessor for the purpose of hiding the accomplice, unless perhaps it is a question of a very grave crime. L. 490.

722. What is the necessity and utility of general Confession? - General Confession must be judged necessary whenever preceding confessions were morally certainly invalid or sacrilegious, either on

the part of the penitent because of a defect of contrition or integrity, or on the part of a confessor lacking jurisdiction; but in other cases it can never be prescribed.

The reason for each is clear. - It can be advised when, although the invalidity of preceding confessions is not established, nevertheless grave doubt can be had about this. For then it is useful for removing anxieties of soul which harm both peace of conscience and the exercise of virtues. General Confession is to be permitted, or even prudently advised, although not necessary, when, the circumstances considered, the penitent is going to perceive notable spiritual fruit from it, e.g., by reason of humility, devotion, fervor, knowledge of himself, manifestation of conscience for more perfect direction, or greater purity of soul, for obtaining divine helps more efficaciously, etc.; because the confessor from charity ought to promote the greater spiritual good of the penitent when he easily can. - It is to be prohibited in other cases as useless, and even harmful, when other inconveniences besides loss of time are prudently to be feared, namely scruples, anxieties, disturbance of conscience, etc. For if so great a burden for confessor and penitent is not to be undertaken without hope of notable fruit, all the more not with fear of notable harm. - Benedict XIV, Constitution *Apostolica Constitutio*, June 26, 1749, §§ 16, 17; Lugo, d. 16, s. 15.

723. Resolutions: General Confession is easily to be permitted, indeed advised, in the principal epochs of the Christian life, namely before first Communion, before the choice or reception of a particular state of life, e.g., before priesthood, religious profession, or even before marriage; likewise when someone resolves to lead a more perfect life. Besides the Confession made at the time of first Communion, generally speaking, another general Confession of the whole life is easily to be permitted; but another would be conceded only with difficulty when the prior one was made rather accurately, in good faith and with good will, unless perhaps it was made already a long time before. - A partial general Confession is easily to be permitted to devout persons, namely of one year, or from the time of the last general Confession, according to the custom observed among many religious families. - General Confession is not to be permitted even in doubt about the validity of preceding Confessions where notable inconveniences of disturbance of conscience are to be feared from it, because grave and certain inconveniences are not to be undergone because of a doubtful obligation. - Regularly general Confession is not to be permitted to scrupulous or fearful persons, because if one is permitted, when this has been finished they will immediately wish to make another, and after the second, they will seek to undertake even a third by importunate prayers, with the greatest detriment to the soul. For experience establishes that often in these persons general Confession generates many more scruples than it destroys.

724. How is general Confession to be performed? - Supposing that the confessor prudently judges that there is place for making a general Confession, if the penitent is sufficiently instructed and desires himself to declare his sins, it is altogether better to hear him, without questioning, insofar as can be done. If he judges some questions necessary or opportune, let him ask them as often and then when there is need, lest afterward they fall from the mind. Nevertheless, here it must be noted that if the confessor patiently and attentively hears the penitent, both the confessor himself and the penitent will be freed from the burden of many questions; since often penitents, explaining other sins afterward, are accustomed to add circumstances necessary as regards sins previously stated, and which the confessor would have had to ask. - If the penitent either is not sufficiently instructed or desires to be helped by the work of the confessor, he will be able especially to ask these questions: 1.

About past Confessions and Communions, whether and how often they were sacrilegious, so that it may be known whether the present general Confession is necessary or only useful. If it is only useful, then both confessor and penitent can be less solicitous about the integrity of Confession, since it is altogether free for the penitent to declare the sins he wishes. But if it is necessary, then the penitent will have to be heard, questioned, and helped with much greater diligence. 2. About his age, about the condition of marriage and office, for judging the number and species of sins. 3. About the general precepts of the Decalogue and of the Church, and about the special obligations of his own state, selecting questions concerning sins into which it is prudently judged the penitent could have fallen, his condition being attended to and the circumstances of the person considered. 4. Let this be added in the last place: whether the penitent has anything else to say about which he experiences remorse of conscience.

VI. On Satisfaction

725. Is the confessor bound to impose a penance, and what kind? - Resp. To the first: In the affirmative. The reason is that satisfaction is an integral part of the sacrament of penance; but the confessor, as minister of the sacrament, is bound to procure its integrity, even accidental, insofar as it lies in him; otherwise he would not be a faithful dispenser. Wherefore, if the penitent immediately after absolution confesses a forgotten sin and is absolved, a new penance is to be imposed upon him. Trent, sess. 14, C. 8, cc. 12-15; L. 506, 513, 515; St. Thomas, 3 p., q. 90.

Resp. To the second: The confessor is bound to enjoin fitting and salutary penances, both vindictive and medicinal, that is, in some way proportionate to the number and gravity of sins, and also to the faculties and dispositions of the penitent. The reason is clear from the nature of the thing, since sacramental satisfaction is ordered toward the vindication of sins, which are greater or lesser, more or fewer, and also toward preventing new faults. Trent, sess. 14, C. 8; L. 508-509; St. Thomas, Suppl., q. 12, a. 13. - E. M.

726. Resolutions: The quantity of penance cannot be determined; but it is left to the judgment and prudence of the confessor. Roman Ritual. Nevertheless, grave penance must regularly and of itself be imposed for mortal sins. But that penance is to be judged grave which corresponds to a work that is prescribed under grave obligation by the Church, or would oblige under grave obligation if it were prescribed, e.g., hearing Mass, fasting, reciting the Little Office of the Blessed Virgin Mary, the Rosary, etc.; on the contrary, one *Miserere*, etc., is light. - Perpetual penances are not to be imposed, both because, since perhaps such penances would be imposed on the same penitent by various confessors, he would hence be bound at the same time and for his whole life by innumerable bonds.

Indeed penances for a long time are not ordinarily to be imposed, e.g., for a year or for five months. - Those satisfactions are never to be imposed which can expose the penitent to the mockery of others, e.g., that he recite five Our Fathers in the middle of the church with arms extended, etc. But all the more penances are not to be imposed which cannot be fulfilled without the revelation of Confession easily following. - Nor are too grave penances to be imposed, such as fasts on children and on workers wearied by continual labor.

Nor are pilgrimages or lengthy prayers, or generally alms, to be enjoined on women placed under the power of a husband, just as neither on the poor who obtain a living for themselves by continual labor.

- Penances involved in many diverse works are not to be imposed, because they could not be held in memory; nor, at least ordinarily, penances too repugnant to nature, e.g., to make the sign of the cross with the tongue on the ground, to visit enemies, etc. It is also generally imposed imprudently on children that they ask pardon from parents or from others for disobedience, irreverence, or small thefts, because they often render Confession odious and for the most part are omitted. - L. 508, 515; H. A. 52; E. M.

727. How great is the obligation of imposing penance? - This obligation is grave from its genus. The reason is that the obligation regards a grave matter, namely the integrity of the sacrament; although from smallness of matter one can sin only venially against it, for example, by imposing a penance lighter than is fair. Lugo, d. 25, n. 49; L. 506. - As regards venials, however, it is disputed. Some affirm that it is grave, because the enjoining of satisfaction pertains to the rite of this sacrament; and since this rite was instituted by Christ, it must be held as a grave matter. But others say it is light, because a grave obligation of enjoining penance for only light faults cannot be proved, since in this no grave disorder appears. Indeed it does not seem that the confessor who does not impose penance can sin more than the penitent who does not execute a light penance. Moreover, the judgment can be complete even if no satisfaction is imposed, namely when the accused is judged worthy of no punishment. Each opinion is probable, as St. Alphonsus says, H. A. 47.

728. Note: "From this obligation," says Lugo, d. 25, n. 47, "it is established that some cases are excepted. The first is when the penitent is incapable, as if he is near death, especially if he already lacks the senses and cannot perceive the penance imposed.... The second case is when the confessor understands from the Confession and other circumstances that the penitent has satisfied integrally for the punishment due; and although this can rarely or never be established, Peter de Soto nevertheless adds... that it suffices that he seems probably to have satisfied. - The third case is similar to this, which others add, when without satisfaction there is at hand a remedy of perfect remission, e.g., if martyrdom to be undergone is at hand; which others extend to a plenary indulgence to be gained, at least one which is morally certain. - The fourth case is when the penitent, because of his frailty, is believed likely to accept no penance; for sometimes it will be necessary to condescend to his weakness in order to avoid graver evils. Nevertheless it will never happen that he is not likely to accept some penance, at least a light one." Cf. St. Thomas, Suppl., q. 25, a. 1.

But Benedict XIV has these things concerning the case of a plenary indulgence and Jubilee, Constitution *Inter praeteritos*, § 65: "One thing only remained, that we should speak about the imposition of penance not to be omitted by the confessor, since the penitent who had obtained an indulgence was said not to be bound to fulfill it. But since this reason seemed laxer to us, in the Instruction of which n. XXVI speaks, we declared our mind, establishing that a salutary penance is to be enjoined by the confessor upon the penitent, even if this one is prepared to receive the Jubilee, from which indeed arises the obligation of the penitent to fulfill the same." Cf. also Bull of the Jubilee of Leo XII, *Caritate Christi*; L. 519.

729. When is penance to be imposed? - Generally speaking, it is to be imposed before absolution. The reason is that thus the order of judgment is preserved, which requires that the accused first promise satisfaction before he is absolved. But if the confessor from forgetfulness has not enjoined penance before absolution, he must impose it after absolution. Nevertheless it is not grave to impose

penance after absolution; indeed probably it is free of every fault if it is presumed that the penitent is going to accept the work enjoined upon him. - L. 514.

730. For what reason can a lighter penance be imposed? - 1. If the penitent is very weak and infirm in body. Roman Ritual. But if the sick person is placed in danger of death, then he can be absolved without any penance, although it is always expedient to impose some upon him. - 2. If there is prudent fear lest he not fulfill a greater penance, or lest because of a heavier penance he be turned away from Confession. - 3. If probably a greater penance will harm him more than profit him.

4. If the penitent appears very contrite. - 5. If the time is present for gaining a plenary indulgence, especially of a Jubilee. - L. 508, 510; H. A. 49; St. Thomas, Suppl., q. 35, a. 1.

To the matter St. Thomas says, Suppl., q. 18, a. 4: "Just as medicines determined in the art are not suitable for all, but are to be varied according to the judgment of the physician, who follows not his own will but the science of medicine, so satisfactory punishments... are suitable for all, but are to be varied according to the judgment of the priest regulated by divine instinct. Therefore, just as a physician sometimes prudently does not give an efficacious medicine which would suffice for curing the disease, lest a greater danger arise because of the weakness of nature, so the priest moved by divine instinct does not always enjoin the whole punishment which is due to sin, lest someone infirm despair because of the magnitude and withdraw altogether from penance." And Quodlib. 3, a. 28: "But it seems sufficiently fitting that the priest not burden the penitent with a heavy weight of satisfaction; because just as a small fire is easily extinguished by many pieces of wood placed upon it, so it could happen that a small affection of contrition recently excited in the penitent might be extinguished because of a grave burden of satisfaction, the sinner altogether despairing." - Cardinal Cajetan, Summa, v. Satisfactio: "But to penitents weakly disposed, let a very small satisfaction be given according to the weakness of their soul, and let the little fire be fostered by straw placed upon it, and not suffocated by large pieces of wood placed over it." - And St. Antoninus, 3 p., tit. 16, c. 20: "The confessor must nevertheless give a penance which he believes she will likely fulfill, lest by violating it something worse happen.... The confessor must in no way permit a despairing sinner to depart from him, but rather let him impose upon him one Our Father, or another light thing, and that the other good things which he has done and evils which he has tolerated be for him as penance."

731. Can a penance be imposed under the condition of relapse? - Resp. In the affirmative, provided a proportionate penance is imposed for the sins confessed. Confessed, for the confessor is neither judge nor physician of sins perhaps to be committed. In the negative, if no other penance is imposed. For this cannot be the effort not to sin. The effort to be applied for preventing sins does not seem able to have the nature of satisfaction, since it is a natural consequence of contrition and purpose. L. 524.

732. Can a public penance be imposed? - Resp. In the negative, if it is a question of hidden sins. Thus the Roman Ritual. Otherwise, however, for public sins. Nevertheless, if public penance is not necessary, the confessor must not impose it on one refusing it, since otherwise his salvation can be obtained and scandal repaired.

It is not necessary; it will indeed be necessary "in the sole case in which otherwise scandal could not be repaired except through that public penance, for example, by publicly restoring honor to someone

publicly dishonored." But in this case, independently of sacramental penance, the penitent is bound to that reparation by the law of nature. Besides, public scandals of this kind can be repaired otherwise, short of public penance, "namely through public frequentation of the sacraments, visits to churches, hearing of Masses, entrance into some Congregation where works of piety are exercised, and similar things." L. 512. - C. *Manifesta* 1, de Poenit. et rem.; Trent, sess. 24, C. 8, de R.; St. Thomas, 4 d. 14, q. 1, a. 5, q. 1; Francolini, *Vet. Eccl. sever.*, l. 1, Calumn. 7.

733. Can a work otherwise owed be imposed for penance? - Resp. In the affirmative. The reason is that, since that work is satisfactory, it can well be elevated through the keys to the merit of sacramental satisfaction. "Nevertheless this should not be done unless the frailty of the penitent has been considered. But the doctors commonly say that unless the confessor expressly imposes a work otherwise prescribed, a supererogatory work is understood to have been imposed. But if the confessor imposes hearing Mass for a month, there is no obligation to hear two Masses on a feast." L. 513.

734. What are the works which can be imposed for satisfaction? - "Prayer as much as alms, and any other good work enjoined in the sacrament of penance, is valid as a penal and afflictive work..., even an internal work..., even a work to be applied for the dead..., even cessation from some good work, namely from Communion, fasting, etc..., because a cessation of this kind can well sometimes be an act of virtue, at least for preserving obedience to the confessor. But Lugo rightly notes that regularly it is not expedient to impose a penance of this kind." L. 514. - But it is common among the doctors that entrance into Religion and matrimony cannot be imposed as penance. For each requires complete liberty in every way. L. 511. - "A penitent fulfilling a prayer or pious work enriched with indulgences can at the same time satisfy the penance and gain the indulgences." S. Indulg. C., June 11, 1901. - St. Thomas, Suppl., q. 15, a. 3; E. M.

735. Is the penitent bound to accept and fulfill the imposed satisfaction, and when? - Resp. To the first: The penitent is bound to accept and fulfill a reasonable penance sacramentally enjoined, because from what has been said the confessor is bound to impose penance, and indeed one in some way proportionate to the sins.

But if a penance must be imposed and accepted, by that very fact, by reason of the obedience owed to the confessor, it must also be fulfilled. Trent, sess. 14, C. 8; L. 515-516; H. A. 55.

Resp. To the second: The penitent is bound under grave obligation to fulfill a grave penance imposed for grave sins, because grave matter of itself obliges under grave obligation. But more probably he is bound only under light obligation to a light penance imposed for light faults, because light matter is not capable of grave obligation. L. 517.

Resp. To the third: The penitent must fulfill the penance at the time designated by the confessor, or as soon as he conveniently can; and if the penance obliges under grave obligation, he will sin gravely if from grave negligence he long defers it. The reason is that of itself it is grave to delay a notable debt for a long time. But whenever a penance was not fulfilled at the appointed time, the burden of performing it always remains, because the time is intended only accessorily. - Cf. n. 742; E. M.

736. Note: "Nevertheless it is probable that if that penance seems to the penitent more grave than is just, or too burdensome with respect to his weakness, then if the confessor is unwilling to moderate it, he could at least depart without absolution without grave fault, and approach another confessor, as

they say with Busembaum, etc. Nevertheless this must be understood if that penance is truly unreasonable, etc." L. 516. - "From the common doctrine of theologians a confessor can sometimes oblige the penitent to fulfill the penance before absolution, etc." Lugo, d. 14, nn. 170, 171. - The penitent is not bound to fulfill the penance when the Confession was invalid, because the sacramental sentence of the judge was null, and therefore there is no sacrament to be completed. Otherwise one would have to satisfy twice for the same sins. The same must be said for the same reason about a penance imposed without absolution. Except if the penitent approaches several times to complete the same Confession, and meanwhile the confessor, as often happens, imposes some penance each time, so that less remains to be imposed at the end. - E. M.

737. Does a penance grave in itself, but imposed for only venials or for mortals already confessed before, oblige under grave obligation? - Resp. In the negative, more probably. The reason is that then satisfaction is not necessary insofar as it is grave. Hence just as the confessor was not bound, indeed could not prescribe it under grave obligation, so neither is the penitent bound to fulfill it under grave obligation. For the confessor must impose penance only according to the quality of the crimes from Trent, sess. 14, C. 8. - L. 517; Suarez, d. 38, s. 7, n. 7.

738. Can the confessor impose for grave faults a penance which is indeed grave, but binds lightly? - Resp. In the affirmative, because any legislator can prescribe grave matter under light obligation; nevertheless this is generally not expedient. St. Alphonsus would prefer that at least something be enjoined under grave obligation, with which afterward something else, even graver, could be imposed under light obligation. Yet he himself does not deny that the opposite opinion is more common; and from this very fact it is argued that the argument which he himself tries to draw from Trent for his opinion is less firm. Indeed the spiritual good of the penitent must be attended to, which because of his infirmity can demand something altogether different. - L. 518; Suarez, d. 38, s. 3, n. 3.

739. Is the penitent bound under grave obligation to fulfill the added circumstances of the penance, e.g., that he pray on bended knees, etc.? - The solution depends on the greater or lesser affliction of the flesh which the circumstance brings, whether of itself or with respect to the penitent. This can also depend on the intention of the confessor, which either he himself has expressly manifested, or the penitent can presume. - L. 517.

740. Does one satisfy who fulfills the penance in mortal sin? - Resp. In the affirmative. The reason is that for satisfying the precept it suffices to place the work of satisfaction enjoined, although the end of the precept is not obtained. - L. 552. Hence he also satisfies if in fulfilling the penance he sins venially, e.g., because he is distracted; nor then is the fruit from the work worked of such a penance impeded because of the other sins already remitted. - L. 552.

741. Does one sin who fulfills the penance in mortal sin? - It is certain that he does not sin gravely. According to some he sins venially. The reason is that one who voluntarily places an obstacle to even a partial effect of the sacrament does not seem able to be excused from some fault. Nevertheless several grave theologians probably hold that he is exempt from every fault, because there is no fault in placing an obstacle only to the remission of punishments. But when the obstacle is removed, then the effect of satisfaction is obtained. - L. 523.

742. What delay of penance is a grave fault? - If the penance was light, delay, however great it may be, will never be grave, since the omission of the penance itself more probably does not exceed light

fault. - If the penance is grave, and imposed for grave sins, more probably a delay of two or three months is to be regarded as grave. But others extend this to six months; but this, says St. Alphonsus, seems too benign. Others extend it up to a year, and this, says the holy Doctor, is commonly rejected. Others finally say that no delay will be grave unless the penitent casts himself into danger of no longer executing the penance.

Nevertheless it is not necessary that one fulfill sacramental satisfaction before he confesses again. He can still fulfill it after another Confession, and continue it, if it is lengthy, e.g., that he hear Mass daily for a year. - Diana, tom. I, tr. 6, rr. 44, 45; Lugo, d. 25, n. 90 ff.; L. 517, 521.

743. If the penitent has forgotten the enjoined penance, is he bound to repeat the Confession so that he may receive another penance? - Resp. In the negative. The reason is that the fulfillment of the penance already once enjoined has been made impossible through forgetfulness, even culpable forgetfulness. But no one is bound to the impossible. Nevertheless, if the penitent prudently presumes that the confessor is still mindful of the enjoined penance, he should approach him, if he conveniently can, so that he may learn from him what it is. L. 520.

744. Who can commute a penance and for what cause? - Resp. To the first: It can never be commuted by the penitent himself, not even into a better one, although a vow can be changed by the one vowing it into an evidently better work. The reason is that penance cannot be elevated to the merit of sacramental satisfaction unless it has been imposed by the minister himself of the sacrament of penance. - It can be commuted: 1. by the confessor who imposed it, because a legislator can change his own law; 2. by any other confessor, because any other confessor can be judge of the same cause if the penitent submits himself to his tribunal; for a successor in the same authority can do whatever the predecessor could. Nevertheless an exception seems to be made, according to the more common opinion, if the penance was imposed by the superior himself for reserved cases, because an inferior cannot change the sentence of a superior; unless, however, a grave cause is present, or the consent of the superior can easily be presumed. Yet others deny this, because once the reservation of sins has been removed through the absolution of the superior, the power of the superior and the inferior confessor is the same.

Resp. To the second: For a commutation to be made licitly, a just cause is required, such as: 1. if the penance seems difficult; 2. if it is foreseen that the penitent is not going to satisfy it because of repugnance, frailty, forgetfulness, etc. - L. 528, 529.

745. Is the penitent bound to repeat the Confession to obtain commutation of the penance? - If he approaches the same confessor, it will not be necessary to repeat the Confession when the confessor remembers the state of the penitent's conscience in some way confusedly. - If he approaches another confessor, or even the same one no longer mindful of the sins, it suffices that he confess summarily, so that the confessor may acquire a confused knowledge of that state.

But whether this summary Confession is also required if the confessor, at least confusedly, does not know the state of the penitent is disputed. The first opinion affirms it. The reason is that the confessor cannot commute the penance except by sacramental judgment; but he cannot exercise this judgment unless the penitent opens the state of his conscience to him. The second opinion probably denies this, because it is not a question of a judgment to be rendered concerning faults destroyed in a preceding Confession, where the judgment about them has already been formed, but only of

commuting the penance. But for this the knowledge of the prior penance and the notion of frailty or difficulty for fulfilling it suffices, namely so that a new one in some way equivalent may be imposed. Hence the confessor, hearing the penitent say that he has not fulfilled the penance and is not going to fulfill it, believing him, will be able to commute the penance even if he does not ask. - L. 529.

746. Can the confessor commute a penance outside Confession? - Resp. In the negative, if the confessor is different. The reason is that the confessor has no power except in sacramental judgment. For penance must be joined with the absolution received. - If that confessor is the one who imposed the penance, he can change it immediately after absolution, before the penitent departs; but not afterward, at least more probably. The reason is that for this it is required and suffices that the preceding judgment of the confessor morally persevere, which does not seem to have place if the penitent approaches the confessor outside the tribunal of penance. St. Alphonsus, 529, says that this is the truer and more common opinion. Nevertheless others say that commutation of penance can be made by the same confessor outside Confession within the space of one day, within two days, a week, and even a longer time, because then it still seems to be morally united with the preceding sacramental judgment. For just as a longer space does not prevent sorrow, or Confession, or even fulfillment of satisfaction from being morally united with absolution, so one can judge also about the change of penance. Lugo, d. 25, nn. 111, 112.

747. Note: If the penitent, after accepting a penance from one confessor, repeats the Confession before another in order to obtain a milder penance, or even for another cause, he is by no means freed from the former penance unless he mentions the preceding Confession and the penance accepted. The reason is that for commuting the penance on the part of the confessor, a positive act of the will is required by which the prior obligation is revoked.

VII. On the Form of the Sacrament of Penance

748. What is the form of the sacrament of penance; what is its force and obligation? - The form of absolution is had thus in the Roman Ritual: "May almighty God have mercy on you, and, your sins having been forgiven, bring you to eternal life. Amen. - May the almighty and merciful Lord grant you indulgence, absolution, and remission of your sins. Amen. - May our Lord Jesus Christ absolve you, and I by his authority absolve you from every bond of excommunication, suspension, and interdict, insofar as I can and you need; then: I absolve you from your sins in the name of the Father, and of the Son, and of the Holy Spirit. Amen. - May the Passion of our Lord Jesus Christ, the merits of the Blessed Virgin Mary and of all the Saints, and whatever good you have done and evil you have borne, be for you unto remission of sins, increase of grace, and the reward of eternal life. Amen."

The hand is raised from the word *Indulgentiam* up to the word *Passio Domini*, and the sign of the cross is made over the penitent while saying: *In nomine Patris*.... The word *suspensionis* is omitted for laymen. It is a pious custom that the confessor before Confession, while he blesses the penitent, say: "May the Lord be in your heart and on your lips, that you may rightly confess all your sins," or recite a similar prayer. But this does not fall under obligation.

The words *Misereatur*, *Indulgentiam*, *Dominus noster*, *Passio*, etc., "the doctors commonly say can be omitted without any sin.... And this seems truer, since Trent, sess. 14, C. 3, says that these prayers are only laudably added; for the word *laudably* certainly seems to import no precept. Nevertheless no

one doubts that it is more fitting... to add prayers of this kind, especially those which follow, *Passio Domini*, etc., since it is probable that through those words all the good works of the penitent are elevated to sacramental satisfaction." L. 430, 507; St. Thomas, Quodl. 3, a. 28. Since it is probable: to others this seems incredible. And they say that those words contain only the deprecation of the Church and have no other force than the other sacramentals. Lugo, d. 25, n. 56. But it is not incredible that the good works of the penitent are elevated to sacramental satisfaction for sins confessed and remitted. The Rubric says: "In more frequent Confessions it will be enough to say: *Dominus noster*, etc., up to *Passio Domini*," exclusively. - The word *deinde* seems not to pertain to the very formula of absolution, but to the order of things to be said. S. R. C., Aug. 27, 1836, Veronen. Indeed in the Ritual it is had: first he says, second he says, then again. But because before it was written in red character and now in black, they say that that *deinde* pertains to the form. - The elevation of the hand and the formation of the sign of the cross certainly are not required for the validity of the essential form. Florence, Decr. pro Arm.; Trent, l. c.

It is commonly asserted that it can be omitted without grave sin, and several learned authors assert that it can be omitted without any sin. And they say the same about uncovering the head. L. 425.

Absolution from censures precedes absolution from sins: *Dominus noster*, etc. This absolution is valid if it is said, from every bond of censures, or from censures. Absolution from censures can validly be given by the same form by which one is absolved from sins: *I absolve you from your sins*, because these words involve absolution from whatever bond arising from sins; and nothing stands in the way of the confessor directing his intention to each absolution, from censures and from sins. Nevertheless this is not excused from venial fault, since it is against the use of the Church. But probably it is altogether excused if there is no probable suspicion that the penitent has incurred some censure. Besides, a priest would sin mortally who, against the prohibition of the Church, wished to absolve the penitent first from sins and then from censures. From censures, namely of excommunication. For suspension and interdict of themselves do not deprive one of the reception of the sacrament of penance. But the penitent would validly be absolved from sins if he were in good faith, absolution from censures not having first been given. The reason is that the prohibition of the Church cannot invalidate a sacrament whose validity depends on divine law, since all essential things required for it concur. - L. 430; La-Croix 1567.

Absolution from sins essentially and certainly consists in words. Given by gesture or writing or other signs it is invalid. Florence, Decr. pro Arm.; Trent, sess. 14, C. 3; prop. condemned by Clement VIII, June 20, 1602; Paul V, July 14, 1605; L. 428; St. Thomas, 3 p., q. 84, a. 3, ad 3. - Wherefore it is essentially required that the penitent to be absolved be morally present. Prop. cited, condemned by Clement VIII and by Paul V. The confessor, while he pronounces the form, seems to speak with the penitent himself. Therefore the aforesaid moral presence is reckoned that within which men can and are accustomed to speak with a common voice, although a higher one. Such presence extends to about twenty paces, especially where the penitent has not yet gone out of the sight of the confessor. But the penitent is to be recalled when he can in every way be recalled. Besides, without scruple a penitent can be absolved who has withdrawn from the confessional, if it is certainly known that he is still within a few paces. But it is not enough for moral presence if the priest sees the penitent, or perceives him by another sense; for presence for absolution requires greater nearness than for

hearing a sermon or Mass. Hence, if someone could at some time be absolved only from a distance, for example if he were falling from a roof, then absolution should be given under condition. - L. 429.

Therefore absolution can in no way be given validly by wireless telegraph, nor by wired telegraph, nor by telephone, nor by gramophone.

In the sacramental forum the matter is done between those present, and what is done in it is valid, although the penitent has departed unabsolved, or has performed a sacrilegious Confession. But in the forum of conscience the matter is done even between those absent. For those things which pertain to the spiritual salvation of each person can well be treated even between the absent. Some wish the forum of penance to be the sacramental forum; others the forum of conscience. Sanchez, de Matr., l. 8, d. 34, n. 29; Suarez, de Leg., l. 8, c. 1, nn. 15, 16.

Absolution from sins is contained in the words: *Ego te absolvo a peccatis tuis, in nomine Patris et Filii et Spiritus Sancti. Amen.* It is altogether certain that the due form is not deprecatory, but indicative: *ego te absolvo*, etc. Trent, sess. 14, C. 3. Likewise it is certain that the words *te absolvo* pertain to the essence of the form. - If it is said: *absolvo a peccatis tuis*, it more probably is valid, because the pronoun *te* is sufficiently expressed by the pronoun *tuis*. But very commonly they deny this; and because this opinion is also probable, in practice it must altogether be followed, from prop. 2 condemned by Innocent XI. - But if it is said: *ego te absolvo*, omitting *a peccatis tuis*, they very commonly say it is valid from the Roman Catechism, n. 14, and from St. Thomas, 3 p., q. 84, a. 3; yet that it is a grave sin, since it is against the custom of the Church. But others hold that these words pertain to the essence from the words of Christ: "Whose sins you shall forgive." And this opinion is also probable, and therefore in practice one must not depart from it. If finally only *absolvo* is said, the form will be invalid, because it has no determinate sense and falls upon no determinate subject. - But the common and true opinion denies that the words *in nomine*, etc., pertain to the essence of the form. For in the institution of this sacrament Christ made no mention of the Trinity, as in baptism. Some think their omission is mortal, others that it is no sin, others, better and almost commonly, say it is venial, since the aforesaid invocation is according to the custom of the Church. - L. 430.

It is not necessary that the penitent hear the words of absolution, much less that he understand them. It suffices that the priest truly pronounce them, and it is advisable that in the presence of others, in order to preserve secrecy, they be said quietly. - Although, insofar as it is a sentence, it can be deferred for a longer time, even after a week, e.g., it can be given; nevertheless, insofar as it is a form, it cannot be deferred for a longer time. Absolution is indeed validly given after an hour from Confession; indeed it can be given on another day if the penitent renews the accusation: again I accuse myself of these things which yesterday, which the day before yesterday, etc., I confessed. - L. 9, 429; E. M.

Confessions are to be heard in church, but not in private homes unless from a reasonable cause. Hence they cannot be heard in private oratories, nor in semi-public oratories, unless by permission of the Bishop. Roman Ritual, Order of administering the sacrament of penance, part 2; Benedict XIV, Encyclical *Magno cum*, June 2, 1751.

The confessor must be vested in surplice and violet stole, as the time or the custom of places bears. Roman Ritual, l. c., part 4. But regulars by privilege use only the stole; and from S. R. C., Aug. 31, 1867, ad 2, n. 3158, it is fitting that in church the stole be used.

749. When the confessor absolves, is it necessary that he remember the sins accused? - Absolution is a sentence. Wherefore it is necessary that, when the confessor gives it, he have at least confused knowledge of those things which the penitent has confessed, and of which he himself already had distinct knowledge. Otherwise he scarcely seems not to pronounce sentence in an unknown cause. - Wherefore if the confessor does not retain individual sins in memory, because the Confession was lengthy and complicated, because he deferred absolution, because up to this point the penitent confessed invalidly, and, after the sin previously kept back has now been accused, or after sorrow has been conceived which he had lacked, he seeks absolution, it suffices that "he remember in confused fashion the state of the penitent, or resume (if he does not remember) knowledge of it in confused fashion, and that the penitent accuse himself in common of all things previously confessed."

L. 502. - But if otherwise the penitent had narrated sins outside Confession to the confessor as to a friend, whether also in this case it suffices to resume confused knowledge of them is disputed. Lugo, d. 16, n. 638, and others affirm; for if that confused knowledge suffices in the preceding cases, it must also suffice in this one. But St. Alphonsus and many more others deny it, because in the preceding cases sacramental confession of all and each sins, which Trent requires, was not lacking; but in this case it is altogether wanting. L. 502.

750. Is conditional absolution valid and lawful? - It is certain that absolution imparted under a condition concerning the present or the past is valid in every case, provided the other things required for the validity of the sacrament are present; for the condition in no way changes the sense of the sacramental form, which it in no way affects, but affects only the will of the confessor, who does not intend to absolve unless the appended condition is fulfilled. But when this has been fulfilled, the form becomes absolute, and therefore nothing is found which could hinder its validity. - Likewise it is certain that conditional absolution is sometimes lawful; for if it is valid, it must also be lawful when necessity urges. When necessity urges: hence the doctrine of some must be rejected as plainly lax, who hold that conditional absolution can be imparted from any light cause whatever, even if sufficient disposition of the penitent, burdened even with mortal sins, is doubted in any way whatever. For the confessor would no longer be a prudent dispenser of the sacraments, but would cast pearls before swine; and by this facility of absolving he would bring it about that penitents would waste away in sins.

But the doctrine of those is no more to be admitted who hold that absolution is not to be imparted under condition except in extreme necessity, or in the extreme danger of life; for doctrine of this kind is exceedingly harmful to penitents who can return to a confessor only with difficulty and, dismissed without absolution, incur the danger of eternal damnation. - L. 431, 432.

751. In what necessity can or must absolution be imparted under condition? - Absolution can and must be given under condition whenever, if granted absolutely, it would expose the sacrament to danger of nullity, and, if denied absolutely, it would expose the penitent to danger of grave spiritual harm. - Even if necessity of this kind does not urge, absolution can nevertheless be given under condition whenever, if granted absolutely, it would expose the sacrament to danger of nullity, and, if denied absolutely, it would deprive the penitent of some notable spiritual good, though not necessary. For the sacraments indeed exist for men; but they are holy things. Wherefore provision must be made for each: both the utility of men and the sanctity of the sacrament. For this reason they

are not to be heard who, against the common opinion of the doctors, hold that absolution, as also the other sacraments, must never be given conditionally, but always absolutely.

752. Resolutions: A penitent constituted in mortal sin is to be absolved under condition whenever there is prudent doubt about absolution having been imparted, or rightly given, and certainty about this cannot easily be had. Likewise a doubtfully disposed penitent who is in grave danger of death, e.g., a woman in difficult childbirth, a sailor or anyone else about to undertake a long voyage, a soldier before battle, a sick person before a very difficult surgical operation, and all the more one guilty and to be punished with death. Children and the half-witted can be absolved under condition in doubt about the use of reason or sufficient disposition, after serious diligence has been placed for disposing them insofar as can be done, especially in the following cases: if they are in danger of death; if the precept of annual Confession urges; if they have confessed some mortal sin. The reason is that they are exposed to the danger of proximate damnation if death urges, or to the danger of remaining long in mortal sin. Besides, there is no way and hope that, if absolution is delayed, they will soon return disposed and be absolved more safely, as perhaps can be hoped of others. Indeed they will be able to be absolved conditionally several times in the year, even if they bring only light matter, lest they be deprived so long of sacramental grace or remain in mortal sin, if perhaps they are in it.

Probably also doubtfully disposed spouses about to contract marriage immediately can be absolved under condition, because otherwise they are certainly going to profane that sacrament, and, dejected in soul because of absolution denied, they will not return to confess and will waste away in sins. - Likewise pious penitents can probably sometimes be absolved conditionally, in doubt whether they subject sufficient matter to the keys. But it is far better that they offer certain matter from past life, and thus not be deprived of the grace of the sacrament. - A relapsed sinner can be absolved under condition, when there is doubt about his sufficient dispositions, "if it is prudently feared that that sinner will not return again to Confession and will waste away in his sins." L. 432, 442; La-Croix 1797.

753. What especially as regards the dying? - Any dying person who in some way, by voice or sign, confesses or asks absolution can and must be absolved, and indeed absolutely. The reason is that all things required for the sacrament and for formally integral Confession are present. - Any dying person in whom attrition and confession can be presumed in some way, however slightly probable, can and must be absolved, at least conditionally; because in the case of extreme necessity, even in the administration of the sacraments, it is lawful to use an opinion even slightly founded. - A dying person who altogether refuses the sacrament of penance, or who can in no way be presumed attrite, can in no way be absolved. The reason is most clearly evident. - L. 480, 482; E. M.

754. Resolutions: All dying persons not yet destitute of the senses and consenting to absolution and obeying the commands of the confessor are to be absolved: absolutely indeed, if they voluntarily seek Confession or if with willing soul they propose to confess; but conditionally, if they are scarcely with difficulty induced to some Confession, or if there is prudent doubt about their sufficient disposition. - All dying persons destitute of the senses who before deprivation of the senses expressly showed a desire for Confession, e.g., by ordering a priest to be called, etc., are to be absolved, at least conditionally. The reason is that they are judged truly to confess through the testimony of those standing by. This is established from the Councils and from the Roman Ritual.

All dying persons altogether destitute of the senses who lived Christianly are to be absolved under condition, even if then they gave no sign either of sorrow or of desire for Confession. The reason is that, since sorrow and desire for absolution can be presumed in these, Confession also can in some way be presumed. - Other dying persons destitute of the senses, who lived little Christianly, are also to be absolved conditionally, because even in them penance and Confession can still be presumed in some way. - A dying person destitute of the senses in the very act of sin, e.g., in a duel, adultery, theft, etc., can probably be absolved under condition. The reason is that even he can be sufficiently disposed. This especially has place for one who perhaps was led to sin by fear, human respect, etc. Not a few live badly, but in no way wish to die badly; and they conceive a will of penance for the moment of death. - L. 481, 485; La-Croix 1162; Elbel 308, 211; Benedict XIV, *de Syn.*, l. 7, c. 15, n. 9 ff.; cf. Commentary on the absolution and assistance of the dying.

754 bis. On the obstinate dying sinner. - Certain modern authors go further and say that absolution can be imparted even to a dying person destitute of the senses who previously refused to receive the sacraments of the Church; indeed, abhorring them, he altogether rejected them with blasphemy. For sacramental absolution can be imparted in so great a crisis of affairs even with slight probability, and it is possible that he conceive penance in his heart. - But in fact this reason does not prove the assertion. A transition is made from slight probability, that is, from the lowest degree of probability, to possibility, and indeed to absolute possibility. It is certainly metaphysically possible that that obstinate sinner, destitute of the senses, conceive penance. But who will ever be able to say that this is morally possible, that this is at least probable in the lowest degree? What, indeed, is the moral motive of that possibility, what rational foundation of this possibility? Moreover, is it lawful to impart absolution, even only under condition, to the indisposed, whom it is established in a human way to be indisposed?

754 ter. On apparent death. - It must be noted, from several more recent authors, that the certain sign of death is nothing except putrefaction, which can happen after whole days; other signs are not infallible. Even cadaveric rigidity is not always a certain sign of death. From the moment which is commonly called death until putrefaction, a man can live a hidden life, and his death then is only apparent. In several cases apparent death can be had, so that this state of apparent death is more frequent and longer in those who are seized by sudden death or a sudden accident. But it is very probable that a similar state has place for a longer or shorter time in all men, even if they die from common diseases, both acute and chronic.

It is difficult to determine this time of apparent death, both in illnesses of sudden death and in those of ordinary death. Regularly the aforesaid time endures until cadaveric rigidity, which does not happen at one and the same time in all corpses. In sudden illnesses it can endure for one hour, two hours, and more. In ordinary illnesses it can endure only for some minutes, five, six, for a quarter of an hour, for a half-hour, longer. Wherefore the aforesaid authors conclude: then sacramental absolution and especially extreme unction, which in the case can have a more certain effect, will be able to be administered under condition. It will be easy to guard against the scandal of the faithful which perhaps could be present.

The aforesaid authors note besides, as regards the dying, that the sense of hearing perseveres for a very long time in the dying; and, even if the sick person seems immobile, incapable of moving his members and speaking, and almost dead, or given over to deep sleep, he can easily hear the voices

and all words of those around him. Wherefore the best counsel is that those assisting speak nothing imprudently in a loud voice, and that the priest suggest pious affections, very brief prayers, and especially acts of faith, hope, charity, and contrition in a very brief formula to the dying person.

But the reason of these authors, as regards death from a general rule always being apparent, is by no means convincing. The reason is that the cells of the organism after apparent death still remain whole, and retain, even without circulation of the blood and respiration, the elements necessary for nourishing life, as e.g., oxygen, etc.; and consequently, although new elements do not arrive for life, until those preexisting elements are not exhausted, life does not cease. And therefore in sudden deaths, since the vital elements still persevere whole, real death is prolonged longer. But in ordinary cases of death, since those elements are almost altogether consumed, real death follows not long after apparent death. But from this indeed it is proved that the lowest degree of life still persists; but by no means is it proved, which is altogether necessary, that all those dispositions which are necessary for having a human composite still persist in matter and in the body for human life. And the common opinion of all centuries is against this existence prolonged after death. All say and believe that the man is dead.

Almost the same argument is for the first creation of the soul and union with the body. That the germ lives from the beginning, who ever denied or could deny? Otherwise, how would it afterward begin to live? But now from the fact that it lives, does it follow logically that therefore immediately that fertilized germ is informed by a rational soul, as modern authors especially assert almost indubitably? Certainly not. For it must be demonstrated that that germ, either from the beginning of fertilization, immediately has all the dispositions necessarily required for that most perfect form. And no one up to now has demonstrated this. And surely the same is true in the present case. For it must be demonstrated that a man commonly dead is not dead, but merely apparently, because all those necessary dispositions for retaining and conserving the soul in it still remain in the matter. And no one up to now has proved this. The facts which are adduced concerning true apparent death in fact prove nothing conclusively. For that sometimes a certain apparent death is had, and that sometimes true death can be distinguished from apparent death only with difficulty and in fact is not distinguished, no one has denied this. And the matter up to now was well known to all. Wherefore from this only this could rightly be concluded: that in such and such a case, absolutely speaking, a case of apparent death can be had. But that death, commonly judged to be such, is always apparent does not seem certainly demonstrated from this.

VIII. On the Approbation of the Confessor

755. What is required for the adequate power of the minister of penance? - Three things, namely power of order, power of jurisdiction, and approbation. The power of order is required, that is, that which belongs to the minister by force of ordination and is intrinsically annexed to the priestly character. The reason is that it was said by Christ to priests alone: Receive the Holy Spirit; whose sins you shall forgive, they are forgiven them. John 20:22. This is established besides by a multiple definition of the Church. Trent, sess. 14, C. 6, cc. 3, 9, 10. - The power of jurisdiction is required, that is, the power by which the priest as judge can pronounce sentence on some, as his subjects. Trent, sess. 14, C. 7. - Approbation is required for hearing Confessions both licitly and validly, or a public

judgment about the suitability of the priest for hearing Confessions. Trent, sess. 23, C. 15, de R.; L. 539, 540; Lugo, Resp. Mor., l. 1, d. 16; E. M.

But confessors are bound to take the oath, according to the Motu Proprio of Pius X. "I. Can the Ordinary in a case grant to extra-diocesan priests of the Latin rite, already approved by their own Ordinaries for their respective diocese, the faculty of hearing confessions either for one or another occasion or for some more or less long space of time, without being forced to receive from them again the oath prescribed in the Motu Proprio *Sacrorum Antistitum* against the errors of the Modernists? "II. Can the same Ordinary do this if it is a question of priests of the Syro-Malabar rite who, even if they have been approved in their own rite for confessions, nevertheless have never taken the said oath? "Resp. To I, in the affirmative; to II, if it is a question of a faculty to be granted by way of a transient act, in the affirmative; otherwise, in the negative." S. C. Consist., April 10, 1913, A. A. S., vol. 5, p. 272.

756. What is approbation? - Approbation can be defined: the juridical judgment of a prelate about the suitability of a priest for hearing Confessions. Hence for granting approbation an examination is not essentially required; for a prudent judgment about suitability can be had even without examination, when this is established from elsewhere. But this judgment must be adequate, namely both on the part of the intellect as regards knowledge and prudence, and on the part of the will as regards holiness of morals, fitting for the vicar of Christ in this ministry. Nevertheless these do not pertain to the essence. Therefore the Ordinary would indeed illicitly, yet validly, approve one who perhaps was destitute of these qualities. "And although the Bishop internally disapproves, external approbation is valid for conferring jurisdiction." L. 545. - L. 542.

757. Whether approbation is required only for liceity, or also for validity? - Approbation is required for hearing Confessions both licitly and validly. This is established from Trent, sess. 23, C. 15, de R., where it is thus laid down: "That no priest, even a regular, can hear Confessions of seculars, even priests, nor be regarded as suitable for this, unless either he has a parochial benefice, or, by examination by the Bishops if it shall seem necessary to them, or otherwise, he is judged suitable and obtains approbation, which is to be given gratis." - No priest, even a regular: understand even a regular prelate, "although it is not fitting that doctors and licentiates, or lectors in theology, be examined, provided they have lectured on Moral Theology." L. 542. Unless either he has a parochial benefice, namely actually; and therefore canons who have care of souls only habitually cannot hear Confessions licitly and validly without the approval of the Bishop. S. C. C., April 1, 1876.

Unless he obtains approbation. "Whether Confession of venials made to a simple priest is illicit and invalid? That it is illicit today is certain from the Decree of Innocent XI on daily Communion, Feb. 12, 1679.... But whether... it is invalid? The first and very common opinion denies it..., but the second opinion affirms it, and I think this sufficiently probable." L. 543. The illicitness is confirmed by common and constant custom, also and especially among regulars. - L. 541, 546, 549; Lugo, Resp. Mor., l. 5, dd. 15, 24; E. M.

758. Who can approve? - The Bishop alone can approve. The reason is that it pertains only to the prelates of the Church to judge about the suitability of ministers to be deputed for hearing Confessions. This is also established from the cited Trent. But the Bishop can approve either by himself or through another delegated by him, because approbation is an act of jurisdiction; but ordinary jurisdiction can be delegated. Wherefore Vicars General and Capitular Vicars, Vicars and

Prefects Apostolic, can also approve. - "Moreover under the name Bishop are also understood prelates having episcopal jurisdiction, such as certain abbots, and the Chapter when the see is vacant; but not Provincials or Generals of Orders. A Bishop confirmed, although not yet consecrated, can rightly approve, because he already has jurisdiction. Otherwise, if he is only elected and not confirmed; or one who has renounced the episcopate, because then he lacks jurisdiction." L. 547. - It must be noted that according to the present discipline of the Church, together with approbation jurisdiction also is customarily conferred on priests by the prelate; and therefore, in common usage, jurisdiction also is comprehended under the name of approbation. But formerly, namely before Trent, since the approbation of the Bishop was not necessary, jurisdiction was commonly granted by pastors; this faculty now scarcely has exercise in pastors, since now there can scarcely be found a priest who has not already received from the Bishop jurisdiction together with approbation. - Bertagna, de Casuum reservatione, p. 1, c. 1, note; Ferraris, v. Approbatio, a. 1, n. 15; L. 550, 558; E. M.

Wherefore in fact the approbation which is now given is the faculty of hearing Confessions. And thus someone in fact validly hears Confessions, although he is not suitable and is not judged suitable by the interior judgment of the Bishop, who nevertheless grants approbation. And indeed this approbation from the Council of Trent implicitly contains permission and faculty of hearing confessions.

759. From which Bishop must approbation be had? - Approbation must be bestowed by the Bishop of the diocese in which Confessions are to be heard; hence the approbation either of the Bishop of the penitents or of the Bishop of the priests does not suffice. This is established from the Bull of Innocent XII, *Cum sicut*, April 19, 1700, where it was sanctioned: "Confessors, both secular and regular, whoever they may be, by force of the Bull of the Crusade, can in no way hear penitents without the approbation of the Bishop of the place in which the penitents themselves dwell; nor does approbation once or several times obtained from other Ordinaries of other dioceses suffice for this, even if the penitents are subjects of those Ordinaries who had approved such confessors." Then the Pontiff declares null "Confessions which are made without the approbation of the Bishop of the place in which the penitents themselves dwell." What is clearer? But if even with the privilege of the Bull of the Crusade approbation is required from the Bishop of the place, how much more without privilege. But the Salmanticenses... say that the opposite opinion is not condemned by this Bull, if someone had a privilege of a different kind from the Crusade, for example of a Jubilee, or something similar. But the Bull of Benedict XIV, which begins *Benedictus Deus*, stands against this, where it is said that in the Jubilee faculty is given both to seculars and regulars of choosing a confessor for themselves, provided he is among those approved by the Ordinary of the place; but nuns from the same can choose a confessor for themselves, yet only from those approved for Confessions of nuns in that place, although for other monasteries." L. 548. Besides, the Constitution *Apostolica Indulta*, Aug. 5, 1744, of the same Benedict XIV, stands against it; he established and declared that those things which the Roman Pontiff predecessors Innocent XII, Innocent XIII, and Benedict XIII had decreed "concerning the understanding and use of the indult of the Bull of the Crusade must also be valid and obtain equally in the remaining indults of the same kind." L. 548, 549; E. M.

Religious of St. John of God can hear confessions of the sick in their own hospitals, without approbation of the Ordinary of the place, from a special privilege.

760. Does presumed approbation for the future, or interpretative approbation, suffice? - Resp. In the negative. The reason is that from Trent approbation actually and absolutely existing and already obtained is required. But for approbation of this kind actual consent is required, declared by some sign. - Indeed it is not even lawful to begin Confessions before that consent, requested by letter, has been received, even if it seems certainly obtained. - Nor indeed is ratification of approbation valid, even prudently presumed; because ratification cannot make valid an invalid act which no longer exists, namely the form of absolution which consists in words. - The same is valid for assisting at marriages. - Gousset 478; L. 570, l. 3, n. 700; Lugo, d. 19, s. 2; Sanchez, de Matr., l. 3, d. 35, n. 18 ff.; d. 36, n. 6 ff.; Barbosa, de Offic. paroch., p. 2, c. 21, n. 75.

761. Can the Bishop validly and licitly limit approbation as to a certain time, place, and persons? - Resp. In the affirmative as to validity, even without cause. The reason is that it is an act altogether depending on the will of the Bishop as superior. Hence just as he can validly refuse approbation, although unjustly, so he can grant it only with restriction. This is also established from proposition 13 condemned by Alexander VII. It is also established from Trent, sess. 23, C. 15, where it is said: Unless he obtains approbation. But one who obtains it with restriction simply does not obtain it for the excluded cases. - As to liceity, the Bishop can indeed restrict or even altogether deny approbation for a just cause, as is evident, because the necessity of approbation was introduced for this end, that the suitable may be separated from the unsuitable. But otherwise if he does this without a just cause. For it pertains to the office of priests to hear Confessions. - Benedict XIV, Constitution *Apostolica indulta*, Aug. 5, 1744, § 3; L. 542, 550, 552; Lugo, d. 21, n. 51.

762. What are the just causes for limiting approbation to a time? - They are for the most part the following: 1. If now there is necessity of having more confessors, which afterward ceases. 2. If the one to be approved indeed has sufficient knowledge, but greater knowledge is deservedly desired for perpetual approbation. 3. If it is prudently feared that after having once received perpetual approbation he will neglect study. 4. In order to test how he conducts himself in hearing Confessions. - Lugo, d. 21, n. 58.

763. Can the Bishop validly and licitly revoke approbation granted? - Resp. In the affirmative by reason of validity, even without a just cause. The reason is, first, because such revocation is made in a matter so subject to the Bishop that it can only proceed from him. Moreover, because approbation, even unjustly revoked, no longer exists, or cannot be said simply to be had or obtained. - By reason of liceity, the Bishop can indeed revoke approbation, even one granted without limitation, for just causes; for this follows from the necessity of approbation, which demands that whoever ceases to be suitable be removed from the office. But he cannot revoke approbation without a just cause. For from what has been said, the Bishop cannot deny approbation without cause; therefore all the more he cannot revoke without cause what has been granted; since according to the saying, the guest is more shamefully cast out than not admitted.

But there are not lacking those who think that the Bishop cannot revoke approbation granted without a just cause, neither licitly nor validly. The reason is that approbation once granted, after previous examination, is not a gracious act and favor depending on the liberality and good pleasure of the Bishop, but is an act of justice and an acquired right from a juridical sentence, and therefore owed from justice, once aptitude has been placed. Therefore, from mere good pleasure, it cannot cease either licitly or validly. Thus Suarez, d. 28, s. 8, n. 4; Lugo, d. 21, n. 64; Resp. Mor., l. 1, d. 18, n. 3;

Castro Palao, tr. 23, p. 18, n. 6; Salm., c. 11, p. 6, n. 107, etc., hold. Casajoana, in the Annotations to Fr. Gury, n. 543, 2nd Spanish ed., says this opinion is very probable; but St. Alphonsus, 551, scarcely judges it probable in practice, though he implicitly judges the same probable where the injustice would be evident and any danger of mistake would be absent. But this also must be added as regards practice: that no scandal be present. Hence it is better to appeal to the Metropolitan, or to the Sacred Congregation. - L. 551; Billuart, diss. 6, a. 5; E. M.

But it remains whole for the Ordinary at his pleasure and for the quiet of his conscience alone to recall simple confessors to examination, and indeed even pastors when there is vehement suspicion of their lack of skill. Benedict XIV, *de Syn.*, l. 13, c. 9, n. 21; Not. 9, n. 16; Not. 86, n. 10.

764. Can the Bishop approve a foreign priest? - The Bishop can approve any suitable person actually existing in his diocese, even if only passing through. This is established from universal practice and the common opinion of theologians. The reason is that delegation or mandate can be committed to anyone, provided he is capable.

IX. On the Jurisdiction of the Confessor

765. Is jurisdiction required for hearing Confessions licitly and validly? - Jurisdiction, taken generally, is a certain moral power of governing subjects. Ecclesiastical jurisdiction is twofold: one in the external forum, and it is the power of making laws, inflicting punishments, etc.; the other in the internal forum, and it is the power of absolving or binding in the tribunal of Penance. But this is either ordinary, which belongs to someone by reason of an office having care of souls annexed; or delegated, which is given to another by one having ordinary jurisdiction. - The power of jurisdiction is necessary for hearing Confessions, and the power of order does not suffice. The reason is that absolution is a judicial sentence, which cannot be passed except upon subjects. Therefore subjects must be assigned to the confessor; but this pertains to him who has authority over those subjects. This is altogether required for the right governance of the Church. And this is established from Trent, sess. 14, C. 7, declaring that "that absolution must be of no moment which a priest pronounces upon one over whom he does not have ordinary or subdelegated jurisdiction." - L. 557.

766. To whom does jurisdiction belong? - Ordinary jurisdiction belongs: to the Pope for the whole Church in each forum, since he has the Primacy of jurisdiction. Vatican Council, Constitution *Pastor aeternus*. The Major Penitentiary acts in his place in many things. - To Legates for their province, and to Cardinals for their church. - To the Bishop for his diocese, also in each forum, since this has been committed to him so that he may rule and direct it; likewise to the Archbishop toward the subjects of his Bishops, only when he is actually visiting; and, according to the more common and truer opinion, to the Vicar General, since he makes one tribunal with the Bishop. C. *Non putamus* 2, de Consuetud. in 6; C. *Romana* 3, de Appellat. in 6. But when the Bishop has died, the jurisdiction of the Vicar ceases, not because his jurisdiction is not ordinary, but because, with the Bishop lacking, he ceases to be Vicar. - To the Capitular Vicar when the See is vacant. - To pastors for subjects in the internal forum, Trent, sess. 23, C. 15, de R.; and to the penitentiary canon in his own diocese, and to all those who have a benefice or office to which the obligation of hearing Confessions is annexed. - To abbots and prelates of regulars for their subjects, from several privileges granted to them by the Supreme Pontiffs themselves.

Penitentiaries appointed in the Basilicas of the City hear confessions of all the Christian faithful, even regulars, even without any permission of their superiors. Benedict XIV, Constitution *Inter praeteritos*, Dec. 3, 1749; Constitution *Convocatio*, Nov. 25, 1749.

Delegated jurisdiction is granted by the Church to any priest in a case of extreme necessity, or at the point of death. Trent, sess. 14, C. 7. At the point of death, that is, whether at the point or in danger of death, because the necessity of the penitent is almost the same in danger as at the point of death; and because in this matter point and danger are taken for one and the same, C. *Si quis suadente* 29, can. 17, q. 4. And indeed danger and point of death are either taken for one and the same among the doctors, or, if they are distinguished, that distinction has itself thus: point designates death nearly imminent, morally certain, and almost inevitable; but danger is when there is a probable doubt, and death is frequently accustomed to happen in such a case. Suarez, in 3 p., t. 4, d. 26, s. 4, n. 2; Lugo, de Poen., d. 18, n. 20; Ithur., Cas. 49, nn. 1-3, 10-16; Giraldi, Expos. Iur. Pont., p. 2, s. 39, par. Verum; L. 561. - But such danger is judged to be present in battle, in a long and dangerous voyage, in difficult childbirth, in a dangerous illness, in probable danger of falling into insanity, in slight hope of liberty for captives among infidels if they are believed to be going to have no other priests, etc., namely whether death threatens from within or from without. - L. 557, 558, 559, 561. "Any priests whatever, undertaking a sea journey, provided they have or obtain the faculty of receiving sacramental Confessions either from their own Ordinary, from whose diocese they depart, or from the Ordinary of the port in which they embark, or even from the Ordinary of any intermediate port through which they pass in the journey, can on the ship, during the whole maritime journey, receive the Confessions of the faithful sailing with them, even if perhaps during the journey itself it is necessary to pass through, or even for some time to stop in, different places subject to the jurisdiction of different Ordinaries." Holy Office, Aug. 23, 1905. Likewise, "as often as the ship stops during the journey, they can hear Confessions both of the faithful who for any reason come to the ship, and of those who, when they perhaps briefly go down onto land, ask to confess, and they can validly and licitly absolve them, even from cases perhaps reserved to the Ordinary of the place, provided nevertheless - as regards the second case - there is no priest approved in the place, or only one, and the Ordinary of the place cannot easily be approached." Holy Office, Dec. 12, 1906. "The faithful of the Ruthenian rite, in the Canadian region, even in places in which a priest of the Ruthenian rite is present, can confess their sins to a Latin priest approved by the Ordinary of the place and validly and licitly obtain the benefit of sacramental absolution. The faithful of the Latin rite can confess their sins to a Ruthenian priest approved by his Bishop in places in which there is a mission or church of the Ruthenian rite. But Ruthenian priests cannot absolve the faithful of the Latin rite from censures and from cases reserved in the Latin diocese in which they exercise the sacred ministry without permission of the Latin Ordinary. Conversely let the same be said of Latin priests as regards censures and reservations established by the Ruthenian Bishop." S. C. de P. F., Aug. 18, 1913, art. 28. "The Ruthenian faithful in the United States of North America, even in places where a priest of the Ruthenian rite is present, can confess their sins to a Latin priest approved by the Ordinary of the place, and validly and licitly obtain the benefit of sacramental absolution. But priests of the Ruthenian rite should know that censures and reservations of cases in the diocese in which they exercise ministry, whether now in force or to be imposed, also affect the clergy and people of the same Ruthenian rite." Pius X, Constitution *Ea semper*, XVIII Kal. July 1907, concerning Ruthenians in the United States of North America, art. 25. "The Latin faithful in the United States of North

America, even if a priest of the Latin rite is present, can confess their sins to a Greek-Ruthenian priest approved by his Ordinary and validly and licitly obtain the benefit of sacramental absolution. Likewise the Greek-Ruthenian faithful can confess their sins to a Latin priest approved by his Bishop. But Latin priests will not be able to absolve the faithful of the Greek-Ruthenian rite from censures and cases reserved by the Greek-Ruthenian Ordinary without permission of the same. Conversely let the same be said of Greek-Ruthenian priests as regards censures and reservations established by Ordinaries of the Latin rite." S. C. de Prop. Fid., Aug. 17, 1914, for Greek-Ruthenians in the United States of North America.

767. Can delegated jurisdiction be subdelegated? - Resp. In the negative, generally speaking, namely unless a special concession of the delegating one is added; and then it is judged to be subdelegated in the name of the delegating one himself. The reason is that the delegate has only that power which is granted to him; but only the power of exercising jurisdiction is granted to him, not of committing it to another, unless something else is expressed. Except: 1. If jurisdiction is delegated to someone as a privilege perpetually annexed to his office or dignity; for then such jurisdiction is regarded as ordinary, as is the faculty imparted to Bishops by Trent, C. *Liceat* 6, sess. 24. 2. If an office is committed to someone to which jurisdiction is annexed; and this holds even if the office is not proper, but that of a vicar, e.g., a vice-pastor or vice-rector for an absent pastor, or one not yet a priest. A vicar of this kind can well subdelegate his jurisdiction, not indeed the whole, but a part, namely for one or another cause. The reason is that then not only the exercise of the pastor has been committed to him, but also the office of pastor, to which belongs not only the use but still also the delegation of jurisdiction. - L. 566; St. Thomas, Quodl. 12, a. 31; cf. vol. 1, nn. 250, 254.

768. Does delegated jurisdiction of hearing Confessions expire by the death or removal from office of the one granting it? - There is a twofold opinion. The first, which Thomas Sanchez says is sufficiently probable, affirms it. But the second, which the same Sanchez holds as more probable, denies it, whether that permission was granted by a Bishop or by any other Ordinary who can grant it. The first reason is "because all laws deciding that the power of delegated jurisdiction perishes by the death of the delegating one, while the matter remains intact, treat of contentious power, such as this is not.... 2. Because, although permission to hear Confessions is in favor of penitents, it is deservedly numbered among graces already made; because, since it is not granted with respect to a determinate person in that person's peculiar favor or at his petition, it is rather regarded as a grace made to the priests themselves, since it redounds to their greatest favor; and as soon as it is granted to them, it is perfectly granted and depends on the execution of no one. And this is the definition of a grace made. But a grace made does not expire by the death of the one granting, even if the matter is intact. 3. Because practice itself so testifies. Indeed, when the Bishop has died, all confessors exposed by him are accustomed to hear Confessions until the permission is revoked by the chapter or by the successor Bishop." Sanchez, de Matr., l. 8, d. 28, nn. 71, 72; who adds besides these things which make for a fuller knowledge of the present matter: 1. "When, however, permission had been granted to a priest of hearing the Confessions of a determined penitent, in favor of that penitent, the faculty would expire by the death of the one granting, while the matter is intact, i.e., as regards a Confession not yet begun before. Because, since that grace is in favor of that penitent and is not yet perfected, but is to be executed by the confessor, it does not have the nature of a grace made, but of a grace to be made, which we have said expires by the death of the one granting, while the matter is intact.... 2. Permission granted by a Bishop or other prelate of choosing a confessor... more truly... does not

expire by the death of the one granting, even while the matter is intact, or by removal from office..., because this faculty is to be judged not as delegation, but as a grace made." l. c., nn. 73, 74. - Lugo, Resp. Mor., l. 1, d. 20. "It is certain," says Bouix, de Iur. Reg., vol. 2, p. 247, "that unlimited permission does not expire by the death of the one granting; and about this there is no doubt. Likewise it is certain that permission for a determined time does not expire by the death of the one granting, but perseveres until the expiration of the fixed term; this likewise is outside controversy. Concerning permissions at good pleasure, Clericatus indeed asserts, after Diana, that they expire by the death of the one granting.

But on the contrary side is the common opinion of the doctors, which Ferraris thus explains, v. Approbatio, a. 1, n. 10, etc." Cf. St. Alphonsus, 551, 552, 558, 559, where the holy Doctor affirms that the faculty given in this way expires by the death of the one granting: "until our good pleasure, or at the judgment of our will, and the like." But l. 1, App. 2, n. 13, he thinks the contrary opinion probable. C. *Si gratiose* 5, de Rescr. in 6, favors cessation. But S. C. EE. et RR., June 17, 1866, and C. 16, de R. I. in 6, favor duration.

From the Decree of the Holy Office, May 3, 1889, faculties habitually granted to Ordinaries, even for a predefined time or for a determined number of cases, all pass to successor Ordinaries. Ferr., Supplementum, v. Episcopus, n. 20. This was extended by another Decree of the Holy Office, May 3, 1899, to Superiors General of Religious Orders. E. M.

769. Does the Church supply jurisdiction when penitents invincibly ignore its defect? - It must first be noted that defect of jurisdiction can happen in diverse circumstances of things. For the error can be either common among the faithful, or private to only some person. Again a priest lacking jurisdiction can have a colored title, or only an estimated one. Title signifies cause, and therefore a title is that by which some right is acquired for us. But a colored title is a title false in itself, but nevertheless truly conferred by a superior, and therefore bearing before itself the appearance of a true title, although from some cause it labors under a hidden defect of nullity. Thus a priest who is made pastor simoniacally obtains an invalid title from Canon Law; and, if he was constituted in the parish by a legitimate Bishop, he has a colored title. Cf. C. *Statuimus* 107, caus. 1, q. 1. But a merely estimated title is one which is regarded by the faithful as present, although it does not exist.

The Church certainly supplies if the error is common among the faithful and at the same time joined with a colored title. The reason is drawn from the common interpretation of theologians resting on diverse places of Law. For, as they say, the Church as a pious mother is deservedly judged to supply jurisdiction for the good of souls, since she can do this. This is equally valid whether someone has ordinary or delegated jurisdiction. It is valid besides even if the confessor knows that he does not have jurisdiction, e.g., one who knows that the time of approbation has elapsed for him, or that by force of a sentence secretly notified to him he has been suspended from hearing Confessions. L. 572.

Probably also the Church supplies if there is common error, or error public of itself, without a colored title, but with only an estimated or fictive title. For the same reason urges as in the preceding case, since also in this hypothesis innumerable souls can perish; especially since a title here is not accustomed either to be sought or exhibited when someone receives power from a superior of hearing Confessions or absolving from reserved cases. Thus several grave doctors; and St. Alphonsus thinks this probable in the cited place. And this is valid whether it is a question of simple absolution

from sins, or of absolution from reserved cases, since in each case the reason is the same, namely the good and necessity of souls.

The Church is not judged to supply jurisdiction if the error is private, e.g., if it is of one or of a few. The reason is that the Church is not judged to supply except by reason of the common good, namely after the manner of a provider or general governor who attends only to the general good of society and leaves the good of private persons to the care of particular providers. - Ithur., Cas. 33; Cas. 47, nn. 9, 13; E. M.

770. Is it lawful to absolve with doubtful jurisdiction, when there is doubt of fact whether it is present? - Doubtful: it is a question of negative doubt, by which the mind remains uncertain and suspended, without being determined to a judgment, namely to a positive judgment, although only probable. Whether it is present: e.g., whether the definite time of approbation continues; whether he is within the territory of the one delegating and approving; whether such a sin is not contained in the catalogue of reserved cases, etc. Wherefore it is a question of doubt of fact, namely of a particular or private fact. Resp. In the negative, unless some necessity urges. For the sacrament is cast into danger of nullity, and thus the penitent is exposed to grave harm. But in necessity one must aid the neighbor in the best way that can be done. Necessity is present: 1. if the precept of annual Confession urges; 2. if the penitent must celebrate Mass or communicate and otherwise would incur a mark of infamy; 3. if a priest is bound by obligation to celebrate; 4. if the penitent has already confessed his sins, for then he has an acquired right to obtain absolution. But because of reverence for the sacrament, absolution must be given under condition; and the penitent must be warned about the doubt of valid absolution, so that provision be made for his salvation. Consequently he is both to be excited by the confessor to contrition, and then must confess his sins to another having jurisdiction, because they certainly must be subjected to the keys.

But, the case of providing for one's own salvation being excluded, there are not lacking those who judge that there is no need of such admonition, because the obligation of confessing them has already probably been satisfied. Cf. the following number. But here it is a question of negative doubt. How, therefore, can it be affirmed that it has probably been satisfied? - Castro Palaus, tr. 23, p. 14, n. 25; L. 571, 432.

771. Is it lawful to absolve with jurisdiction speculatively probable, or with positive doubt of law? - Doubt properly so called is negative doubt. Positive doubt, improperly called doubt, is such only by reason of the fear with which a judgment is made, although a judgment is made determinately, yet an uncertain judgment, namely a probable one, in which there is breadth and variety; because it can be judged that each part is equally probable, or that one is probable and the other more probable, or that only one is probable, because its motive is neither evident nor certain, although the opposite has no foundation of probability. Jurisdiction speculatively probable, or positive doubt of law, is, e.g., that common error without a colored title gives jurisdiction; that one not approved absolves a dying person when an approved one is present; that even one not approved validly absolves from venials, etc. Wherefore doubt of law falls back into doubt of fact, not indeed of a particular fact, but of a universal fact; or the doubt is about a common question of law, not of private fact.

Moreover St. Alphonsus, 573, says: "The common opinion teaches that it is lawful to absolve with probable jurisdiction, provided the opinion is truly probable, supported by grave reason and authority. Thus Sanchez, Lugo, who thinks it most safe, etc.... and Sanchez, Tamburini, Cardenas, and

Dicastillo, Illsung, Gormaz, Stoz, etc., apud Croix, l. 6, p. 1, n. 117, call it morally certain." But the same holy Doctor proposes the other opinion, which he says he follows, thus: "It is indeed lawful to administer this sacrament of penance with probable jurisdiction, but only when there is present a cause of grave necessity, or of great utility... or a reasonable cause.... The reason for this limitation is that, although in that case the Church can well be judged to supply jurisdiction because of the good of souls, nevertheless, with no just cause added, she is not presumed to wish to connive at the mere liberty of priests." - But the weakness of this opinion is shown by the very reason of the prior opinion, which St. Alphonsus himself thus explains and proves: "In the Church there is a universal custom of almost all confessors of absolving with probable jurisdiction, as Suarez, Lugo, etc., and all the other authors cited for this opinion commonly testify. But the common opinion of doctors founds moral certainty about the aforesaid custom. And although the contrary authors think it illicit to absolve with probable jurisdiction, nevertheless they pass over, nor can they deny, that this custom is present at least among the far greater part of confessors. Therefore, once this custom is placed as certain, it is certain that it is lawful to administer the sacrament with probable jurisdiction, since the custom itself supplies jurisdiction, as Suarez, Navarrus, etc., teach; and they prove this from C. *Cum contingat* 13, de Foro compet.... Jurisdiction can well be supplied by the Church, and it is morally certainly presumed to be supplied in this case because of the good of souls. Hence the confessor, in absolving, would not absolve with only a probable opinion, but with a morally certain one, not direct, but reflex." - These things concern positive doubt or probability of law. But what about positive doubt or probability of fact, namely of a private fact? Several affirm the same, among whom is D'Annibale, ed. 3, p. 1, n. 80, note 78; but others commonly deny it. - And those perhaps affirm it because a private fact can sometimes be joined with common error. Cf. 769. - La-Croix, l. 6, p. 1, nn. 118, 120; Lugo, d. 19, nn. 20, 23 ff.; L. 571, 573; D'Annibale, p. 3, n. 321.

772. Do heretics, schismatics, excommunicates to be avoided, etc., validly absolve in danger of death, when another priest is lacking? - Resp. In the affirmative. The reason is that all priests can absolve in danger of death. Trent, sess. 14, C. 7; L. 560.

773. Can a simple priest validly absolve a dying person, even when an approved confessor is present? - St. Alphonsus, 562, denies it because of the authority of the Roman Ritual, de Sacr. poenit., at the beginning, where it is said thus: "But if danger of death threatens and an approved confessor is lacking, any priest can absolve from any censures and sins whatever." Several grave theologians hold this opinion. But also several other grave theologians affirm. A very strong argument indeed is available from Trent, sess. 14, C. 7, where that faculty is given absolutely and universally to all priests, for any penitents, and any sins and censures whatever; and the most universal reason is assigned, lest anyone perish. Wherefore where the law does not distinguish, neither must we distinguish, unless an exception is made by the law itself, as for the case of a priest who is an accomplice in a shameful sin, as is explained in its own place; and by this exception also, where it is a question of mere validity, the present doctrine is confirmed. Cf. 1282. Moreover the reason adduced by the Council, lest anyone perish, demonstrates every kind of breadth in this matter; for if this were excluded, someone certainly could sometimes perish because of lack of liberty. And this is added besides, that in the same Church of God it was always kept that there be no reservation at the point of death; but where there is no reservation, it is vainly asked who has power in reserved matters. Finally, before Trent no approbation of the Bishop was needed for hearing Confessions; therefore the old law, as regards the point of death, was not only not derogated, but confirmed, since the Council

appeals to the old law itself when it says, "which in the same," etc. It is confirmed from the Response of the Holy Office, July 29, 1891. - Ithur., Cas. 12, 42; Lugo, d. 18, n. 23; L. 560; E. M.

774. Can someone absolve his own subject in another diocese without the approbation of the Ordinary of the place? - Resp. In the affirmative, if the confessor is the proper pastor of that penitent. The reason is that pastors are exempted by the Council of Trent from that law of approbation. Wherefore outside their own parish or even diocese they need to be approved by no one in order to hear the Confession of their own parishioners. - In the negative, if he is not the proper pastor. The reason is that from Trent pastors alone are exempted. Wherefore all others having delegated jurisdiction need the approbation of the Bishop of the place.

Nevertheless there are not lacking grave theologians who think that in this matter the right of one having ordinary and delegated power is the same. For the delegate uses the jurisdiction of the one delegating. But the difficulty in the present question is not about jurisdiction, but about approbation. Wherefore, if it were only a question of absolution from censures, for which approbation is not required, he certainly could do this absolutely; absolutely, namely unless he had received jurisdiction restricted by delegation to his own territory. And the same, from the old law now, would be true of matrimony, at which outside the diocese both the proper pastor and a priest deputed by the same pastor would validly assist. From the old law now: for at present, from the decree *Ne temere*, the pastor and the Ordinary of the place cannot grant permission except to another determined and certain priest, so that he may assist at marriages within the limits of his territory." - L. 548; Lugo, Resp. Mor., l. 1, d. 17; D'Annibale, p. 1, n. 330; p. 3, n. 322, ed. 3; cf. here 783.

775. Can a pastor summon a pastor of the same or a different diocese to hear Confessions in his parish? - As regards a pastor of the same diocese, although by force of his office he has special jurisdiction only for his own parish, nevertheless from almost universal custom he can hear Confessions also in the whole diocese, unless the Bishop decrees otherwise. Nevertheless the proper customs of places are to be consulted. - As regards a pastor of a different diocese, various opinions are brought forward, as Benedict XIV says, Instit. 86, n. 7. Those who affirm argue from Trent that a parochial benefice serves for universal approbation. Others deny this, to whom St. Alphonsus, 544, adheres. Declarations of the S. C. C. apud the same holy Doctor favor this opinion. The first opinion can be admitted in those places where such a custom is present.

776. Can a priest approved by the Bishop hear Confessions of the faithful without permission of the pastor? - Resp. In the negative as to liceity, if the Confessions are received in a church subject to the pastor. The reason is that due order altogether requires that, since the pastor is the immediate superior in his own church, permission to exercise sacred ministries there be sought from him. Nevertheless the permission of the pastor is not required for hearing Confessions in a chapel of regulars or nuns, but the permission of the superior or superiorness of the place suffices. But as regards validity, it is certain, according to all, that the license of the pastor is not required outside the case of annual Confession. Indeed it is not required even for annual Confession, at least of itself, or by common law. This is established from the common doctrine of theologians against certain ones, and also from the present custom and universal practice of the Church, as Benedict XIV testifies, Inst. 18. - L. 574.

777. Can a priest approved in some place receive the Confessions of travelers coming there? - Resp. In the affirmative absolutely as regards regular confessors, who have this special privilege from the

Apostolic See. C. *Inter cunctas* of Paul III; C. *Superna* of Clement X. - In the affirmative also as regards secular priests. The reason is that such is the universal custom, which, having its origin at first from the tacit consent of Ordinaries, now, confirmed by long use, has been prescribed, and obtains the force of a universal law. - L. 569.

778. Can the Bishop prohibit, under penalty of invalidity, that diocesans go to confess outside the diocese? - Resp. In the negative, if they go to confess outside the diocese to regular confessors who have the privilege of hearing Confessions of all the faithful coming from anywhere. Suarez, de Relig., tr. 10, l. 9, nn. 19, 20; Reiff., tr. 14, dist. 8, q. 1, n. 11; Laymann, l. 5, tr. 1, c. 10.

This is confirmed by a Declaration of the Sacred Congregation and the annotation of the gloss apud Fagnanus, l. 5, cap. 12, in cap. *Omnis utriusque sexus*, n. 79, where it has these things: "The Sacred Congregation declared that regulars within the diocese of the approving Bishop can also absolve penitents of another diocese, since they have jurisdiction from the Pope from Clem. *Dudum*, de Sepult., whose jurisdiction is not restricted to the limits of some territory, but the whole world is his diocese." - In the negative also as regards secular confessors. There exist several decrees of the Sacred Congregations by which prohibitions of this kind are reproved. Cf. Collectan. S. C. de P. F., n. 928 ff. The reason is that the Bishop cannot universally, and particular cases being excluded, prohibit that which is permitted by universal custom legitimately prescribed, or by the universal law of the Church. Nor does what is objected stand in the way, namely that it is repugnant to divine law for someone to choose a confessor for himself without the permission of his own Pastor. For this is freely conceded. But one who, with the Supreme Pontiff permitting through universal custom, chooses a confessor for himself, does not choose him without the permission of his own Pastor. "Custom," says St. Thomas, Suppl., q. 20, a. 2, "gives or takes away power in such matters." Quodl. 1, a. 12; L. 564; E. M.

779. Does a delegate absolve validly and licitly after the term of delegation to be renewed yearly has elapsed, e.g., if a crowd of penitents flows to some great solemnity? - He absolves invalidly, of itself, or by reason of jurisdiction, because in fact he has none. Nevertheless, more probably, he absolves validly, at least for the most part, by reason of common error, because of which the Church is judged to supply for the good of souls.

But the priest sins gravely, of itself, if he knowingly does this; the reason is that he exercises the office of confessor without legitimate authority. And although then the Church supplies, he is nevertheless guilty because he himself unduly compels her to supply.

780. Can military chaplains absolve soldiers everywhere without approbation of the Bishop of the place? - Resp. In the affirmative, if they have been specially delegated by the Supreme Pontiff for the spiritual care of soldiers, or by a major chaplain approved by the Pope. - But if they lack this special delegation, they can indeed hear Confessions in the diocese of the approving Bishop, and also outside it on a journey and in camps, from the tacit consent of Bishops, as is clear from universal custom; nevertheless they cannot validly absolve in stations or in garrisons without the license of the Bishop of the place, because they have no jurisdiction. This is established from various Declarations of the S. C. C., March 6, 1694; June 29, 1707; A. S. S., vol. 1, p. 681; A. A. S., vol. 2, p. 501; Zacharia apud La-Croix 1518; L. 577; E. M.

The Major Chaplain or Vicar General of the armies exists in Spain, having all military jurisdiction. Chaplains approved by him absolve soldiers independently of the Ordinaries of places. It is not established that these chaplains in Spain are bound to Mass for the people. - A military Vicar, or Major Chaplain, has been constituted in the army of the Republic of Chile. Motu proprio of Pius X, May 3, 1910. - Military chaplains in England receive faculties from the Archbishop of Westminster. S. C. de Prop. Fid., May 15, 1806. "The Bishop of Verdun, under whose jurisdiction very many soldiers are contained, for the religious care of them in time of war and at the same time for forestalling difficulties, humbly asks Your Holiness that he command a suitable declaration of the following doubts and grant the requested faculties: "I. Whether any soldier whatever, constituted in the state of military convocation, or, as they say, mobilization, is by that very fact in danger of death, so that he can be absolved by any priest encountered? "If in the negative, may Your Holiness deign to impart to any priest who, at the time of the declared war, could by law celebrate Mass, the faculty of absolving from all cases any soldier from his own or a hostile nation, or even from a friendly one. "II. Whether irregularity is incurred by every cleric whom French law has forced actively to wage war or fight? "If in the affirmative, may it please the Most Holy One to remove the aforesaid irregularity in such a way that clerics exercising war can approach the Sacraments, and priests actively serving the work of war may be able both to receive and administer Sacraments. "III. Whether a cleric constituted in sacred orders, whom military convocation, or, as they say, mobilization, has assigned to the function of a soldier, either active or serving wounded comrades, exists free from the law of the Divine Office? "If in the negative, may Your Holiness deign to exempt the aforesaid clerics from the law of the Breviary during the war. "Resp. To the first: the doubt having been reformed: 'Whether any soldier whatever, constituted in the state of military convocation, or, as they say, mobilization, can by that very fact be equated with those who are in danger of death, so that he can be absolved by any priest encountered': In the affirmative, according to the rules handed down by approved authors. "To the second doubt: To the first part: Let the petitioner consult approved authors; to the second part: the Sacred Penitentiary benignly grants that military priests, other things being equal, during military operations, may say Mass and administer Sacraments, notwithstanding the irregularity which, by fighting, they perhaps incurred; but when the war has been settled, let them have recourse to the competent authority. But nothing stands in the way of the same priests and other military clerics, although perhaps they have fallen into irregularity, being admitted to the Sacraments. "To the third doubt: To the first part: during war and its proximate preparation, in the affirmative. To the second part: provision has been made in the first." Sacred Penitentiary, March 18, 1912, n. 780.

781. Can pastors, Bishops, Cardinals choose a confessor for themselves? - Resp. To the first: In the negative, from proposition 16 condemned by Alexander VII. - To the second: In the affirmative, from C. *Ne pro dilatione*, fin., de Poenit. et rem. But the Sacred Congregation apud Fagnanus, in the said chapter n. 62, declared that this is to be understood only that Bishops outside the diocese can choose a priest subject to themselves. - To the third: In the affirmative. For a privilege was granted to them by Pius X "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." Cf. vol. 1, n. 260 bis. - L. 565; de Priv. 65; Lugo, d. 20, n. 64; E. M.

X. On Regulars and Nuns

782. From whom do regulars obtain jurisdiction and approbation? - Regulars receive approbation for hearing the Confessions of their own from the superiors of their monastery, province, or order; but jurisdiction is delegated to them by their superiors. And this is understood not only of the professed, but also of novices, and also of secular servants who are truly of the household and continual table-companions. Such are not those who only serve them, but those who remain day and night in the house of the religious, are nourished there, and live under their obedience, although not by reason of a vow. - As regards Confessions of seculars, all mendicant religious, and those who participate in their privileges, have jurisdiction immediately from the Pope. Cf. 778, 784. But they must receive approbation from the Bishop of the place where Confessions are to be received. This approbation is required not only for liceity, but also for the validity of absolution. And this is to be understood even of nuns, although they are of the same order and subject to them, for whom a still special approbation of the Bishop of the place is required. - This is established from the privileges granted to Regulars by the Supreme Pontiffs, Clem. *Dudum*, de Sepulturis, etc.; from Trent, sess. 23, C. 15; from C. *Superna* of Clement X; from the common opinion of the doctors. L. 549, 552; Ferraris, v. Approbatio, a. 1, n. 64 f.; E. M.

783. Note: "Religious approved by the Bishop to hear Confessions of seculars in his diocese cannot hear them in another diocese without the approbation of the diocesan Bishop, although the penitents are subjects of that Bishop by whom the same religious had already been approved." C. cited *Superna*.

784. Does a religious validly absolve seculars, with the superior unaware or unwilling, from the faculty of the Bishop of the place alone? - Resp. In the affirmative. The reason is that the Bishop can well confer jurisdiction over his own sheep on a religious, no otherwise than on a foreign secular priest. For whoever enjoys ordinary jurisdiction can delegate it to any priest. Moreover the religious, as is established from Pontifical Bulls, cf. Brief of Paul III, *Cum inter*, June 3, 1545, etc., receives jurisdiction directly from the Supreme Pontiff, but with subordination to the approbation of the Bishop, since the Supreme Pontiffs by their supreme power confer jurisdiction on the religious themselves, and, all privileges being abrogated, the approbation of the Bishop is required from the Council of Trent. And this is had in so many words in the Brief of Leo XII, *Plura inter*, July 11, 1826. Hence the ignorance or prohibition of the superior renders the act gravely or lightly illicit, but by no means invalid. A. S. S., vol. 1, pp. 680, 683. It is confirmed from the Declaration of the S. C. EE. et RR., March 2, 1866; E. M.

785. Can boarders of regulars in their colleges or seminaries be absolved by the same regulars, without the approbation of the Bishop, as being of the household? - The first opinion denies it, because boarders of this kind are not of the household as servants are. For these are as it were incorporated into the house and family through service; hence they are called domestics and familiars.

Boarders are persons foreign to the family, who pay money so that they may receive food, doctrine, and education from teachers. - The second opinion affirms it. The reason is: 1. because nothing is lacking in them by which they are truly of the household and continual table-companions. 2. Because if servants are truly of the household and continual table-companions because they depend on the regulars by material service, how much more must boarders be held to be of the household, who live under the perfect dependence and obedience of the regulars. 3. Because to several orders and

congregations the privilege of familiarity belongs for their boarders; and because of the communication of privileges, it also belongs to others. In their colleges or seminaries, that is, in houses of regulars in which, from Clement X, Constitution *Superna*, § 4, life is lived according to regular institutes; not in others' colleges or seminaries committed to their care, which are not houses of regulars, but houses of seculars in which regulars also live. 4. From practice and custom the same doctrine is confirmed. Thus Pichler, Pellizarius, Schmalzgrueber, and very many others. - Lugo, Resp. Mor., l. 4, d. 33; Bouix, p. 204 ff., p. 626; A. S. S., vol. 3, p. 47 ff.; Lucidi, ed. 3, p. 370 ff.; Bizzarri, Collect., ed. 1885, p. 563 ff.; E. M.

786. Can approbation be denied to regulars by the Bishop? - The Bishop can: 1. omit or require a previous examination for approbation, even if someone had been approved by his predecessor or even by his Vicar General. 2. Recall to examination after approbation, even one granted simply, but without previous examination. 3. Give approbation with limitation of time, persons, places, cases, or even deny it, if they are not judged universally suitable. 4. Subject those who have been approved with limitation to a new examination, and restrict that limited faculty, or altogether take it away, even without a new cause concerning Confessions. - This is proved from C. *Superna* and various Declarations of the Sacred Congregation. Bouix, p. 221 f.; L. 552, 792.

The Bishop cannot: 1. deny approbation generally to regulars without cause, which prohibition does not affect Bishops of the Indies. Innocent X, Constitution *Cum sicut accepimus*, Nov. 28, 1732. 2. Revoke approbation from all regulars of the same community, or at least restrict regular confessors to two for each church. 3. Deny examination to a regular seeking absolute approbation for Confessions, and grant either no approbation or only limited approbation, unless nevertheless it is certainly established for the Ordinary that the regular is not generally suitable. 4. Approve with limitation those who after previous examination were generally found suitable for hearing Confessions. 5. Revoke granted licenses, or limit them, or examine again if someone, after previous examination and without limitation, was approved by the Bishop himself because he was found universally suitable, unless from scandal, or some delict, or another new supervening cause which concerns Confessions. 6. In approving regulars, even with limitation, prohibit them from receiving Confessions during Easter time, or from receiving the Confession of the sick and dying. Nevertheless the pastor must be informed about this either by living voice or by writing kept with the sick person, so that he can safely administer the last sacraments. Here it must be noted that for hearing Confessions of the sick, the license of the pastor is in no way required. This is likewise proved from C. *Superna* and various Declarations of the Sacred Congregation. - Benedict XIV, Constitution *Apostolicum*, May 30, 1753, § 9; Constitution *Apostolica Indulta*, Aug. 5, 1744, § 3; *de Syn.*, l. 9, c. 16, n. 7; Lugo, d. 21, n. 54; Resp. Mor., l. 1, d. 18; L. 550, 552, 792; Pignatelli, Cons. can., t. 4, c. 163; Bouix, p. 252; de Episc., vol. 2, p. 249 ff.; Bizzarri, p. 326 ff., ed. 1885; E. M.

787. When the see is vacant, can the capitular vicar examine regulars approved by the deceased Bishop after previous examination, and if he finds them less suitable, take away their faculty for Confessions? - If the regulars had obtained unlimited license, it is certain that he can do neither. The same must probably be said if they had obtained license for a determined time, namely as long as that time has not expired. The same, from the common opinion, must be said if they had obtained license at good pleasure. This threefold assertion is established from C. *Exigentibus* of Clement IV, S. C. of Pius V *Romani Pontificis*, C. *Superna* of Clement X, Decision of the S. C. EE. et RR., June 19, 1806.

After previous examination; for if, with no previous examination, they had been approved, and they are found unskilled and scandals are generated, then the capitular vicar can call them to examination, and approve those whom he finds suitable and reject those unworthy. S. C. C., Feb. 5, 1688. - L. 552; Bouix, p. 246 ff.; E. M.

788. Does a regular once approved in some diocese need new approbation if, after changing his habitation, he returns there? - Resp. In the negative. The reason is that one approved indefinitely and without limitation remains approved at least until implicit revocation of the approbation; moreover in the present case no revocation intervenes, not even implicit. La-Croix 1541; Lugo, d. 21, nn. 44, 91.

789. Does a regular approved in some diocese need new approbation for validly absolving if, after changing place, he passes through the same diocese? - Resp. In the negative, because approbation granted indefinitely and without limitation endures until revocation. La-Croix 1541.

790. Can regulars freely choose a confessor for themselves? - Regulars living in a convent must confess, from regular discipline and from Apostolic privileges obtained, to priests of the order designated by the superior; nor can they be licitly and validly absolved by any others, whether within or outside the house, without the permission of the superior. "It is not lawful for superiors of regulars to hear the Confession of subjects, unless they have committed some reserved sin, or the subjects themselves spontaneously and of their own motion ask this from them." - "Both superiors existing for the time, and confessors who have been promoted to the grade of superior, are to beware most diligently lest they use for external governance that knowledge which they had of others' sins in confession." Decree of Clement VIII, May 26, 1593. - "Let superiors in individual houses depute two, three, or more confessors according to the greater or lesser number of subjects, and let them be learned, prudent, and endowed with charity, who absolve them from non-reserved cases; and to whom also absolution of reserved cases is to be committed when a case occurs in which the confessor himself judges first that it ought to be committed." Cited decree of Clement VIII. "But to the Master alone let the care of hearing the confessions of Novices be committed. Nevertheless it is lawful for the Superior, even the local one, if he judges it expedient, either by himself or through another to be deputed by him, once or twice in the year to hear the confessions of the same Novices." Clement VIII, March 19, 1603. - On a journey, if they have a suitable companion of the same Order, they must confess to him. But if a suitable companion is lacking, they can confess to any priest, whether regular or secular, whether approved or not, unless particular Constitutions of the order stand in the way. But this faculty does not have place with respect to reserved cases. A companion is suitable if he is neither excommunicated, suspended, irregular, nor lacks sufficient knowledge. Innocent IV, *Cum supernae*, April 26, 1247.

But under the name of regulars here are not comprehended religious of more recent Congregations, nor older Congregations which have only simple vows and are not Religions strictly so called, unless they have a special privilege in this matter. - L. 574, 575; App. de priv. 111; La-Croix, l. 6, p. 2, n. 1524; Lugo, d. 20, nn. 66, 67; E. M.

By decree of the Holy Office, July 5, 1899, it was prohibited "that any superior of any religious community or seminary or college, whether major or minor, in the gracious City, except in some rare case of necessity, about which his conscience is burdened, dare in any way to hear the sacramental Confessions of his own pupils remaining in the same house." - By decree of the Holy Office, July 5,

1899, it was declared through the preceding decree that "nothing had been derogated from Apostolic Constitutions as regards Religious Orders." - By decree of the Holy Office, Dec. 20, 1899, it was declared that the preceding declaration was not valid for Religious Congregations of simple vows which have perpetual vows and common life and which have been approved by the Church.

From the Norms of the S. C. EE. et RR. for Italy it is prescribed under a formal and grave precept that no seminary lack a spiritual Director. But Superiors and Professors cannot at the same time exercise the office of spiritual Director, nor that of ordinary confessor. Besides the spiritual director, other pious and learned priests are also to be designated to hear the confessions of the pupils and to suggest suitable counsel to them. S. C. EE. et RR., Jan. 18, 1908.

From regular discipline, etc.; for the following decree on sacramental absolution to be imparted to religious members must be attended to. "In an audience had by the undersigned Cardinal Pro-Prefect of the Sacred Congregation of Religious, on Aug. 5, 1913, our most holy Lord Pope Pius X, because of peculiar reasons of conscience, deigned to extend to all Confessors of the whole world approved by the Ordinaries of places the faculty which in the month of February of this year he had granted to all Confessors approved by the Ordinary of the City as regards absolution to be imparted to Religious. Therefore these Confessors, by the authority of our Most Holy Lord Pope Pius X, can receive the sacramental confessions of all members of any Order, Congregation, or Institute whatever without being bound to inquire about or seek permission obtained from the Superior, and can validly and licitly impart absolution from sins reserved in the Order or Institute even under censure. "Therefore His Holiness has commanded all superiors and presidents of every Order, Congregation, or Institute to observe faithfully the prescriptions of this decree in virtue of holy obedience, Constitutions, Apostolic ordinances, privileges granted in any more efficacious form, and any other contrary things whatever, even those worthy of special and individual mention, by no means standing in the way." S. C. de Relig., Aug. 5, 1912.

The aforesaid Decree of Aug. 5, 1913, also comprehends Confessions which Religious of the Latin rite make to Confessors of the Oriental rite and conversely; and also novices of any Order or Congregation. S. C. de Relig., May 3, 1914, A. A. S., vol. 6, p. 232.

The faculty previously granted at Rome was of the following tenor: "Vicariate of Rome - Office II. - By disposition of the Holy Father communicated to this Vicariate by letter of the Sacred Congregation of Religious dated Feb. 8, 1913, all priests approved for confessions in Rome, from now on, have the faculty of hearing the confession and absolving Religious belonging to any Order who have recourse to them, without need of any permission on the part of the respective Regular Superiors."

791. Do confessors of nuns need special approbation, and can nuns freely choose a confessor for themselves? - It does not pertain to nuns to choose a confessor for themselves, unless they have this right from foundation or custom, in which case the confessor chosen by them must be approved by the Ordinary. - If the nuns are not exempt, or if they are exempt and immediately subject to the Apostolic See, the deputation of the confessor belongs to the Bishop. If the nuns are exempt and subject to regular prelates, the deputation of the confessor, nevertheless of the same order, pertains to the regular prelate. But it is necessary that the Bishop approve him, and indeed specially for the Confessions of nuns; indeed also for such a convent, so that it does not suffice that he has already been approved by the Bishop for another convent. And he must be approved as often as he is deputed to that duty. - Lugo, Resp. Mor., l. 5, d. 24, n. 5.

The S. C. EE. et RR., May 2, 1617; June 7, 1620; Sept. 2, 1642, etc., established that confessors of nuns must be above forty years of age, and that ordinary confessors must be changed every three years. By the decree *Cum sacramentalibus* the same was established. Yet this is not observed everywhere; and, if it is not done, it does not import invalidity of absolution. S. C. EE. et RR., July 20, 1875; Collectan. S. C. de P. F., n. 436. Moreover the confessor is bound to come to hear the Confessions of nuns as often as he has been called. Besides, let him beware lest he conduct himself as superior of the monastery, since no such authority belongs to him in any way; and lest, after he has already fulfilled the office for three years, he mingle conversations with the nuns or send letters to them, even about those things which regard direction of conscience. This was prescribed at Rome both as regards ordinary confessors and as regards extraordinary ones, once their office had ended. Ferraris, v. Confessarius, a. 4, n. 37.

The deputation of extraordinary confessors pertains to him to whom the deputation of the ordinary pertains, and one or several must be offered at least twice or three times in the year. Trent, sess. 25, C. 10, de Reg. - Even from the sole reason of spiritual consolation and progress, a peculiar confessor whom she requests must be granted extraordinarily to a nun, provided that on the part of the nun and on the part of the confessor whom she asks for herself nothing appears from which the said spiritual progress is not to be hoped for. - If the regular prelate neglects to give an extraordinary confessor, the Bishop supplies his negligence. If the Bishop himself neglects to give an extraordinary confessor, nothing else is granted to the nuns than to have recourse to the S. C. de Relig. or to the Major Penitentiary. - But it is prescribed that the extraordinary confessor at least once in the year be either secular or of another order, and at that time the ordinary confessor is to hear the Confessions of no one, neither of the abbess nor of the novices. - All nuns are bound to present themselves to the extraordinary confessor, so that provision be made for the liberty of all; nevertheless they are not bound to confess to him. And therefore, during the whole time for which the office of extraordinary confessor lasts, the ordinary confessor must abstain from exercising his ministry and must not come to the monastery. S. C. EE. et RR., Jan. 1749; Bizzarri, p. 31. - But regular confessors of this kind, after they have fulfilled their office, are forbidden to come to the same monastery or to continue intercourse within it in any way whatever. Bizzarri, p. 294, ed. 1885. - S. C. EE. et RR., Dec. 7, 1906. The ordinary confessor cannot be constituted as extraordinary confessor unless a year has elapsed after the completed triennium. The extraordinary confessor is not held by this law of the triennium. And this extraordinary confessor, even permanently, is not to be denied to a nun who would obstinately refuse to confess to the ordinary. Benedict XIV, Constitution *Pastoralis curae*.

By decree of the S. C. EE. et RR., Dec. 17, 1790, art. VI, "His Holiness admonishes Prelates and superiors not to deny an extraordinary confessor to subjects as often as subjects are driven to this in order to provide for their own conscience, and the same superiors are in no way to inquire into the reason for the petition or show that they bear it unwillingly. And lest so provident a disposition become vain, the Ordinary is exhorted that in places of his own diocese in which communities of women exist, he designate suitable priests furnished with faculties, to whom they can easily have recourse for the sacrament of penance." But this, as is evident, does not progress so far that they may constantly have recourse to an extraordinary confessor without ever approaching the ordinary confessor. Hence it was declared: "The dispositions of art. IV of the decree *Quemadmodum* constitute only an exception to the common law for cases only of true and absolute necessity, as often as they are driven to this, that which is prescribed by the Sacred Council of Trent and by the Constitution

Pastoralis curae of Benedict XIV remaining firm." S. C. EE. et RR., Feb. 1, 1892. Cf. the Norms of the same Sacred Congregation, nn. 144-146.

At the point of death, a particular confessor must be granted by the Bishop to any nun asking for one; and if the monastery is exempt, if the regular prelate does not grant him, he must be assigned by the Bishop, Benedict XIV, Constitution *Pastoralis curae*, or, if even the Bishop refuses, by the Major Penitentiary, if time is available. But if time is not available, provision has been made by the Council of Trent, sess. 14, C. 7.

Under the name of nuns here are properly understood only women living under rule in cloister; but not those who are not bound to observe strict enclosure. - But the cited decree *Quemadmodum* of the S. C. EE. et RR., Dec. 17, 1890, regards also the more recent sisters of only simple vows and without papal enclosure, to whom afterward those things which had been established for nuns were extended. And now especially from the decree *Cum de Sacramentalibus*, the same law exists for nuns and sisters. - Gregory XV, Constitution *Inscrutabili*, Feb. 5, 1622; Clement X, *Superna*; Benedict XIV, Constitution *Pastoralis curae*; Ithur., Cas. 16; Bouix, de Episc., vol. 2, p. 253; de Iure Reg., vol., p. 332; L. 576, 577; E. M.

792. Can cloistered nuns be absolved by any confessor when by chance they are outside the monastery? - Resp. In the affirmative. The reason is that the Constitutions *Inscrutabili* of Gregory XV and of other Supreme Pontiffs, which prohibit nuns from confessing to a priest other than one specially approved by the Bishop for nuns, are not to be understood except of nuns dwelling in the monastery; for they suppose that nuns are always within the cloister. Therefore any confessors whatever, although not approved for nuns, can absolve nuns accidentally coming to them. Besides, it would for the most part be an excessive inconvenience if traveling nuns had to confess only to confessors specially approved; confess; for often they would have to lack the sacraments of penance and of the Eucharist. S. C. EE. et RR., Aug. 27, 1852. - La-Croix 1527; E. M.

793. What is to be said about the confessors of Sisters of more recent Institutes? - As regards the special approbation of the Bishop in the confessor, this is not required by the general law. For the law speaks of nuns, strictly so called. But it is required by the Norms of the S. C. EE. et RR., by particular Constitutions approved by the Holy See, and by the particular disposition of Bishops, who are accustomed to grant approbation only with nuns excepted, thus also comprehending the more recent Sisters.

And for these Sisters an ordinary confessor is to be appointed, as for Nuns, according to the same Norms. Leo XIII, Constitution *Conditae a Christo*, § XI of the first series and § VIII of the second series. - As regards an extraordinary confessor, to be appointed by the Bishop several times in the year, the Bishop again is not strictly bound to this by the general law, for the same reason. But he is bound to it, and under grave obligation, from the natural law of charity and justice, by which he must provide for the spiritual good of his subjects; from the aforesaid Norms; and from the Constitutions themselves approved by the Holy See, since the Sacred Congregation is accustomed to prescribe that, as regards confessors, the Constitution *Pastoralis curae* of Benedict XIV be observed. Moreover an admonition is found in the cited decree *Quemadmodum*, already related above, n. 791. Further, those things which were established concerning nuns as regards an extraordinary confessor, Benedict XIV wishes to be observed also in these communities which do not have canonical enclosure; indeed even in any companies or conservatories of women and girls living together which have one ordinary

confessor designated by the local Ordinary. The S. C. EE. et RR. judged that he should be renewed every three years. But it is lawful for such a woman to confess even outside the conservatory or monastery. The same Sacred Congregation, Jan. 29, 1847, Bizzarri, p. 116, ed. 1885. - This concerns the extraordinary confessor; for "the law about an ordinary Confessor for individual monasteries does not regard colleges of girls." S. C. EE. et RR., Dec. 7, 1906.

But where Sisters or women of this kind are accustomed to confess in churches, they can confess to anyone otherwise approved, which has been introduced by custom, and is clear from S. C. de P. F., Feb. 20, 1877, *Collectanea*, n. 437, although they have an ordinary confessor designated by the Bishop. And certainly they can be absolved by the pastor, if they do not enjoy a special exemption from him. For if they must receive Viaticum and extreme unction from the pastor, and be buried by the same, how could they not be absolved by the same, at least when the Sisters are outside the house?

Finally, article 149 of the Norms establishes: "As often as Sisters make their Confession in some public church, they will be able to confess to any priest approved by the Bishop." So also S. Penit., Feb. 9, 1901. Ferraris, v. *Moniales*, a. 5, n. 19; E. M.

It was prohibited by the S. C. EE. et RR. that Regulars be the ordinary Confessors of Sisters of simple vows, just as this was forbidden to them for Nuns subject to the Bishop. S. C. EE. et RR., Sept. 1, 1905. But this prohibition at present no longer has force of itself, from the following very recent Decree *Cum de Sacramentalibus* of the S. C. de Religiosis, in which almost the whole present law on this matter is contained, and by which almost all the things preceding are confirmed.

Decree on the Confessions of Nuns and Sisters. - S. C. de Relig., Decree, Feb. 3, 1913. "Since several laws have up to this day been ordered, according to matter and time, for regulating the sacramental confessions of Nuns and Sisters, it has seemed good to gather them, changed in some part and suitably arranged, into one Decree, as follows:

1. To each religious community, both of Nuns and of Sisters, regularly, only one ordinary Confessor is to be given, unless because of their great number, or some other just cause, it is necessary that a second or several be given.
2. The ordinary Confessor, regularly, is not to remain in this office beyond three years. Yet the Bishop or Ordinary will be able to confirm him for a second, and indeed even for a third, triennium: a) if, because of a scarcity of priests suitable for this office, he cannot provide otherwise; or b) if the greater part of the Religious, including also those who in other affairs do not have the right of casting a vote, agree by secret votes to the confirmation of the same Confessor; nevertheless provision must be made otherwise for those dissenting, if they wish.
3. Several times in the year, to each religious community there is to be given an extraordinary Confessor, to whom all the Religious must approach, at least to receive a blessing.
4. For each religious house some priests are to be deputed by the Ordinary, whom the Religious, in particular cases, may easily call for the purpose of making confession.
5. If any Religious woman, for the peace of her soul and greater progress in the way of God, should ask for some special Confessor or spiritual director, he is to be readily granted by the Ordinary; who, however, will watch lest abuses creep in from this concession; but if they do

creep in, he is to remove them cautiously and prudently, with the liberty of conscience nevertheless preserved.

6. If the house of Religious is subject to the local Ordinary, he chooses the priests for confessions, both ordinary and extraordinary; but if it is subject to a Regular Superior, he presents the Confessors to the local Ordinary, to whom it belongs to grant them the power of hearing confessions.

7. To the office of Confessor, whether ordinary, extraordinary, or special, priests can be deputed both from the secular Clergy and, with the permission of Superiors, from the regular Clergy, provided however that they have no power in the external forum over the same Religious.

8. These Confessors, who must have completed forty years, should be eminent in integrity of morals and prudence; but the Ordinary, for a just cause and with his conscience burdened, will be able to choose for this office priests who are not yet of that age, provided they excel in the aforesaid qualities of soul.

9. The ordinary Confessor cannot be named extraordinary, and, apart from the cases enumerated in article 2, cannot be chosen again as ordinary in the same community unless after a year from the completed office. The extraordinary Confessor can immediately be chosen as ordinary.

10. All Confessors, whether of Nuns or of Sisters, are to beware lest they involve themselves in the internal or external government of the community.

11. If any Religious woman asks for an extraordinary Confessor, it is lawful for no Superior, either by herself or through others, either directly or indirectly, to inquire into the reason for the petition, to oppose the petition by words or deeds, or in any way to show that she bears it with displeasure; but if she has conducted herself thus, she is to be admonished by her own Ordinary; if she has again sinned in the same matter, she is to be deposed by the same, after the Sacred Congregation of Religious has first been heard.

12. All Religious women are in no way to speak among themselves about the confessions of their companions, nor are they to dare to criticize those sisters who make confession to someone other than the one deputed; otherwise they are to be punished by the Superior or by the Ordinary.

13. Special Confessors called to a monastery or religious house, if they understand that the Religious approach them for no just cause either of necessity or of spiritual utility, are prudently to dismiss them. Moreover all Religious women are admonished to use the faculty granted to them of asking for a special Confessor in such a way that, human motives set aside, they intend only spiritual good and greater progress in religious virtues.

14. If at any time Nuns or Sisters happen to be outside their own house for any cause whatever, it is lawful for them in any church or oratory, even semi-public, to make confession to any Confessor approved for both sexes. The Superior can neither prohibit this, nor inquire about it, not even indirectly; and the Religious are bound to report nothing about it to their Superior.

15. All Nuns or Religious, when they are gravely ill, even if danger of death is absent, can summon any Priest approved for hearing confessions, and, while the grave illness lasts, confess to him as often as they wish.

16. This Decree must be observed by all religious families of women, of vows both solemn and simple, by Oblates and other pious communities which are bound by no vows, even if the Institutes are only diocesan. It also obliges communities which are under the jurisdiction of a regular Prelate; and unless he sees to the faithful observance of this Decree, the Bishop or Ordinary of that place is to do so himself as Delegate of the Apostolic See.

17. This Decree is to be added to the Rules and Constitutions of each religious family, and read publicly in the vernacular language in the Chapter of all the Religious, once a year.

Our Most Holy Lord Pope Pius X, on Jan. 31, 1913, deigned to approve and confirm this Decree in all things, and to command that it be published, and in the future be most carefully observed by all whom it concerns. All contrary things whatever notwithstanding, even those worthy of special and individual mention."

XI. On Reservation

794. What is reservation? - Reservation of causes generally is the calling up of the judgment of some cause from an inferior judge to a superior; whence it happens that, while the inferior judge's ordinary power remains, the power of judging certain other graver causes is taken away from him. Therefore reservation of cases in our matter, namely the reservation of sins or censures, in relation to absolution to be given and received, is a restriction or limitation of jurisdiction, i.e., a denial of the power of absolving from certain sins and censures, with the power of absolving from others preserved. Therefore in reserved matters the simple confessor can do nothing; in reserved matters, not in the penitent bound by reserved matters. The penitent can be absolved from other things; from reserved matters he cannot be absolved. Although the penitent confesses these in good faith, and the confessor absolves, they are then remitted only indirectly. - Trent, sess. 14, C. 7, c. 11; Lugo, de Euch., d. 14, n. 87, 96; L. 265, 578, 579, 596; S. Th., Suppl., q. 20, a. 2.

795. Who can reserve cases; and what cases have in fact been reserved by those who can reserve them? - The Supreme Pontiff, by reason of his jurisdiction over the whole Church, can reserve cases in the whole Church. But the cases in fact reserved to the Supreme Pontiff are some reserved with censure, others without censure. Papal cases reserved with censure are contained in the Constitution of Pius IX *Apostolicae Sedis* on censures, to which several others were afterward added.

Papal cases reserved without censure are: calumnious accusation of solicitation; and the acceptance of gifts from Regulars, unless the gifts have not been restored, or unless a promise of restitution is made when the penitent cannot now restore. Therefore this acceptance is not properly a reserved case. Cf. 295, 1279. Gury-Ballerini-Palmieri 382, IV.

A faculty is granted to Confessors by the rescript-form of the S. Penitentiary: "VI. Of absolving from the case reserved to the Apostolic See on account of gifts accepted from Regulars of either sex, with a salutary penance imposed, and, when there is question of gifts which do not exceed the value of ten scudi, with some alms imposed according to your judgment, to be assessed and cautiously expended as soon as possible for the benefit of the religion or convent to which restitution would have to be made, provided however that it is not established that they were from the proper goods of the religion; but insofar as the gifts accepted either were above the value of ten scudi or are established to have been from the proper goods of the religion, after restitution has first been made; and if the

penitent cannot fulfill this at present, after a serious promise has been issued of restoring within a term to be determined by your judgment; otherwise under reincidentia."

Only by the Supreme Pontiff can they be absolved, the Cardinal Penitentiary himself being excluded, who violate those things which have been established under penalty of excommunication for the election of the Supreme Pontiff, Constitution *Vacante Sede*, Dec. 25, 1904, and also the secret which is called that of the Holy Office. *Ord. serv. in R. C.*, special Norms, c. 7, a. 2, n. 4.

Moreover only by the S. C. Consist. can priests be absolved from suspension from divine things who, without observing the law of the same Sacred Congregation, have rashly and arrogantly migrated. S. C. Consist., March 25, 1914, *Supplementum Primum Enchiridii Moralis*, ed. 3, p. 59 ff.

Bishops, by reason of their jurisdiction in their own diocese, can reserve cases in it. Episcopal cases are some reserved by the common law itself, others by the Bishops themselves. The former are contained in the praised Constitution *Apostolicae Sedis*, to which others were afterward added. But the latter, reserved to themselves by the Bishops themselves, are various according to the various dioceses, and are contained in their own catalogues.

A case reserved to Bishops without censure is that concerning the relief of the miserable condition of the Indians: "... We condemn as guilty of a monstrous crime and declare to be such all who dare or presume to reduce the aforesaid Indians into servitude, to sell, buy, exchange, or give them, to separate them from wives and children, to despoil them of their things and goods, to lead and transfer them to other places, or in any way to deprive them of liberty, to retain them in servitude; and also to furnish counsel, aid, favor, and work under whatever pretext and color sought to those doing the aforesaid things, or to preach or teach that this is lawful, and otherwise to cooperate in any way in the foregoing... Therefore we will the power of absolving penitents from these crimes in the sacramental forum to be reserved to the Ordinaries of places." Pius X, Encyclical Letter *Lamentabili statu*, June 7, 1912, *Acta Ap. Sed.*, vol. 4, p. 521 ff.

Now Ordinaries cannot reserve to themselves cases which the Supreme Pontiff has reserved to himself. S. C. EE. et RR., Nov. 26, 1602. Cf. Suarez, d. 31, s. 4, n. 25; Lugo, d. 20, n. 149, 151. - Moreover they should not be ready to reserve to themselves especially more frequent sins, for example against chastity; but, on the contrary, they are admonished to be ready in granting, especially to confessors in places situated far from the episcopal city, the faculty of absolving. Hence they are also admonished to establish penitentiaries and other priests in the diocese who can themselves absolve and give to others the faculty of absolving. S. C. EE. et RR., Nov. 26, 1602.

Finally, episcopal reservations made outside a synod, since at least in fact they are not considered as perpetual laws, whether with or without consultation of the chapter, cease when the Ordinaries cease from office or die.

Pastors also, although they are not superior prelates and from this head it would not seem that they themselves can reserve cases, nevertheless absolutely can; because they have ordinary jurisdiction. But in fact there is no reservation by pastors, since it would be almost useless.

Regular prelates can reserve, if they wish, the eleven cases designated by the Decree of Clement VIII, May 26, 1593. They can by no means reserve other sins or censures without mature discussion and the consent of the general chapter in the whole order, or of the provincial chapter in the province. But

Nuns are subject to the reservation of the Bishop if they are not exempt; otherwise, if they are exempt. But nuns subject to Regulars are also subject to the reservation of the Bishop in matter clearly pertaining to delegated jurisdiction. L. 580-583, 600, 602; Benedict XIV, de Syn., l. 4, c. 5; Lugo, Resp. Mor., l. 4, d. 28; l. 1, d. 21.

But Clement VIII commends moderation in the aforesaid reservation, considering that "reservation... could bring some weaker persons, who at times fear to disclose the stains of conscience to their superior, into danger of eternal damnation and despair of spiritual remedy." And in fact the eleven Clementine cases are truly graver; for they are the following:

Poisonings, Incantations, Sorceries.

Apostasy from Religion, whether with the habit laid aside or retained, when it has proceeded so far that there is an exit outside the enclosure of the Monastery or Convent.

Nocturnal and furtive departure from the Monastery or Convent, even if made without the intention of apostatizing.

Property against the vow of poverty, which is by mortal sin.

A false oath in a regular or legitimate trial.

Procuring, aid, or counsel for causing an abortion after the fetus is animated, even if the effect has not followed.

Falsification of the handwriting or seal of the Officials of the Monastery or Convent.

Theft from the goods of the Monastery or Convent in that quantity which is mortal sin.

A voluntary lapse of the flesh consummated by the deed.

Killing, or wounding, or grave striking of any person.

Malicious impediment, delay, or opening of letters from Superiors to inferiors, and from inferiors to Superiors.

796. What in fact are the conditions of reserved sins? - The Church is not accustomed to reserve except graver and external sins. Therefore reservation is not incurred unless the sin was grave, by an act at once internal and external, and one consummated. Likewise it is not incurred either in doubt of law or in doubt of fact concerning the sin itself, although after received absolution the reservation appears certain.

Do age, fear, and ignorance excuse from reservation? - They certainly excuse when the reservation has the character of a penalty, as in the reservation of censures. Hence ignorance excuses from reservation in papal cases, because, two excepted, cf. 795, all the rest are reserved because of censure, from which ignorance excuses. Consequently, once the censure is removed, no reservation remains. For episcopal cases, if the reservation is joined to a censure, theologians disagree; but several and grave theologians hand down the same concerning these as concerning papal cases, since no distinction is found in the Law between papal and episcopal censures. Yet not a few establish a distinction between episcopal and papal cases, so that in the former, when the censure ceases, e.g., because it is unknown, the reservation still remains; since the sin is reserved both by reason of the censure and by reason of itself. But the words of the reservation, custom, and the power of the one

reserving must be considered, that the matter may be determined. Suarez, d. 29, s. 2, n. 7. - They also excuse in the reservation of sins when the legislator positively declares that he constitutes the reservation as a punishment of the crime; for then it is certainly penal.

But do they excuse also when the sin is simply reserved? - There are those who affirm, because reservation by its nature is a vindicative penalty, or at least medicinal, or because such at least is reasonably presumed to be the will of the legislator. This opinion is probable to many, and also to several of those who oppose it, who consequently conclude that it is lawful to use it, provided the confessor makes the penitent more certain about the reservation, so that if afterward he falls again into reserved matters, he may be held by the reservation. But the doctors far more commonly and more truly deny. The reason is that reservation by its nature is not a penalty, but merely a restriction of jurisdiction as regards greater causes, which the superior judge calls to himself to be judged by himself and submits exclusively to his own judgment. Nor indeed is the will of the legislator reasonably presumed, since this cannot be taken either from the intrinsic nature of the reservation itself, or from the extrinsic words of the law and other circumstances. And certainly no excuse is to be admitted if the legislator explicitly declares that he wills to comprehend in the reservation both children, and those suffering fear, and the ignorant. - L. 580-583, 596, 600.

797. Who can absolve from reserved matters, and when? - Besides the Roman Pontiff and the Major Penitentiary, those who reserve, and those who act in their place, can absolve by ordinary right. Therefore Bishops absolve from episcopal cases, and their vicars general. C. *Non putamus* 2, de Consuet. in 6, each one in his own diocese; not likewise canon penitentiaries. L. 509. From cases reserved by Regulars, their superiors absolve, and at present all Confessors approved by the local Ordinary. Cf. here 790. But at present Regulars cannot absolve from papal cases, from the Constitution *Apostolicae Sedis* of Pius IX on censures; nor can they absolve from episcopal reserved cases from prop. 12 condemned by Alexander VII. Yet they can absolve from those reserved to Bishops by the common law itself. For this faculty is found nowhere revoked. L. 599; S. O., March 22, 1881. - Likewise all absolve from reserved matters who receive special delegated jurisdiction over reserved matters.

Power of absolving from reserved matters, given simply for papal cases, or given even for papal cases, does not hold as regards cases reserved by Ordinaries. Benedict XIV, Constitution *Pias Christi*; L. 594. Power given by an Ordinary for absolving from reserved matters does not hold for papal cases. But each power given simply does not hold for specially reserved cases, or those reserved in a special manner. C. *Si Episcopus* 2, de Poenit. in 6.

Since pilgrims by common custom confess and are absolved as inhabitants of the place in which they stay, they cannot be absolved from reserved matters in the place of Confession by a simple confessor; but they can be absolved from matters reserved in their own country, unless they have come there in fraud of the reservation, and there is question of censures reserved *ab homine*. Clement X, Constitution *Superna*, June 21, 1670; S. C. C., Sept. 16, 1649, apud Benedict XIV, de Syn., l. 5, c. 8; S. C. C., Nov. 12, 1612; S. Penit., Nov. 21, 1873. He comes in fraud of the reservation who comes for this principal end, of avoiding the judgment of his own pastor and of obtaining absolution from reserved matters. Therefore, if he comes in order to handle his other business, and then confesses, or even in order to confess better, he uses his own right. Concerning censures reserved *ab homine*; for as regards these a universal custom cannot be invoked, as for censures, even reserved ones, imposed by

law, though others deny this. D'Annibale 346, vol. 1, ed. 3; L. 573, 574, 587, 592, 593; Filliucci, tr. 7, c. 10, n. 284; Gury-Dumas, Gury-Ballerini 582.

Confessors even privileged cannot absolve penitents of another rite from a case reserved by each one's own Ordinary. Leo XIII, Constitution *Orientalium dignitas*, Nov. 30, 1894. Cf. here n. 766. - At the point of death all can absolve from reserved sins and censures, because then there is no reservation from Trent, sess. 14, C. 7. Therefore for absolving from papal cases no permission of the Bishop is needed, and anyone can absolve from reserved matters, even when the superior or another having power is present. Cf. n. 773 and n. 799.

On the faculty of Cardinals to absolve from reserved matters, cf. vol. 1, n. 266 bis 1.

A superior who has ordinary jurisdiction can remove reservation outside Confession; and the penitent can then be absolved by any confessor. But one who has delegated jurisdiction, since it is given principally for absolving sins, can absolve from reserved matters only in sacramental Confession. Suarez, de Censur., d. 7, s. 5, n. 36; Lugo, d. 20, n. 74. "But can a superior absolve a penitent from reserved matters, and send him back to an inferior for the others? Some affirm universally... Others say that this is lawful only in a case of grave necessity, for example if the superior could not free himself from some very grave business, and on the other hand judged it necessary personally to hear the reserved sin. And Lugo, d. 20, n. 78, Salm., etc., admit this. But in a very rare case, with it added that the penitent would be under necessity of communicating and would not wish to confess the same sins twice. This last does not seem improbable, granted the case with all these conditions." L. 595. "One who has been absolved from reserved matters by a superior can afterward be absolved from the same by anyone; because they are no longer necessary matter of Confession." L. 596. - Lugo, Resp. Mor., l. 1, d. 27; l. 4, d. 28; l. 3, d. 6; E. M.

798. Note: A superior should not give permission to absolve from reserved matters with difficulty, "lest otherwise that which ought to have been unto edification yield unto destruction." L. 578; S. Th., 4, d. 17, q. 3, a. 3, qc. 5 ad 6; Opusc. contra impugn. Relig., C. 1. Therefore, regularly, he sins gravely if grave detriment to the subject is feared from the denial. L. 586. Regularly, that is, unless grave scandal and grave damage to the community threaten, to which only the superior, after the matter is known, could bring a remedy. - L. 586; Suarez, d. 30, s. 4, n. 8, 9; E. M.

799. Is one absolved from reserved matters in the article of death by an inferior bound to present himself to the superior if he recovers? - Resp. In the negative, if the discussion is about merely reserved sins. For from Trent, sess. 14, C. 7, in the article of death there is no reservation. Therefore there is also no burden of reservation, unless it is proved from another source. - If the discussion is generally about reserved censures, the first opinion affirms absolutely, from C. *Eos qui* 22, de Sent. exc. in 6; the second opinion distinguishes as regards papal censures: it affirms concerning papal censures reserved in a special manner, denies concerning the others.

The reason is that in the Constitution *Apostolicae Sedis* concerning the former it is said that, as regards those absolved, the obligation of standing to the mandates of the Church if they recover remains firm; but concerning the rest nothing is said. The third opinion denies absolutely even concerning the aforesaid censures reserved in a special manner; because the Tridentine decree was not corrected by the Constitution *Apostolicae Sedis*, and that clause does not necessarily signify, either from the Law of the Decretals or from the authority of theologians, an obligation of presenting oneself to the superior;

provided however that, if the penitent recovers, he perform those things which the superior would have exacted from him, the matter had not been notorious, nor brought to the contentious forum. Cf. cited C. *Eos qui*. For the Tridentine decree removed that obligation, declaring without any ambiguity of words that in the article of death there is no reservation, and then immediately confirming the obligation of approaching the superior outside the article of death, sess. 14, C. 7. And this argument, taken from Trent, is confirmed from the Constitution *Apostolicae Sedis* itself, since if cases reserved in a special manner are to be excepted, this is because in the same Constitution they are expressly excepted by force of the aforesaid clause, while concerning other cases simply reserved scarcely any question is any longer raised. - Further, it has been declared by the Holy Office that the obligation of standing to the mandates of the Church imports the burden, either personally or through the confessor, of having recourse to the Supreme Pontiff and obeying his mandates, or of seeking a new absolution from one having the faculty of absolving from censures reserved in a special manner to the Supreme Pontiff. And this obligation is under penalty of reincidentia. But the same obligation does not press for other cases simply reserved. S. O., Aug. 19, 1891; Jan. 13, 1892; March 30, 1892. - E. M.

800. While an impediment to approaching the superior stands, can someone be absolved by a simple confessor from reserved cases? - From the ancient Law of the Decretals: Bishops can in the aforesaid case, by themselves or through others specially delegated by them, absolve in both fora from all cases and censures, in whatever way reserved to the Apostolic See. This is clear 1. from C. 2, 3, 6, 11, 13, 17, 24, 33, 37, 50, de Sent. exc.; 2. from the common opinion of theologians. Hence the saying: A papal case, when an impediment supervenes, becomes episcopal. L. 584, 599.

Although by no express law, nevertheless from common doctrine a threefold impediment is distinguished: for a short time, for a long time, and perpetual. If the impediment is for a short time, i.e., not up to a year or six months, then one bound by a reserved sin or reserved censure cannot be absolved by another unless a grave cause is present. A grave cause is not only the paschal precept, or necessity of communicating or celebrating, but also if otherwise the penitent would have to remain in mortal sin for a long time, i.e., beyond two days. L. 585; l. 7, n. 84, 86, 88. In such a case the common and received opinion holds that one is absolved from a reserved sin only indirectly; and therefore the penitent is bound afterward to be absolved directly by one having the power. L. 585, 596. From a reserved sin; namely whether the sin is reserved without censure or with censure: for from a censure one can be absolved only directly; but while that grave cause stands, the censure does not prohibit sacramental absolution.

But there are several and grave doctors who hold that absolution even in this case is given directly from a reserved sin, whether reserved without censure or with censure. Where there is question of reserved censures, the Law does not distinguish between a long and short time, C. *Nuper* 29, de Sent. excomm.; C. *De cetero* 11, e.t.; C. *Quamvis* 58, ib.; C. *Eos qui* 22, e.t. in 6, etc. Therefore, if it is valid to argue from a faculty positively made by the Law when the case is reserved with censure, the same must consequently be said again when the case is reserved without censure. And indeed this opinion is favored by the Decree of the Holy Office, June 23, 1886, and of the S. Penit., Nov. 7, 1888.

But even in this opinion the penitent, without doubt, when the impediment ceases, is bound to present himself to the superior. This is provided in the Law itself for cases reserved with censure; but for cases reserved without censure, because by force of the reservation the penitent is bound of himself to undergo the judgment of the superior whenever he can; therefore the past impediment

could not of itself absolutely exempt the penitent from this burden, although he could have confessed to the inferior confessor by a certain legitimate interpretation. For if the Law grants that power of absolving when the case is graver, namely reserved with censure, it seems implicitly to grant the same power when the case is less grave and is reserved without censure. But the penitent thus directly absolved in either case must present himself to the superior, not in order to confess again to him and be absolved again by him, since he has already been directly absolved, but "to receive his mandate and to make satisfaction as justice advised." C. *Eos qui* 22, de Sent. exc. in 6; C. *Quamvis* 58, e.t., etc.

If the impediment is for a long time, i.e., for a year or six months, and the sin is reserved with censure, absolution is indeed given directly, according to the common opinion, which again is favored by the aforesaid Holy Office Decree of June 23, 1886; but with the burden first imposed of presenting oneself to the superior when the impediment has ceased. But one omitting to present himself falls again into the same excommunication; which reincidentia shows that he was absolved from the censure, otherwise there would be no place for reincidentia. But once he has been absolved from the reserved censure, he is already directly absolved from the sin; since, when the censure ceases, the sin is no longer reserved. C. *De cetero* 11, de Sent. exc.; C. *Quamvis*, e.t.; C. *Eos qui* 22, e.t. in 6.

Several maintain this reincidentia even after the Constitution *Apostolicae Sedis* of Pius IX, which limits censures, because, they say, it belongs to the very nature of a censure, which the aforesaid Constitution does not change. Others limit reincidentia only to cases reserved in a special manner in the aforesaid Constitution, since for these alone, they say, reincidentia is established for the article of death; therefore also in the case of impediment reincidentia is likewise to be admitted for the same cases; otherwise reincidentia would be had when reservation ceases of itself, namely in the article of death, but would by no means be had when it ceases by accident, namely in the case of impediment. Others finally judge reincidentia to have been removed by the cited Constitution, because it is not read as renewed in it, from which censures at present are to be taken. And the same Constitution, if at any time in a particular case it wished to maintain a censure, expressed this, as in article 4 of the excommunications simply reserved to the Supreme Pontiff. And therefore reincidentia must be said to have been removed in the case of impediment, because reincidentia is not intrinsic to the very nature of a censure, and thus, unless Boniface VIII had added it, no one, as before, would have incurred reincidentia. At present censures are to be evaluated from the Constitution *Apostolicae Sedis* "just as if they had first been issued by it." Since therefore it is not contained in it, it is not to be affirmed. This as far as concerns the force of the Constitution itself, since reincidentia is affirmed in the cited Decree of the Holy Office, June 23, 1886. - But if the sin is reserved without censure, according to the common opinion no burden is imposed of presenting oneself to the superior. The reason is that, as this is prescribed for reserved censures, so for merely reserved sins it is not prescribed. But this burden seems to be affirmed for the same reason as in the preceding case, and it is confirmed by the cited Decrees of the Holy Office, June 23, 1886; S. Penit., Nov. 7, 1888.

If the impediment is perpetual, i.e., for ten years or five years, absolution is given directly from a sin reserved either with censure or without censure, and in either case the burden of presenting oneself to the superior is not imposed; for in this case reservation simply ceases, and that burden is incompatible with a perpetual impediment. C. *Eos qui* 22, de Sent. excomm. in 6. So according to the commonly received opinion. L. 585.

Those are judged perpetually impeded who are children under family authority, Regulars, old people, even sexagenarians, servants, the poor, those condemned perpetually to prisons or galleys, the infirm, namely those laboring under a long and grave illness although not mortal, those bound by the care of feeding or administering a family, or of carrying on a public office which cannot be left without public impediment, all women and not only nuns unless there is an exception, as for nuns violating enclosure, those not yet of puberty, even if they ask absolution after puberty, and anyone who cannot undertake a journey without grave spiritual or temporal harm to himself or his own. C. 2, 11, 26, 32, 37, de Sent. excomm.; L. 594; l. 7, n. 84 ff.

Those impeded from going to Rome in person are not bound to send a letter or procurator, or to write to the S. Penitentiary, or to approach a delegate, although they can. For the Law does not oblige the guilty one except that he personally approach the superior. S. O., July 18, 1860; C. *Cum desideres* 15; C. *Quod de his*, de Sent. excomm., cc. from the same Sacred Congregation; L. l. 7, n. 85-93; Schmalzgrueber, n. 262, 246; Sanchez, in Decalog., l. 2, c. 13, n. 30; Roncaglia, tr. 4, cap. 6, q. 4, r. 2. And although others have thought, and do think, otherwise, nevertheless the Decree of the Holy Office, June 23, 1886, favors this opinion, which otherwise now imposes the obligation of having recourse by letter: since the aforesaid Decree rests on changed conditions.

Those still impeded from approaching the Bishop for these cases and censures reserved to the Roman Pontiff can be absolved by any confessor. L. 585. So from C. *Nuper* 29, de Sent. excomm., "where the faculty of absolving seems to be granted indifferently to the Bishop and to the proper priest, namely to any confessor." Roncaglia, l.c., r. 3. Hence the opinion is also probable, which several and grave theologians hold, that absolution of cases and censures, while an impediment to approaching the Roman Pontiff stands, pertains not to the Bishop alone, but indiscriminately to any confessor. "As regards reserved censures," says Roncaglia..., "I note that this opinion is well founded in law, which asserts that one temporarily impeded from approaching the Pope can be absolved by a simple confessor, and does not need to approach the Bishop for absolution from a case reserved to the Pope." Tr. 19, cap. 3, q. 3 and l.c., r. 3. This is indeed drawn from C. *Eos qui* 22, de Sent. excomm. in 6; from C. *Quamvis* 58, de Sent. excomm.; and is clearly found in C. *Nuper* 29, e.t. Hence the opposite opinion, which has become more common, rests more on the authority of theologians than on some clear text of the Law. But theologians do not have the power of making laws. And this is so true that D'Annibale, who adheres to the opposite opinion, nevertheless admits that this one, p. 1, n. 349, ed. 3, "coheres excellently with the words of the canon." Moreover, the Constitution *Apostolicae Sedis* of Pius IX on censures favors this opinion; since it would have been very easy for the Legislator, among the other cases reserved to Bishops, to add this one also, which on the contrary was passed over. But what is now chiefly important in this question is that the praised Decree of the Holy Office, June 23, 1886, favors this opinion, by which one must stand at present.

If there is question of episcopal cases and censures, St. Alphonsus 585, l. 7, n. 92, and several others deny that a simple confessor can absolve from reserved matters; but certainly probable, indeed perhaps more probable, is the opinion asserting that those who are impeded from approaching the Bishop can be absolved from them by any confessor; and this is manifestly found in C. *Nuper* 29, de Sent. excomm.; C. *Vos qui* 22, e.t. in 6, where there is question of any superior and not only of the Roman Pontiff. D'Annibale, p. 1, n. 349, ed. 3.

After the Decrees of the Holy Office, June 23, 1886; June 17, 1891; Aug. 19, 1891; March 30, 1892; June 16, 1897; and of the S. Penit., Nov. 7, 1888, in papal cases and censures, whether simply reserved or reserved in a special manner, recourse must be had by letters to the S. Penitentiary, while the impossibility of personally approaching the Holy See stands. Nevertheless any simple confessor can directly absolve from them, "in truly more urgent cases in which absolution cannot be deferred without danger of grave scandal or infamy, upon which the conscience of confessors is burdened, with those things imposed which by law are to be imposed, and under penalty of reincidentia into the same censures, unless at least within a month the absolved person has recourse to the Holy See by letter and through the medium of the confessor." And this holds even for the case in which the penitent has been perpetually impeded from going to Rome. But the penitent himself can write to the S. Penitentiary. Therefore when the penitent cannot return to the confessor, it suffices, that he may be absolved, to exact from him a promise of writing to the S. Penitentiary. S. Penit., Nov. 7, 1888. And these things entirely oblige, and a contrary practice is not to be tolerated.

This Decree rests upon the practice of the S. Penitentiary, and does not regard episcopal cases. Since no new Decree has been issued concerning them, the ancient doctrine founded on the ancient Law of the Decretals remains unmoved until something else is defined. Therefore a penitent having reserved cases, if he is legitimately impeded from presenting himself to the superior, can indeed be absolved by another; but, when the impediment ceases, he must present himself to the superior, to receive his mandates and to make satisfaction according to the exigency of the matter. C. *Nuper*, C. *Eos qui*, cited, etc.

Moreover, as regards the aforesaid papal cases, "in the case in which there is neither infamy nor scandal in the delay of absolution, but it is very hard for the penitent to remain in grave sin for the time necessary for petitioning and obtaining the faculty of absolving from reserved matters, it is lawful for a simple confessor to absolve directly from censures reserved to the Supreme Pontiff, with those things imposed which by law are to be imposed, yet under penalty of reincidentia into the same censures, unless at least within a month the absolved person has recourse to the Holy See by letter and through the medium of the confessor." S. O., June 16, 1897. - But "when neither the confessor nor the penitent can send a letter to the S. Penitentiary, and it is hard for the penitent to go to another confessor, in this case it is lawful for the confessor to absolve the penitent even from cases reserved to the Holy See without the burden of sending a letter." S. O., Nov. 9, 1898. Nevertheless it must be observed that the Decree of Nov. 9, 1898, "does not comprehend the absolution of an accomplice." S. O., June 7, 1899. For a penitent of this kind will certainly always be able to write to the S. Penitentiary. - "In order that the burden of sending a letter may cease, the impediment of writing need not bind the confessor and penitent at the same time; but it suffices that the penitent, unable to write, cannot present himself to the same confessor by whom he was absolved by force of the Decrees of 1886 and 1897, and that it is hard for him to approach another confessor; although the absolving confessor could send a letter to the Holy See for the penitent." S. O., Sept. 5, 1900.

Besides, in place of immediate recourse to the Holy See "in the case of absolution granted as above, recourse to the Bishop furnished with the faculty of absolving suffices, or to the Vicar General of the Bishop, as to the Ordinary, sharing by law in the episcopal faculties of absolving." S. O., Dec. 19, 1900. *Monit. Eccles.*, vol. 12, p. 481 ff.; E. M.

As regards Regulars, recourse must be had to the Superior. But the faculty of absolving is to be committed to the ordinary confessor when the confessor himself first of all has judged that it ought to be committed. If the faculty has been sought from the Superior and has been denied, the ordinary confessor will be able, for that time and as often as it happens, to absolve from reserved matters. Clement VIII, May 26, 1593. In small Communities Superiors are bound habitually to depute at least one confessor who can absolve from matters reserved in the Order. S. C. EE. et RR., Aug. 16, 1865. And from reserved matters of this kind in the Order all those confessors can also absolve who have the rescript-form of the S. Penitentiary, but it is necessary that the permission of the Superior be present for making confession to such a confessor. But in this matter the Sacramental seal must be carefully attended to. And if there is danger to it, even when only a general petition has been made to the Superior for absolving from reserved matters, authors are not lacking who think that even in such a case the confessor can absolve the penitent. But, this case being foreseen, the confessor ought beforehand to obtain for himself a general faculty of absolving from reserved matters, which no prudent Superior will deny. Finally, religious can be absolved from reserved cases of this kind by Cardinals by force of privilege, v. 1, n. 260 bis 1, and, by force of the Decree of the S. C. de Relig., Aug. 5, 1913, by all Confessors approved by the Ordinaries of places. Cf. n. 790.

801. Can Bishops absolve from hidden papal cases and censures? - Resp. In the affirmative, from the faculty granted to them through Trent, sess. 24, C. 6; except however cases and censures reserved in a special manner to the Roman Pontiff, as is clear from the Constitution *Apostolicae Sedis* of Pius IX. Cf. n. 795. They can likewise absolve from several papal cases and censures by force of quinquennial faculties. Cf. the formulas of these faculties. The same also can be done by approved confessors having the rescript-form of the S. Penitentiary. Cf. this rescript-form. - L. 593, 594, 599.

802. Is one bound by reservation, in necessity of communicating or celebrating, bound to confess and to confess integrally to a simple confessor, when another is lacking? - Resp. In the affirmative, whether he has only reserved sins, or has besides these non-reserved sins, according to the opinion that a simple confessor in such necessity absolves directly from reserved matters. The reason is that no reason is present for omitting Confession and integral Confession.

According to the other opinion, that a simple confessor in such a case absolves only indirectly, a distinction must be made. For if he has no other mortal sin except a reserved one, the doctors agree that he is not bound to Confession, but that it suffices that he be contrite. The reason is that a confessor not having jurisdiction is just as if he were absent. But if he has mortal sins at the same time reserved and non-reserved, the common opinion holds that this man is altogether bound to Confession. The reason is that the precept of Confession presses; and the confessor, although he does not have jurisdiction in reserved matters, nevertheless has jurisdiction over the penitent bound by reserved matters, and can absolve him at least from non-reserved matters. Yet there are several doctors who deny. - But must someone in such a case also accuse reserved sins? The far more probable opinion denies. The reason is the defect of jurisdiction in the reserved matters. Nevertheless, the case must be excepted in which that knowledge of the reserved sins would be necessary for judging rightly about the present disposition of the penitent and for prescribing suitable remedies to him, so that relapse may be avoided. - According to the Decree of the Holy Office, June 23, 1886, cf. 800, that Confession, and integral Confession even of cases reserved to the Supreme Pontiff, is to be made. - L. 265. Cf. 577.

803. Is one who has confessed to an inferior a sin doubtfully reserved altogether freed from the reservation, even if afterward he recognizes it as certain? - Resp. In the affirmative. The reason is that, since he confessed a doubtfully reserved sin, he has already been directly absolved, and consequently the reservation remains directly taken away. - L. 600. Cf. 674.

804. Can one who sinned in confidence of obtaining permission be absolved from reserved matters? - Resp. In the affirmative, since the granted faculty does not exclude this case. - L. 601.

805. Does a granted faculty of absolving from reserved matters extend also to reserved matters committed after it? - Negatively, if it was granted merely for past cases. Affirmatively, if it was granted indefinitely, for such a penitent, this time, provided a great distance does not intervene between the granting of the faculty and the new reserved matters committed, say not beyond a month; for that faculty is given for the present Confession. - L. 601; Lugo, Resp. Mor., l. 1, d. 22, 23, 24, 25.

806. Is reservation removed in a Confession made to the superior, invalid, sacrilegious, or in which someone has in no way accused reserved matters? - Resp.

To the first and to the second: in the affirmative, more probably and according to the common opinion; for the sins, although accused to the superior in an invalid and sacrilegious Confession, have undergone the judgment of the superior. - To the third: in the affirmative, at least probably, and according to the opinion which St. Alphonsus calls most common, if someone has omitted reserved sins inculpably; for where the contrary will of the superior is not established, he assuredly absolves as much as he himself can and as the penitent needs. Negatively, if they are omitted from malice, or indeed omitted inculpably in a Confession otherwise sacrilegious. The reason is that in this case the superior does not really wish to absolve; since in truth he does not wish to absolve the sacrilegious person, nor does he wish at least to absolve him from the bond of reservation, since his reserved sin has not undergone his judgment. - L. 558, 597, 598.

XII. On the Various Duties of the Minister

807. What of the office of father? - The Confessor is a spiritual father, who gives spiritual life to the penitent, or restores and fosters it; for in the tribunal of penance he acts in place of the best parent of all, namely Christ himself, and therefore by penitents he is called by the sweet name of Father. But that which especially stands out in the true name of father is notable and inexhaustible charity. For what love is stronger than the love of a father? What love is truer, purer, more chaste, more constant, fuller of solicitude, and more foreign to one's own advantage, indeed more ready and prompt for every kind of privations and inconveniences? Therefore such must be the charity of the confessor, so that, clothed with the bowels of mercy of Christ Jesus, who came not to call the just but sinners, he may know how to deal diligently, patiently, and meekly with sinners. Leo XII, in the Bull for the great Jubilee of the year 1825. Thus a good father will bear all things for his spiritual children: for Charity is patient..., bears all things..., endures all things. 1 Cor. 13:4, 7.

The Confessor must be full of charity toward penitents, both at the beginning, during the course, and at the end of Confession. - At the beginning, by receiving all kindly. Therefore those are most to be reproved who, setting aside men, especially the uneducated, and mothers of families, hear only the Confessions of young girls and devout women. Clearly such men hear Confessions not to please God,

but to indulge their own temperament. L. Prax. 120. - During the course, by helping the penitent as much as he can, so that he may accomplish a good and salutary Confession. Therefore, if penitents do not seem sufficiently instructed, the confessor ordinarily also ought himself to examine them, because these, left to themselves alone, will not examine themselves better, and if they are dismissed, they will never return more disposed; indeed, deterred by the difficulty of examining conscience, they will easily abstain from Confession. And if much time must be spent by the confessor in disposing the penitent, let him indeed spend it, nor ought it be a concern to him that other penitents are waiting. - At the end, by efficaciously stirring up the penitent to sincere sorrow and purpose. And if the penitent does not seem sufficiently disposed, the confessor is bound to stir up sorrow and purpose in him, because one absolving the indisposed exposes the sacrament to danger of frustration, but if he dismisses him without absolution, he perhaps exposes him to the danger of remaining long in the state of mortal sin, or even of not returning any more. - L. 607, 608; Prax. 4, 120.

But this charity of the confessor must not be separated from prudence. Therefore "the confessor must be supremely cautious in receiving the Confessions of women..., he should regularly be rather stern than sweet in the confessional with younger women." L. Prax. 119. The same must be observed still more with spiritual persons, "with whom there is danger of greater attachment." L. ib. St. Augustine apud St. Thomas, Opusc. 64, de Famil. dom., etc., says: "Conversation with these women is to be brief and stern; nor, because they are holier, are they therefore less to be guarded against, for the holier they are, the more they entice." And St. Thomas adds: "Although carnal affection is dangerous to all, nevertheless it is more pernicious to them when they associate with a person who seems spiritual; for although the beginning seems pure, nevertheless frequent familiarity is a domestic danger, and the more this familiarity grows, the principal motive is weakened and purity is stained."

How widely this charity of the confessor extends must be taken from the very end of Confession, which is the spiritual salvation of the penitent. Therefore the temporal affairs of the penitent himself are foreign to the confessor; the spiritual and temporal affairs of others are also foreign. But to involve himself in these things is not only at times ill-considered and dangerous; it can also render the sacrament odious. - Constitution of Leo XII *Caritate Christi*, Dec. 25, 1825; Salvatori, *Istruz. Prat. pei Confess. novelli*; L. 421, 452, 478.

808. What of the office of physician? - The Confessor is a true physician of souls, since he must rescue them from the various diseases of sin, remove them from the depraved affections of the passions, and restore them to divine grace. Therefore the Confessor, therefore, as a skilled physician, must know the cause of the evil, heal it, and prevent relapse. - To know the cause of the disease. "For the Confessor, that he may meet the infirmities of his penitent with suitable remedies, the origin and cause of all his spiritual diseases must be known. Some inquire nothing beyond the species and number of sins; if they see the penitent disposed, they immediately absolve him; but if not, without spending one word they dismiss him at once, saying with averted eye: Depart from me, because I cannot absolve you. Good confessors proceed otherwise: for these first investigate the origin and gravity of the disease, by asking about the habit of sin, about occasions, about time, about place, about the persons with whom, and by what concurrence of circumstances. For in this way they will be better able to correct penitents, dispose them for absolution, and add salutary remedies." L. Prax. 6. - To heal the disease. "When the origin and gravity of the disease are known, the confessor should proceed to make the due admonitions. And although he ought, as father, to hear penitents with

charity, nevertheless, as physician, he is bound, as much as is necessary, to admonish and correct them, especially those who, burdened by many mortal sins, rarely approach the sacrament of penance." L. ib. 7, 10.

To prevent relapse. The confessor will prevent relapse by assigning to the penitent remedies suited to the disease. But remedies are either general or particular.

General remedies are: pious prayer and love toward God; frequent invocation of the Blessed Virgin Mary, of the holy Guardian Angel, and of the patron Saint; frequency of the sacraments and Confession as soon as some mortal sin has been committed; consideration of the eternal truths, especially death and the last end, according to that saying: Remember your last things, and you will not sin forever, Ecclus. 7:40; remembrance of God present when temptation presses, saying: God sees me; evening examination of conscience with sorrow of soul and purpose; mental prayer and pious readings, especially for priests. - Particular remedies will be assigned according to the diversity of vices: for example, to him who is held by some hatred, let it be suggested, if this is prudently believed to be useful, that each day he commend to God the one whom he hates, reciting the Lord's Prayer for him, etc. And when he is troubled by the memory of the injury, let him remember the insults with which he himself has affected God. To him who has fallen into base sins, let it be enjoined that he avoid idleness, flee bad companions and depraved occasions. To him who has contracted a depraved habit over a long time in this vice, let it be prescribed that he avoid not only proximate occasions, but even certain remote ones, which for one so weak are like proximate occasions. But above all let the confessor see to it that this man communicate frequently; because the Eucharist is called: Wine bringing forth virgins. The confessor will assign other remedies to others according to his prudence, with the circumstances of occasions, persons, etc., having been considered. For prudence is the principal quality which ought to stand out in a physician. - L. ib. 15; La-Croix, l. 6, p. 2, n. 1786-1932.

809. What of those habituated to sin, those in occasions of sin, and recidivists? What of absolution to be given, denied, or deferred to them? - The diseases of the soul are sins, and their causes are contracted habits, occasions, and relapses; whence come those habituated or customary sinners, those in occasions, and recidivists. Those habituated or customary sinners are those who have contracted a habit of sinning or a custom of sin, into which however they have not yet fallen after Confession. But they are said to have contracted a habit or custom if regularly five times in a month, indeed even once, they are accustomed to relapse into the same sins. A recidivist is one who after Confession, although admonished, relapses into the same sins with no or almost no amendment. One in an occasion is one who is found in some external circumstance which, either from its own nature or from the frailty of the man who is found in it, entices or induces to sinning. One occasion is necessary, another voluntary; one is present or *in esse*, which someone has with himself, e.g., if someone keeps a concubine at home; another is absent or not *in esse*, which someone does not have, but finds when seeking it, e.g., if the concubine is in a neighboring or distant house; one is absolute with respect to all, another relative with respect to such a person; finally one is proximate, in which men commonly for the most part sin, another remote, in which men commonly for the most part do not sin. Therefore that occasion is certainly to be judged proximate in which there is no true probability of not sinning; on the contrary, that is remote in which there is no true probability of sinning. It is clear that various degrees exist between the two.

Neither habit, nor relapse, nor occasions import necessity of sinning, but they contain only danger of sinning. Hence the question is raised whether they can and should be absolved, and when and how often, before they have amended the habit, prevented relapse, or removed the occasion. The reason for the difficulty is the doubt about the sincerity of sorrow and purpose, which arises from the habit itself, relapse, or occasion. - The rigid wish them not to be absolved before the habit has been amended, relapse avoided, and the occasion removed. The lax wish them to be able to be absolved whenever they say that they are sorry from the heart. The moderate walk a middle way, which is broad. Several of these establish turns almost mathematically, namely once, twice, three times, four times, but not beyond, if they bring only ordinary signs of penance; otherwise, if they bring extraordinary signs. But all agree that absolution can be given the first time, and that those are more easily to be absolved who sin from the very frailty of nature, and who are found in a necessary occasion. But others, and we adhere to these, say that the whole matter is in the prudent estimation of the confessor, and is to be weighed and judged from the various circumstances of sins, persons, places, times, and causes. The following rules can be established. Salm., C. 5, n. 68; L. 452 ff., 459 ff.

The confessor can safely give absolution whenever he prudently judges the penitent to be sufficiently disposed, i.e., that "neither diligence in enumerating sins, nor sorrow in detesting them, was altogether lacking to the penitent." Roman Catechism, p. 2, n. 60. It is the certain doctrine of Catholic schools that any penitent can be absolved if he presents sufficient indications of true penance. A prudent judgment about sufficient disposition does not necessarily have to be a certain judgment, but only a probable one suffices. The reason is that the sacrament of penance scarcely admits a more certain judgment of this kind. St. Thomas, I-II, q. 91, a. 3; II-II, q. 47, a. 9 ad 2; III, q. 68, a. 4 ad 2. But this prudent judgment about the sufficient disposition of the penitent must be formed from the assertion of the penitent himself, from his Confession, from the manner of the Confession, and from the other circumstances of the same Confession; nor indeed can it be taken from elsewhere. - St. Thomas, 4, dist. 17, q. 5, a. 3, q. 6 ad 2; Opusc. 12; Quodl. 1, a. 12; L. 459, 460, 461.

The confessor can safely defer absolution when the penitent, although he is sufficiently disposed, is nevertheless not unwilling, and the delay would be more useful to him than absolution immediately given. The first reason is that on the one hand a sufficiently disposed penitent has a right to absolution; but on the other hand, if he is unwilling, delay, speaking of itself, will either in no way profit him, or certainly will not profit him more than absolution immediately given. For if the penitent has a desire of receiving absolution, he is offended by delay, and it is greatly to be feared that he will not return any more. Likewise, if he has a desire of receiving absolution, since this is a very good will, better hope indeed will be had from such a will aided by sacramental grace than if he is deprived of this. The second reason is that otherwise the penitent would be deprived without any sufficient reason of sacramental grace, which is effective both for remitting and for preventing sins.

But that absolution can absolutely be deferred to a penitent, although sufficiently disposed, and even without his consent, is clear first by reason: namely because, although a sufficiently disposed penitent has a right to absolution, nevertheless he does not have a right to obtain it immediately; especially if delay seems useful for fulfilling some obligation, e.g., of restitution, for conceiving a greater horror concerning committed sins, and for strengthening more and more the constancy of a serious will not to sin any more. For it belongs to the confessor as judge to determine when and how the sentence of

absolution is to be pronounced. But the confessor is not only judge, but father, teacher, and physician. And therefore, as father, he can before absolution put forward an admonition and spiritual exhortation, by which he may instruct and arm the penitent against temptations. Likewise, as teacher, before absolution he can teach the penitent whom he sees wrapped in much ignorance, which otherwise could lead him into many sins. Similarly, as physician, he can defer absolution when he rightly fears that the penitent now absolved will easily not fulfill some grave obligation, or will easily relapse immediately into the same crimes, unless by the very difficulty and delay of absolution the penitent better recognizes the gravity of sin and the necessity of amendment, becomes more cautious, and is confirmed in the purpose of not sinning. The experience of many weak penitents supports this, who, by this remedy prudently applied, are usually cured in a short time; and for recidivists and for those in occasions it seems more necessary and useful, because in this way they better conceive the necessity of perseverance in the purpose of not sinning. The authority of theologians is added; for very many and grave theologians teach the utility of sometimes deferring absolution.

The utility required for deferring absolution to a penitent otherwise sufficiently disposed must be notable; and consequently absolution must be deferred only for a short time. The reason is that it is altogether grave to remain in the state of mortal sin even for a few days; and, speaking of itself, absolution immediately given is more profitable than its delay. - For a short time, i.e., for some hours, for a day, for two or three days, for a week, at most for fifteen days. But this remedy of deferring absolution is not only useful, but simply necessary, and the confessor not only can but also must apply it when it is necessary for testing the sincere sorrow and purpose of the penitent, about which there is not sufficient evidence, and about whose sufficient disposition there is doubt. - Salm., c. 5, p. 4, n. 68; L. 461-464; St. Thomas, Suppl., q. 25, a. 1 ad 4.

Whenever the penitent is sufficiently disposed, and no notable utility is present from delay of absolution, the confessor is absolutely bound to give it immediately. Whenever grave harm will follow for the penitent from absolution denied or delayed, absolution is to be given to him conditionally, if he is doubtfully disposed. The first reason is that absolution must be granted from justice, and under grave obligation, to every penitent duly confessed and disposed. Nor indeed is there any reason for delay, which could be no other than the utility of the penitent himself, which in this case is had rather from absolution immediately given. "Suarez, Sanchez, etc., say that to deny absolution in light matter does not exceed venial sin." L., H. A., tr. 16, n. 118. The second reason is the common axiom: Sacraments are for men. When necessity stands, provision is made for the salvation of man in the best way in which it can be done; nor from this would there be any irreverence toward the sacrament or other inconvenience. - L. 431, 432, 462; l. 3, n. 682; St. Thomas, Suppl., q. 18, a. 4.

When the penitent does not wish to fulfill a grave obligation which he has, when he does not have sincere sorrow for committed sins, nor a purpose of not sinning henceforth, the confessor is then bound to deny absolution. To these indeed, and to these alone, absolution is to be denied absolutely. The reason is clear, because these, and these alone, are unworthy of absolution. Sin cannot be remitted to him who wishes to persevere in sin. Leo XII, Encyclical Letter *Caritate Christi*; Roman Ritual, de Sacram. poenit.

As regards recidivists, there is no other special doctrine, different from the preceding, which is general and comprehends all cases. Therefore, if the confessor from all the circumstances of the Confession prudently judges the penitent to be duly disposed, he can absolve him; nor here and now is it necessary that he judge that he will not relapse any more, otherwise very many could not be absolved, concerning whom certainly the confessor, while he absolves them, cannot form this judgment, that henceforth, namely for the whole time of future life, they will no longer sin gravely. Not future amendment, but present sorrow and purpose, are the necessary dispositions for absolution. If thus far the penitent has broken faith, this is not a reason why at present he cannot be absolved, if he is prudently judged to be duly disposed; it can only be a sufficient reason why the confessor either doubts the legitimate disposition of the penitent, or even is persuaded that he truly lacks the aforesaid disposition. And in this case of recidivists, although they appear disposed, delay of absolution can certainly at times be especially useful, as has already been said; to whom, moreover, frequent approach to the sacraments is also in itself especially useful, if indeed they are duly disposed for them. And thus in the Roman Ritual, de Sacram. poenit., it is said: "For those easily falling back into sins it will be most useful to counsel them to confess often, and, if it is expedient, TO COMMUNICATE." But whenever the penitent exhibits extraordinary signs of sorrow even after relapse, he can safely be absolved. The reason is that then, ordinarily at least speaking, it is more expedient that absolution not be deferred. Likewise he can safely be absolved if absolution cannot easily be deferred, lest he remain long in the state of mortal sin.

But before the confessor absolves such a one, he will take care to dispose him more certainly and fruitfully for receiving absolution. But if he appears only doubtfully disposed, then it will be not only useful, but necessary to defer absolution, unless a grave reason presses, in which case absolution can be given only conditionally. Toletus, l. 5, c. 13; Suarez, d. 32, s. 2; L. 459-464; St. Thomas, Suppl., q. 25, a. 1 ad 4.

The same must consequently be said about those in occasions. The common and universal rule is that he who is only in a remote occasion can be absolved, if indeed he is otherwise duly disposed, but not he who is in a free proximate occasion which he does not wish to leave. The first reason is that otherwise we would all have to leave the world. The second reason is that he who wishes to remain in that moral danger of falling does not seem to have an efficacious purpose of not sinning, unless he has extraordinary sorrow and purpose, or proposes to apply other remedies by which the occasion from proximate becomes remote. Lugo, d. 14, n. 151. - When the occasion is necessary and cannot be left without scandal, grave infamy, or great spiritual or temporal detriment, then he licitly remains in the danger which is necessary, provided that meanwhile he is prepared to use the prescribed means, and can hope for divine help in resisting. The reason is that no one is bound to the impossible, whether physically or morally, and besides an occasion of sin is not of itself sin, nor does it place a man in the necessity of sinning; and, in the case, the will of using the prescribed means makes it remote. So the doctors commonly, L. 455, and St. Alphonsus 456 calls this opinion most probable. Suarez, d. 32, s. 2, n. 4; Lugo, d. 13, n. 160.

If one who was absolved in a voluntary occasion, because he sincerely promised that he would remove it, or in a necessary occasion, because he sincerely promised that he would apply the remedies prescribed by the confessor, afterward falls back into the same sins, practically speaking he is not again to be absolved before he actually exercises an effort both of removing the occasion in the

former case and of actually applying in the latter the remedies prescribed by the confessor; not because he absolutely cannot even at present have sincere sorrow and purpose, but because from this the confessor can easily prudently come into suspicion about the sincerity of the sorrow and purpose, L. 505 at the end; and because prudence requires that, although the sorrow is sincere and the purpose sincere, the weak will of the penitent, especially if the occasion is *in esse*, be aided also by this means of delaying absolution, which in the case can be very useful, and in fact often is. Except, unless the penitent gives extraordinary signs of sorrow, or there is an urgent cause, e.g., the mark of infamy in omitting Communion, if he cannot return to the same confessor, or only after a long time. And in this, if the present disposition appears morally certain, absolution is to be given absolutely; but if doubtful, it can be given only conditionally. - Suarez, d. 32, s. 2; L. 452-458; Elbel, de Actib. human., 193 ff.; E. M.

810. What of the office of teacher? - The office of teacher comprises two things: the knowledge of the confessor himself, and the obligation of teaching the penitent.

811. What of the knowledge of the confessor? - The Confessor is bound under grave obligation to know all those things which are required for duly discharging his office. The reason is that otherwise a confessor of this kind exposes himself to evident danger of performing so grave an office badly, with injury to the sacrament and great detriment of souls. - Yet the Confessor is not bound to have so perfect a knowledge that he can always immediately and by himself solve all doubts which occur; but it suffices that he can do this in cases commonly occurring, and that concerning the more difficult ones he at least knows how to doubt. For greater knowledge can be had only with more difficulty, since even the more learned themselves cannot immediately solve all cases. Nor is the confessor bound to discern concerning each sin accused whether they are mortal or not; since this is often impossible. But it suffices that he hear each thing as it was done, and judge about them in the obvious and natural sense, both according to common principles and according to the circumstances of things explained by the penitent, and know how to apply a suitable remedy. "Salmanticenses, etc., rightly note that the confessor is not bound to form a certain judgment about each sin, but only about obvious and clear ones." L. 500. - Lugo, d. 21, n. 70, 71; L. 626, 627.

812. Resolutions: Every Confessor is bound to know all those things which regard the validity, substance, integrity, and effect of the sacrament of penance, and those things which are required for its licit administration, both on his own part and on the part of the penitent. - He must also know the common and proper obligations of states, the various species of sins, their circumstances changing the species, the principles of discerning between mortal and venial sins, and what things are mortal and venial in the individual precepts, at least according to general principles and the common opinion of theologians.

Likewise which acts are valid and licit. The reason is clear, because he must know that concerning which he must judge; otherwise he will not be able to render an equitable judgment. - Therefore he must also know reserved cases, and the censures in force, impediments of marriage, conditions of contracts, the various causes of restitution, the roots and occasions of sins, the remedies to be brought to them, and salutary and suitable satisfactions to be imposed. Therefore the confessor sins who knows that the aforesaid knowledge is lacking to him, even if from charity alone and obedience he receives Confessions. Nor does the approbation of the Bishop excuse him of itself; for this does not give the knowledge due from the nature of the matter, nor supply its defect. Except the case of

necessity. - The superior also sins who gives an ignorant confessor permission to receive Confessions, because he consents to and cooperates with his sin. Again except the case of necessity. - The penitent himself also sins who knowingly chooses a confessor ignorant with respect to himself; because he does not wish, as he ought, to be directed in the way of salvation, and thus undergoes grave spiritual harm. Yet if the penitent is in good faith, the Confession will be valid, because on the part of the penitent an integral declaration of sins and due disposition of soul intervenes; on the part of the confessor there intervenes at least knowledge of the sins under the confused notion of sin, which suffices for the matter of the sacrament. Likewise except unless the penitent is such that by his own learning he can supply the ignorance of the confessor. For knowledge is not necessary to a judge for his sentence to be valid, but jurisdiction is. - Experience cannot supply knowledge, but only helps it. Therefore every confessor is bound to apply himself diligently to the study of moral theology, and, as St. Liguori asserts, H. A. 100, "he must never interrupt that study." - Lugo, d. 21, n. 70 ff.; L. 627, 628, H. A. 100.

813. What of the obligation of teaching penitents? - The confessor is bound to teach penitents all those things which pertain to receiving the sacrament here and now duly. The reason is that, since the priest is the minister of the sacrament, he must procure its valid and licit reception, and therefore hand on the instruction here and now necessary. - He must teach penitents when he notices that someone is ignorant of something from those things which are necessary for living as a Christian, such as, for example, his own obligations. - Yet of himself and strictly he is not bound to instruct them about all things which they themselves ought to know and can learn elsewhere. The reason is that the office of teacher in a confessor of itself pertains only to the right administration of the sacrament of penance. Yet per accidens an obligation from charity could be present, when the penitent could acquire this knowledge for himself, either by himself or through another, only with very great difficulty.

This obligation of charity is not special to confessors, but common to all who know the need of a neighbor and can provide for him without grave inconvenience. A special obligation is present in parents, teachers, and pastors, who owe this from office. - L. 607.

814. Must the confessor admonish the penitent if he is in ignorance? - Resp. In the affirmative, if the ignorance seems vincible, i.e., if the confessor notices that the penitent doubts in such a way that good faith is already lacking. The reason is that in making the admonition no danger threatens; but otherwise the penitent, acting with that doubt, is not free from sin. - If the ignorance is invincible, a distinction must be made. The admonition is to be made if there is question of a matter necessary by necessity of means; otherwise the penitent is certainly indisposed. If there is question of other matters, affirmatively, if the admonition will be useful. The reason is that this is required from the general precept of charity and from the office of teacher which the confessor has.

If the admonition will not be useful, although there is question of repairing the harm of a third private person, e.g., of restitution of a debt, it is either simply to be omitted or deferred to a better occasion. The reason is that it would be useless to the creditor and harmful to the penitent. - If there is question of public harm, speaking of itself, the admonition is to be made. The reason is that the public good is to be preferred to the private good of the penitent, and the confirmation and propagation of evil is to be impeded, lest others think that what is not corrected is lawful, and themselves also do it, "since someone thinks that those things are lawful for him which he observes

to be done with impunity by those who frequent the sacraments of the Church." Benedict XIV, Encyclical *Apostolica Constitutio*, June 26, 1749, § 20. Besides, there is hope that, with God's grace helping, the admonition made will be useful to the public good, even as regards the part of the penitent himself, if he himself brings a sincere will to receive the sacrament of penance, if not immediately, perhaps after some time, after he has seriously considered the matter. Speaking of itself, because if perhaps greater harm, both private and public, were feared from the admonition made; because, for example, a penitent not very fervent and pious would therefore be entirely turned away from the Church, and because of his influence would bring greater harm upon the Church, it will belong to prudence to dissemble, permitting the lesser evil so that the greater may be avoided. Then indeed that holds which St. Alphonsus 610 calls a most valid reason, "namely that of two evils the lesser is to be permitted, that the greater may be avoided." - L. 609, 614, 615, 694; l. 3, n. 682; Lugo, d. 22, n. 29, 30, 37.

815. Resolutions: Therefore the penitent is to be admonished: Whenever he himself asks about the malice of some matter, because since he doubts about the lawfulness of the matter, he is already not in invincible ignorance. - Whenever the silence of the confessor would confirm him in the purpose of doing an evil thing, by thus tacitly approving the error. - Whenever his ignorance concerns the first principles of natural law or their proximate conclusions; because such ignorance, if it is possible, cannot be invincible for long. - Whenever, if the admonition were omitted, the penitent would be going to remain formally in a proximate occasion of sinning. - Lugo, d. 22, n. 29, 37; Sanchez, de Matr., l. 2, 38, n. 11; L. 609, 615, 616; Ithur., Cas. 31.

816. Must the admonition be made in doubt whether it will be useful or harmful? - What preponderates is to be chosen in the case, as is commonly handed down. Therefore: Affirmatively, if it is more probably going to be useful; otherwise, if it is more probably going to be harmful. In a doubt equal on both sides, generally speaking, formal evils are rather to be avoided than material ones. Hence regularly one must be silent when it is dangerous to speak. - La-Croix 1759; Lugo, d. 23, n. 31; L. 614, 916.

817. Must a spouse be admonished about the invalidity of marriage because of a hidden impediment which the confessor detects? - Resp. In the negative, generally speaking, unless a dispensation can be immediately and easily obtained from the Pope or Bishop. The reason is that very great inconveniences would usually follow from this, e.g., danger of infamy, scandal, quarrels, incontinence, etc.; and consequently material fornication would become formal. But can the confessor oblige the spouse ignorant of the impediment and denying the debt to render it? Resp. In the affirmative. The reason is that, while the spouse's persuasion stands that the marriage is valid, that spouse is bound to render the debt, so that he may follow the dictate of conscience. - Elbel 471; Sanchez, de Matr., l. 2, d. 38, n. 8; L. 601.

818. Must a penitent about to contract marriage be admonished about an unknown impediment? - Generally speaking, the admonition is to be made. The reason is that after marriage ignorance can cease without great difficulty, e.g., from the fact that consanguinity, affinity, etc., is discovered to exist between the spouses; and then there is easily danger of sinning formally, and very grave inconveniences can follow from this, namely scandals, quarrels, and perhaps even the separation of the spouses, etc. - Yet probably except the case in which no fruit at all is hoped from the admonition, nor can the impediment easily be detected; because it is better to permit material sin until a

dispensation is obtained than to provide an occasion of certain formal sin. - La-Croix, l. 6, p. 2, n. 540; L. 612.

819. What of the office of judge? - Since the sacrament of penance was instituted in the manner of a judgment, as the penitent in this judgment is the accused, the accuser, and at the same time the witness, whence it is that he is regularly to be believed both for himself and against himself, so the confessor is the judge; and this is the principal and proper office of the confessor. Hence it belongs to him to pronounce sentence, and before this to instruct the cause by judging about sins. - As regards pronouncing the sentence, when absolution is to be given, deferred, or denied has already been said. Cf. 809. Likewise whether and what penance is to be imposed has already been said. Cf. 725, 726. - As regards instructing the cause, the confessor is bound to render judgment about sins, and consequently he must hear and understand them, without however making a reflex judgment about them concerning their intrinsic nature, genus, species, object, end, circumstances, etc. But he must render judgment about them according to the obvious sense of the Confession made and of its circumstances. He is therefore bound besides to question penitents about the species, number, and circumstances changing the species, about the causes of sins, about habit and proximate occasions, as often as he reasonably presumes, or prudently doubts, that those things had to be declared and are not sufficiently declared. The reason is that the confessor, as minister of the sacrament, must procure its integrity, and as judge must acquire for himself the knowledge necessary for rendering an equitable judgment. This is clear also from the Fourth Lateran Council, and also from the Roman Ritual. - Yet the confessor is not bound to question the penitent except with some ordinary diligence. The reason is that the penitent himself is not bound to examine himself with the greatest, but only with moderate, that is ordinary, diligence. But the obligation of the confessor cannot be graver than that of the penitent, since the confessor is not bound to examine the penitent except secondarily, or in defect of him. Likewise the confessor is not bound to question penitents who, although uneducated, seem sufficiently instructed for their condition, diligent in confessing sins with circumstances according to their state and capacity. A fortiori it is not necessary to examine those who confess often and rarely sin gravely, such as devout persons, religious, and ecclesiastics, unless something necessarily to be explained seems to be omitted by them. - Cf. here n. 717, 749, 811, 822; L. 607, 617, 629, H. A. 103, Prax. 19, 20.

820. Note: The Confessor, insofar as he is judge, does not have authority to command the penitent anything whatever; but he has authority to command only as regards the satisfaction to be enjoined. Therefore obedience is owed to the confessor in other matters insofar as he prescribes to the penitent those things which some law, whether natural or positive, otherwise demands. Insofar as judge, the confessor takes cognizance only of the cause, so that according to the merit of the cause he may deny, impart, or defer absolution, and impose a suitable satisfaction. And from this it is that the confessor must then in some way at least remember the sins heard. Cf. n. 749. - Lugo, Resp. Mor., l. 1, d. 28, n. 5; de Poenit., d. 14, n. 171; L. 604, para. *Ratio autem*.

821. What of the practice of questioning? - Questioning must be moderate, as has just been said, cf. 819; and therefore the confessor must beware lest he be too anxious in questioning. Otherwise the questioning will be grave and burdensome both to himself and especially to the penitent, and consequently also Confession itself. - Questioning must besides be discreet, that is, the confessor must question with great prudence, carefully beware lest he ask about sins which probably were not

committed, with the condition and capacity of the penitent, etc., considered; lest he ask about those things from which the penitent may learn to sin, or may suffer scandal; and lest he question too curiously or too lightly even in those things about which questioning is to be done. - Besides, questioning must be opportune, that is, be done at the time and in the manner in which it is fitting. Certain questions, if at times they seem to be asked, are to be asked before Confession, namely: since what time has he not confessed? whether he was absolved? whether he fulfilled the penance? whether he is at peace concerning his past life? Other questions concerning condition, state, age, etc., will more suitably be made, when occasion is given, in the course of Confession. Thus on the one hand every suspicion of curiosity and levity will be avoided, and on the other hand the penitent will answer more easily, since his confidence in the confessor has been increased more. - Roman Ritual; L. 607, 629, Prax. 21; Lugo, d. 16, n. 589 ff.

822. Resolutions: The confessor must be very cautious in questioning about the matter of lust, especially with women, adolescents, and children, who can suffer scandal much more easily. Hence the rule admitted by all must be carefully observed: In the matter of lust, it is much better to fall short in many things than to exceed in one thing, by reason of the integrity of Confession. Therefore in doubt whether in such a case you can or ought to question, one must always stand for the negative side; for it is a lesser evil that something be lacking to the integrity of Confession than to incur danger of a soul being lost. - But confessors err who wish always to make a certain judgment about the quality of sin, whether it is grave or light, and twist penitents so that they may know with what mind or with what conscience they did this; for these will often answer whatever happens to come into their mouth, so that a little later, when questioned about the same matter, they will deny what before they had affirmed. Otherwise, however, if they seem sufficiently instructed, or if there is doubt about full consent given to temptation. Generally, unless circumstances suggest otherwise, it can be presumed that the penitent apprehended the object of sin as it is evil in itself. - They err likewise who wish always to make a certain judgment about the number of sins. This is often very difficult; indeed at times it is impossible to define even a merely likely number. Then it will be better to know the state of the penitent, his customs, and occasions, than to torment him fruitlessly about the number, especially as regards the uneducated, internal acts, and sins of the mouth. - They err who, under pretext of frequent sacrilegious Confessions, practically change the accusation of the penitent into an inquisition by the confessor, not without danger of scandal. But falsely, in this age of ours, certain moderns generally affirm that frequency of sacrilegious Confessions, because of shame or negligence. Most experienced and most pious confessors testify altogether to the contrary.

823. What must the confessor do in doubt about the sincerity of the penitent? - This is the common rule and as it were the received axiom: The penitent must be believed when speaking both for himself and against himself. The reason is that the penitent in the sacred tribunal is at once the accused and the witness, his own accuser and advocate, and besides in doubt he must always be presumed truthful. Therefore after suitable questions the confessor must absolve the penitent who denies. - L. 630, 631.

824. What must the confessor do if he knows certainly that some sin is being kept silent or denied by the penitent? - If he knows outside Confession, of himself he must absolve the penitent who denies, because the penitent speaking for himself and against himself must be believed; nor of itself can the report of another create greater faith than the declaration of the penitent himself; nor therefore is the

confessor bound to believe others more than the penitent himself. For if the penitent committed that sin, the confessor must presume that he has either forgotten his sin, or confessed it to another, or has a just cause for keeping it silent, or that rather the reporters were deceived.

If he knows it from the Confession of another, he must, lest the seal of Confession be violated, question only generally, as he otherwise would have done or ought to have done; but if the penitent, questioned, denies, let him answer nothing, but, if he can do this without suspicion, let him merely exhort him generally to open his conscience with all confidence. But whether the confessor must absolve such a penitent is disputed. St. Liguori, after relating the opinions of others, thus concludes: "La-Croix thinks better in my judgment, that in that case he should by no means absolve, but only pray something to conceal the denial of absolution." Suarez, de Poenit., d. 32, s. 3, n. 9, generally teaches: "However much the confessor may know the sin of the penitent from the report of others, he is bound in this judgment to believe the penitent himself more, because of the reason given." And generally St. Thomas also teaches the same, who besides notes the distinction between one speaking in Confession about himself and about others. Opusc. 7, al. 12, q. 6: "In Confession the sinner confessing must be believed both for himself and against himself; but against another he must in no way be believed; otherwise opportunity would be given to many for fictitious Confession and fraudulent defamation." On the contrary, when the penitent speaks about himself, thus St. Thomas in 4, d. 17, q. 3, a. 3, q. 5 ad 2: "As regards this knowledge, namely through manifestation in Confession, the priest cannot receive GREATER CERTAINTY than to believe the subject, BECAUSE THIS IS FOR HELPING HIS CONSCIENCE; whence in the forum of Confession a man is believed both for himself and against himself." And indeed the same reason entirely holds in this case as in the preceding one; nor consequently can the report of another of itself make greater force than the declaration of the penitent himself. - Of itself, for if the confessor certainly and evidently knows the sin of the penitent, e.g., because he saw it, "he is not bound so to stand by the words of the penitent that he cannot use his own knowledge to convict and rebuke the penitent himself." Suarez, l.c. Presumption indeed must yield to manifest truth. But the confessor, insofar as he is minister of the sacrament, must provide for its reverence; insofar as he is judge, he must loose or bind as justice and equity itself require. - St. Thomas, Quodl. 1, a. 12.

825. What of the office of the minister after Confession? - The confessor has a twofold obligation after Confession. The first per accidens, as regards defects committed that must be repaired. The other per se, as regards the seal to be preserved. L. 618, 634.

826. What of the obligation of correcting defects committed in Confession concerning the validity of the sacrament? - An error of this kind committed with grave fault, and with grave harm to the penitent supposed, must be repaired, even with grave inconvenience to the confessor, after permission has first been sought from the penitent. The reason is that the confessor, from office and from a quasi-contract entered into with the penitent, is bound to administer the sacrament duly to him. But because of the sacramental seal, without the penitent's permission, the confessor cannot admonish the penitent, if indeed a grave offense of the penitent would follow.

For in the case of absolution either in no way or invalidly imparted, there would truly be nothing against the seal if the confessor says: that an error intervened, that there is need for him to absolve again, etc. - But if the error was inculpable, or lightly culpable, the confessor is indeed bound from justice to repair and prevent the harm of the penitent, but with less inconvenience. The harm of the

penitent can easily be repaired, e.g., if the penitent receives the Eucharist immediately after Confession or again confesses shortly. Therefore then the confessor is bound to repair the harm only under light obligation. But in very grave harm of the penitent, e.g., if he is in the article of death, or in grave danger of no longer confessing, nor receiving the Eucharist, or extreme unction, the confessor is likewise bound from justice, even with notable inconvenience to himself, to admonish the penitent and repair the error, by reason of the very grave and extreme necessity in which the penitent is placed. - L. 619, 622.

827. What of correcting errors concerning the accidents of the sacrament? - Such an error is not to be repaired outside Confession if the confessor in this has conducted himself only negatively, although culpably; the reason is that, if there is question of the integrity of Confession, the obligation of the integrity of Confession directly affects the penitent, not the confessor.

Hence although the confessor is bound to procure the integrity of the sacrament and the utility of the penitent in Confession, as minister of the sacrament and spiritual physician, nevertheless he is no longer bound to this once Confession has ended. Nor consequently is the confessor the cause that perhaps the penitent does not confess those sins; since he said nothing, did nothing, by which the penitent is moved to omit them, but the cause is solely the forgetfulness or inexperience of the penitent. Still less does the obligation of teaching the ignorant outside Confession press, lest a material violation of law follow. But it is grave of itself for the penitent that a discussion about it be instituted outside Confession. But if the penitent returns to confession, within it the confessor must prudently admonish the penitent about the defect committed. - But an error is to be repaired even outside Confession if he positively led the penitent into error; because, from natural law, each person must remove the cause of evil which he positively and voluntarily placed. Nevertheless the permission of the penitent is to be sought; and if the penitent denies it, the confessor is bound to nothing. But whether an error is to be repaired, whether in Confession or outside Confession, permission having first been sought from the penitent, even with grave inconvenience, or only with light inconvenience, or without any inconvenience, depends on the grave or light or no fault of the confessor in that error, on the grave or light or no detriment of the penitent from that error, and on the burden to the penitent himself in renewing discussion about Confession. All these things must be weighed on both sides. L. 620; Lugo, d. 22, n. 63, 75, 76.

828. To what is a confessor bound who unduly released a penitent from making restitution, or on the contrary obligated him to it? - If from malice or vincible ignorance, or grave negligence, he unduly released the penitent, he is bound to correct the error; but if he does not correct it, or the penitent, who otherwise would have restored, meanwhile has become unable to restore, the confessor himself is bound to restore in his place, because he violated the right of the creditor, namely by impeding the restitution owed to him. Likewise, if from malice or ignorance or grave negligence he obligated the penitent to undue restitution, he is bound from justice to retract the error; and if the penitent has already restored, he is bound to compensate him for the harm. - If inculpably or from light negligence he unduly obligated the penitent, or released him from the obligation, he is bound from justice to correct the error, but not with such grave inconvenience. The reason is that on the one hand each person is bound from justice to prevent his action, even an inculpable one, from causing another harm which he can easily prevent; and on the other hand, from light fault, or only material fault, ordinarily there does not arise an obligation with grave inconvenience. But if he neglects to

admonish, when he can without grave inconvenience to himself, he is consequently bound to restitution. L. 621.

The admonition, in this case as in the following one, must be made in confession if the penitent returns to it. But if the penitent does not return, it is to be made outside confession, but only after permission has first been sought from the penitent. Cf. 827.

829. To what is a confessor bound who omitted to admonish a penitent about restitution to be made? - He is bound to admonish the penitent within Confession about the obligation, with some inconvenience, if no fault or only light fault intervened, at least by reason of charity; but with greater inconvenience, if in the omission he sinned gravely. In either case, however, this inconvenience is to be weighed against the grave harm of another. - More probably he is not bound to restore, even if by omitting the admonition he sinned gravely; the reason is that the confessor is not bound from justice to prevent the harm of him to whom restitution is owed. - L. 621; Lugo, d. 22, n. 67.

830. Can the confessor, without the penitent's permission, speak with him outside Confession about a defect committed in Confession? - Resp. In the negative, if the penitent has already departed; the reason is that that admonition outside Confession is burdensome to the penitent. Besides, after absolution the judgment is complete; nor does it matter that the admonition is made for repairing the defect of the same Confession. Nevertheless the confessor, even without permission having been sought, could abruptly reveal his error, saying, for example, that he had not absolved; by which means certainly neither is the seal broken, nor can there be a reasonable offense of the penitent. La-Croix 1776; L. 622.

831. What of the obligation of the seal of Confession? - The seal of Confession is the religious obligation of preserving secrecy concerning those things which are known from sacramental Confession, namely of manifesting them to others neither directly nor indirectly, nor, outside confession, to the penitent himself. - There is a most strict obligation of preserving the seal of Confession inviolably.

This is clear 1. From natural law, and indeed under a threefold title, namely from charity, from justice, and from religion. 2. From positive divine law, at least implicit; for from the institution of Christ, Confession, imposed on all from necessity of precept and from necessity of means, must be secret: therefore by that very fact there has been imposed by Christ on confessors the obligation of preserving the seal. 3.

From ecclesiastical law, the Fourth Lateran Council, C. 21, *Omnis utriusque sexus*, etc. - The obligation of the seal of Confession always presses in every case, so that in no possible case is it lawful to reveal anything heard and received in Confession. The reason is manifestly clear; because if some exception could be given, men would always fear lest such a sin be that cause for licitly breaking the seal, and consequently the sacrament of penance would become odious. Moreover no cause of obtaining good or avoiding evil can compensate for that evil of hatred of the sacrament. - The obligation of the seal arises from every and only sacramental Confession, namely one made with the intention of accusing oneself and obtaining absolution. From every, because then the whole reason for the precept is present; and this holds even if absolution has not been conferred for whatever reason, since Confession is made in order to receive absolution at some time. From only, because only sacramental

Confession induces the obligation of the seal, since any other manifestation has no relation with the sacrament of penance. - L. 634, 636; E. M.

832. Resolutions: Confession which is knowingly made to a layman or to a priest lacking jurisdiction does not induce the obligation of the seal, but only of natural secrecy. It would have to be said otherwise if the priest is believed to be approved; because the Confession on the part of the penitent is truly sacramental. - If someone approaches a confessor with the intention of deceiving him, mocking him, dragging him into sin, or extorting something from him, he does not accuse himself in relation to the sacrament, and consequently there is no obligation of the sacramental seal. - If someone opens his conscience to a confessor without the will of receiving absolution, but in order to obtain counsel, or in order to satisfy in some way the command of a superior, only the obligation of natural secrecy presses, because this is not done in relation to absolution. - L. 640.

833. Is there smallness of matter in violation of the seal? - Resp. In the negative, at least in direct revelation. The reason is that matter, even the very lightest, includes the whole reason of the precept. At least in direct revelation; because if the danger of indirect revelation is very remote or little probable, lightness of matter can be given. For the revelation, if perhaps some would then follow, would have to be judged to follow by chance and per accidens.

Yet this very remote danger is a thing quite different from smallness of matter. - L. 635, 640; Lugo, d. 23, n. 71.

834. Is it lawful to use a probable opinion in the matter of the seal? - Resp. In the negative, as regards probability of fact and as regards probability of law. The reason is that it is not lawful to use a probable opinion to the prejudice of a certain right which another possesses. But harm would follow for the penitent, who would be drawn back from confession. And this harm must be altogether prevented.

Therefore the confessor is bound to the seal in doubt whether something was said by the penitent in relation to Confession; and where it is only speculatively probable that the seal is not violated by revealing this or that manifested by the penitent in Confession. St. Liguori 633 has these things: "Before all things... it must be seen whether in this matter of the sacramental seal it is lawful to use probable opinions... Viva... says that no one can use knowledge had from Confession unless it is morally certain, or at least certainly most probable, that from such use no revelation of Confession and no burden to the penitent will come. The reason..., because otherwise a probable burden would be inflicted on the penitent, on account of which Confession would be rendered odious to him... And this reason strongly presses... I think it must altogether be said that it is not lawful to use opinions from whose use it is not morally certain that no burden is inflicted on the penitent." And 637: "In doubt whether something was said by the penitent in relation to Confession, the confessor is bound to the seal... The reason is that otherwise Confession would be rendered odious, since otherwise many sins truly heard in Confession, because of a defect of memory and hallucination of the confessor, could be manifested with impunity." Diana, tom. 1, tr. 8, init.; Ithur., Cas. 37, n. 35; La-Croix 1946.

835. Can the confessor at least after the death of the penitent use knowledge acquired through Confession? - "The obligation of this seal is most strict, so that in no case ever, for the sake of obtaining any good or avoiding any evil, can any sin whatever, even the least, or anything else that

falls under the seal of Confession, be revealed directly or indirectly, before and after the death of the one confessing, without mortal sacrilege." Laymann, l. 5, tr. 6, c. 14, n. 2. And Busembaum 634: "This seal is an obligation to be silent even after the death of the penitent."

836. Can a confessor, asked about the sin of a penitent, say that he does not know it, even with an oath? - Resp. In the affirmative, even if insistence is made that he speak without mental restriction, or as confessor. The reason is that he truly does not know it with knowledge permitted to human dealings. Hence he will always be able to say, and even to swear, that he does not know, that he says this without equivocation, or that he affirms it even as confessor. Nevertheless the better answer will always be to rebuke the importunate questioner: What kind of question is this which you ask? For sometimes it could happen that all would understand that the confessor truly was ignorant of the matter, and thus would deduce that the Confession had not been integral. - L. 645, 646, H. A. 148; St. Thomas, 4, d. 21, q. 3, a. 1 ad 3.

837. Who are bound to the seal? - Primarily every confessor is bound to the seal, whether true, or fictitious and by error considered legitimate, and consequently even a layman who would pretend to be a priest and would receive Confession. The reason is that as often as someone confesses in relation to the sacrament, whoever hears him contracts by that very fact the obligation of the seal; otherwise hatred of the sacrament would follow from it. - Secondarily, those are bound who become participants of Confession, or all those to whom knowledge of Confession comes in any way, whether from the Confession itself or from the means ordered to it. From the Confession itself; for the matter accused comes to their knowledge by the same occasion or cause because of which the obligation of the seal is given, namely lest hatred toward the sacrament be created. From the means; for hatred of the means redounds upon the end itself. - L. 645, 647.

838. Resolutions: The following are bound to the seal: 1. Interpreters employed in making Confession. 2. Superiors from whom, outside the sacrament, the faculty is sought of absolving or receiving absolution from a reserved case. 3. Those who hear a sin while someone is confessing, whether intentionally or even inculpably, and likewise if any should perhaps hear it from these. 4. Those who write the Confession of the uneducated, or of those ignorant of the language of the confessor, especially if Confession cannot be made in another way. 5. Doctors consulted by the confessor with permission of the penitent. 6. All those to whom the confessor or another would sacrilegiously or imprudently have manifested sins heard in Confession. Hence they cannot even speak among themselves about them. - L. 638, 647, 648; St. Thomas, 4, d. 21, q. 3, a. 1, q. 3 and a. 2 ad 4.

839. Is the penitent also bound to the seal with respect to the confessor? - He is not bound to the sacramental seal, because the obligation of the seal is only in favor of the penitent. - But he is bound to natural secrecy concerning those things which he cannot reveal without unjust harm to the confessor, or against his reasonable will, or without injury and contempt of the sacrament. L. 647.

840. Can the confessor speak with the penitent about his Confession? - He can speak in Confession about all past Confessions. The reason is that it often pertains to the duties of judge and physician, which the confessor has, to recall the sins of a prior Confession.

He can also speak after absolution before the penitent departs, or if afterward he returns. The reason is that although the sacrament is complete, nevertheless the judgment still morally persists. -

Outside the sacred tribunal he cannot say even one word to the penitent about those things which pertain to his Confession, without his permission. Except, unless the penitent himself first speaks about his conscience. - L. 647, 651-653.

841. Is one who reads a paper on which the penitent wrote his Confession bound to the seal? - Resp. In the negative of itself. The reason is that this is not of itself a means ordered to Confession. Therefore until Confession is made from it, there is not yet an act by which someone subjects himself to the power of the keys in relation to absolution; and consequently of itself it does not bring the obligation of the sacramental seal, but only of natural secrecy; which nevertheless of itself presses under grave obligation, unless there is question of the lightest faults. - Of itself; for per accidens the obligation of the seal can be present if the paper were or had been a necessary means for Confession, e.g., if it was written by a mute person, or directed to a superior for the cause of some reservation; likewise if the paper had already been handed to the priest; and especially if someone read it while it is in the hand of the confessor, or in the act of Confession, or if it had been lost and left in the confessional, because in these cases it pertains to Confession, since it seems to be a persisting Confession. L. 650.

842. Is a doctor consulted by the penitent himself bound to the seal of Confession? - Resp. In the negative, at least more probably, if he is consulted concerning a Confession to be made to another; but he is bound only to natural secrecy. The reason is that the obligation of the seal arises from sacramental Confession alone, in which the penitent manifests sins in relation to absolution. If he is consulted concerning a Confession to be made to another; because if the penitent consults him concerning a Confession to be made to that very person, he is bound by the seal, since this consultation is to be considered as an inchoate Confession. - Suarez, d. 33, s. 4; Billuart, diss. 8, a. 3; L. 549; St. Thomas, 4, d. 21, q. 3, a. 1, q. 2, par. *Sed contra*.

843. Note: The permission of the penitent required so that the confessor can speak about matters which require the seal of Confession must be formal and express, free and spontaneous, and not revoked. But it can be given by word, or in writing, or by the deed itself, if, e.g., the penitent himself outside Confession begins to speak with the confessor about matters said in Confession.

L. 651. - Concerning this question of speaking with the faculty of the penitent, the excellent Doctor says that two things are to be distinguished: "For one thing is that the penitent says again outside Confession the matters once said in Confession; another thing is that, while the same seal and the same knowledge are preserved, he gives the faculty of speaking from that knowledge... The difference between this way and the former... first is that the faculty is always revocable; for it depends on the will of the one giving, because he neither conferred new knowledge, nor transferred to another any irrevocable right. But if he once said outside Confession what he had previously said in Confession, that knowledge is now irrevocable, nor can the penitent make it so that afterward the confessor knows only in Confession. Second, when the confessor speaks in this latter way by faculty, he can and must say that he knows in Confession, and speaks by permission of the penitent, so that the other may receive it in the due way; but in the former way he cannot say that he heard it in Confession, because he does not speak from that knowledge, nor from a faculty with respect to it, but from new knowledge. Third, because then he who hears is bound by the seal, if the confessor speaks only from his own faculty..., but not if he speaks from new knowledge according to the former way. Fourth, because that former way can be done from mere will, without a cause which pertains to the

sacrament or piety, because it is a matter merely extrinsic to the sacrament; but that faculty is not to be given, nor is it to be used, unless from grave cause or reasonable utility." De Poenit., d. 33, s. 5; Laymann, l. 5, tr. 6, c. 14, n. 16; La-Croix, l. 6, p. 2, n. 1960.

844. What is the object of the seal? - The object of the seal is all sins confessed, and all things which pertain to the individual explanation of sins. The reason is that not only for sins, but also for all those things which help to explain them, the reason of the seal presses, and besides these constitute one thing with sins. - The object of the seal is also whatever has been manifested in Confession by reason of the Confession itself, the revelation of which would yield to the burden of the penitent and to hatred of the sacrament; because the seal was introduced lest from fear of revelation the faithful be drawn back from the sacrament of penance. L. 640.

845. Resolutions: The following fall under the seal of Confession: 1. All circumstances of sins, even those declared after absolution; for they are morally one with the sins already accused; even those declared through mere ignorance; otherwise Confession would be rendered very difficult, especially for those who do not know how to discern what things are altogether necessary and what things can and ought to be omitted in the Confession of one's own sin. Indeed the same must be said even if there were doubt whether the circumstances had been declared in relation to Confession or not. And thus "if someone confesses that he has sought the debt from his wife, although he had a vow of chastity, it cannot be said without violation of the seal that he has a vow of chastity." Lugo, d. 23, n. 52. All circumstances: understand those from whose manifestation one of the three aforesaid inconveniences could arise, namely revelation of Confession, burden of the penitent, or hatred of the sacrament. For many things are said also for explaining sins which of themselves do not seem to fall under the seal, e.g., that someone is married, a father of a family, an artisan, a merchant, initiated into sacred orders, a pastor, a ruler, etc. For these and other like things are said as publicly known, and only so that the confessor who perhaps is ignorant of them can form a right judgment about the sins. Lugo, l.c., n. 57. - 2.

The sins of an accomplice, even if they had been revealed without necessity along with the sin, because they were said from the intrinsic occasion of Confession. Likewise the object of the sin, if, e.g., a brother confesses that he did not correct his brother for theft committed. Except if there is no danger of revelation, no burden of the penitent, and no hatred toward the sacrament, e.g., if the penitent confesses that he rejoiced over a homicide committed in a public square. - 3. The penances imposed, unless perhaps they are very light, or from those which are usually imposed for the lightest faults. - 4. Defects manifested through Confession for explaining the nature of the sin, e.g., if the penitent says that he received sacred orders with an irregularity, because he is illegitimate, etc. - Lugo, d. 23, n. 59, 68; L. 640, 641; Suarez, d. 3, s. 3, n. 5, 10.

846. Do merely civil defects, e.g., of poverty; natural defects, e.g., of deafness or blindness; moral defects, e.g., of ignorance or scrupulosity, fall under the seal? - St. Alphonsus judges that all these defects fall under the seal if the penitent manifests these defects in order to explain sins; indeed even if they contribute nothing to explaining sins, but to explaining his conscience more fully; indeed even if they become known to the confessor from the actions of the penitent himself, or from the manner of confessing; indeed even if they are reported by the penitent in such a way that from the circumstances it is gathered that they are commonly known.

The reason for all these things is that in the first case that explanation enters into explaining the very nature of the sin; but in the other cases, because, since such defects, speaking of themselves, are odious, their manifestation would always render Confession somehow odious, and some burden would always result in some way for penitents, who for that reason would be delayed from Confession. - Hence they do not fall under the seal: 1.

If such defects are voluntarily disclosed incidentally or as altogether impertinent to Confession, namely without any order to explaining sins, to disclosing the conscience better, and are not known from the very manner of confessing. The reason is that then they pertain in no way at all to Confession. 2. If they are defects altogether known and public, and such that their manifestation cannot of itself bring burden and shame to the penitent, as is to be a beggar, blind, etc., nor bring hatred upon the sacrament by turning the faithful away from it or delaying them.

"But Roncaglia says that if some penitent is commonly known to be very prolix, restless, etc., in explaining something, then because it would clearly appear that the confessor is fleeing lest he be affected with weariness from his natural prolixity, restlessness, etc., in such circumstances to flee would not be a breaking of the seal. This can probably be admitted if it is commonly evident to others that that penitent is of timid conscience, so that he is judged morally certainly to be free from graver faults." L. 644, 641-643. On the contrary, if the confessor knows from preceding Confessions that someone is accustomed to have many sins, or to bring a slight disposition, he cannot hide himself or excuse himself from hearing him, even under some apparently just pretext. The reason is that although then "that flight under an apparently just pretext would not render Confession odious to such a penitent, nevertheless it would render it odious generally to the Christian commonwealth." L. 659.

847. Do virtues and revelations fall under the seal? - "I believe a distinction must be made: for sometimes the aforesaid things are said in order to receive instruction from the confessor, or to manifest the state of conscience integrally; and then they do not pertain to the matter of Confession, nor do they pertain to the seal, but to natural secrecy. But sometimes they can be said in order better to declare some sin, e.g., ingratitude toward God after these and those gifts and benefits of God, or inconstancy in good after such a firm purpose of procuring perfection, and similar things; and then I believe that they pertain to the seal, since they are already, at least obliquely, matter of Confession, and besides it appears that the penitent does not wish to manifest them outside Confession, but to retain them under the most strict seal of Confession." Lugo, d. 23, n. 58; L. 641.

848. Does a confessor violate the seal of Confession by saying about a certain determined person that he confessed his sins to him, or confessed only venial sins, or that he absolved him, or simply that he confessed? - If he says thus in general that such a person confessed his sins or venial sins to him, speaking of itself, he does not violate the seal of Confession.

For nothing is said which the penitent himself did not manifest publicly both to others and to the confessor himself by the very act of approaching sacramental Confession; for by Confession sins are manifested, at least venial sins, from which even the just and holy are not free daily. Therefore neither from that manifestation is Confession made odious, nor does any burden come to the penitent. But the seal of Confession is not broken unless either 1. insofar as the sin of the penitent is truly manifested, whether directly or indirectly; or 2. insofar as the sacrament of penance becomes odious; or 3. insofar as some burden comes to the penitent. But it is said of venial sins, speaking of

itself, for it would certainly not be lawful to say that someone confessed venial sins to you if you say it in such circumstances from which it can be gathered that others are guilty or have confessed mortal sins, or otherwise, or that on this same occasion the penitent himself also confessed mortal sins, or if it would be understood what venial sin in species he declared. Here it must be noted that by saying about someone that he brings only light matters exclusively, Confession can also be revealed if, for example, afterward it is known that he secretly committed several sins, which consequently it is now recognized that he kept silent in Confession. L. 638, 640; Lugo, d. 23, n. 50; La-Croix 1972. If he says that such a penitent confessed several venial sins, or discloses some venial sin in particular, he now violates the seal of Confession. And this is clear from the common doctrine of theologians, because in direct violation of the seal smallness of matter is not admitted. L. 640. - Laymann n. 6 openly says that the seal is not violated if the confessor says that he absolved someone well confessed, provided he does not speak in such a way that he can be conjectured to be a great sinner; add, or even that otherwise he himself had not been absolved, or that others did not receive absolution, or that there is danger that later his Confession will appear to have been sacrilegious. "The seal is not broken... if you say that N. confessed to you, although in certain circumstances this also is dangerous. Indeed if the penitent by word or deed, for example by approaching secretly, has signified that he does not wish it to be known that he confessed, Reginald, Navarro, etc., hold that the confessor reveals the seal, and Sporer, etc., rightly agree, because the penitent by confessing to an extraordinary confessor would come into suspicion of a graver crime." L. 638.

849. Do sins committed in Confession itself, e.g., of impatience or insult against the confessor, fall under the seal? - Resp. In the negative, rigorously of themselves, because the penitent does not confess those faults, as is clear. Yet affirmatively for the most part, although only per accidens; because although those sins are not of themselves matter of the seal, nevertheless often per accidens they involve in some way the danger of revelation; for they provide a probable indication that the confessor either refused to absolve the penitent, or because of a graver fault rebuked him more severely. - But theft committed by the penitent to the harm of the confessor himself during the time of Confession would not fall under the seal. Indeed if it were established that the thief had come to confess in order to have the occasion of stealing, the sins accused by him would not be matter of Confession; since such a Confession would not be true, but only simulated. - Lugo, d. 23, n. 60; L. 643.

850. How is the seal violated? - It can be violated in two ways: 1. directly, by expressly revealing something known from Confession alone, e.g., if it is said: Titius did this, so that either the penitent is indicated, or at least the penitent can probably be known from those things which are contained under the seal of Confession and are manifested; 2. indirectly, by saying or doing something, or by not saying, not doing, by force of sacramental Confession, from which someone by reasoning can know or suspect the sin or defect of the penitent known by force of Confession alone, or from which shame, annoyance, dishonor, harm, or any burden whatever can arise for the penitent or for others, e.g., accomplices; or hatred toward the sacrament, whence generally the faithful could be turned away from or delayed from Confession.

851. Resolutions: He violates the secrecy of Confession either indirectly or directly: 1. Who, praising one above others whom he has heard, says that he committed only venial sins, because from this the others are easily brought into suspicion of mortal fault. Likewise he who relates sins known from

Confession in such a way that the hearers can by some reason conjecture or suspect who committed them.

2. Who speaks with another confessor about the sins of some penitent, even if that penitent confessed the same sins to each. - Who speaks about the sin of a penitent, known through Confession alone, with others who know this from elsewhere, even if the hearers do not notice that it was received from Confession; if indeed he speaks of it as of a matter of which he himself has knowledge, but by no means if he speaks of it as people commonly are accustomed to speak about a matter which is first narrated to them and which they first learn. Indeed even studied silence of the confessor could sometimes introduce suspicion against the penitent. - Who, while narrating the sins of some person which he knew outside Confession, adds some circumstance known from Confession alone, or who uses knowledge of Confession for determining or confirming the matter more.
3. Who says that he did not absolve such a person, sent him back to such a time, has not yet absolved him, or that the Confession has not yet been completed; because a long Confession ordinarily denotes many sins, or indisposition of the penitent. - Likewise who says of Titius, known as a thief, that he confessed his thefts to him with great contrition. - Who with a loud voice, or in another manner intelligible to bystanders, rebukes a penitent; for this is both grave to the penitent and introduces suspicion to others that he confessed grave sins; and a fortiori if by raising his voice too much he would repeat the sins of the penitent, or question about their circumstances.
4. Who, after hearing the Confessions of few persons, says that he heard such a sin, although he conceals the person; for each one suffers some suspicion against himself from that revelation. - Who would say that he heard a grave sin in such a monastery, even if he did not name the person; because each religious of that convent suffers detriment. - A fortiori he would violate the seal who would say that such sins are committed in that convent. But otherwise if he would say that he heard the grave sin of some religious in general, without naming his order, because there is neither revelation of the seal, nor does it redound to the burden of the penitent, nor of any order, since among the various orders there are not lacking some less good religious.
5. Who looks upon the penitent after Confession with a stern eye, does not address him as he had been accustomed to do before, and shows by harsher words, gestures, or his whole manner of acting, that he remembers his sins, is actually thinking about them, and esteems him less than before. L. 654, 655, 657.

852. Does a confessor violate the seal who denies a certificate of Confession to an indisposed penitent? - Resp. In the affirmative, as often as he denies the certificate to a penitent asking for it outside Confession. The reason is that he uses knowledge of Confession for acting exteriorly, and indeed with great burden to the penitent. - If an indisposed penitent asks for a certificate within Confession, when it is usually given, or is required by the superiors of the penitent, Lugo with others denies, because the confessor says nothing, but only does not approve that Confession by positive testimony, to which he is not bound. D. 23, n. 87. But the doctors more probably and more commonly affirm, because from denial of the certificate it becomes known to others that the penitent

was not duly confessed nor absolved, and therefore it will be an indirect violation of the seal. Elbel 492; Sporer 839; L. 639. - But negatively, if the penitent asks for a certificate in Confession outside the aforesaid circumstances, or when it is not usually given to all, or is not required by superiors. The reason is that then the confessor, saying nothing, conducts himself merely negatively, and does not approve that Confession with positive testimony, to which he is not bound. Besides, the penitent is not compelled by necessity to declare to others that he was not absolved; whence if he says this, he himself discloses his indisposition, not the confessor.

Lugo, d. 23, n. 87. - Nevertheless at times the confessor can give a certificate of Confession even to an indisposed penitent because of various inconveniences which would follow from its denial; nor then will he cooperate in the sacrilege of the penitent, who perhaps will use this testimony of Confession for receiving a sacrament of the living, e.g., the Eucharist or matrimony, in the state of sin; the reason is that the penitent will have to attribute this to his own malice. Elbel 492. - Negatively also, whenever the penitent made a simulated Confession, e.g., to flee punishment or avoid infamy. For the seal is not broken, whether the certificate is denied within or outside Confession. The reason is that the seal arises from sacramental Confession alone, which is in no way had here. Nor generally can the confessor grant such persons a certificate, because without sufficient reason he would cooperate in their future sacrilege. Besides, he would assert something false, namely that they were confessed, which is not true. Lugo, d. 23, n. 87; Elbel 494.

853. What must the confessor do when he detects that the penitent is deaf? - If he notices the deafness at the beginning of Confession, he must impose on the penitent that he return at a suitable time and place. If in the course of Confession he discovers this, generally he cannot impose on the penitent in a loud voice that he return, lest he introduce to others a suspicion that he had confessed concerning grave matter; but let him hear the sins in the best way he can, and, with questions omitted, impart absolution to the penitent in an absolute manner if he judges him disposed, or conditional absolution if he doubts about the disposition; and let him impose a light penance on him, lest others think that he sinned gravely. L. 644.

854. Can the confessor admonish an accomplice with the permission of the penitent, or another for correcting the accomplice? - Resp. In the affirmative. The reason is that an accomplice acquires no right to the sacramental seal from the Confession of the other accomplice; for this seal was instituted only in favor of penitents, and consequently the right of secrecy is acquired for him alone who commits it. - Ordinarily however it is not expedient for the confessor to ask such permission; but it will be better to induce the penitent to open this to him outside Confession; indeed it will be still better for the penitent himself to report the matter to another who can bring a remedy to the evil. - L. 640, 641; St. Thomas, Opusc. 12, q. 6.

855. Can the confessor deny Communion to a penitent to whom he previously denied absolution, if he approaches the sacred table?

Resp. In the negative, even if he asks secretly, because the confessor cannot use knowledge of Confession for acting externally against the penitent. "This opinion today must altogether be held from the Decree of Innocent XI." L. 658.

856. Does he break the seal who says that such a vice reigns in a city or village, or that grave crimes are committed there? - Resp. In the affirmative, if the place is sufficiently narrow, e.g., if it does not

consist of about three thousand persons. "The reason is that although the person is not then revealed, nevertheless since the revelation issues into the infamy of the whole community, it also redounds to the burden of the penitent, who is a member of that community, and therefore from such revelation Confession would be rendered odious to him." L. 654. Otherwise, if the town is large and public crimes are often perpetrated there. L. 654.

857. Can preachers use knowledge of Confession to speak about those things about which they would not have thought unless they had heard Confessions? - Resp. In the affirmative, with danger of revelation and burden of penitents excluded. The reason is that no violation of the seal is then had. But, as is clear, they can do this only generally and indeterminately, and not by adding that they heard it in Confessions. Therefore they must altogether beware lest they speak publicly about the wholly particular sins of one or another penitent, especially if they have the sermon before some small community, e.g., in a monastery of nuns; because then revelation could easily arise and burden be introduced. - Elbel 525; L. 654.

858. Can a priest who knows from Confession that plots are being prepared against him flee, or in another way prevent the harm? - Resp. In the affirmative, if from such caution the sin accused is in no way manifested to others, nor any burden brought to the penitent. - If he cannot flee without somehow manifesting that some sin was accused by the penitent, then several still affirm; because to reveal the confession of a sin is not to reveal the sin; and indeed in this case it is clear that knowledge of the sin does not arise from Confession, but on the contrary knowledge of the Confession of the sin proceeds from certain knowledge of the sin. Castro Palao, tr. 23, p. 19, § 3, n. 18. But others, whose opinion I follow, says St. Liguori, deny, and it seems altogether to be denied. The reason is that with such circumstances posited, namely the knowledge of the crime by others and the Confession of the penitent, that flight would be a true revelation, although indirect, not only of the Confession made but also of the sin confessed; and although the confessor would pretend flight from some pretext, nevertheless it would always provide a reasonable suspicion of the sin declared. - Therefore to escape those dangers, either from the permission of the penitent or by other ways he must provide without that indirect breaking of the seal. - Lugo, d. 23, n. 108 ff.; L. 659.

859. Can superiors use knowledge of Confession for external government, if it in no way appears that they direct themselves from that knowledge? - Resp. In the negative. The reason is that evidently this would yield to the burden of penitents. Besides, if the faithful knew that such a doctrine was taught everywhere, they would be drawn back from Confession. This is clear also from various Decrees of the Supreme Pontiffs, especially Clement VIII, May 26, 1594, for Regulars. But although this Decree was issued for Regulars, it must be extended to all superiors, since the same reason which presses for Regulars also holds for seculars. It is clear also from the Decree of the S. I. C. issued by the authority of Innocent XI in the year 1682. - L. 656, 657, 670; Lugo, d. 23, n. 98; La-Croix 1977; E. M.

860. Can the confessor at least sometimes, or when, use knowledge of Confession? - According to all theologians he can do this in the following cases: 1. to pray for the penitent, or to act more kindly toward him; 2. to consult books or wise men, prudently however, with danger of revelation excluded; 3. to direct himself by the experience acquired from Confessions, e.g., to temper rigor, and to direct himself from the Confession of one person toward prudently questioning or instructing others, while giving no suspicion of the prior Confession; 4. to reform his own morals, to correct his own defects,

or to perform his office better, e.g., to cast off sloth, to watch more diligently over subjects generally, with suspicion of revelation in a particular case nevertheless excluded, and with any burden of the penitent and hatred toward Confession excluded, because each person is bound to correct his own defects as soon as he notices them; nor can any penitent reasonably be offended because the confessor, on account of things heard in Confession, changes his own life for the better, with no inconvenience or burden to him at all. 5. The same indeed is lawful in other similar cases, with the same restrictions always: that no revelation of Confession be had, no burden of the penitent, no hatred toward Confession. - L. 657.

On Extreme Unction

On the Nature, Matter and Form, Minister and Subject of Extreme Unction

861. What is extreme unction? - Extreme Unction is so called because, of all the sacred unctions which the Lord our Savior entrusted to his Church, it is the last to be administered. Roman Catechism 3. Extreme unction is a sacrament of the New Law, instituted by Christ the Lord and promulgated by Blessed James the Apostle, by which, through anointing with oil and the prayer of the priest, there is conferred upon sick adults in danger of life the salvation of the soul, and sometimes also health of the body. James 5:14, 15; Trent, sess. 7, c. 1; sess. 14, de E. U., C. 1, c. 1, 2; Florence, Decree for the Armenians; L. 706; Decree of the Holy Office *Lamentabili*, July 3, 1907, prop. 48; St. Thomas, Suppl., q. 29, a. 1, 3; 4, d. 23, q. 1, a. 1; E. M.

862. What are the effects of extreme unction? - To confer grace. - To remit venial sins, and also mortal sins if they are present and there is at least attrition for them, if one can neither be contrite nor confess. This sacrament is the complement of penance, for it was chiefly instituted to wipe away the remnants of sins. "But because, when sin is found in the soul, the remnants cannot be taken away unless the sin is first taken away, therefore consequently this sacrament takes away sin." L. 731. Hence it is primarily a sacrament of the living, secondarily of the dead. Therefore Confession or contrition ought, of itself, to precede if the sick person is in mortal sin. - To wipe away the remnants of sin and to relieve and strengthen the soul of the sick person. - The remnants of sin are not only the punishments due to sins, but also anxiety and fear of soul, weakness and torpor toward good.

Therefore the effect of this sacrament is the strengthening of the sick person against the temptations of the devil, the relief and raising of the soul by hope in the divine goodness and mercy. - Sometimes to restore health of body, where this is expedient for the salvation of the soul, by aiding natural causes. Therefore they err who do not receive this sacrament except when the sickness has prevailed so much that they cannot be healed without a miracle. - James, l.c.; Trent, sess. 14, de E. U., C. 2, c. 2; Florence, Decree for the Armenians; Roman Catechism, n. 5-7, 9, 12, 14-16; L. 714, 716, 731; Billuart, art. 7; St. Thomas, Suppl., q. 29, a. 1 ad 2, ad 3, a. 2; q. 30; q. 32.

863. Does extreme unction confer grace in the individual anointings, or only when all are completed? - It is disputed, and each opinion is probable to St. Alphonsus. The reason is that each anointing is completed by its own matter and form; but from all of them one anointing at last coalesces. L. 707, H. A., tr. 17, n. 3. But St. Thomas, Suppl., q. 30, a. 1 ad 3, says: "grace is conferred in the last anointing." - Yet "it is certain that this sacrament is one; for although the anointings are several, nevertheless all pertain to one signification of interior healing." L. 706. - St. Thomas, Suppl., q. 29, a. 2; Benedict XIV, de Syn., l. 8, c. 3; Roman Catechism, n. 4.

864. What is the matter of extreme unction? - The remote matter of this sacrament is necessarily olive oil, which must be blessed by a Bishop not only for liceity but also for validity, even when extreme necessity presses. Trent, sess. 14, C. 1; Florence, Decree for the Armenians; S. I. C., Jan. 13, 1665; Sept. 14, 1842; Jan. 10, 1850; May 15, 1878. By a Bishop, namely by the diocesan, or, when the

See is vacant, by another neighboring Bishop; on Holy Thursday the oil of the sick, just like the oil of catechumens and chrism, must be renewed each year, though not for the validity of the sacrament, from the precept of Clement VIII and from the Roman Ritual, de Extr. Unct. And this more probably is grave. Nevertheless, if new oil cannot be had, it is licit to use the old. L. 708. It was granted to Latin America by Leo XIII, Constitution *Trans oceanum*, "that sacred oils even old ones can be used, yet not beyond four years, provided they are not corrupted, and after all diligence has been carried out new or more recent sacred oils cannot be had." But if perhaps within the year the blessed oil seems to be failing, and no other blessed oil can be had, it can be repaired by pouring in a small amount of unblessed oil in lesser quantity. Roman Ritual. And this several times, although in the end the added quantity has been greater than that which was blessed by the Bishop and which was there from the beginning. Blessed; whether it must be blessed in order to extreme unction is disputed. Some probably deny, because the Church requires nothing else except that it be blessed by a Bishop. Others probably affirm, because by a special blessing it must be deputed to the sacrament of extreme unction. Yet in practice the safer opinion is to be held, except in a case of necessity, in which, after another oil of catechumens or chrism has been used, which is used in the sacrament of confirmation and in the ceremonies of baptism, if afterward the oil of the sick can be had, the sacrament is to be repeated. Blessed. A simple priest by concession of the Supreme Pontiff can bless oil of this kind, as is clear from the use of the Greek Church. Benedict XIV, de Syn., l. 8, c. 1, n. 4.

The oil is to be preserved in a clean and decently adorned place, in a silver or tin vessel, Roman Ritual, de Sacr. extr. unct., namely in the church or sacristy, or even at home, if the pastor's house is very distant from the church. S. R. C., Dec. 16, 1826, n. 2650.

The proximate matter is the anointing of five principal parts of the body, namely the eyes, ears, nostrils, mouth, hands, or, if someone lacks one of them, the part nearest to it, although he has lacked it from birth. But whether all these anointings are necessary by necessity of the sacrament, or whether one alone suffices, with a universal form comprehending all the senses, is disputed, and each opinion is probable; and in practice, outside the case of necessity, one must stand by the opinion affirming the necessity of all. Yet the resolution of the Holy Office about one form, although in a case of necessity, seems to favor one anointing. Cf. 869. Nor indeed is the order among the various anointings of parts necessary for the sacrament; nor, in paired senses, is the anointing of each necessary, but only by precept is it to be observed outside a case of necessity. Besides, unless the usage of the place provides otherwise, the feet and loins are to be anointed, but the loins only of men, provided they can conveniently be moved. In some places the anointing of the loins is omitted in male religious. Where however it is not in use, let it be introduced, if this can be done. S. R. C., Aug. 14, 1858. And it can never be omitted unless in particular cases, with precautions applied, decency cannot otherwise be sufficiently provided for. Holy Office, May 15, 1878. The Greeks anoint the forehead, chin, both cheeks, breast, hands, and feet. - Trent, sess. 14, C. 1, c. 3; Florence, Decree for the Armenians; Roman Ritual, de Sacr. Extr. Unct.; Roman Catechism, n. 5, 10; Benedict XIV, de Syn., l. 8, c. 1, n. 4, c. 3; L. 707, 710, 732; St. Thomas, Suppl., q. 29, a. 4, 6; q. 32, a. 5-7; E. M.

865. What is the form of extreme unction? - The form is: "Through this holy anointing, and his most loving mercy, may the Lord forgive you whatever you have committed through sight, or hearing, etc. Amen." Roman Ritual, de Sacr. Extr. Unct.; Florence, Decree for the Armenians. Certainly essential are: Through this anointing, by which the sacramental action is signified; May the Lord forgive you,

by which the sacramental effect is expressed generally; more truly also, when it is conferred in the ordinary way, outside a case of necessity, cf. 869, Whatever through sight, etc., you have committed, by which the special effect of this sacrament is contained; and in a case of true necessity, when one anointing and one form have been used, whatever you have committed.

On the contrary, more truly the following are not essential: Through his mercy; for they are tacitly comprehended in the words, May God forgive you; nor certainly are these essential: Holy, Most loving, Amen, which signify neither the sacramental action nor the sacramental effect. To omit essentials is grave; accidentals light or grave according as the omission is light or notable.

Therefore it is grave to omit through his mercy; but light to omit holy, or most loving, or amen. The form of Extreme Unction is essentially deprecatory. Roman Ritual, l.c. Therefore, if it is pronounced in the indicative or imperative mode, according to the more common opinion, it is invalid. - Florence, Decree for the Armenians; Trent, sess. 14, de E. U., C. 1; Benedict XIV, de Syn., l. 8, c. 2; L. 710, 711; St. Thomas, Suppl., q. 29, a. 7, 8, 9. "Although some change certain words, when for May God forgive you they put May he remit or May he spare; sometimes also, May he heal whatever you have committed; nevertheless, because no change of meaning is made, it is clear that the same form is religiously observed by all." Roman Catechism, n. 6. Cf. here 869.

866. Who is the minister of extreme unction? - The minister of Extreme Unction is a priest. Any priest validly confers it; licitly only the pastor of the place in which someone is sick, who confers it also on clerics, but not on Regulars and those who enjoy the privileges of Regulars. For their own prelate confers it on Regulars. St. Pius V, Constitution *Immarcescibilem*, 1567. The Bishop himself chooses by whom he would prefer to be anointed, whether the Sacristan, i.e., the greater Dignitary of his Chapter, or the Curate. Ceremonial of Bishops, C. 38, § 4; S. C. C., June 7, 1760; March 24, 1873, A. S. S., vol. 8, p. 202 ff. - But any priest can more probably licitly also minister this sacrament from the reasonably presumed consent of the pastor. For it does not seem that one must proceed with such rigor where there is question of mere delegation for liceity, and in no way for the validity of the sacrament.

They validly confer it whether one priest or several; and these either simultaneously perform the various anointings, one anointing one part, another another, and pronouncing the form corresponding to that anointing; or successively, if namely one begins the anointings and another continues them. But outside the case of necessity this is grave, namely either of the sick person about to die soon, or because, once the anointings have begun and have not yet been completed, the minister fails. But if this happens, another minister must complete the anointings not yet performed, but must not repeat those performed, not even under condition, unless a notable delay intervenes, namely a quarter of an hour; therefore after a quarter hour they must be repeated under condition. - But in the Greek Church seven or at least three priests anoint the sick person. Benedict XIV, de Syn., l. 8, c. 4, n. 8. - James, Catholic Epistle, 5:14; Trent, sess. 14, C. 1, 3, c. 4; Florence, Decree for the Armenians; L. 722, 723, 724; St. Thomas, Suppl., q. 29, a. 2 ad 3; q. 31; Roman Catechism, n. 13; Benedict XIV, de Syn., l. 8, c. 4; E. M.

867. How are the anointings to be performed? - As regards validity, the part must be truly anointed; but to anoint is to smear with oil. Therefore if the oil is only dripped, there is no anointing; but whether one drop of oil suffices is disputed. Moreover, it suffices in the individual anointings to dip

the tip of the finger in the oil and anoint. L. 709. - All the senses are to be anointed, and indeed continuously.

The reason is that it is probable that from all of them one anointing coalesces, and that grace is conferred when all have been completed; but if a longer delay is interposed between one and another anointing, the moral union is no longer preserved and the sacrament becomes doubtful. - As regards liceity, the anointing must be made with the thumb, and it is light matter to use another finger; nor may a little rod or brush be used, even if usage has this, except from a cause of necessity, if, e.g., the sick person is laboring under a contagious disease. S. R. C., May 9, 1857, Portus Aloysii, ad 2; Benedict XIV, de Syn., l. 13, c. 19; L. 710. Likewise, except for a cause of necessity, neither in baptism is it lawful to use a little rod or brush. S. R. C., Aug. 31, 1872, n. 3276. The anointings must be made in the figure of a cross, and again this is light matter, L. 728; and in the prescribed order, which some judge grave, others of itself light, since there is question only of a certain accidental manner, L. 710; and in paired senses, which is grave, and one must begin from the right; nor is the form to be completed before paired members of this kind have been anointed, which seems light. Roman Ritual, de Sacr. extr. unct.; L. 711; St. Thomas, Suppl., q. 29, a. 2; q. 32, a. 5; E. M.

868. Note: The anointing begins from the eyes. That they may be anointed conveniently, they must be closed, and the anointing made upon both eyelids. If they cannot be closed, let the anointing be made on the eyebrows, near the corners of the eyes, as the very ancient Catalan Ritual has it. - The ears come next, which are anointed on the lobe or lowest part of the ear; not on the helix or in its hollow, and this so that they can more easily be wiped. - The nostrils; let the nostrils be anointed outside, which are the lateral wings of the nose, to avoid sneezing, which would easily arise if it were done otherwise. - The mouth, with the lips pressed together: here there must be one anointing, and therefore the lips are to be joined so that it can be done more easily; but, if this could not be obtained, it will suffice that the lower or upper lip be anointed; nevertheless there are those who still anoint each. - The hands; the anointing is made in the middle of the palm of each hand, or on another nearer part if it cannot be done otherwise, nevertheless on the inner side; for only priests and Bishops must be anointed on the outer part of the hand. - The feet; the anointing is made at the metatarsus, commonly the instep; according to St. Charles it is made on the soles, because namely we use them for walking. Moreover it will suffice if that part of the feet is anointed which conveniently can be; nor does it matter if both cannot be anointed because of sickness, or difficulty, or because one has been cut off; for this anointing is only an integral part. And indeed the feet fall under the sense of touch. The anointing of the loins may be omitted while the essence of the sacrament nevertheless remains. For the loins fall under all the other five senses, which according to St. Thomas, Suppl., q. 32, a. 6, are, as principles of acting, so principles of sinning.

Each piece of cotton or similar thing prepared for wiping the anointed parts serves for each paired member anointed. The priest rubs well with bread crumb the thumb with which he anointed, and washes it with water in some vessel prepared for this, then wipes it with a towel; but he brings the water-washing together with the crumbs and the tufts of cotton used for wiping to the sacrarium. Yet some are accustomed to hand over all these things to be burned in the house itself of the sick person, and to carry to the sacrarium only the cotton or tow that was anointed. - Trent, sess. 14, c. 3; Benedict XIV, de Syn., l. 8, c. 3; L. 711, 730; E. M.

869. Is it ever lawful to minister extreme unction with one form and one anointing? - If danger of imminent death is present, it is lawful to perform all the anointings under one formula: "Through this holy anointing and his most loving mercy may God forgive you whatever you have committed through sight," while he anoints the eyes, "hearing," while he anoints the ears, etc., putting the word committed before, lest if it is placed after and the sick person dies in the meantime, the anointings performed would be utterly invalid. Indeed, when death is soon imminent, one anointing on the forehead, or breast, or shoulders will suffice, with these words: whatever you have committed THROUGH THE SENSES; or better, by expressing the senses thus: Through this holy anointing, etc., may God forgive you whatever you have committed through the senses: sight, hearing, taste, smell, and touch. And "in a case of true necessity the form suffices: Through this holy anointing may the Lord forgive you whatever you have committed. Amen." Holy Office, Apr. 25, 1906. And consequently one anointing also suffices. - L. 710; Benedict XIV, de Syn., l. 8, c. 3; A. S. S., vol. 33, fasc. 7.

870. What of the various ceremonies and prescribed prayers? - It is grave, without urgent necessity, to omit the prayers prescribed by the Roman Ritual; and if they have been omitted because of danger of instant death, afterward, if time is available, they will have to be said. The prayers which precede the anointings; the Psalms and Litanies are not to be said by the minister, but by the bystanders, because from even the Ambrosian Ritual they are to be said only by counsel and not by precept. S. R. C., June 20, 1902. - It is likewise grave, apart from necessity, to minister this sacrament without surplice and stole. - But it is light matter to minister it without a light, without a minister, or with a woman serving. According to several, however, it is not even light matter to minister without a light, or to employ no minister. - If a cleric or layman cannot easily be found, the priest alone should perform all the ceremonies, and he himself should respond to the prayers. - Roman Ritual, h.t.; L. 724-728; E. M.

Pastors cannot for their own convenience retain the holy oil of the sick in their own houses, except however in the case of great distance from the church, in which case the rubric concerning honorable, decent, and safe custody must altogether be observed even at home. S. R. C., Aug. 31, 1872, ad 5, n. 3276; Nov. 15, 1890, Comp. ad 2, n. 3739; June 23, 1892, ad 7, Laud. n. 3779.

871. Who is the subject of extreme unction? - The subject of Extreme Unction is a baptized man who has reached the use of reason and is sick in probable danger of death, from disease, difficult childbirth, a received wound, poison, or old age, although he has not yet communicated, although he is mute, deaf, or blind from birth; although he is insane, if he has lucid intervals; although he is delirious or deprived of the senses, if beforehand he asked for the sacrament or would have asked for it if he had thought of this, and all irreverence toward the sacrament is absent. - Therefore it is invalidly given to healthy persons about to enter battle, to those condemned to capital punishment, to children not yet having attained the use of reason, or to those like children, namely idiots and the insane from birth, and to the sick outside the aforesaid danger. - But it is to be given only once in the same infirmity and danger; if the infirmity is long-lasting and the danger has at least probably passed, when a new danger is imminent it can be given again; and it must be given if the new danger is certain. - Trent, sess. 14, Doctrine on the Sacrament of Extreme Unction, C. 3; Decree for the Armenians; Roman Ritual, de Sacr. E. U.; Benedict XIV, Constitution *Ex quo primum*, de Syn., l. 8, c. 5-

8; Suarez, d. 4, s. 2; L. 713-721, 732; St. Thomas, 4, d. 23, q. 2, a. 4, q. 2; Suppl., q. 32, q. 33; Roman Catechism, n. 9, 11; E. M.

872. Is there a grave obligation of receiving extreme unction? - No precept is present concerning this matter. Therefore, with contempt, scandal, and danger of combat with the devil removed, one who does not receive it does not sin gravely. L. 733; St. Thomas, III, q. 65, a. 4. But the proper pastor is nevertheless bound from office to minister it, and consequently sins gravely, unless some grave cause excuses him, by not conferring it on those asking, or by deferring it until the sick person, with health despaired of, is deprived of the senses. For thus the sick person lacks the richer fruit which he would have perceived, is deprived of spiritual strength for resisting the devil and for enduring the inconveniences of sickness; if he were in mortal sin, by conceiving attrition he would have obtained grace; and if it had been given at a suitable time, he could also have obtained bodily health. - It is given by custom after Viaticum, but it can be given before it. S. R. C., March 8, 1879, n. 3486. - Roman Ritual, de Sacr. E. U.; Roman Catechism 9; La-Croix 2120; L. 714, 716, 728, 729.

On Order

I. On the Nature, Matter and Form of Order

873. What is order? - Order can be taken in two ways: for ordination, or that action by which sacred power is conferred, and for the order itself, or sacred power, the effect of ordination. "The name of order," says St. Thomas, Suppl., q. 34, a. 2 ad 4, "is taken in two ways. For sometimes it signifies the relation itself; and thus it is both in the inferior and in the superior..., and thus it is not taken here. But sometimes it is taken for the grade itself which makes order taken in the first way. And because the notion of order is found where first something superior to another occurs, therefore here an eminent grade by spiritual power is named order." - Order, or ordination, is a sacrament of the New Law by which spiritual power is handed on in relation to the Eucharist, and grace is conferred for duly undertaking ecclesiastical duties. But order, the effect of the sacrament, is the aforesaid spiritual power which is bestowed on the ordained. The orders indeed are various, but through all there is a tendency toward priesthood, and therefore toward the ministry of the altar. Therefore there is one power of all, a part of which is bestowed on each, and from all there is had one sacrament. "For the whole fullness of this sacrament is in one order, namely priesthood, but in the others there is a certain participation of order... And therefore all orders are one sacrament." St. Thomas, Suppl., q. 37, a. 1 ad 2. - Trent, sess. 23, C. 2, 3, c. 2, 3; Decree *Lamentabili*, July 3, 1907, prop. 49, 50, 54, 55; L. 744, 745; St. Thomas, Suppl., q. 34, a. 1-3; q. 35, a. 2; q. 36, a. 3; q. 37, a. 1; E. M.

874. What is the effect of this sacrament? - Sanctifying grace; sacramental grace for duly undertaking the sacred mystery; the impression of character. Trent, sess. 23, C. 3, 4, c. 4; St. Thomas, Suppl., q. 35, a. 1, 2. But character is impressed not only in the priesthood, St. Thomas, Suppl., q. 37, a. 5; q. 38, a. 1 ad 1; but also in the diaconate, St. Thomas, ib. ad 5; in the subdiaconate, St. Thomas, q. 38, a. 1 ad 2; in the acolytate, St. Thomas, Suppl., q. 37, a. 5 ad 5; q. 38, a. 1 ad 2; and in the other minor orders, but by no means in first tonsure, St. Thomas, q. 40, a. 2 ad 2. But cf. 880. According to St. Thomas, Suppl., q. 40, a. 5 ad 2, a new character is not impressed in the episcopate; but it is more commonly asserted that a distinct character is also impressed in the episcopate. Cf. 878. Roman Pontifical, de Ordin. confer.; Roman Catechism 34; L. 378.

875. How many orders are there; what is their division; what sort of institution do they have? - In the Latin Church there are seven: Ostiariate, Lectorate, Exorcistate, Acolytate, Subdiaconate, Diaconate, Priesthood, which is distinguished into Presbyterate and Episcopate. "The multitude of orders," says St. Thomas, Suppl., q. 37, a. 1, "was introduced in the Church for three reasons..., for commending the wisdom of God..., for relieving human infirmity..., that a broader way of advancing might be given to men." But the sacrament of order is ordered to the sacrament of the Eucharist, which is the sacrament of sacraments. "And therefore the distinction of orders is to be taken according to relation to the Eucharist." St. Thomas, Suppl., q. 37, a. 2. Whence suitably only seven orders are recounted. For indeed "the power of order is either for consecration of the Eucharist itself, or for some ministry ordered to this sacrament of the Eucharist. If in the first way, thus it is the order of priests... But the cooperation of ministers is either in order to the sacrament itself, or in order to those receiving. If in the first way, thus it is threefold: 1. for there is the ministry by which the

minister cooperates with the priest in the sacrament itself as regards distribution, but not as regards consecration..., and this pertains to the deacon...; 2. there is the ministry ordered to preparing the matter of the sacrament in the sacred vessels of the sacrament itself, and this pertains to subdeacons...; 3. there is the ministry ordered to presenting the matter of the sacrament, and this belongs to the acolyte... The ministry ordered to the preparation of recipients cannot be except over the unclean, because those who are clean are already fit for receiving the sacraments. But there is a threefold kind of unclean persons... For some are altogether unbelievers not wishing to believe, and these must be kept entirely even from the sight of divine things and the assembly of the faithful; and this pertains to doorkeepers. But some are willing to believe but not yet instructed, namely catechumens; and for their instruction the order of lectors is ordained. Therefore the first rudiments of the doctrine of faith, namely the Old Testament, are committed to them to be read. But some are instructed faithful, yet having an impediment from the power of the devil, namely energumens; and for this ministry there is the order of exorcists." St. Thomas, l.c. - "In the primitive Church, because of the fewness of ministers, all lower ministries were committed to deacons... Nevertheless all the aforesaid powers were present, but implicitly in the one power of the deacon. But afterward divine worship was enlarged, and the Church handed on explicitly in different orders what it had implicitly in one order." St. Thomas, l.c. ad 2; Trent, sess. 23, C. 2, ib. C. 17, de Ref.

In the Greek Church for many centuries there have been only four orders, namely Presbyterate, Diaconate, Subdiaconate, Lectorate. The duties of doorkeeper and acolyte are attributed partly to the lector, partly to the subdeacon. But the Greeks do not have the exorcistate as a true order. Benedict XIV, Constitution *Etsi pastoralis*, May 26, 1742, § 7, n. 7. But whether formerly they had more is disputed by the learned. Cf. Theology of Wurzburg, n. 54.

The seven orders are divided in the Latin Church so that the first four are called minor and non-sacred orders, the latter three major and sacred, because the former approach more remotely, the latter more closely, to the Eucharist, the end of all orders. Trent, sess. 23, C. 2, c. 2. - Now an order can be denominated sacred according to a certain common reason, and in this way all orders are sacred, as those which speak not of a profane or secular power, but of a sacred or ecclesiastical power. It can also be denominated sacred properly, insofar as it signifies a certain special prerogative not fitting to all orders. If sacred order is taken in this way, it has a threefold acceptance. 1. By reason of the power itself conferred through ordination, and thus an order is called sacred insofar as it bestows spiritual power of serving more closely in the sacrifice of the altar. In this sense priesthood, diaconate, and subdiaconate always seem to have been sacred orders. For Trent, sess. 23, C. 2, says that the names and proper ministries of each of the seven orders have been in use from the very beginning of the Church; and ibid. C. 17, de Ref., that the functions of holy orders from the diaconate to the ostiariate have been laudably received in the Church from the times of the Apostles. 2. By reason of the solemn vow of chastity annexed to the order, and in this sense the subdiaconate was not always a sacred order. 3. By reason of the hierarchy of prelacy or principality, and in this way only priests and deacons are placed by the Fathers in sacred order, since clerics of the other orders do not preside over the people, but only minister to priests and deacons. Trent, sess. 23, C. 4, c. 6; St. Thomas, Suppl., q. 37, a. 3; 4, d. 24, q. 2, a. 1, qc. 3 ad 1, ad 5; Wurzburg, n. 66, 68, 69.

As the subdiaconate was not always held as a sacred order, so it also was not always held as a major order in a special sense, as is clear from C. *A multis* 9, de Aetat., etc., praeficiend., where Innocent III,

in the year 1207, from the fact that the subdiaconate was now numbered among the sacred orders by reason of chastity to be observed, established "that a subdeacon can freely be elected as Bishop, just as a deacon or priest." Hence the subdiaconate, which before was counted among the minor orders for this reason, that he could not freely be elected as Bishop, began to be numbered among the major ones. Freely; since before, except for cause of utility, and then also except by permission of the Metropolitan or Roman Pontiff, the election could not be held. Further, if it was already numbered among sacred orders in the time of Gregory and Urban II, in the year 1091, as is clear from the cited C. *A multis*, and from C. *Miramur* 7, de Serv. non ordinand., it was also absolutely counted among the major orders, "because they also ministered at the altars." And indeed the Council of Trent, sess. 23, C. 3, says: "subdiaconate is referred to the major orders by the Fathers and sacred Councils." From C. *Non oportet* 26, Dist. 23; C. *Nullus* 4, Dist. 60, subdeacons did not have permission of entering the Sacrarium and touching the Vessels of the Lord; namely the sacrarium in which, after the mysteries had been completed, the Eucharist was replaced by deacons, and the sacred vessels placed on the altar at the time of sacrifice, or containing the Body and Blood of Christ. Cf. Wurzburg, n. 70.

As regards the institution of the aforesaid orders inferior to the priesthood, it is certain by faith: that the institution of ministers as such, insofar as under this name come those who serve the priesthood, abstracting from the diverse grades which can be found in them, is of divine right; for this is expressly defined in Trent, sess. 23, C. 2, c. 6. But that the institution of the individual orders which we have enumerated is disjunctively either of simply or immediately divine right, or at least of mediately divine right, namely from power divinely granted to the Church: this is evidently had from c. 2. - But that each was immediately instituted by Christ the Lord is not agreed among authors as regards the subdiaconate and the minor orders. Yet an affirmative response can be given with great probability from c. 6 of Trent compared with c. 2 and de Ref., C. 17. - Benedict XIV, de Syn., l. 8, c. 10; E. M.

876. What are the individual orders; what are the offices of each? - Ostiariate is an order by which there is conferred on someone a special power of opening and closing the door of the church, and of admitting the worthy and excluding the unworthy. "And therefore it must be said that he receives power so that he can do this from office; although it can also be done by others, but not from office.

And so it is in all the acts of minor orders, that they can licitly be done by others, although they do not have any office for this, just as Mass can also be said in a house not consecrated, although the consecration of a church is ordered to this, that Mass be said in it." St. Thomas, Suppl., q. 37, a. 4 ad 4. Besides, it belongs to the doorkeeper to strike the cymbal and bell for calling the people to church; to open the book for him who preaches; to assist at the sacrifice of the Mass, taking care lest anyone approach the sacred altar nearer than is fitting and interrupt the priest doing the divine thing; to guard the keys of the Temple, the door, and the things which are within the church. Roman Pontifical, de Ordin. ostiar.; Roman Catechism 15.

Lectorate is an order by which there is conferred on someone a special power of reading from the pulpit in church the books of the New and Old Testament, but especially those which are accustomed to be read during the nocturnal psalmody. It also belongs to him to hand on to the faithful the first rudiments of the Christian Religion, but not to preach. Besides, it belongs to the lector to bless bread and all new fruits. But today these blessings are performed by priests alone. Roman Pontifical, de Ordin. lect.; Roman Catechism 16; St. Thomas, Suppl., q. 36, a. 2 ad 3; q. 37, a. 4 ad 8.

Exorcistate is an order by which there is conferred on someone a special power of casting out demons from energumens, whether baptized persons or catechumens, St. Thomas, Suppl., q. 37, a. 4 ad 8. Nevertheless the faculty of exorcizing is reserved only to priests, who can use it only by permission of the Ordinary. And priests can use it also as regards possessed infidels. S. C. de P. F., Sept. 11, 1779, *Collectanea*, n. 1980; St. Thomas, Suppl., q. 37, a. 4 ad 8. It also belongs to the exorcist to say to the people that whoever is not communicating should give place, and to pour water in the ministry. Roman Pontifical, de Ordin. exorc.; Roman Catechism 17.

Acolytate is an order by which there is conferred on someone a special power of lighting the lights of the church and of preparing and presenting for the Eucharist the cruets of wine and water. Therefore his duty is to minister to the priest himself in private Mass, and in solemn Mass to attend upon and assist the greater ministers, subdeacons and deacons, in the ministry of the altar. Besides, he carries and keeps the lights when the sacrifice of the Mass is celebrated, but especially when the Gospel is read, from which he is called by another name, candle-bearer. "The acolyte serves the deacon by carrying the candle before him to the Gospel, and the cruet by which he serves the subdeacon." St. Thomas, Suppl., q. 38, a. 1 ad 2. "The more principal act of the acolyte is that by which he ministers with the cruet, than that by which he ministers with the candlestick." St. Thomas, Suppl., q. 37, a. 5 ad 6; a. 4 ad 6, 7, 8. Roman Pontifical, de Ord. acol.; Roman Catechism 18.

Subdiaconate is an order by which there is conferred on someone a special power of serving the deacon in solemn Mass and solemnly chanting the Epistle. St. Thomas, Suppl., q. 37, a. 4 ad 3, ad 4, ad 6; a. 5 ad 5; q. 38, a. 1 ad 2. For he must prepare the sacred linens, vessels, bread, and wine necessary for the use of the sacrifice; offer the chalice and paten to the deacon for the use of the sacrifice; provide water to the Bishop and priest when they wash their hands in the sacrifice of the Mass. As a witness he assists at the sacred rite; and he prevents the priest doing sacred things from being disturbed by anyone. It also belongs to him to wash the palls, corporals, and purificators, and to carry the cross in processions. The principal act of the subdeacon consists "in this, that he cooperates concerning the matter of the sacrament." St. Thomas, Suppl., q. 38, a. 1 ad 2; Roman Pontifical, de Ordin. subd.; Roman Catechism 19. - "In a case of necessity, provided no other is present, a cleric who is not a subdeacon can perform the office of subdeacon in solemn Mass." S. R. C., July 22, 1848, ad 4, Floren. Nevertheless he cannot wear the maniple. S. R. C., July 17, 1894, Dubior., ad 7.

Diaconate is an order by which there is conferred on someone a special power of immediately assisting the priest in solemn Mass and solemnly chanting the Gospel. Its more principal act is over the Body of Christ contained in the vessel. "Whence it does not belong to him to touch the Body of Christ, but to carry the Body on the paten and dispense the Blood with the chalice." The secondary act is solemnly to chant the Gospel. St. Thomas, Suppl., q. 37, a. 5 ad 5; a. 4 ad 3, ad 4, ad 6; q. 38, a. 1 ad 2. It also belongs to the deacon, from commission, to preach, baptize, and distribute Communion. But whether a deacon, in order to preach at some time, needs the special permission of the Bishop, or whether the permission of the pastor or rector of the church suffices, seems to have to be determined from particular statutes or custom. - "It pertains to him to follow the Bishop perpetually, to guard him when preaching, and to be present to him and to the priest doing sacred things or administering other sacraments, and to read the Gospel in the sacrifice of the Mass. Formerly he often stirred up the souls of the faithful so that they would attend to sacred things; he

also ministered the Blood of the Lord in those Churches in which that custom existed, that the faithful would receive the Eucharist under both species. Besides, the dispensation of ecclesiastical goods was committed to the deacon, that he might supply to each person what was necessary for living. - It also pertains to the deacon, as the eye of the Bishop, to investigate who in the city pass their life piously and religiously, and who otherwise; who come to the sacrifice and sermon at stated times, and who again do not come... He must also recite the names of catechumens, and set before the Bishop those who are to be initiated by the sacrament of order. - Besides, if the Bishop and priest are absent, it is lawful for him to explain the Gospel, but not from a higher place, so that it may be understood that this is not his proper duty." Roman Catechism 20; Roman Pontifical, de Ordin. diac.

Presbyterate or priesthood is an order by which there is conferred on someone a special power of consecrating the Body and Blood of Christ, and also of remitting and retaining sins. From the former comes his principal act; from the latter his secondary act. St. Thomas, Suppl., q. 37, a. 4 ad 8; a. 5 c. ad 2. - "And because someone is made in proximate disposition to the Eucharist by this, that he is cleansed from sins, therefore the proper minister of all the sacraments which are instituted principally for the cleansing of sins is the priest, namely of baptism, penance, and extreme unction." St. Thomas, Suppl., q. 37, a. 4 ad 1. - It also belongs to the priest to effect various blessings, and to feed the people of the Christian faithful by word and example. Trent, sess. 23, C. 1, c. 1; Roman Pontifical, de Ordin. presb.; Roman Catechism 25.

Episcopate is an order by which there is conferred on someone a special power of confirming the faithful and ordaining ministers of the sacraments, and also of consecrating things pertaining to divine worship. Ministers of the sacraments, in the broader sense, namely not only those who confect the sacraments, but also those who from office minister to those confecting them. To Bishops it also belongs to govern the Church of God. Trent, sess. 23, C. 4, c. 6, 7; Roman Pontifical, de Consecr. episc.; L. 736, 747, 805; St. Thomas, Suppl., q. 37, a. 2.

877. Note: "Since the consecration which is done in the sacrament of order is ordered to the sacrament of the Eucharist, that is the principal act of each order according to which it is more proximately ordered to the sacrament of the Eucharist. And according to this also one order is more eminent than another, according as one act is more proximately ordered to the aforesaid sacrament. But because many things are ordered to the sacrament of the Eucharist as to the most worthy thing, therefore it is not unfitting that, besides the principal act, one order also have many acts, and so many more as it is more eminent, because the higher a power is, the more things it extends itself to." St. Thomas, Suppl., q. 37, a. 4.

878. Is episcopate an order distinct from presbyterate? - "St. Thomas, St. Bonaventure, and others deny, who say that it is an extension of the order of presbyterate. But Bellarmine, Tournely, etc., more commonly affirm, both because in it a distinct character is handed on, and a special power toward the Eucharist, namely of constituting the ministers of this sacrament; and because the order of episcopate is conferred through imposition of hands, and through the form, Receive the Holy Spirit, etc. Nor is it valid to say that if episcopate were a distinct order, a Bishop could at least validly be ordained, although he were not a priest; for the response is that this is required by divine ordination, just as it is required that one be baptized who wishes to be confirmed or ordained." L. 378. - According to the first opinion of St.

Thomas, just as in the ordination of a priest, in the last imposition of the hand and through the words, Receive the Holy Spirit, etc., there would not be a new distinct order, a new distinct sacrament, a new distinct character; so episcopate and priesthood are not two orders in number, but one order in number, nor two sacraments in number, but one sacrament in number. Whence by the ordination of a Bishop the priestly power is extended, which is the principal one, and thus also the priestly character is extended, which is the principal one; and therefore not so much is a new character conferred, as a certain perfection and extension of the priestly character, since the one power is completive and perfective of the other. - Benedict XIV, Constitution *In postremo*, § 10, 17; St. Thomas, Suppl., q. 40, a. 5; q. 35, a. 1 compared with q. 38, a. 1 and Lesson 3 on 2 Timothy; Sylvester Maurus, *Opus Theologicum*, t. 3, q. 265, n. 29.

879. What is first tonsure and how is it conferred? - First tonsure is not an order, except broadly, but only a disposition to orders, by which someone becomes a cleric, namely is transferred from the lay state into the lot of the Lord, and is deputed to divine worship; and becomes capable of ecclesiastical jurisdiction, an ecclesiastical benefice, and clerical privileges. Trent, sess. 23, C. 2, ibid. C. 6 de Ref. - But it is conferred by the cutting of the hair or of an assumed head of hair, S. R. C., Sept. 25, 1846, n. 2919, and by the words, The Lord is my portion, etc., and also by the handing over of the surplice through a suitable minister, from the institution of the Church. Each one, when he is tonsured, says: The Lord is my portion, etc.; these words "let even the Bishop pronounce according to custom." S. R. C., Nov. 12, 1831, Marsor., ad 3. - L. 734, 735; St. Thomas, Suppl., q. 40, a. 2; Roman Pontifical, de Cler. fac.; Roman Catechism, n. 13, 14.

880. Are the individual orders sacraments? - That the presbyterate is a sacrament is openly clear from Trent, can. 1, 2, 3, 6, taken together. - As regards the diaconate and episcopate, this is drawn from the same Trent; since from c. 6 there is had the divine institution of Bishops and ministers, and therefore at least of deacons; but from c. 4 there is had that grace is annexed to the conferral of episcopate and diaconate. For those words, Receive the Holy Spirit, which from Trent are truly significative and collative of grace, the Bishop pronounces not only in the ordination of a priest, but also in the ordination of a deacon and in the consecration of a Bishop.

Finally, that the subdiaconate very probably, and the minor orders also, are each more probably sacraments, is deduced from the Florentine Decree for the Armenians, where all orders are equally recounted under the sacrament of order; matter and form of the sacrament are assigned for all, and the minister of the same sacrament of order is indicated, ordinary and extraordinary; this extraordinary minister can be affirmed only of the minor orders and subdiaconate. A similar argument can be made from Trent; for C. 3 and c. 3 say indefinitely that order or sacred ordination is a sacrament. Besides, in the obvious and natural sense in the aforesaid C. 3 and c. 3 there is question of order or sacred ordination, about which discussion was had in C. 1 and 2, c. 1 and 2. But there is question there of order insofar as it comprehends not only presbyterate, but also the other orders. Cf. also can. 6 and chap. 2 and 4 together. Moreover this is confirmed from the character which is impressed both in subdiaconate and in minor orders according to what is deduced from the Roman Pontifical, de Ordin. confer., and Roman Catechism, n. 34. - Benedict XIV, de Syn., l. 8, c. 9. Cf. here n. 892.

St. Alphonsus 736, 737, 755 holds it probable that all orders are sacraments; but more probable that only presbyterate and diaconate are sacraments; and very probably that episcopate also is a true

sacrament distinct from presbyterate. But St. Thomas clearly teaches, Suppl., q. 37, a. 2 ad 1 and a. 3, that they are sacraments. "Whence since character is a sign distinguishing from others, it is necessary that character be impressed in all orders; of which this also is a sign, that they remain perpetually and are never repeated. And this is the third opinion, which is more common"; Suppl., q. 35, a. 2.

The print's appendix has more on this paragraph: On the Sacrament of Order. (ed.)

881. What is the matter of ordination? - It is various for the various orders. - In minor orders the matter is only the handing over of the instruments; namely the instruments are the remote matter, the handing over of the same the proximate matter. Therefore it is necessary that the ordaining one present them to the one to be ordained, and that the one to be ordained receive or touch them with the hand, as the practice of the Church and the words of the form suggest. St. Thomas, III, q. 34, a. 5 ad 3. Further, the instruments of ostiariate consist in the keys of the Church; yet it suffices for validity to use any keys whatever apt for opening, and even one. The instruments of Lectorate are the codex of Sacred Readings, i.e., the Missal, Breviary, or Volume of Sacred Scripture, or book of the Scriptures; of Exorcistate, the book of Exorcisms, or the Ritual which contains exorcisms, in place of which the Pontifical or Missal can be handed over; of Acolytate, empty cruets, or at least one empty cruet, and, more probably, a candlestick with an extinguished candle. In place of the candlestick there cannot be a hand-candle or palmatory. S. R. C. 2194 ad 4, 4035 ad 5, 3315 ad 5; Roman Pontifical.

The matter of major orders is, in subdiaconate, only the handing over of the instruments, namely of the empty chalice with the empty paten placed upon it, both by precept and, probably, by necessity of the sacrament, consecrated, and, more probably, of the book of Epistles, i.e., the Missal, or of Sacred Scripture both of the New and Old Testament; in diaconate, the imposition of the right hand, and, more probably, also the book of the Gospels; in presbyterate, the imposition of hands and the chalice with wine, and the paten placed upon it with a host, and therefore to be handed over together because of the unity of the sacrifice. But which is essential, whether the handing over of the instruments alone, from the Florentine Decree for the Armenians, or the imposition of hands alone, which alone the Greek Church uses, or both, which the Latin Church uses, is disputed. Hence St. Alphonsus 741 says it is more probable that a Latin is validly ordained by the matter assigned to the Greeks, namely by the imposition of hands alone, and conversely; but probably invalidly. Therefore in practice the altogether safer opinion is to be chosen. Finally, the matter of episcopate is the imposition of hands and, probably, the imposition of the book of Gospels. 1 Tim. 4:14; 2 Tim. 1:6; Council of Carthage, can. 2; Roman Pontifical, de Consecr. episc. But the handing over of the book of Gospels does not seem essential; for when the book is handed to the elect, he is already called consecrated in the Pontifical. - Trent, sess. 23, C. 3, c. 4; Florence, Decree for the Armenians; Roman Pontifical; L. 739, 745-749; St. Thomas, Suppl., q. 34, a. 5; q. 37, a. 2, 4, 5; q. 38, a. 1 ad 1, ad 2; Theology of Wurzburg 108; Benedict XIV, de Syn., l. 8, c. 10; E. M.

882. What is the form of order? - As concerning the matter in major orders, so concerning the form of the sacrament the doctors do not agree among themselves. In Episcopate the words of the form are: Receive the Holy Spirit. There are those who add the prayers which follow in the manner of a Preface as if determining the aforesaid words toward episcopal consecration. Cf. n. 883, 4. For the various matter which is assigned in presbyterate, some consequently wish the form to consist in the words which are recited by the Bishop in the imposition of hands, others in the words which the Bishop pronounces in the handing over of the instruments, others in both words. In diaconate the

words are: Receive the Holy Spirit, etc. Receive the power, etc. - In subdiaconate the words are: See, etc. Receive, etc. - But the words in the other orders are those which accompany the handing over of the instruments from the Roman Pontifical. In Ostiariate the words are: Thus act, etc. In Lectorate, in Exorcistate, in Acolytate the words are: Receive, etc. - St. Thomas, Suppl., q. 34, a. 4; E. M.

The print's appendix has more on this paragraph: Form of Ordination. (ed.)

883. Note: "In conferring sacred Orders it is required that by the same Bishop who pronounces the form, the matter be handed over, because, since such is the usage of the Church, thus Christ is judged to have instituted it: so St. Thomas, Suppl., q. 38, a. 1 ad 2.... But he teaches otherwise in the conferral of minor orders. - If orders are conferred by a Bishop, but with another celebrating Mass for him, the ordination will be valid, but illicit, as the Sacred Congregation declared in the year 1715 before Clement XI, and Innocent XIII confirmed in the Congregation held Feb. 5, 1722." L. 744; Benedict XIV, de Syn., l. 8, c. 11, n. 7.

In the ordination of subdeacons, over two or three touching with the right hand the chalice with the paten, the form can be pronounced by the Bishop: See, etc. But in the ordination of priests the chalice with wine and water and the paten with the host must be handed to each, and the form must be repeated for each in the singular. Roman Pontifical, de Ordin. Presb.

Authors are not lacking who hold that the form of the diaconate, in the imposition of the hand, is not those words: Receive the Holy Spirit, etc., but the following prayer: Send forth upon them, we ask, O Lord, etc., which, while the Bishop pronounces it, he holds his right hand extended. Pesch, de Ordine, n. 630, 631, holds this opinion; I. Jorget, in the *Dictionnaire de Theologie Catholique*, v. Diacres. And Gasparri, de Ordine, Paris, 1894, n. 1044, 1049, holds that the form is the eucharistic prayer in the manner of a preface, in the middle of which now the imposition of the hand is made, which in the ancient liturgy preceded the simple prayer and the eucharistic prayer. But the common opinion, founded on the Council of Trent, sess. 23, de Ord., can. 4, holds that those words, Receive the power, etc., are the form, since they are not said by the Bishop in vain, and consequently the Holy Spirit is then given, that is, "then the sacrament is confected and its grace is conferred." St. Alphonsus, l. 6, n. 749.

In the ordination of the presbyterate the Bishop imposes hands three times: 1. when he imposes hands with physical touch, saying nothing; 2. when together with the priests he extends his hand over those to be initiated and pours forth the prayers: Let us pray, dearly beloved brothers, etc., which are the form; nor are there lacking those who hold that the form also is, or rather is, the prayer Hear us, etc., with the following Preface; 3. when after Communion he says: Receive the Holy Spirit, etc. Further, the necessary imposition of hands is not the first, as is certain among all, says St. Liguori 748, but either the second, when the Bishop extends hands with the priests, or the third, or both.

Those who contend that only the imposition of hands is the matter of the presbyterate take their argument from the Greeks, who are ordained by the imposition of hands alone; and they stand for the second imposition of hands, for after it and before the third imposition of hands, the ordained already consecrate the Eucharist together with the Bishop. And they say that by it there is also handed on at the same time power over the real and mystical Body of Christ, namely over the Eucharist to be confected and over sins to be absolved. Those who stand for the handing over of the instruments and the imposition of hands argue from the Florentine Decree for the Armenians, and

from Trent, sess. 23, c. 4, and the ancient and constant practice of the Church as regards the imposition of hands. According to this opinion, by the handing over of the instruments there is handed on power over the real Body of Christ, and by the third imposition of hands there is handed on power over the mystical Body of Christ.

Hence there is another opinion, and it is to be held at least practically and consequently, that both the second and third imposition of hands together with the handing over of the instruments are the necessary matter of this sacrament. But the variety of the Latin and Greek Church is explained from the fact that Christ instituted the matter and form of this sacrament in general, and left to the Church the power of determining it in species, and of changing it for just causes, provided it uses things and words expressing that handing on of power, the effect of this sacrament. By the second imposition of hands together with the handing over of the instruments, power over the real Body of Christ is handed on; but by the third, power over the mystical Body of Christ is handed on, and each can be considered after the manner of one moral thing, as namely one imposition of hands, morally speaking, distributed into two parts.

Indeed the first imposition of hands also, and indeed with physical touch, seems necessary, and to constitute still one imposition of hands together with the second. The reason is that if the form is lacking in the first imposition of hands, bodily touch is lacking in the second imposition of hands. But if it is said that the first imposition of hands constitutes, together with the second imposition of hands, which is the continuation of the former, one imposition of hands, then every difficulty vanishes, and each is had: bodily touch and form. But each imposition of hands must precede the handing over of the instruments. Holy Office, May 3, 1899; July 4, 1900; Aug. 22, 1900; *Monit. Ecclesiast.*, vol. 11, p. 148; vol. 12, p. 193, p. 291. For the form Receive the power, which accompanies the handing over of the instruments, completes the preceding imposition of hands with the prayer which accompanies it. Therefore it can well be said that by the first and second imposition of hands together with the handing over of the instruments, power over the physical Body of Christ is conferred; but by the third imposition of hands there is conferred on the priest power over the mystical body of Christ. "The Lord gave the disciples priestly power, as regards the principal act, before the Passion at the Supper... But after the Resurrection he gave them priestly power as regards the secondary act, which is to bind and loose." St. Thomas, Suppl., q. 37, a. 5 ad 2. But physical touch suffices, even mediated, if, for example, the head of the ordinand is covered by a skullcap. Holy Office, June 22, 1890.

There are those who, relying on the Leonine Sacramentary of about the sixth century, hold that the form in the presbyterate is the prayer Hear us and the following Preface. Therefore, whether "in the ordination of a priest the extension of the hand both of the Bishop and of the priests prescribed by the Pontifical must be made not only within these words: Let us pray, dearly beloved brothers, up to Let us bend the knees; but also after the genuflection within the Prayer which begins: Hear us, up to the Preface, so that the genuflection only interrupts, but does not make that extension cease? Resp. In the ordination of priests the practice of the Roman Church is to be observed, which imposes hands on the ordinands only in the first prayer: LET US PRAY, DEARLY BELOVED BROTHERS." S. R. C., Feb. 18, 1843, Anicien.

Amen, which the Pontifical prescribes to be answered in the handing over either of matter or of sacred vestments in ordination, is to be said by the ordinand himself according to custom. S. R. C.,

Nov. 12, 1831, Marsor., ad 6.

A Bishop cannot be validly ordained except by another Bishop. But several things concur for such ordination in this order: namely the imposition of the book of Gospels over the neck and shoulders of the ordained, and the imposition of hands of three Bishops with the form corresponding to each: Receive the Holy Spirit. And these are essential. But the aforesaid words pronounced absolutely are referred only to episcopal consecration. Therefore the following prayers up to the anointing of the head do not seem also to be required, so that the aforesaid form may be restricted to episcopal consecration. But there follows the anointing of the head or crown of the ordained, the anointing of the hands of the ordained, after which the elect is called consecrated in the Pontifical. Then there is had the handing over of the staff, ring, and book of Gospels. Roman Pontifical; Wurzburg 108. - The consecration of a Bishop is valid if the imposition of the book is made not before, but after the imposition of hands. Holy Office, July 30, 1901. Likewise it is valid without the anointing of the head and hands, although this is not to be omitted. Trent, sess. 13, de Sacr. ord., c. 5; sess. 7, de Sacr. in gen., c. 13. "But whether the assistance of three Bishops is required for validity outside the case of necessity? It is certain 1. that this is required by necessity of precept from Nicaea I, c. 4, and from Carthage II, c. 7. It seems certain 2. that, from the commission of the Pontiff in a case of necessity, ordination is validly done by one Bishop... But to the question some say that three are altogether required... for thus Pope Damasus wrote in Epistle 4 against the Chorepiscopi: For that they are not Bishops who are ordained by fewer than three Bishops is evident to all. Others nevertheless deny... The reason is that in the Roman Pontifical only one of the Bishops is called consecrator, but the others assistants; for in other sacraments only one minister is required... Each opinion is probable, whence in practice the first must altogether be followed." L. 755; Brief of Pius IV, Aug. 11, 1562; Brief of Leo XIII *Trans oceanum*, Apr. 18, 1897; Holy Office, March 13, 1669; A. S. S., vol. 25, p. 580; vol. 29, p. 661; *Collectanea* S. C. de P. F., n. 1207, 1208; Authentic Decrees of the S. R. C., n. 186; Benedict XIV, Constitution *Qua sollicitudine*, Feb. 21, 1725; de Syn., l. 13, c. 13; Kenrick, tr. 20, n. 12.

If in the ordination of a subdeacon and deacon the handing over of the book of Gospels and the book of Epistles has been omitted, it is to be supplied. If in the ordination of a priest the third imposition of hands has been omitted, it is likewise to be supplied. The reason is that although these rites are essential, they are nevertheless only integrally essential, i.e., for integrating the power already handed on as regards the secondary act. Therefore they must indeed be supplied, but the whole ordination must not be repeated. - If the handing over of the chalice and paten has been omitted in the ordination of a subdeacon, the imposition of the hand in the ordination of a deacon, the first or second imposition of hands or the handing over of the instruments in the ordination of a priest, the whole ordination of the priest and deacon is to be repeated under condition, and that of the subdeacon absolutely. The reason is that, as regards the ordination of a priest, probably the essential matter is the imposition of hands alone; probably the handing over of the instruments alone; probably both, according to the various opinions. As regards the ordination of a deacon, probably the essential matter is the imposition of the hand; probably the handing over of the book of Gospels; probably both, again according to the various opinions. But as regards the ordination of a subdeacon, the essential matter is either only the handing over of the chalice and paten, or that together with the handing over of the book of Epistles. Cf. St. Thomas, Suppl., q. 37, a. 2, 4, 5; L. 746 ff. But by this essential matter power is conferred for the principal act; and therefore, when it is lacking, the whole

ordination is to be repeated; and when it is doubtful, the ordination is to be repeated under condition. - E. M.; *Collectanea* S. C. de P. F., n. 1431.

884. Is physical contact with the instruments required for the validity of ordination? - Resp. In the affirmative according to the more common and more probable opinion, altogether to be held in practice. "But Escobar, n. 184, rightly says that it suffices for validity that the matter be touched with one hand. And likewise rightly with the common opinion the same Escobar, l.c., and Palao, p. 4, n. 20, etc., judge that mediated touch suffices, namely if the chalice, paten, or book is touched through some veil or glove; for one who touches thus is said in everyone's sense truly to touch." L. 743; La-Croix 2155. "The very words of the form," says St. Thomas, Suppl., q. 34, a. 5 ad 3, "seem to show that touch of the matter is of the essence of the sacrament, because it is said: Receive this or that." For moral contact a Response of the S. R. C., Dec. 3, 1661, Galliar., is brought forward: "To the scruple of Brother Ephrem Chasteau... namely that he had not touched the chalice by physical touch in his ordination to the presbyterate." For the Sacred Congregation responded: "That he could continue celebration of the Most Holy Sacrifice without any scruple, and with a conscience altogether safe." But in this Decision no mention is made of the paten, and besides there is question of a scruple. E. M.

885. Is the ordination of a priest valid who received the paten with the host, but the chalice without wine and water? - There are theologians who judge the value of such an ordination to be at least speculatively probable. But the opposite seems more probable; for the power for offering the sacrifice, which includes the offering of each species, is one and indivisible. Therefore power cannot be handed on for consecrating one species without power for consecrating the other. But in the case, power cannot be handed on for consecrating the species of wine, since this is lacking. Therefore. Hence such an ordination is altogether to be repeated under condition, as Cardinal de Lugo affirms that it was in fact repeated when a case of this kind occurred, Resp. Mor., l. 1, d. 30, and as it was repeated from the Decision of the Holy Office, Jan. 11, 1899; as also it was repeated in a case of defect of the host from the decision of the same Holy Office, July 6, 1898; Jan. 17, 1900. Ferraris, supplement, v. Ordo, Ordinatio, n. 6; *Monit. Eccles.*, vol. 11, p. 329; A. S. S., vol. 32, p. 557. And it would also have to be repeated under condition if in the chalice the water had been mixed with wine in equal quantity, as was also resolved by the S. C. de Sacram., Nov. 6, 1910. - L. 750; E. M.

886. Is one validly ordained who immediately touches only the chalice, but not the paten? - The first opinion affirms, because the chalice and paten then morally make one thing. The second opinion denies, because in the Roman Pontifical the touch of both chalice and paten is prescribed; and likewise because then the touch of the paten would be moral rather than physical. St. Alphonsus 753 says that the first opinion is more probable, but that the second opinion is not improbable, "and therefore is to be held in practice; for which reason such a cleric is to be reordained under condition." - S. C. C., May 28, 1796, decreed that the ordination should be repeated entirely under condition for a priest who touched only the paten placed over the chalice, but not the chalice itself. The Holy Office, March 17, 1897, declared valid the ordination of a priest who touched the paten with the host, but did not touch the chalice, although he attempted to touch it with his finger; and on March 8, 1895, of a priest who doubted whether he had touched the chalice. But, as is clear, there was question of mere scruple. *Monit. Eccles.*, vol. 16, p. 374. - E. M.

887. Is one validly ordained who touches the host but not the paten; and who touches the chalice and paten but not the host? - Resp. To the first: in the affirmative with the common opinion, which seems most probable from St. Alphonsus 751. The reason is that the host and wine are the substantial matter of order, by which power over the Body of Christ is principally signified, and the chalice and paten are used from the precept of the Church for decency alone. Besides, by touching the host he already at least mediately touches the paten, and mediated physical touch certainly suffices. Therefore practically one can well acquiesce. Holy Office, July 22, 1892. - To the second: also in the affirmative, with the common and truer opinion. The reason is 1. because then the host is touched through the paten; but immediate touch of the host is not prescribed by the Church, but only of the paten, as is clear from the Pontifical; 2. because wine in the chalice is never touched immediately; therefore neither is it required that the host be touched immediately. This opinion from the same holy Doctor 752 can well be called morally certain. Therefore again practically one can acquiesce. Holy Office, Jan. 17, 1900. - La-Croix 2152, 2153; *Collectanea* S. C. de P. F., n. 2178; E. M.

888. Is the ordination of a priest valid who did not touch the chalice and paten while the form was being pronounced, but immediately after? - Resp. In the affirmative; the reason is that although physical union is not had, nevertheless moral union is had; but while moral union stands, the whole reason of the sacramental sign subsists. This is confirmed from the common authority of theologians; for although the opposite opinion has some authors for itself, nevertheless it is now so commonly abandoned that it seems to lack every probability. Likewise the ordination is valid if someone physically touches the paten with the host and then the chalice, or conversely, while the form lasts, as can easily happen while someone attempts to touch both; and also if by this attempt he lifts the paten from the chalice. Cf. 322; Holy Office, March 17, 1897; Jan. 17, 1900; D'Annibale, ed. 3, p. 3, n. 253; Busembaum 757; de Lugo, Resp. Mor., l. 1, d. 33; E. M.

889. Is he validly ordained to whom in subdiaconate there was given not an empty chalice, but one full of wine and water? - That ordination is probably valid. For although the chalice was full of wine and water, nevertheless from the intention of the ordaining Bishop ordaining him to the subdiaconate, it was sufficiently limited so that only the chalice according to itself was given, as contradistinguished from any content whatever. Therefore the chalice, although full, as subject to that intention and handed on in that way, still signified the diminution of power which the subdeacon receives in his ordination, which an empty chalice signifies better. Therefore from the defect of emptiness one cannot certainly argue a defect of valid ordination, but only illicit ordination, if that defect culpably happened. Lugo, Resp. Mor., l. 1, d. 30, n. 5; E. M.

890. Whether and how must defects committed in ordination be supplied? - If the defect is concerning accidentals, e.g., if the anointing of the hands of the priest to be initiated was lacking, then it must be supplied as soon as possible by the same Bishop, if this can be done, otherwise by another, and supplied secretly if it was hidden, to avoid scandal and disturbance of others. If one thus ordained would not take care that a defect of this kind be supplied, or before the supplying would minister in the order received, he would sin gravely or lightly according as the defect is grave or light. Nevertheless, if instead of oil of catechumens, in the anointing of the hands, oil of the sick was used, nothing is to be repeated. Holy Office, July 22, 1874. If the Bishop alone imposed hands, the imposition of hands of the priests will not have to be supplied. S. C. de P. F., Aug. 6, 1840, C. n. 1195.

If the defect is concerning essentials, namely concerning matter and form, the defect must altogether be supplied under grave obligation. If the sacrament consists of a double matter and form, as in the ordination of priesthood, according at least to the probable opinion of several, then if the defect is in the preceding part, namely in the handing over of the chalice and paten, or in the second imposition of hands, certainly the whole sacrament is to be repeated, because power over the mystical Body of Christ is founded on power over the real Body of Christ; but otherwise if the defect is in the posterior part, namely in the last imposition of hands, because the power toward the true Body of Christ has already been handed on independently of the subsequent part. And thus also in the ordination of a deacon, if the presentation of the book of Gospels has been omitted, it is to be supplied. Cf. 883.

But the Salmanticenses, c. 2, n. 32, say that this indeed is to be held in the ordination of presbyterate and episcopate, but not of other orders; because in them, if there is probability for the validity of the received order, it is not required to supply the defect, since in the priesthood afterward to be received all their power is received. But this is not to be admitted, at least practically. For C. *Presbyter*, de Sacram. non iterand., speaking of the ordination of deacons, the Pontiff says that if the imposition of hands has been omitted, it is altogether to be repeated, although it is probable that the handing over of the book alone is of the essence. And when doubt occurs about the validity of the other orders also, it is prescribed that they again be conferred under condition. S. C. C., Aug. 3, 1724, etc.

St. Thomas, Suppl., q. 35, a. 2, says these things: "It must be said that it is not of the necessity of superior orders that someone first have minor orders, because the powers are distinct, and one, as regards its own nature, does not require another in the same subject. And therefore even in the primitive Church some were ordained priests who had not first received inferior orders; and nevertheless they could do all things which the inferior orders can, because the inferior power is comprehended in the superior power, as sense in intellect and a duchy in a kingdom. But afterward by the constitution of the Church it was determined that one should not thrust himself into the greater orders who had not first humbled himself in lesser offices. And from this it is that those who are ordained by leap according to the canons, C. *Tuae litterae*, de Cler. per salt. promoto, are not reordained, but that which had been omitted from the preceding orders is conferred on them."

From the aforesaid C. *Tuae Litterae*, a priest who by leap was made priest from subdeacon is commanded to be ordained deacon. And, while doubt stood about the ordination of a certain priest to the diaconate, the Holy Office defined on Jan. 20, 1875 and Jan. 26, 1898, that this ordination was to be repeated under condition in that priest. Likewise, while doubt stood about the ordination of subdiaconate, diaconate, and presbyterate, the same Holy Office decreed on Aug. 1, 1697, that all these were to be repeated under condition. - Canon *Sollicitudo* 1, D. 52; Benedict XIV, Constitution *Etsi pastoralis*, May 26, 1742, § 7, n. 7; Constitution *Pastor bonus*, Apr. 13, 1744, § 18; Suarez, de Censur., d. 31, s. 1, n. 53.

A defect concerning the validity of the sacrament is to be supplied at the time established by the Church from the cited C. *Presbyter*. But it must be said otherwise if there were an accidental defect. But Tamburini, l. 7, c. 5, § 2, n. 13; La-Croix 2200, and others probably say that if an order is repeated under condition because of doubt alone, or some ceremony, it can be repeated on any day and by any Bishop. And when doubts of this kind occur, it is in fact customary to grant that the repetition of ordination under condition can be made by any Catholic Bishop, secretly, at any time of

the year, and in a private chapel. - L. 757-759; La-Croix 2220 ff.; Lugo, Resp. Mor., l. 1, d. 30, n. 2; E. M.

891. Does one lacking an order licitly and validly exercise the acts of the order? - "One lacking the order of priesthood or episcopate would invalidly exercise their duties. But those lacking other orders exercise them licitly, if the orders are minor; illicitly if they are major. Hence a cleric sins gravely who without order solemnly exercises the office of deacon or subdeacon, and incurs by the very fact irregularity and excommunication, but this latter ferendae sententiae from C. 1 and 2, de Cleric. non ordin. min." L. 754.

II. On the Minister and Subject of Order

892. Who is the minister of order? - In Trent, sess. 23, c. 7, it is defined that Bishops alone are ordinary ministers of the sacrament of order. A Bishop only elected and confirmed, although he can provide permission to subjects that they be ordained by another Bishop, nevertheless cannot ordain unless he is also consecrated. But a consecrated Bishop, even if he has been degraded and has renounced the episcopate, can validly ordain. L. 761; St. Thomas, Suppl., q. 38, a. 1.

The Supreme Pontiff can provide to a simple priest the faculty of conferring tonsure and minor orders. And this faculty was in fact formerly granted to Cardinal priests toward clerics of their title, and, from the common law now in force, to regular Abbots truly *nullius* or exempt, with miter and ring, blessed by a Bishop; who nevertheless cannot use it except with Regulars subject to themselves, and more probably also novices. Trent, sess. 23, C. 10, de Ref.; S. C. C., June 26, 1655; Benedict XIV, de Syn., l. 2, c. 11; Suarez, de Rel., t. 4, l. 2, c. 29; Bizzarri, Collect., ed. 1885, p. 138; Honorante, Prax., p. 7.

Yet they commonly deny this concerning the presbyterate, as concerning a most excellent ministry, which must be imparted only by a Prince of the Church having supreme faculty, as a Bishop is. St. Thomas, Suppl., q. 38, a. 1.

Therefore the question is about diaconate and subdiaconate; some affirm, others deny, but others probably deny concerning diaconate, whose ministry is immediately ordered to touching the Body of Christ, by distributing it to the faithful, while they affirm concerning subdiaconate, because its duty does not have so immediate a relation to the Body of Christ. Nor does St. Thomas, Suppl., q. 38, a. 1 ad 3, seem to oppose this doctrine. There the holy Doctor excludes major orders which have always been held in the Church as sacred, as is inferred from his words, since he speaks of orders which have immediate relation to the Body of Christ. But it is known that the order of subdiaconate was not counted among the sacred orders except in the eleventh century by Urban II, as is had in C. *A multis*, de aetate et qualitate praefic.; nor does the subdiaconate have an immediate relation to the Body of Christ, as St. Thomas speaks; for only priests can confect the Eucharist, and only deacons can carry or minister it. - L. 760-766; Giraldi, p. 1, s. 105; Langonius, de Bulla Innocentiana; E. M.

Those who affirm concerning diaconate rest chiefly on the Constitution *Exposuit*, Apr. 9, 1489, by which Innocent VIII grants to the Abbot General of the Cistercian Order and to the Abbots of four monasteries of the same order the faculty of conferring on their religious subjects the Orders of subdiaconate and diaconate. But the authenticity of such a concession is not certainly established.

893. Can any Bishop licitly confer orders? - For licitly conferring and receiving orders it is required that the one to be initiated, even with first tonsure, be ordained by his own Bishop, or by another, but with his permission. Therefore a Bishop cannot licitly ordain except subjects, either by reason of origin, or by reason of domicile, or by reason of benefice, or by reason of familiarity, and indeed by reason of the necessity of dioceses. C. *Cum nullus* 3, de Temporum ordin. in 6; C. *Eos qui* 2, e.t.; Trent, sess. 23, C. 3, 8, 9, de Ref.; Pius X, Encyclical Letter to the Bishops of Italy, July 28, 1906; L. 760, 769, 771.

By reason of origin, if namely they were born in his diocese. But one who is born somewhere by chance must be ordained by the Bishop of the domicile of his father, unless the father afterward contracted domicile there where the one to be initiated was born; or by the Bishop of the place where the father was born, if the father at the time of the birth of the son had domicile nowhere. But if the son is illegitimate and not legitimated, the domicile of the mother is attended to. But exposed infants whose parents are unknown are judged natives of the place in which they were exposed. Finally, neophytes are judged natives of the place in which they were baptized. Paul III, Constitution *Cupientes*, March 31, 1542. But no account is taken of baptism under condition. Kenrick, tr. 20, n. 15. - Honorante, Praxis Secr. Urb. Vic., c. 1, note 9; Schmalzgrueber, l. 1, p. 3, tit. 11, n. 37, 38; Giraldi, p. 2, s. 96; L. 760, 770, 772, 773.

By reason of domicile, only he is to be judged a subject as regards orders who comes somewhere with the intention of remaining there perpetually, and proves this intention either by habitation of ten years, or by building a house with the carrying over of the greater part of his goods, while remaining there at the same time for some notable time; and he must swear that he then has this intention. Innocent XII, Constitution *Speculatores*, Nov. 4, 1694; L. 760, 770, 773, 778; Lucidi, Visit. sacr. lim., c. 2, n. 88, 91.

From the more recent Decree of the S. C. C., July 20, 1898, a cleric legitimately excardinated in perpetuity from his own diocese by legitimate document, and legitimately incardinated in another diocese, namely by written document, with the oath prescribed by Innocent XII having been taken, and in perpetuity, and with suitable documents having first been obtained from the dismissing Bishop concerning birth, morals, and studies, can indeed be promoted to orders by the Ordinary of the new diocese.

Likewise a layman can obtain letters from his own Ordinary, by force of which, dismissed from his own diocese, as an extra-diocesan he can become proper to a benevolent receiving Bishop, and by this title be promoted by him to clerical tonsure and to sacred orders, provided however that: 1. Dismissal by his own Bishop is granted from a just cause, in writing, and for a determined diocese; 2. Acceptance is made, with the rules established for incardinating clerics observed, and with the Decree *Vetuit*, Dec. 22, 1905, also observed as regards pupils dismissed from seminaries; 3. The oath is taken according to the path of the Constitution *Speculatores* before clerical tonsure. S. C. C., Nov. 24, 1906.

By reason of benefice, it does not suffice that someone is immediately going to receive a benefice from some Bishop, so that he can be ordained by him or receive first tonsure; but it is required that the benefice actually be possessed, and of itself suffice for suitable sustenance without the supplement of patrimony. One who has a benefice in two dioceses can be ordained in either. C. *Cum nullus*, de Temp. ord. in 6; L. 760, 770, 774, 776, 777.

By reason of familiarity, so that a Bishop, but not merely a titular Bishop, can ordain someone, it is required that for three years he has maintained him with himself in his actual service, and that within a month he confer on him a benefice sufficient for suitable sustenance, so namely that the one to be ordained, when the familiarity ceases, may have from which he can live. Therefore it matters little in what diocese the benefice is placed; and, if the one to be ordained has a benefice or patrimony, this obligation of conferring a benefice on him ceases. Nor does it matter that he does not dwell in the buildings of the Bishop, provided he lives in the place where the Bishop is or nearby. - Trent, sess. 14, C. 2, de Ref.; sess. 23, C. 9, de Ref.; Innocent XII, Constitution *Speculatores*; L. 760, 770, 778, 780; Giraldi, p. 1, s. 97.

The one to be ordained can choose whichever he wishes among these various Bishops, and then vary in each order. But he who is chosen cannot ordain him without testimonial letters of the Bishop of origin, of domicile, and of that place in which perhaps someone has stayed at that age and for so long a time, namely about six months morally continuous, that he could have contracted a canonical impediment. L. 789. But if there is question of those to be promoted who were formerly assigned to military service, testimonial letters are necessary as often as they have stayed in some diocese at least for a trimester morally continuous. S. C. C., Sept. 9, 1893; Jan. 26, 1895; June 25, 1904; S. C. Disc. Reg., Nov. 27, 1892. And if they cannot obtain the aforesaid testimonial letters from the Ordinaries of places, then, after faculty of the Holy See has first been obtained, they are to be admitted to taking a supplementary oath for the time in which they were assigned to military service. Holy Office, March 12, 1896. Testimonial letters; namely not given generally, but for receiving orders; and therefore they must bear witness concerning the requisites for receiving orders, concerning birth, age, morals, and the absence of any canonical impediment. Those to be ordained by the Bishop of benefice, if they are going to return to their own diocese, must be examined by the Bishop of domicile before the granting of testimonial letters. Trent, sess. 23, C. 8, de Ref.; Innocent XIII, Constitution *Apostolici ministerii*, § 5; Benedict XIII, Constitution *In supremo*; S. C. C., Aug. 8, 1733.

It is grave to confer orders or tonsure on the subject of another without express consent, or without dimissorial letters of his Bishop, Trent, sess. 7, C. 10, 11, de Ref.; sess. 14, C. 2, de Ref.; sess. 23, C. 10, de Ref., or of his vicar general when the Bishop is acting for a long time in remote places, C. 3, de Temp. ordin. in 6, or of the capitular vicar after a year of vacancy, or within the year, but only on those constrained by reason of a benefice already received or to be received; i.e., either already obtained, or if they have been elected to it. Cf. Trent, sess. 21, C. 2, de Ref.; Lucidi, C. 2, n. 72. A neighboring Bishop can also ordain the subject of another if his own Bishop has been declared suspended by public sentence. C. *Eos qui* 2, de Tempor. ordinat. in 6. - A Bishop is bound by himself to confer orders on his own subjects; yet when a just cause intervenes, of sickness or another similar cause, e.g., absence, it is lawful for him to dismiss them to another Bishop. But the cause why the proper Bishop does not ordain must be expressed in the dimissorial letters. Trent, sess. 7, C. 11, de Ref.; sess. 23, C. 3. But they can be given to any Catholic Bishop, S. C. C., March 16, 1624, except to one who has renounced the episcopate, if he has yielded both the place and the dignity, C. 1, de Ordin. ab Episcopo, qui renuunt. And if they have been given by name to one in favor of the one to be ordained, it is open to him, with that one passed over, to approach another. L. 788. But they are had as in the manner of a grace made; therefore they do not expire when the right of the one giving is resolved, L. 787, nor are they suspended when he is suspended, unless they were given for a definite time or were revoked. - Lugo, Resp. Mor., l. 1, d. 32; E. M.

The praised Decree *Vetuit* of the S. C. C., Dec. 22, 1905, His Holiness Pius X established and decreed: "1. That in the future no local Ordinary admit into his Seminary a subject of another diocese, whether cleric or layman, unless he has first asked by secret letters from the proper Bishop of the petitioner and has learned whether this man was formerly dismissed from his Seminary. But if this is established, omitting judgment about the causes or determination whether the other Bishop acted justly or unjustly, let him bar entrance into his Seminary to the one asking. "2. But those who were admitted in good faith, because they kept silent that they had previously lived in another seminary and afterward were dismissed from it, as soon as this condition of theirs is known, are to be admonished to depart. But if they wish to remain, and this is permitted to them by the Ordinary, by that very fact they remain ascribed to this diocese, with the canonical rules for their incardination and ordination nevertheless observed; but once advanced to the priesthood, they are prohibited from returning to the diocese from whose Seminary they were dismissed and from having a stable domicile there. "3. Likewise, since almost a similar reason holds, those who, dismissed from Seminaries, enter some religious institute, if they leave it after they have been initiated in sacred orders, are forbidden to return to the diocese from whose Seminary they were dismissed. "4. But those dismissed from some religious Institute are not to be admitted into a Seminary unless the Bishop has first, by secret letters, sought information from the moderators of the same Institute about the morals, character, and ability of those dismissed, and it is established that there is nothing in them which is less suitable to the priestly state. Cf. here n. 279 bis. "Finally let Bishops remember that it is not lawful for them, in their own name, to impose hands on anyone who is not subject to them in that way and by one of those titles which are established in the Constitution *Speculatores* of Innocent XII and in the decree of the S. C. of the Council which begins *A primis*, on July 20, 1898. And likewise no one can be ordained who is not useful or necessary for the church or pious place for which he is assumed, according to the prescriptions of the holy Council of Trent in chap. 16, Sess. 23, de reform."

894. What of Regulars? - The things which precede, with special indult excluded, have place also in pious Congregations in which only simple vows are pronounced. S. C. EE. et RR., May 6, 1864; A. S. S., vol. 1, p. 366. Yet they are to be proposed by their own moderators. Leo XIII, Bull *Conditae*, § VI.

But Regulars of solemn vows from C. *Cum nullus* 3, § fin., de Temp. ord. in 6, must receive orders from the Bishop in whose diocese the monastery is where they are then staying. The Sacred Congregation by mandate of Clement VIII decreed that if that Bishop does not have an ordination, then the superior can give dimissorials to his subjects to any other Bishop whatever; nevertheless it is there prescribed to Regulars that they not deliberately defer the ordinations of their subjects to that time when the diocesan Bishop is not going to have an ordination or is going to be absent. And Benedict XIV established that if the diocesan Bishop is absent or is not going to have an ordination at the next legitimate established time, a religious cannot be ordained by another unless he shows an attestation of the vicar general, chancellor, or secretary of the same Bishop; otherwise both the one ordaining and the one thus ordained incur the censures and penalties which they incur who are ordained by some Bishop without dimissorials. Likewise he established that such a Regular must be examined by the ordaining Bishop; and that privileges of some Order, e.g., of the Society of Jesus, Gregory XIII, Sept. 22, 1582, that its religious be ordained by any Bishop, must be by name, not by communication. When the See is vacant, "within a year the Chapter can well grant permission to Regulars bringing dimissorials of their superiors, that they be ordained by some Bishop." L. 788. Yet a Bishop can ordain religious without formal examination by acquiescing in the testimony of their

prelates, but he can also well examine them if he wishes, unless they have a special privilege. Benedict XIV, Constitution *Impositi nobis*, Feb. 27, 1747; Kenrick, tr. 20, n. 26. "Whoever in the City, whether from the secular clergy or from the regular, will be initiated in sacred orders, all without anyone excepted, every contrary privilege having been extinguished, shall undergo the test of doctrine in the Curia of Our Cardinal Vicar." Pius X, Motu Proprio *Sacros. Trid. Syn.*, July 16, 1905.

From the aforesaid Motu Proprio of Pius X *Sacros. Trid. Syn.*, July 16, 1905, "whoever from the number of ordinands shall have obtained a degree in Theology in some Pontifical University is decreed exempt from undergoing the test about theological matter." "By Motu Proprio we will and command that in Italy and the Islands subject to Italian dominion, all Religious, whether belonging to Institutes of simple vows or to those of solemn vows, are not to be promoted to sacred Orders before they have been proved suitable by the Bishop of the place through a diligent examination of doctrine; with any contrary privilege removed for this effect alone, even one worthy of most special and individual mention, and with any contrary custom abrogated, even centenary and immemorial, which we also prohibit from being introduced in the future." Pius X, March 19, 1906. This privilege of receiving orders without previous examination, exclusively proper to the Society of Jesus, therefore was revoked for Italy. - Constitution *Pium* of Gregory XIII; Constitution *Quantum* of Paul V.

Regulars of religious orders in which solemn vows are emitted, during the triennium of simple vows, can be ordained by the Ordinary of the place; yet during that triennium after the novitiate and before solemn profession, it is not lawful to grant them dimissorials except for first tonsure and minor orders. S. C. super Stat. Regul., June 12, 1858; S. C. EE. et RR., Jan. 20, 1860; A. S. S., vol. 1, p. 358 ff.

Whether novices are to be ordained by the Bishop of the place of novitiate, or by the Bishop of origin or domicile? - Suarez and Henriquez hold that they are to be ordained by the Bishop of origin or domicile. Sanchez and Delbene judge that they can well be ordained by the Bishop of the place where the novitiate is. "Each opinion is probable..., provided the novice has already remained in the novitiate for a notable time; and takes an oath there of remaining perpetually, insofar as it is in him." L. 765. - Benedict XIII, Constitution *In suprema*, Sept. 23, 1724; Benedict XIV, Constitution *Impositi nobis*, 1747, Inst. 23, n. 8; L. 768, 788, 792; A. S. S., vol. 23, p. 629 ff.; E. M.

895. Can a Bishop confer orders, or at least first tonsure, on his own subjects outside the diocese? - Resp. In the negative as regards orders, unless by permission of the Ordinary of the place. As regards tonsure, the first opinion denies, because from Trent it is forbidden to Bishops to exercise pontificals in another's diocese without permission of its Ordinary. And to confer first tonsure is a pontifical function. The second opinion affirms, because, since it is the more common and more probable opinion among theologians that tonsure is not an order, therefore it can well and customarily be conferred privately without pontifical insignia, for which permission of the Bishop of the place is not required. L. 256.

896. What is required for validly receiving orders? - For validly receiving ordination it is required and suffices that one be a baptized male. Therefore a woman is incapable of orders, and a hermaphrodite in whom the female sex prevails, and likewise one not baptized. On the contrary, infants, the perpetually insane, the blind, the mute, those deprived of hands, etc., are validly ordained, although by natural law they are irregular. Yet St. Thomas says that boys before the use of reason cannot validly receive the episcopate. - C. *Tuae litterae*, un., de Cler. per salt. prom.; Benedict XIV,

Constitution *Eo quamvis*, § 20; L. 781, 782; St. Thomas, Suppl., q. 35, a. 3; q. 39, a. 1, 2; Lugo, Resp. Mor., l. 1, d. 31; E. M.

897. What is required for the licit reception of orders? - There is required 1. divine vocation, the state of grace, since order is a sacrament of the living, and probity of life. Cf. 166, 168. "Since in any order," says St. Thomas, Suppl., q. 36, a. 1, "someone is constituted a leader of others in divine things, one who approaches orders with consciousness of mortal sin sins mortally as presumptuous. And therefore holiness of life is required for order by necessity of precept, but not by necessity of the sacrament. Hence if an evil man is ordained, nevertheless he has order, though with sin... The ordained must shine with a good conscience as regards God, and with good reputation as regards men." For through the sacred ministry they are made mediators between God and the people. Hence consequently one promoting the unworthy sins gravely, "especially since this turns to the detriment of the Church and of divine honor." St. Thomas, Suppl., q. 36, a. 4.

Therefore spiritual exercises are altogether suitably put before the reception of orders; and they are in fact prescribed for clerics to be assumed to sacred orders in Italy and the adjacent islands. Innocent XI, Oct. 9, 1682; Clement XI, Feb. 1, 1710; Ferraris, Bibl., v. Exerc. spirit.; Benedict XIV, Not. 104. - And, so that there may be proof of this probity of life, the names of those who are to be assumed to individual major orders are to be proposed publicly in the Church; and those who are promoted to minor orders must obtain good testimony from the pastor and from the teacher of the school in which they are educated. Besides, the Bishop is bound to investigate the morals of those to be ordained and the other qualities required in them. Trent, sess. 23, C. 5, 7, de Ref.; sess. 22, C. 2, de Ref.; sess. 24, C. 1, de Ref.; E. M.

From the Norms of the S. C. EE. et RR. for Italy, Jan. 18, 1908, immediately before ordination those to be ordained must make spiritual exercises for ten days before major orders, for five before minor orders. - From the aforesaid Norms the Bishop must seek information from pastors and from Superiors of Institutes in which they stayed before they entered the Seminary, then from members of the Tridentine Commission, from the Rector and from the Professors of the seminary. If the pupils are extra-diocesan, the Bishop will send their petitions, together with his own judgment concerning ordination, to their Ordinary, who will either dispatch dimissorial letters or summon the pupils for sacred ordination after he has taken suitable information, as was said above. - Cf. here n. 893 at the end. Decree *Vetuit*.

898. There is required 2. that the one to be ordained not be a neophyte, servant or slave, mutilated in some member, of notable infamy, or such as would impede the execution of the order, a hermaphrodite, illegitimately born, a homicide, infamous, or irregular in any way, suspended, excommunicated. - 1 Tim. 3:6; L. 782, 784; St. Thomas, Suppl., q. 39, a. 3, 6; E. M.

899. When can a married man be initiated in sacred orders? - It is certain that without the permission of the wife it is not lawful for a married man to receive sacred orders, nor even first tonsure. C. *Nullus*, ult., de Temp. ord. in 6; Extravag. *Antiquae*, de Voto. But a married man can licitly be promoted to sacred orders if from a just cause he has made perpetual divorce from his wife, from the sentence of a judge, C. *Agathosa*, caus. 27, q. 2, or from permission of the wife, provided she herself vows chastity, C. *Coniugatus* 5, de Convers. coniugat., and provided the permission is express and altogether spontaneous, C. *Consuluit*, e.t.

But more truly the wife is not bound to profess Religion, C. *Coniugatus* cited, unless the husband is assumed to the episcopate, for then the wife must altogether enter Religion, C. *Sane* 6, de Convers. coniug.; and likewise unless the husband became a religious, and the wife was young or suspected of incontinence, C. *Cum sis* 4, e.t. - But does the woman of this man promoted to sacred orders, if she emitted a simple vow of chastity, validly contract marriage after the death of the husband? The first opinion denies, from C. *Quia sunt* 10, D. 28, where it is said of such a marriage: Those who have been joined badly are to be separated. The second opinion affirms; for although separation of the aforesaid spouses is prescribed as a penalty for the crime admitted, nevertheless it is not declared that the marriage is null. - L. 812, 826, 969; St. Thomas, Suppl., q. 53, a. 4; Schmalzgrueber, l. 3, t. 32, n. 19 ff.; Benedict XIV, de Syn., l. 13, c. 12, n. 7 ff.

900. There is required 3. an intention of being clerical, Trent, sess. 23, C. 4, de Ref. It is certain and common that he who receives major orders and does not intend to receive the priesthood does not sin gravely, Trent, ib.; and it is probable that there is no sin, because by no law is it prescribed to ascend to superior orders. C. *Is qui*, de Fil. presb. in 6. - But he would sin who would receive first tonsure or minor orders with the intention of escaping the lay forum, and afterward, when fear of lay judgment had ceased, of returning to the world, Trent, ib. - L. 783, 785; Sanchez, tr. 9, c. 2, n. 88; E. M.

901. There is required 4. that he be confirmed. Trent, sess. 23, C. 4, de Ref. But is this required under grave precept? Some affirm, others judge that this is not of precept, but of counsel, others commonly and more probably say that it is required under light obligation because of light disorder. L. 786. "By congruity," says St. Thomas, Suppl., q. 34, a. 4, "the character of order presupposes the character of confirmation, and not by necessity." Nevertheless the S. C. C., Sept. 27, 1601, declared that one initiated in first tonsure and minor orders before confirmation was received had been "badly promoted, had acquired a benefice less legitimately, and needed a new provision, nor could he ascend to sacred orders unless with a previous dispensation of the Apostolic See." Benedict XIV, Constitution *Eo quamvis tempore*, § 19.

902. There is required 5. that, besides testimonial letters, cf. 893, he have dimissorial letters of his own Bishop, if he is ordained not by his own Bishop but by another, when a just cause stands. Trent, sess. 14, C. 1, 2, de Ref.; L. 787, 789. Exempt Regulars must have dimissorials from their Prelates, namely Generals or Provincials. For by these letters the Bishop or Prelate, by force of his jurisdiction, deputes or asks another to confer orders on his subject. L. 788; E. M.

Poles cannot be ordained in Italy without authentic testimonial letters of their own Ordinary; and they cannot be recommended to Bishops of North America without permission of the S. C. de Prop. Fide. S. C. de Prop. Fide, May 2, 1898.

903. There is required 6. an examination of suitable knowledge, according to the order which is received. The Bishop is bound by himself or through others to examine those to be ordained, although he sends them to another Bishop to be ordained, unless from elsewhere he is certain of their suitability. Reg. 31, Iur. in 6; Trent, sess. 6, C. 11, de Ref.; sess. 14, C. 3, de Ref.; sess. 23, C. 3, 7, 12, 14, de Ref.; L. 790, 792. If those to be ordained were sent to a foreign Bishop, if by another Bishop, the one ordaining can examine them again; if by a Regular Prelate, he must examine them again. S. C. C., Jan. 16, 1595; L. 787; Lucidi, n. 75 ff.; Benedict XIV, Not. 23, n. 8. - Cf. here 894.

From Trent, sess. 23, CC. 4, 5, 11, 13, 14, 15, de Ref., for first tonsure it is required that they know the rudiments of faith, likewise reading and writing; for minor orders, that they at least understand the Latin language; for subdiaconate and diaconate, that they be "instructed in letters and in those things which pertain to exercising the order"; for priesthood, that "after diligent examination has preceded, they be approved as suitable for teaching the people those things which it is necessary for all to know for salvation, and for ministering the sacraments." Therefore those to be ordained priests must know those things which pertain to the sacrifice, to the Communion and Viaticum of the faithful, to baptism, and to extreme unction, of which they are ministers. But concerning the sacrament of penance, so much knowledge is not required as in a confessor, but they must at least have some knowledge concerning the more obvious matters for cases of necessity in which they are bound to receive Confessions. L. 791; St. Thomas, 4, dist. 23, q. 1, a. 3, q. 2. Yet the Bishop is not prohibited from requiring greater knowledge from his subjects than is assigned by Trent. L. 792. Those who have professed a Religion of merely contemplative life are to be treated more benignly. L. 791; St. Thomas, loc. cit., ad 1. On the contrary, greater knowledge is required in priests who are to have the care of souls, since "such knowledge is required in him who is to be promoted to orders... more or less, according as his office extends to more or fewer things." St. Thomas, Suppl., q. 36, a. 2. Far greater knowledge still is required in Bishops. For "it belongs to the higher priests, namely Bishops, to know even those things which can cause difficulty, and so much the more as they are placed in a higher grade." St. Thomas, Suppl., q. 36, a. 2. As regards the knowledge required in a Bishop, cf. 203. "Those professed both of solemn vows and of simple vows are not to be admitted by local Ordinaries to sacred orders, unless, besides the other things established by law, they present testimonial letters that they have devoted at least one year to sacred theology, if there is question of the subdiaconate; at least two years, if of the diaconate; and as regards the priesthood, at least three years, with the regular course of other studies having first been completed." S. C. EE. et RR., Nov. 4, 1892. Cf. here 894, 909.

Moreover, a fourth year is afterward to be added: the years must be complete, truly academic, and truly scholastic; and a regular course of other studies imports studies duly completed, both philosophical, together with other accessory disciplines, and of humane letters for five years, of which at least four years, besides primary instruction, must be completed before entrance into the novitiate.

Superiors, in testimonial letters, must expressly declare and attest the following: 1. as regards the theological curriculum, that the candidate, from such a year, month, and day, to such a year, month, and day, and in such a school, duly applied himself to the theological studies necessary for the sacred Order to which he is presented, and in the final trial or examination was found suitable; 2. as regards the lower studies to be put before the same curriculum: a) that the same candidate, after the studies of primary instruction were duly completed, completed in full the studies of humane letters in such a school, and for so many academic or scholastic years, having successfully passed the final trial; b) that the aforesaid candidate, after the studies of humane letters were rightly completed, completed in full the philosophical curriculum in such a school, and for so many academic or scholastic years, and successfully passed the final trial. S. C. de Relig., Sept. 7, 1902.

From the Norms of the S. C. EE. et RR. for Italy, no one, although he has the prescribed age, can be promoted to the subdiaconate before he has devoted himself to theology in the third year; to the

diaconate before Easter of the fourth year of theological study; and to the priesthood before the end of the same year. Cf. 909. For the effect of sacred ordination, the years of studies must be complete, namely, the course of nine months must have been completed, and the final trial successfully passed. S. C. Cons., March 24, 1911.

Those who are prone to the errors of modernism are to be excluded from sacred orders. The oath is to be taken according to the Motu Proprio *Sacrorum Antistitum*, and it is enough that it be made before the order of subdiaconate. But the Ordinary, from a necessary or useful cause, can require it also before each of the other orders. S. C. Cons., March 24, 1911.

Pius X, in the Letter to the Italian Bishops, July 28, 1906, says that Bishops must promote, as the Tridentine prescribes, according to the necessity of the dioceses, selecting only those who are truly suitable.

The print's appendix has more on this paragraph: Concerning Interruption of Studies. (ed.)

904. There is required 7. that one be ordained through the due intervals of times. It is more probably lawful to confer first tonsure with some minor order, since first tonsure is not an order; Rome excepted. Lucidi, C. 2, n. 119. Between one minor order and another some time is required, which was not determined by Trent, sess. 23, C. 11, de Ref.; and in this the Bishop can well dispense, if from some cause something else seems expedient to him. From minor orders to the subdiaconate there is required under grave obligation the space of one year, unless necessity or the utility of the Church, in the judgment of the Bishop, demands otherwise. Trent, ibid., of the Church to which the cleric is ascribed. From the subdiaconate to the diaconate the space of a year is also required; nevertheless, for dispensing with this, any reasonable cause suffices, in the judgment of the Bishop. Trent, sess. 23, C. 13. From the diaconate to the priesthood there is required at least the space of a year, unless, on account of the utility and necessity of the Church, something else should seem good to the Bishop. Trent, sess. 23, C. 14. These words the S. C. C. declared are to be understood disjunctively, so that even utility alone is sufficient, in the judgment of the Bishop. But it is much more grave to receive two sacred orders on one and the same day, Trent, sess. 23, C. 13, or minor orders together with the subdiaconate, as is shown by common custom itself. Cf. C. *Cum* 2, C. *Innotuit* 3, de Eo qui furtive; L. 775, 780, 789, de Priv. 59; A. S. S., vol. 25, p. 587; E. M. "The remission of intervals, for the causes expressed by the Council, belongs to the ordaining Bishop as regards Regulars receiving orders from him, but not to Regular Superiors. The Bishop himself, nevertheless, concerning the causes for remission, is bound to give credence and deference to the testimony of the Regular Superior." S. C. C., Sept. 12, 1603; Benedict XIV, Inst. 57, n. 1.

Leo XII granted to the Society of Jesus the privilege of receiving orders without any observance of intervals. Brief *Plura inter*, July 11, 1826. Clement VIII granted to the Congregation of St. John the Evangelist in Lusitania the same dispensation from intervals. Ferraris, v. *Interstitia*, n. 14-16. Cf. here n. 906.

905. There is required 8. under grave obligation, that first tonsure be received before minor orders, and the lower order before the higher. C. *Tuae*, un., de Cler. per salt. ord. But if someone were to receive the episcopate before the priesthood, he would receive even that invalidly. L. 793; Trent, sess. 23, de Ref., C. 11; Pius VI, Bull *Auctorem fidei*, n. 51.

906. There is required 9. that one be ordained at the due time. Major orders can be conferred only on the Saturdays of Ember days, on the Saturday before Passion Sunday, and on Holy Saturday; and under grave obligation they are to be conferred within Mass. From a just cause the one ordaining is permitted to defer part of the ordination to the following Sunday, with the fast of Saturday continued by him and by those to be ordained. C. *Litteras* 13, C. *Dilectus* 15, de Temp. ord.

Minor orders can be given on any feast of precept, in the present, or before the reduction, if they are conferred on one or two, or even several, provided a general ordination does not seem to be taking place. Pont. Rom.; C. *De eo* 3, e.t.; S. R. C., March 16, 1833. Minor orders can also be conferred publicly on Wednesday before the Saturday of general ordination, and also on Friday of the general ordination of Ember days, provided there is custom, which Palaus, Salm., Barbosa, with others, testify has already been received. It is fitting to confer them in Mass; and they ought to be conferred before noon, Pont. Rom.; S. R. C., Nov. 12, 1831, Marsor., ad 1, unless there is an immemorial contrary custom. S. C. C., April 13, 1720. The consecration of a Bishop can take place on any Sunday, C. *Ordinationes* 1, 5, C. *Quod die*, Dist. 75, and on the birthdays of the Apostles, or, by special indult of the Supreme Pontiff, on other feasts of precept, even suppressed ones; and at the third hour of the day. Pont. Rom.; S. R. C., April 4, 1913. First tonsure can be conferred on any day and hour, even in the evening. "I. Since the Evangelists are equated with the Apostles in liturgical matters, it is asked whether episcopal consecration can take place on the birthdays of St. Luke and St. Mark? II. Whether it can take place on the feast of St. Barnabas the Apostle? III. Whether a special indult of the Supreme Pontiff is required for episcopal consecration to be carried out on festive days within the week a) which are still of precept and therefore are equated with Sundays, b) or also which were formerly of precept, that is, on suppressed feasts? Resp. To I and II: In the negative. To III: In the affirmative to both." S. R. C., April 4, 1913; A. A. S., vol. 5, p. 186.

Regulars can, by license of their prelates, be ordained outside the times by force of the privilege granted to them by Gregory XIII, Clement VIII, Urban VIII, and Benedict XIII. Conc. Rom., t. 5, C. 2; Benedict XIV, Notif. 23, n. 5. Outside the times, namely, on a Sunday or festive day of precept; of precept before the reduction. S. C. C., Jan. 15, 1689; S. R. C., March 16, 1833, Clarom. Cf. Benedict XIV, Const. *Impositi nobis*, § 12.

The Society of Jesus specifically has in this matter a privilege which Benedict XIV, loc. cit., affirms does not avail for others to whom it was not directly granted: that, without their students being bound to receive orders from the diocesan Bishop, they can be sent to any Catholic Bishop; likewise, that they can receive sacred orders outside the times and without observing the intervals, even on three continuous Sundays or feast days. L. 794, 797; Lugo, Resp. Mor., l. 1, d. 34; Benedict XIV, de Syn., l. 8, c. 11, n. 3-7, Notif. 23; Honorante, Prax. Secr., cap. 12. Cf. vol. 1, n. 275; E. M.

The Premonstratensians also have the privilege that they may be ordained outside the times, and on three festive days even continuous, by any Catholic prelate. Benedict XIII, Jan. 24, 1730.

A Bishop enjoying an indult to confer orders outside the times and without observing the intervals can use it also toward subjects of others who have dimissorial letters from their Ordinaries. S. C. de Sacram., Aug. 13, 1909.

907. Can Regulars, when they are ordained outside the times, be ordained on any double feast, even if it is not of precept? There are two opinions. The first affirms, because Alexander VI, speaking of

those to be initiated through this privilege, said that they could be ordained on three Sundays or doubles. The second opinion denies, because Gregory XIII, speaking of this same privilege, said on Sundays and festive days. St. Alph., 797, says: "This second opinion is safer, and seems more probable; but I do not dare to reject the first, and I say that one must stand by custom, which is the best interpreter of laws." Now custom stands for the second opinion, which is also favored by S. C. C., Jan. 15, 1689. But when the faculty is given of conferring sacred orders on festive days, they can also be conferred on abrogated feasts. S. R. C., Nov. 12, 1831, Marsor., ad 1; March 16, 1833, n. 2705.

But unless there is a special indult that orders may be received on festive days even continuous, orders outside the times are to be conferred on festive days not continuous, but interposed. S. O., March 5, 1712, C. n. 1187.

908. There is required 10. the due place. From Trent, sess. 23, C. 8, sacred orders are to be conferred in the Cathedral church; or, if they are conferred in another place, in the worthier church of the place, as far as can be done. But from S. C. C., Nov. 20, 1594, if the ordination is not general, the Bishop can have it anywhere, even in his private chapel. Orders, however, cannot be conferred outside the diocese without permission of the Ordinary of the place, and then the Bishop can ordain both subjects of others and his own subjects. Trent, sess. 6, C. 5; L. 798. First tonsure and minor orders can be conferred in any place whatever, Pont. Rom. The consecration of a Bishop, apart from an indult and outside the Roman Curia, is to be celebrated in the church to which the Bishop is promoted, or in the province, if this can conveniently be done. Trent, sess. 23, c. 2, de Ref.

909. There is required 11. the due age. For first tonsure it is required that the one to be initiated be endowed with the use of reason, and therefore be at least seven years old. Benedict XIV, Const. *Inter sollicitas*, 1745, § 19. For minor orders no age is assigned in the law; nevertheless they are usually conferred from the seventh to the fourteenth year. Benedict XIV, ibid. For the subdiaconate the twenty-second year is established, for the diaconate the twenty-third year, and for the priesthood the twenty-fifth year. Trent, sess. 23, C. 13, de Ref. But it suffices that the prescribed year has begun. Trent, sess. 24, C. 12, de Ref. For the episcopate the thirtieth year completed is required, and the same is said for the Cardinalate, although by concession of Sixtus V, Const. *Postquam*, 1586, Cardinal Deacons can be of the age of twenty-two years. For beneficiaries, however, the fourteenth year is required from Trent, sess. 23, C. 6, de Ref. But, if the benefice is one with cure, the twenty-fifth year is required, at least begun. Trent, sess. 24, C. 12. For a canonry in Cathedrals the twenty-second year begun is required. Trent, sess. 22, C. 4. But for a penitentiary the fortieth year is required. Trent, sess. 24, C. 8, de Ref. In collegiate churches, however, the fourteenth year suffices, since nothing has been established for this in the law. "It is certain, moreover, that Bishops can in no way dispense in age." L. 800. L. 783, 799, 800; St. Thomas, Suppl., q. 39, a. 2; E. M.

Dispensation is given by the Supreme Pontiff. For the subdiaconate it is never dispensed; rarely for the diaconate; frequently for the priesthood, up to one year and a half and some days.

From the Norms of the S. C. EE. et RR., Jan. 18, 1908, for Italy, first tonsure is conferred on pupils who attend the propaedeutic course, minor orders on those who are in the first two years of theology, the subdiaconate on those who have completed the third year of theology, although they have the age prescribed by the Council of Trent, the diaconate not before Easter of the fourth year of theology, the priesthood not before the end of the same fourth year. Cf. here n. 903.

910. There is required 12. that one exercise the order previously received in the church to which he has been ascribed, according to Trent, sess. 23, C. 11, 13, 14, de Ref. But Salm., C. 4, n. 74, think this is not of grave precept, since the words of the Council are more consultative than preceptive. L. 801.

911. There is required 13. according as the Pontifical prescribes, that those to be ordained receive the Eucharist; but this is not under mortal sin, as La-Croix says, 1225. Indeed, those to be initiated to minor orders are not bound to communicate even under light obligation. Priests, however, are more truly bound to communicate under mortal sin, since they truly celebrate with the Bishop. St. Thomas, III, q. 32, a. 2; L. 301.

912. There is required 14. as regards receiving sacred orders, a title of honest support, Trent, sess. 21, C. 2; otherwise the Bishop ordaining or granting dimissorials is himself bound to support the one ordained in sacred orders until that man has a title. C. *Cum secundum*, de Praeb.; C. *Recepimus*, de Aetate et qualit. ordin. The ordinary, ecclesiastical title of support can be either poverty or a benefice sufficient for support, according to the synodal assessment of his diocese. By the title of poverty only solemnly professed Regulars are ordained, but not novices. St. Pius V, Const. *Romanus Pontifex*. For when the solemn vow of poverty has been emitted, there is a certain hope of support from the goods of the community. Leo XIII, Bull *Conditae*, § VI. The Passionists are excepted. The religious of the Society of Jesus are excepted, who can be ordained after simple vows; and if afterward they are dismissed from religion, the Society is by no means bound to support them. As regards the title of benefice, it is required that the benefice already be possessed peacefully. In the name of a benefice someone can also be ordained under the title of perpetual coadjutorship, or of daily distributions, or of chaplaincy, or of pension, or of perpetual prestimony; but Mass stipends by no means suffice for a title, since they are uncertain. "But he cannot resign that benefice unless mention is made that he was promoted under the title of that benefice; nor is that resignation to be admitted unless it is established that he can live suitably from elsewhere." Trent, sess. 21, C. 3, de Ref.

Besides the ecclesiastical title of benefice and of poverty, there is also the patrimonial title, which is extraordinary, namely, of patrimony or pension. As regards the title of patrimony, not all can be ordained under this title, but only those whom the Bishop judges are to be assumed for the necessity or convenience of his churches. Trent, sess. 21, C. 2, de Ref. Cf. 904. The patrimony must be constituted in legal form, upon a certain and immovable thing, and of its nature fruitful, or quasi-immovable, as in public bonds, S. C. C., June 29, 1704, peacefully possessed, and not burdened by debt or mortgage. By pension, however, a perpetual revenue suffices, even one redeemable, provided that, if it is redeemed, it is applied to the purchase of another revenue or of lands. It also suffices if someone, from his revenues, donates by instrument so many annual gold coins as are sufficient for support.

It suffices that some Count or Community obligate its goods for supporting the cleric. The title of one's own industry does not suffice. Patrimony cannot be renounced without the Bishop's permission, even after the attainment of a benefice sufficient for support. The Bishop's permission, however, suffices if someone either obtains a sufficient ecclesiastical benefice, or from elsewhere has that from which he can live. Trent, loc. cit.; L. 813-824; Benedict XIV, Notif. 26.

There are other extraordinary titles, for which a particular Indult of the Apostolic See is needed. As regards Regulars, there is the title of the common table, namely, for those Regulars who either pronounce no vows, or only simple vows. For secular clerics there is also the title of service of the

church, and the title of mission. Collect. S. C. de P. F., n. 1179 ff.; E. M., Suppl. alter., p. 4 ff. They cannot depart from the church and from the mission, and they are supported by the alms of the faithful.

The alumni of the American College of Louvain, clerics of the United States of North America, who by force of the Pontifical Indult of Jan. 2, 1909, are promoted to sacred orders under the title of service of the church, are bound to issue a written promise that they will serve their own diocese faithfully. S. C. Cons., July 29, 1909.

A title can indeed be lost, but then another must absolutely be substituted for the lost title. And Regulars of solemn or simple vows constituted in sacred orders, expelled or dismissed, remain perpetually suspended, "until provision is made for them in another way by the Holy See; and, moreover, they have found a benevolent Bishop to receive them, and have provided for themselves an ecclesiastical patrimony." But those who have voluntarily obtained dismissal, or have been dispensed from simple vows, or are free from them because the time of temporary vows has elapsed, "are not to leave the cloister until they have found a benevolent Bishop to receive them, and have provided for themselves an ecclesiastical patrimony; otherwise they remain suspended from the exercise of the orders received." Decree *Auctis admodum*, S. C. EE. et RR., Nov. 4, 1892. E. M.

To dispense from the title of sacred ordination belongs to the S. C. C. S. C. Cons., Feb. 27, 1909.

The print's appendix has more on this paragraph: Concerning Betrothals and Marriage. (ed.)

913. There is required 15. from the Decrees of the S. O., Sept. 9, 1875, and Aug. 31, 1904, that clerics to be initiated in sacred orders have first satisfied the active and regular military service to which they are subject. Likewise, from the Decree of S. C. EE. et RR., Nov. 27, 1892, Regulars cannot emit solemn profession, nor receive sacred orders, unless they have first satisfied the active and regular military service to which they are subject. Cf. here n. 277; E. M.

914. There is required 16. as regards Regulars of Religious Orders to be initiated in sacred orders, that they have emitted the profession of solemn vows. But Regulars of Institutes of simple vows cannot receive sacred orders unless "they have already emitted vows which are indeed simple, but perpetual, and have been stably aggregated to their own Institute; or at least have remained for three years in temporary simple vows as regards those Institutes which defer perpetual profession beyond three years," all indults and privileges previously granted being revoked. But when a legitimate cause occurs, dispensation can be sought from the Apostolic See, "that a cleric may be able to pronounce solemn vows, although he has not completed the three years" of simple vows, as regards Regular Orders; "but as regards Institutes of simple vows, that he may be able to emit simple perpetual vows, although the time prescribed by the Constitutions of the respective Institute for the profession of simple perpetual vows has not been completed." S. C. EE. et RR., Nov. 4, 1892. E. M.

915. Whether or how does an ordained man sin who omits the recitation of the prayers which after ordination are imposed by the Bishop by way of penance; and what are those prayers? As regards the omission, the authors do not agree. For some say that he sins gravely, because the matter of the precept is grave. Others hold that he does not sin at all, because the Bishop does not impose a precept. Others finally judge that an omission of this sort is not indeed free from fault, but does not exceed venial sin. This opinion seems more probable. Cf. St. Lig., 289.

As regards the prayers, "for the nocturn of such a day, which the ordaining Bishop is accustomed to impose on subdeacons and deacons, there is to be understood the ferial nocturn, or the first nocturn of the feast or Sunday in the Psalter, according as the ordination was held on a feria, feast, or Sunday." S. R. C., June 27, 1899, Urbis, ad 1. Nevertheless the ordaining Bishop can enjoin another nocturn instead of the nocturn of the day. S. R. C., ibid., ad 2. The psalms with the respective antiphons suffice for such a nocturn, and Ps. *Venite exultemus*, the hymn, and the lessons are not to be added. S. R. C., July 10, 1903, n. 4042, 4117.

916. Whether or how are newly ordained priests bound to read the three Masses prescribed by the Bishop? They are not bound to apply them according to the Bishop's intention, and therefore they can accept a stipend for them. Nor does a grave obligation to celebrate those Masses appear; nor are they to be said before unobstructed days arrive, since they must be votive Masses: of the Holy Spirit, of the Blessed Virgin Mary, and for the Dead. S. R. C., April 11, 1840; L. ibid.; E. M.

917. To what are priests bound by force of the obedience which they promised to the Bishop in ordination? Benedict XIV explains it thus in the Epistle *Ex quo dilectus*: "We acknowledge that a priest, by force of this promise, is held bound, among other things, by this law: that he cannot depart from the service of the Church to which he has been assigned without the license of the Bishop." L. 823.

918. Does a cleric, initiated in minor orders, sin if he takes a wife? Speaking per se, it is certain that he does not sin gravely, indeed not even lightly, if he does this from a just cause, for example to quiet enmities or temptations of the flesh, to assist a poor woman, etc.; otherwise he will not be excused from venial sin. For by no law is he bound to receive sacred orders, but he still remains free. Yet he is not without a certain disorder if, after he has devoted himself to divine worship, without sufficient reason he says farewell to the clerical state which he has already professed, and returns to the enticements of the world. If he contracted marriage with one woman and a virgin, wore clerical garments, and was deputed by the Bishop to the service of some church, he would enjoy the privileges of the canon and of the forum, not others. Of the forum in criminal causes, not in others. Pont. Rom., de Ordin. subd.; C. *Clerici*, de Cler. coni. in 6; Trent, sess. 23, C. 6, 17, de Ref.; L. 783, 785.

Addenda to n. 780

On Military Chaplains, During the Present War

"Military chaplains, while they accompany the army, can, during the war, receive the sacramental confessions of any faithful whatsoever who approach them, and in their favor use all the faculties entrusted to them for the forum of conscience. The aforesaid military chaplains, if perhaps detained in captivity, possess the same power in favor of all captives." S. Poenit., Dec. 18, 1914. Thus indeed by special and express apostolic Authority, notwithstanding anything whatsoever to the contrary. A. A. S., vol. 6, p. 712. Fr. A. LEPIDI, O.P., S.P.A. Master FRANCISCUS FABERI, Assessor of the Vicar of the City

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