CHRISTIAN THEOLOGY

Dogmatic and Moral

in Compendium

by Fr. Daniele Concina, of the Order of Preachers

BOOK XIII

On Matrimony, Censures, and the Religious State

Books I-III from the first of the four tomes printed at Venice in 1761;
Books IX-XIII from the second of the two volumes printed at Bologna in 1760.
The English translation is from a friend of this library who wished to remain anonymous;
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Prepared for the Morals of the Church library, where the text may be read and searched online.

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Book Thirteen — On Matrimony, Censures, and the Religious State

Dissertation I — On matrimony

Chapter I — On the essence and institution of matrimony

I. St. Augustine, Book 1 *On Adulterous Marriages,* to Pollentius, says: *I know not whether the question concerning marriages be not the most obscure and most implicated. Nor do I dare to profess that I have as yet unfolded all its recesses either in this work or in another, or that I am now able, though it press to be explained.* In the time of Augustine heretics, in our age not a few Moralists, have by diverse ways obscured this tract.

II. The conjunction of male with female the ancients called *matrimonium* rather than *patrimonium,* because it belongs to the woman to bear, to nourish, and to educate offspring. *Nuptiae* also is called *matrimonium* from *nubendo;* and *conubium,* and *conjugium* from the common yoke to which both man and woman are subjected.

III. Matrimony is regarded in three ways: 1. As a natural contract; 2. As a civil contract; 3. As a sacrament of the new law. Absolutely it is described as *the marital conjunction of a man and a woman between lawful persons, retaining an undivided companionship of life.* But it is added, as it is a sacrament divinely instituted, *a sign of the conjunction of Christ with the Church, having the promise of grace for uniting the souls of the spouses, and for educating offspring piously and holily in the Christian faith.* Lastly matrimony is threefold: legitimate, ratified, and consummated. *Legitimate* is that which is by the law of nations, contracted according to the norm of the civil laws, such as is that even of unbelievers. *Ratified* is that which is perfected according to the laws of the Church, and which is approved by the Church. *Consummated* is when the spouses are mingled together by carnal copulation.

IV. It coalesces out of several things: 1. Mutual consent; 2. An external promise; 3. A reciprocal delivery of bodies; 4. Thence results a perpetual bond; 5. The mutual obligation of rendering the debt; 6. The right which each has in the other; 7. Carnal copulation.

V. All Catholics deny that the essence of matrimony is set in carnal copulation. Between Adam and Eve there was true matrimony before their commixture. True was the matrimony of the Patriarch Joseph with the Blessed Virgin, all carnal copulation being utterly excluded.

VI. The mutual consent of the contracting parties is the efficient cause of matrimony. The Encratites, Marcionites, Manichees, and Priscillianists denied matrimony to be honourable and good. But the holy Scriptures and all Catholics execrate the error of those ravers. Since indeed matrimony was instituted by natural and divine right. The precept of contracting matrimony regards not individuals but the multitude.

VII. QUESTION I. *Whether in the old law matrimony was a sacrament?* ANSWER. The character of a sacrament can be regarded in two ways: 1. In the broader signification, according as in whatsoever manner it is called a sign of a sacred thing; 2. Inasmuch as it is a practical and efficacious sign of sanctifying grace. The common opinion of theologians denies that matrimony before the coming of Christ was a true sacrament. But that in the broader signification it was a sacrament, all concede, since, instituted in the state of innocence itself, it was a sign of the conjunction of Christ with the

Church. *This now is bone of my bones, and flesh of my flesh. … Wherefore a man shall leave father and mother, and shall cleave to his wife: and they shall be two in one flesh.* Genesis 2.

VIII. QUESTION II. *Is matrimony in the evangelical law a true sacrament?* ANSWER. Hus, Luther, Calvin, and the Protestants deny it; but it is of faith that it is a true sacrament, St. Paul saying, Ephesians 5: *For this cause shall a man leave his father and mother, and shall cleave to his wife, and they shall be two in one flesh. This is a great sacrament; but I speak in Christ and in the Church.* There is added the perpetual tradition of the Church, whose documents I have given in Vol. X, Book 2, dissertation 1, chapter 4.

IX. QUESTION III. *Whether matrimony celebrated between absent faithful through a proctor be a true sacrament?* ANSWER. Soto, Isambert, Gotti, Tournely, and very many others affirm it. Victoria, Cano, Cajetan, Catharinus, Vanroy, and others deny it. This second opinion is to me the more probable. For no sacrament is celebrated between the absent. Nor do these words *I join you together,* and so forth, require the contracting parties present any less than those other words *I absolve thee* require a present penitent. The use of absolution given to one absent Clement VIII condemned. Tournely answers that absolution given to one absent is not against the nature of the sacrament, and could be given, did not the prohibition of Clement VIII stand in the way. This answer seems futile. Did Clement VIII condemn the aforesaid opinion at his own arbitrary pleasure? He condemned it because these words *I absolve thee* require a present penitent. Valid therefore will be a matrimony entered upon between absent parties through a proctor in the character of a natural and civil contract; but that it is not a true sacrament is to me the more probable.

X. The matrimony of unbelievers after the promulgation of the evangelical law is not a sacrament. Similarly the matrimony of a believer with an unbeliever is not a sacrament, as seems to me the more probable. If unbelieving spouses be converted to the faith, their matrimony does not become a sacrament according to the more probable opinion: because a later intention cannot bring it about that a contract entered upon, which was not a sacrament, should afterwards become one.

XI. Marriages of Catholics with heretics are altogether unlawful, as all theologians confess. But no law declares them invalid.

Chapter II — On the matter, form, and minister of the sacrament of matrimony

I. QUESTION I. *What is the matter of the sacrament of matrimony?* ANSWER. I could recount more than seven opinions of theologians in designating the matter and form of this sacrament. But these being dismissed, with St. Thomas, to whom theologians commonly subscribe, I say it is the acts of the contracting parties. These are his words, *Supplement,* question 42, article 1, reply 2: *The sacrament of matrimony is perfected by the act of him who uses that sacrament, as is penance. And therefore, just as penance has no other matter save the acts themselves subject to sense, which are in place of the material element, so is it of matrimony.*

II. QUESTION II. *Whether the priest assisting the contracting parties be the minister of the sacrament, and whether his words have the character of the form?* ANSWER. There are two opinions, each of which has its most grave patrons, even in the Thomist school. Gonet, Gotti, and very many others teach that the contracting parties themselves are the ministers of this sacrament, and that their words are the form of the sacrament.

III. On the contrary, that the priest himself assisting is the minister of the sacrament, these most grave men maintain: William of Paris, Melchior Cano, Cardinal Toletus, Peter Ledesma, Peter de Marca, Maldonatus, Francis Sylvius, Assius, Natalis Alexander, Tournely, Le Drou, Gibert, Herminier, Du Hamel, Juvenin, Florentinus de Coq, Vanroy, Piette, Bannez. And by these arguments they evince their opinion.

IV. Trent, session 24, chapter 1 *On Reformation,* established: *Let it be proceeded to the celebration of matrimony in the face of the Church, where the parish priest, the man and the woman being questioned and their mutual consent understood, shall either say: I join you together in matrimony, in the name of the Father, and of the Son, and of the Holy Ghost; or shall use other words according to the received rite of each province.* It seems to be gathered hence clearly enough that the priest is the minister of this sacrament, and that the words which he brings forth are the form. For the Council prescribes the words to be employed, or others according to the rite of each Church. In the same place it subjoins that this blessing is to be made by the proper parish priest. Several Councils — of Cologne, Cambrai, Rheims, Tours — which Sylvius reports, I pass over.

V. To these are added very many Rituals. The old Roman one of 1494 collected by Fr. Castellanus O.P. Another Roman one published by the command of Paul V prescribes these words *I join you together,* and so forth, to be brought forth by the parish priest as the minister of this sacrament. Fr. Martène *On the Ancient Rites of the Church,* Vol. II, Book 1, chapter 9, adduces several others upon this matter. Let it suffice to praise one, the Milanese, in which St. Charles Borromeo, part 4, took care to insert this: namely *that there are only five sacraments which a parish priest can by office administer — Baptism, the Eucharist, Penance, Matrimony, and Extreme Unction.*

VI. More clearly is this opinion confirmed by an argument which admits no solid answer. The Lutherans and Calvinists deny matrimony to be a sacrament, and study to elude with acute cavillings the testimonies of the Scriptures by which we evince that it is a sacrament. I yield. By what reasonings do we explode their comments? By none other than by the apostolic and universal tradition of the Church, of all the Fathers and Councils. Now all the Fathers with one voice call the nuptials sacred, because they are consecrated by the sacred blessing of the priest. The testimonies of the Fathers I have given in Vol. X, Book 2, dissertation 1, chapter 4, where they can be read.

VII. Adversaries reply that the priest's blessing, which all the Fathers require, is indeed necessary by the Church's mandate as an accidental ceremony for the greater solemnity of the nuptials, but not for the necessity of the sacrament imposed by divine precept. This answer to me is false. Let adversaries answer: Whence shall we draw arguments from tradition, that we may evince against the Protestants that matrimony is a sacrament, if the recounted answer stand? Assuredly, if the blessing of the priest, by which all the Fathers affirm that the nuptials are consecrated, so that they may show matrimony raised to the dignity of a sacrament, be a merely accidental ceremony, then all the safeguards fetched from tradition are taken from us, by which we may fight against the innovators denying matrimony to be a sacrament. For the tradition of the universal Church being taken away, which is the lawful interpreter of the sacred Scriptures, we are altogether unarmed in the contest, and fall from our cause against those same innovators.

VIII. Besides, the sacraments are ceremonies and sacred things of Religion: therefore a sacrament is a work of Religion. Further, not every sign of a sacred thing is a sacrament, but only that which is sacred. Since therefore matrimony is contracted civilly and profanely by the words alone of the man

and the woman, although it be a seal of a sacred thing, it is nevertheless not a work of sacred Religion, and so not properly a sacrament. Otherwise the brazen serpent and the manna in the desert would have to be called sacraments. Therefore marriages without a sacred minister and without a sacred ceremony of Religion are not sacraments.

IX. What more? The Council of Florence, the seven sacraments of the new law being enumerated, thus defines: *All these sacraments are perfected by three things: namely by things as the matter, by words as the form, and by the person of the minister conferring the sacrament; and if one of these be lacking, the sacrament is not perfected.* Who is the ordinary minister of the sacrament, without whom the sacrament is not perfected? The spouses themselves? Are lay men the ordinary ministers of the sacraments? A woman baptizes when necessity urges, but she is not the ordinary minister; the priest is. Priests alone, consecrated by the sacrament of Order, are the lawful dispensers of the mysteries of Christ, as the Apostle Paul says, 1 Corinthians 4: *Let a man so account of us as of the ministers of Christ, and the dispensers of the mysteries of God.* By what right therefore can this power of administering the sacrament of matrimony — which is called by the same Paul a great mystery — be taken away from them and ascribed to a woman, to whom it is not even permitted to speak in the Church? Whence do the patrons of the adverse opinion gather that lay contracting parties are the ordinary ministers of the sacrament? From what testimony of the Scriptures, from what Council, from what tradition of the Fathers do they draw that the character of the sacrament of matrimony is diverse from that of all the rest? Assuredly they can adduce no monument of sacred antiquity. The ordinary minister of all the other sacraments is a priest. Christ in the new law raised matrimony to the dignity of a sacrament. And did he not institute a priest as minister of this sacrament alone? Solid and perspicuous reasoning evinces that, just as he raised matrimony to the dignity of the other sacraments, so, just as he instituted priests as ministers of the other sacraments, he instituted priests as ministers of matrimony also. This reason evidently demonstrates; this tradition confirms. That they may except the sacrament of matrimony from this universal rule and just principle, it does not suffice to bring one or another conjecture or an ambiguous testimony; but there are required most clear testimonies and a manifest exception.

X. The spouses receive the sacrament of matrimony. Of the sacraments which consist in the action alone, the minister is distinguished from the receiver. For no one can baptize, confirm, or absolve himself. How therefore can it come about that the spouses receiving the sacrament of matrimony are at the same time the ministers? For either each contracting party administers the sacrament to himself, or one to the other. Not the first: because, as I have said, no one can administer to himself a sacrament set in an action. If the second, two effect the sacrament: for neither is the sacrament so divisible that one minister should perfect one part and another minister the other part. For although two ministers can confer a sacrament upon a third at the same instant, yet it can in no way be perceived by what reason two spouses can effect one minister who should administer the sacrament to themselves. On the other hand neither can perfect the sacrament without the other. And then it is asked whether the man confers the sacrament upon the woman first, or the woman upon the man. The words therefore of the contracting parties are the matter of the sacrament; they are not the form. For the form of every sacrament is sacred, from which it is called a sacrament. These words *I take thee as mine* are in no way sacred. For these or like words were employed before Christ instituted matrimony a sacrament, and are employed by those destitute of all reason and Christian faith. If I wished to recount all the trifles which some — says Melchior Cano, who first of all brought this

opinion into the light — have devised, that they might distinguish the matter from the form of this sacrament, I should fill leaves. This one says that the contracting parties themselves are the matter of the sacrament; that one, not they themselves but the consent; another, the gestures and nods which are employed by the man and the woman apart from the words. Another affirms that the words of the first speaker are the matter, those of the latter the form. Which things — would that they were said gravely and probably, lest we be by right derided by the heretics! To what end, in a matter most grave and necessary to faith and religion, to philosophize thinly, not to say ridiculously?

XI. Lastly this opinion is safer, and at the same time exceedingly probable, as being maintained by most grave theologians. Wherefore Benedict XIV, Book 8 *On the Synod,* chapter 13, no. 5, says: *But although the opinion of Melchior Cano hitherto explained be fortified by so many suffrages of Doctors, and exceedingly probable, and it be free to anyone without the note of error to embrace it,* and so forth. Not merely probable, but *exceedingly* probable is this opinion. But on the other hand it is at the same time safer. For all theologians to a man confess that matrimony blessed by a priest with the ecclesiastical rite is a true sacrament. On the contrary very many and most grave theologians deny that, the aforesaid rite being taken away, it is a sacrament. But that opinion is the safer concerning which no one of the theologians is in doubt. Therefore this of ours is the safer, and the contrary the less safe. All these things are certain and beyond controversy. And yet by the decree of Innocent XI, when there is question of the validity of the sacraments, out of two probable opinions disputed on either side by theologians, the safer is to be chosen. Therefore this ours is to be embraced, and the other rejected.

XII. The things which are objected against it by adversaries are, as I at least judge, of no moment. I have weighed them all in Vol. X, Book 2, chapter 2, and rejected them, and you can read them there, that I may avoid prolixity.

Chapter III — On the conditions of the mutual consent necessary to matrimony

I. QUESTION I. *Whether, that matrimony be valid, the consent of each spouse be required?* ANSWER. All affirm it. That consent must needs be internal, sincere and not feigned, free and not forced, immune from error, public, and manifested by an exterior sign. For in no way does internal consent suffice, unless it be manifested by an exterior sign. Because that consent is the matter of the sacrament, which must necessarily be sensible. But that consent ought to be expressed outwardly either by words, or by nods clearly indicating the internal consent. Those nevertheless sin, as a rule, who being able to speak, words being omitted, employ nods or other signs. Except girls of excessive modesty, who today occur exceedingly rarely.

II. Consent feigned and simulated internally, although outwardly expressed by words, does not suffice for matrimony. He sins mortally who contracts feignedly and simulatedly, and is bound to consent truly and sincerely. Nor is credence given in any tribunal to one asserting that he contracted feignedly and simulatedly, nor is it to be given; but rather he deserves to be struck with penalties. And simulators of this kind are by no means to be absolved, until they have given true and sincere consent.

III. If a man contracted feignedly with the first, and afterwards the simulator contract with a sincere and true mind with a second, the ecclesiastical judge commands that he remain with the first:

because judgment and right bring forth sentence according to those things which appear and are presumed. For the rest, if with the first the consent was in truth before God feigned, and sincere with the second, then *let him rather* (says St. Thomas, Suppl., q. 45, art. 4, reply 3) *sustain excommunication than approach the first wife, or he ought to flee into other remote regions.* For the second in this case would be the true wife. And when certain and undoubted arguments of the feigning with the former woman appear, then the ecclesiastical judge, a penance being imposed and the loss inflicted upon the former woman being repaired, ought to absolve the guilty party and to declare the first matrimony null.

IV. Offspring received from a feigned matrimony is to be held legitimate, until the feigning be proved, as all teach. When one of the spouses knows that a former matrimony dissolved by the judge's sentence is before God valid, he cannot enter upon a second marriage.

V. QUESTION II. *Whether consent extorted by fear makes matrimony null?* ANSWER. Theologians distinguish manifold fear. One is grave, which is conceived concerning some grave evil imminent, as death, exile, prison, mutilation; or it can be grave from the vehement apprehension of the one fearing. To a woman an evil can be grave which to a man is slight. Slight fear is concerning a slight evil, both in itself and in respect of the person fearing. Besides, one fear arises from a natural internal cause, which impels to act for the preserving of life, or for the fleeing of eternal punishment. Another proceeds from a cause acting outwardly. And this is twofold: for either the cause acting outwardly is only an occasion, as is a tempest of the sea in respect of a merchant; or the cause directly strikes in fear, as a robber who with drawn dagger threatens death, unless money be consigned to him. Moreover another fear is just, struck in by a judge or lawful superior from a just cause; as when a judge casts the violator of a girl into prison, and binds him to take her in matrimony. Another is unjust, which is struck in without a just cause. Another lastly is reverential fear, such as is that of children toward parents.

VI. Matrimony celebrated from grave fear unjustly struck in is null and void, as all confess: because that consent extorted by such fear fights with a perpetual concord of souls and with benevolence. This matrimony is null by ecclesiastical right, most consonant with natural right, as seems to me the more probable. Matrimony on the contrary from fear justly struck in, whether from a natural and internal cause or from an external one, is valid, just as matrimony celebrated from slight fear.

VII. Hence: 1. He who takes a concubine for fear of death contracts a valid matrimony. 2. He who, justly condemned to death, if he be sought in marriage by some woman that he may decline death, contracts validly. 3. Valid also is the matrimony of him who, the judge threatening death or prison, marries the woman he deflowered.

VIII. Sempronius, having suffered an injury from Titius by theft or another crime, threatens to accuse him before a judge unless he marry such a girl: the matrimony would be null, because Sempronius has no right of compelling Titius to marry such a girl, although he has a right of accusing him for the theft. He who under an unjust fear was compelled to marry is not bound to render the debt.

IX. Matrimony entered upon under compulsion becomes valid through free consent, provided that in the other party which contracted freely the consent persevere. Temporal lords and magistrates who directly or indirectly unjustly strike in grave fear, that they may compel someone to contract matrimony, are by that very deed excommunicated by the Council of Trent, session 24, chapter 9 *On Reformation.*

X. Consent limited by a condition makes matrimony null. Wherefore if anyone say, *I take thee as my wife, if my father shall have consented,* the matrimony is null, because the condition suspends the consent. General and necessary conditions, as if you say, *I will marry thee, if it shall please God,* in no way suspend the matrimony. If they be impossible or shameful, which do not infect the substance of matrimony, they are held as not added. All conditions which infect the substance of matrimony make it null, as are these: *I take thee as mine, if thou shalt bear me no sons, if thou shalt avoid generation, if thou shalt take the poison of sterility, if thou shalt prostitute thyself to be an adulteress. I contract with thee until I shall have found a fairer or richer.* These and like conditions destroy the very substance of matrimony, and make it null.

XI. If to matrimony or to betrothals conditions be appended concerning the present or the past, the condition being posited, the betrothals and the matrimony subsist; and the condition being taken away, the betrothals and the matrimony are null: as if you say, *I take thee as mine, if thou be a virgin, if thou be the firstborn, if thy parents consent, if thou be noble, if thou be legitimate.* If, the matrimony being consummated, it be detected that at the time of contracting she was not a virgin, nor legitimate, nor noble, nor firstborn, the matrimony is null; nor can carnal copulation make it valid. If anyone say, *I take thee as mine, if it shall please thy father,* and knew that the father was dead, the condition is held as not added. But if he was ignorant of the father's death, a new consent is necessary, that the matrimony be valid. For it is null by reason of the first conditioned consent, because the condition suspends the effect. If the father live and be silent, because the contract pleases him, then the matrimony is valid. If it be detected that he is silent because it displeases him, then the contract is null. If it be doubted why he is silent, the contract is to be suspended until he declare himself. If he consent, and afterwards dissent, the matrimony is valid, provided they persevere in the will of contracting until the father's consent. There is need nevertheless of prudence, and it is to be gathered from the circumstances regarded whether the father's consent was in fact full and true. Nay, prudence dictates that these conditions, as being wellsprings of doubts, are in a contract of so great moment — namely matrimony — altogether to be rejected; and that either one must contract absolutely, or abstain from such a contract.

XII. An honourable condition contrary to the goods of matrimony makes matrimony null; as if they contract under the condition of perpetual chastity, then no right to copulation is given. But this right being taken away, the matrimony is null. Nay, although there can be conjoined with matrimony an intention of not asking the debt, yet if this be brought into an agreement, the substance of matrimony is destroyed. The Blessed Virgin and the Patriarch Joseph contracted absolutely, and mutually transferred power over their bodies, no reciprocal agreement being added, although they had the mind of abstaining from all carnal copulation, God so illuminating their minds.

XIII. Those entangled in a diriment impediment who contract, the condition being added *if the Pope shall dispense,* effect a conditioned marriage; but conditioned marriages of this kind are never to be admitted, whether the impediment be of those in which the Pope is wont to dispense, or of another kind.

XIV. Consent is to be expressed by those formulas of words which according to the custom of the country declare a consent true, sincere, reciprocal, and of the present, such as are these: *I take thee as my wife; I take thee as my husband,* and so forth.

Chapter IV — On the properties of matrimony, and on simultaneous and successive polygamy

I. Three are the properties, or goods, of matrimony, namely fidelity, offspring, and the sacrament. *Fidelity* is here taken for that faithfulness by which promises are fulfilled, and it is a part of justice. Spouses violate fidelity if they know another man or another woman. *Offspring* is the end of matrimony. *The sacrament* signifies and confirms indissolubility. In fidelity therefore the conjunction of one with one is understood.

II. To the oneness of matrimony there is opposed simultaneous polygamy, or a plurality of wives. It is agreed among all that the polygamy by which one woman should marry several men is against natural right, both primary and secondary. It is disputed only concerning the polygamy by which one man takes several wives, whether it be adverse to natural and divine right.

III. The common opinion of theologians is that polygamy is adverse to natural right. It is nevertheless to be adverted that natural right is of one kind invariable and immutable, of which sort are the first universal principles which regard the primeval end of nature. In these no dispensation, no interpretation falls. For the things which are forbidden by this right are intrinsically evil. Another is natural right obnoxious to variation by reason of times and circumstances. This variety God alone, the founder of the right of universal nature, and its most wise comprehender and moderator, knows. Therefore he alone can dispense, or rather interpret and declare, when and how man is obnoxious to this right.

IV. Hence you have how God in the old law dispensed with the holy Patriarchs that they should have several wives at once. The name of wife nevertheless is taken in two ways in holy Scripture: 1. In its proper signification, under which comes the first wife led in with solemn rite, who was named mother of the family, was endowed with special honour, and whose sons succeeded to the paternal inheritance; 2. In the broader signification, according as they were second wives, who lacked the aforesaid privileges, and were called also concubines.

V. Christ the Lord in the New Testament took away this privilege of having several wives, as the perpetual and universal tradition of the Church teaches, and Trent defined, session 24, canon 2.

VI. The Montanists, to whom Tertullian accedes, condemned successive polygamy, or second nuptials. Catholics and the Church have never forbidden second or further nuptials. In the first centuries of the Church nevertheless the Greek Church subjected bigamists and trigamists to severe penances.

Chapter V — On the indissolubility of the conjugal bond, and on divorce

I. QUESTION I. *Whether the matrimonial bond be indissoluble?* ANSWER. All Catholics affirm it. Theologians with St. Thomas, Suppl., q. 67, art. 1, repeat its firmness and perpetuity from natural right itself. This natural perpetuity God confirmed by his own divine right, Matthew 19: *Therefore now they are not two, but one flesh. … What therefore God hath joined together, let no man put asunder.*

II. QUESTION II. *What is to be said of the matrimony of unbelievers?* ANSWER. That a true and legitimate matrimony, as it is a natural and civil contract, is contracted among unbelievers is certain. When both

spouses are converted to the faith, their matrimony is not dissolved, as all theologians teach. If an unbelieving husband in the first centuries of the Church embraced the faith of Christ, and the unbelieving wife was willing to dwell peaceably, such cohabitation was lawful, as is had from 1 Corinthians 7. Theologians dispute whether at present this cohabitation of a believing husband with an unbelieving wife be lawful, who desires to dwell with her husband without contumely to the Creator. The more common opinion affirms it, since there exists no law which forbids such cohabitation. An opposite custom nevertheless obtains, by force of which such cohabitation is unlawful, unless the wife's conversion be prudently hoped for.

III. When one of the spouses is converted to the faith, the other persisting in unbelief, if the offspring be capable of guile, it enjoys its own liberty. If it be destitute of the use of reason, it ought to follow the parent converted to the faith of Christ. In doubt whether the offspring be endowed with the use of reason, judgment is to be made in favour of Religion.

IV. QUESTION III. *If an unbelieving spouse consent to dwell peaceably with the believing spouse, can the believing spouse take another?* ANSWER. Bellarmine affirms it; others deny it; others distinguish. St. Augustine, Book 1 *On Adulterous Marriages,* chapter 25, absolutely denies it. Similarly Innocent III, chapter *Laudabilem,* defends the negative opinion. But if the unbelieving spouse be unwilling to cohabit peaceably without contumely to the Creator, then the believing spouse, he being deserted, can enter upon another marriage, as St. Thomas expressly teaches, Suppl., q. 59, art. 5.

V. When one of the unbelievers is converted to the faith, the matrimony is not dissolved by Baptism, but by the subsequent nuptials. Wherefore if the unbelieving party, obstinate before the matrimony of the other spouse, and the believing party celebrated contrary nuptials, these would be null; and if these spouses were converted to the faith, they would have to be separated. Since the privilege of dissolving the conjugal bond has been granted by Christ in favour of the faith only, not of unbelief, as is had in chapter *Quanto* on Divorces. Similarly if a believer after admonishing the unbelieving spouse obstinate in unbelief contract matrimony, and then this second be dissolved by the death of the spouse, then that believer would not be bound to return to the former unbelieving spouse, even if he were converted to the faith. Since, the former matrimony having been lawfully dissolved, the believer became altogether free; and so he is not bound to return to the former converted spouse in the case of the death of the second wife.

VI. QUESTION IV. *Whether the matrimony of the Jews became null through a bill of divorce?* ANSWER. Some affirm it, others deny it. Christ the Lord, Matthew 19, says that Moses permitted the bill of divorce for the hardness of the Jews' heart. Therefore repudiation was not lawful. Therefore the matrimonial bond was not dissolved. And this negative opinion Sts. Jerome, Augustine, Chrysostom, Isidore, and Theophylact perspicuously teach. And this opinion St. Thomas calls the more common. But it is not of such moment that it ought to be discussed longer.

VII. QUESTION V. *Whether the matrimony of Christians be dissolved through adultery?* ANSWER. All Catholics deny it. And this truth is openly delivered in the Gospel, Luke 16, where these things are had: *Every one that putteth away his wife, and marrieth another, committeth adultery: and he that marrieth her that is put away from her husband, committeth adultery.* Which words are so to be disposed that they may more easily be understood: *Whosoever shall put away his wife (which is not lawful save for fornication) and shall marry another, committeth adultery.* Fornication makes the dismissal lawful, but by no means the celebration of a new marriage. The last words of the Evangelist declare the matter perspicuously: *He*

that marrieth her that is put away, committeth adultery. A wife could not be put away save for fornication, as all confess. He therefore who marries her that is put away for the cause of fornication commits adultery. Therefore the conjugal bond is not dissolved. There is added the perpetual tradition of the Church.

VIII. QUESTION VI. *Is the ratified and unconsummated matrimony of Christians dissolved by solemn profession in an approved Religion?* ANSWER. All Catholics affirm it, and this truth was defined in the Council of Trent, session 24, canon 6, in these words: *If anyone shall say that matrimony ratified and not consummated is not dissolved by the solemn religious profession of one of the spouses, let him be anathema.* This definition of the Council rests upon the universal and perpetual tradition of the Church.

IX. Whether the Pontiff can dispense from the bond of a ratified matrimony, theologians dispute on either side. This is agreed among all, that most grave causes must urge, and that only for the greater utility and decorum of the Church can Pontiffs dispense from the aforesaid bond.

X. QUESTION VII. *Whether the ratified and consummated matrimony of Christians be dissolved by entrance into Religion?* ANSWER. The negative opinion is common and true. Since the Church has declared that only ratified matrimony is dissolved by monastic profession. If one of the spouses perpetrate adultery, the innocent spouse can enter Religion or vow perpetual chastity, because on account of the crime of adultery he has a right of perpetual divorce. One spouse nevertheless, with the other spouse's consent, can enter and profess a Religion; the consenting spouse nevertheless, remaining in the world, ought, if he be old, to emit a vow of chastity; if young, to enter Religion, as is established in chapter *Cum sis*. A husband, his wife being unwilling, whether before or after the matrimony consummated, cannot be initiated in sacred Orders. If, his wife being unwilling, he should receive sacred Orders, he could render but not ask the debt. With his wife consenting, a husband can become a priest, provided the wife herself profess an approved Religion, as is established in chapter *Sane* on the conversion of spouses.

XI. They dispute when a matrimony is to be called consummated. Some say it is the penetration of the woman's vessel without effusion of seed; but the more probable and more common opinion requires the emission of seed into the woman's vessel. Copulation had before matrimony does not suffice for the consummation of matrimony: for matrimony is perfected not through fornication, but through matrimonial copulation.

XII. QUESTION VIII. *What is divorce, and whether the right to it be equal in each spouse?* ANSWER. Divorce is that separation from bed, in which it is distinguished from repudiation, which brings in the dissolution of the bond. That divorce is lawful for the cause of adultery all affirm. In each spouse the right to divorce is equal, because in those things which pertain to the bed the rights of each spouse are equal. The innocent spouse, divorce being made, can either vow chastity or enter Religion, the guilty spouse being unwilling. But the guilty spouse can neither vow chastity nor enter Religion, so long as the innocent spouse retains the right of recalling him. If nevertheless the innocent spouse do not contradict, the change of state made by the guilty spouse is valid. If by the judge's sentence the guilty woman be thrust into a monastery, a biennium is granted to the innocent party to deliberate whether he will recall her. Within this biennium the woman's profession is null; the biennium having elapsed, it is held valid.

XIII. QUESTION IX. *In what cases is divorce lawful among Christians?* ANSWER. It is lawful: 1. From the consent of each spouse, out of a study of a holier life; 2. For the cause of adultery; 3. Immoderate savagery, if it be public and manifest, is a just cause of divorce; if occult, the judge's sentence is to be awaited; from bed nevertheless one can separate oneself, but not depart from the house; 4. If a danger of subversion threaten one spouse from the cohabitation, divorce is not only lawful but necessary; 5. If the other spouse have fallen away from the faith.

XIV. QUESTION X. *What are the cases in which on account of fornication divorce is not lawful?* ANSWER. Seven. 1. A husband cannot be separated from a fornicating wife, if he himself be similarly a fornicator. 2. If he himself have prostituted his wife. 3. If the wife, probably believing her absent husband dead, have married another. 4. If she have been secretly known by another entering the bed under the appearance of her husband. 5. If she have been oppressed by force. 6. If the husband, conscious of the adultery, have known his wife carnally. 7. If, matrimony having been contracted in unbelief, the man gave a bill of divorce, and the wife married another. If nevertheless both be converted to the faith, the man is bound to receive her.

XV. The will alone of committing adultery does not suffice for divorce; nay, neither do touches and kisses. Very many dispute whether carnal copulation without effusion of seed be a just cause of divorce. Some deny it; but the contrary opinion is common and true. The crime of sodomy is a sufficient cause of divorce. A secretly adulterous spouse cannot seek divorce from a publicly adulterous spouse. For he who is secretly an adulterer is guilty, not innocent. Therefore he cannot seek divorce. An innocent spouse morally certain concerning the other spouse's adultery can by right deny the debt before the judge's sentence; he cannot nevertheless depart from the adulterous spouse, the judge's sentence not being awaited. An innocent spouse is bound to make divorce from an adulterous wife, unless she repent, as holy Scripture teaches, Proverbs 18: *He that keepeth an adulteress is foolish and wicked.* A wife nevertheless is not bound to depart, because she cannot hinder her husband, nor coerce him, as a husband can his wife. It is disputed which spouse sins more gravely. If unchastity be regarded, *adultery is more grave in a man than in a woman,* says St. Augustine, Book 2 *On Adulterous Marriages,* chapter 8. If injustice be considered, an adulterous wife sins more wickedly on account of the uncertainty of offspring, whence grave absurdities follow.

Chapter VI — On betrothals and their conditions

I. QUESTION I. *What are betrothals?* ANSWER. Betrothals, of which at present, are a promise concerning a future matrimony, mutual, free, expressed by external signs, bearing an obligation. The promise must needs be mutual, that it may oblige both. Free, coercion and fear being excluded. Expressed by external signs, because internal acts do not suffice. Betrothals bear a twofold obligation, natural and canonical. For by natural right each man is bound to stand by his promises, chiefly in a most grave matter, such as are betrothals. The canonical obligation induces the impediment of public honesty. A promise made to one absent, before his acceptance, does not oblige. Betrothals cannot be contracted under a slight obligation. They can indeed promise to one another under the penalty of losing the earnest-money, and even under no obligation; but these would be simple, jesting promises, not true betrothals, which induce the impediment of public honesty. The betrothed ought to promise to one another mutually, that the betrothals may be valid and firm.

II. There is required a deliberate mind of contracting betrothals according to the rite of the Church. If a betrothed man deceive a virgin by a feigned promise, and deflower her, he is bound to marry her; nor is it enough to endow her, chiefly if they be not of disparate condition, and if the virgin herself did not consent to her own defloration and deception. If on the contrary the deceiving betrothed man be of a condition far superior, and known as such by the virgin, then he is bound to endow her, not to marry her. Since in such a case it is presumed, and indeed prudently, that the virgin willed of her own accord to be deceived. On the contrary, if the superior condition of the betrothed man was unknown to the virgin, and he had promised in good faith, the feigned promiser would be bound to marry her.

III. This nevertheless is certain to me, that exceedingly few Lucretias are deflowered unwilling. The girls themselves are the cause why they are deflowered. If they abstained from commerce with young men, and led a modest, bashful, and solitary life, as befits their state, they would be impregnable citadels. But the feigned Lucretias of today themselves open the doors, dart the strokes of their eyes, hunt lovers, and with marvellous modes allure, invite, provoke. When they see wretched youths foaming with the sting of lust, and captured by an immodest love, then they employ all womanly prestiges, and display a more elegant beauty with paints, cosmetics, and allurements. They spare no industry, no study, no craft, no fraud, that they may bewitch their little lovers and suitors and drive them into the snares. And when the wretched youths, seduced by so many stratagems and artifices, attempt to enter the citadel, then the crafty Lucretias put forth a fraudulent resistance — who do not resist but invite, do not repel but provoke, that the young men may fall into the snare of a promise of future matrimony. Shameless virgins of this kind are truly foolish, who disturb families, who stir up dissensions, who bring forth enmities, homicides, and most mournful tragedies. Wherefore if a law were passed binding all deflowered virgins to perpetual penance to be performed in ashes and hair-shirt, this law being passed, beyond doubt virgins would become solitary, bashful, and modest, and would dwell hidden at home.

IV. QUESTION II. *By what words are betrothals to be contracted?* ANSWER. By words or signs which clearly manifest mutual consent, such as are these: *I promise, I oblige myself, on my faith I will take thee as wife.* Taciturnity does not suffice. *He who is silent seems to consent* holds good only in one's own favour, otherwise for undertaking a burden. For then this other rule holds good: *He who is silent seems neither to consent nor to dissent.* Words ought to be employed absolutely. For the rest, according to the diversity of nations signs can be had in place of words.

V. Infants, the demented, the drunken, and children cannot contract betrothals, because here, as I have said, they require a liberty immune from coercion and from fear falling upon a constant man. The deaf and dumb from birth, if they be endowed with such understanding that they can perceive what betrothals are and what matrimony is, can contract betrothals, as is gathered from chapter *Cum apud sedem* on betrothals. For a deaf and dumb man can confess and be absolved. He nevertheless who should at the same time be blind could not contract, because he could be instructed by no signs so as to perceive what betrothals and matrimony are.

VI. QUESTION III. *What age is required both for betrothals and for contracting matrimony?* ANSWER. Seven years completed are required for betrothals, because commonly at this age the light of reason shines forth. But for matrimony fourteen years in males and twelve in females are necessary. Those who before the years of puberty completed contract matrimony sin mortally, as is had in chapter *Qui* 1 on the betrothals of the under-age.

VII. QUESTION IV. *When the time is not predetermined for betrothals, ought matrimony to be celebrated at once?* ANSWER. Betrothals oblige under mortal sin to contracting matrimony, as has been said. When the time is predetermined within a month, a year, and so forth, neither can compel the other before the time has elapsed. But when the time is not predetermined, matrimony ought to be contracted as soon as it can conveniently be done. If it be deferred more than is just, he who is in culpable delay sins. Since betrothals afford a right to future matrimony. Therefore the delaying of that right is an unjust privation. The circumstances nevertheless are to be regarded. When one party defers more than is just, he ought in the interior forum to be compelled by the confessor, as all confess, unless some just and grave cause stand in the way. As regards the external forum, in my judgment a judge will never compel by force that matrimony be celebrated; but will rather persuade the party willing to celebrate the matrimony to renounce betrothals of this kind. For matrimony is a conjunction of souls, which does not consist without liberty. And upon the prudence of the confessor and of the judge this whole business depends. A judge nevertheless is bound to compel that the injured party be indemnified for the dissolution of the betrothals.

VIII. QUESTION V. *Whether it be lawful to affix to betrothals an obligation to a penalty?* ANSWER. One penalty is positive, as if someone oblige himself to lose a hundred gold pieces unless he marry Bertha; the other negative, as if someone promise that he will give a hundred to a girl if she will marry him, otherwise not about to give; or if a testator leave a legacy to a girl if she marry such a man, otherwise she loses the legacy. The former penalty canon law forbids and constitutes invalid, as is plain from chapter *Gemma* on betrothals. For such a penalty stands in the way of the liberty of matrimony. Nor is a penalty to be imposed upon the party drawing back, for the same reason. For although in other contracts penalties of this kind can lawfully be imposed, yet because matrimony is a bond of souls, and indeed perpetual, whose felicity depends upon the concord and benevolence of the spouses, most prudently have the Legislators forbidden every positive penalty. If one has been appended, the party drawing back is not bound to pay it.

IX. QUESTION VI. *Can betrothals be dissolved by mutual consent?* ANSWER. The affirmative opinion is common, when each party freely consents. If one party should extort from the other by guile, fraud, fear, or importunate entreaties a remission of the obligation, it would not remain immune from the contracted obligation. But when the reciprocal consent is sincere and free, betrothals can be dissolved even when confirmed by oath, because that oath follows the nature of the contract. Wherefore, the contract yielding, the oath yields. The under-age cannot dissolve betrothals by mutual consent before they have arrived at the years of puberty. Puberty being acquired, both, or one of them, can protest, and the betrothals are rescinded, although the other party refuse. If, puberty being attained, they have not protested at once, or, as they say, after three days, the betrothals cannot afterwards be dissolved at the protest of one party, but the mutual consent of each party is necessary. If one attains puberty before the other, he can forthwith draw back, the other party's puberty not being awaited. If one of full age contract betrothals with one under age, he cannot recede from the contract; but the under-age party, having attained puberty, can draw back. When the under-age, betrothals being contracted, attain puberty, a new consent is not necessary, but the contract entered upon perseveres, because it was not retracted. A private protest also suffices. If nevertheless the betrothals were contracted before a bishop or parish priest by the under-age, then, for the redeeming of vexation, the protest ought to be made in the exterior forum.

X. QUESTION VII. *Whether after betrothals contracted and confirmed by oath it be lawful for one party to enter Religion?* ANSWER. If entrance is lawful after a ratified matrimony, by a stronger right it is lawful after betrothals even confirmed by oath: because the oath follows the nature of the contract, which is dissolved by entrance into Religion, and so therefore is the oath also. The party which remains in the world, as soon as the other party has entered Religion, remains free, because he who enters cedes his own right. But he who enters remains bound until profession: so that, if the party which remains wishes to wait, and the one who entered return to the world without profession, the betrothals ought to be fulfilled. Betrothals are also dissolved through the reception of sacred Orders. Nor does he sin who after betrothals receives sacred Orders, whatever some say to the contrary, because always in betrothals this condition is included, *unless I shall have passed to a better state.* Similarly betrothals are dissolved through a vow either of entering Religion or of receiving sacred Orders.

XI. QUESTION VIII. *Is it lawful, betrothals having been contracted, to emit a simple vow of chastity?* ANSWER. That, this vow being emitted, the betrothals are dissolved in respect of the party which does not vow, is agreed among all, because the one vowing cedes his own right. It is disputed only concerning the vowing party, whether he lawfully vows and becomes free from the burden of the betrothals. The negative opinion, favouring the nuptials, is defended by Lessius, Layman, Castropalao, and Sánchez, who reports several other authors: because, they say, that cannot be promised to God which was owed to man. By force of the betrothals the body was owed to man. Therefore it cannot be promised to God. How robust this reason is, no one does not see.

XII. The affirmative opinion is defended by grave theologians — Cajetan, Suárez, Vásquez, Azor, Gonet, Pontius, Ledesma, and very many others. This opinion is to me the more probable, provided guile and fraud be absent. Since always in a promise made to a man, in which each man binds his own state, there is included the condition, *unless I shall choose a better state of serving God.* But celibacy is a better state than that of matrimony, as all confess. Nor does the reason of the opposite opinion urge anything: since that vow is not to the loss of a third party, seeing that all creatures are subject to God. Nor by force of betrothals does the body become owed to a man absolutely, since in them the said condition of a better state is included. The chapter *Veniens,* which is wont to be opposed, speaks of a crafty woman who had emitted a vow after a postponement of the matrimony, that she might elude her betrothed.

XIII. A subsequent matrimony dissolves preceding betrothals, as all confess. He nevertheless sins mortally who, betrothals having been entered upon, contracts matrimony with another man or woman. If the matrimony be invalid, the contracting party remains bound, and is held on his own part to fulfil the betrothals; and if he has inflicted loss upon the party, he is bound to repair it.

XIV. A subsequent valid matrimony not only suspends betrothals but dissolves them, so that, the spouse being dead, one is not bound to fulfil the betrothals, as seems to me the more probable. Preceding betrothals are in no way dissolved by later ones, but the later ones are altogether invalid, even if they were confirmed by oath. Always nevertheless the innocent party remains free, so that she can lawfully marry another. What if to the second betrothals carnal copulation should accede, which had not acceded in the first? If the second betrothed woman knew of the prior betrothals, these are not dissolved, because she willed of her own accord to be deceived. If on the contrary she was ignorant of the betrothals, and was in truth deceived under the hope of future matrimony, then that the second betrothals are valid seems to me the more probable, and that this second deflowered

virgin would have to be married. Although, as I said above, rare are the virgins who unwilling and deceived are deflowered. And therefore rare is the case in which second betrothals subsist. He who celebrates second betrothals, if the prior ones, which were valid, are on some head rescinded, is not bound to fulfil the second, as being null: because what from the beginning was null does not by the course of time grow valid.

XV. QUESTION IX. *Whether betrothals be dissolved either by delay of time, or by the absence of one of the betrothed, or by change of domicile?* ANSWER. If the time be predetermined for ending the obligation, the time having elapsed the betrothals can be dissolved by the innocent party, otherwise by the guilty. If the time be indefinite, they are not dissolved by delay of time, unless it be exceedingly excessive, and the other party press. Authors dispute whether one year, or two, or three ought to be reputed a sufficient interval for dissolving betrothals. A certain rule of this dissolution cannot be prescribed. The age, condition, and state of the betrothed, and several other circumstances, are to be regarded.

XVI. That betrothals are dissolved by departure into a far region, even with the mind of returning, is the common opinion, and is gathered from chapter *De illo* on betrothals. The civil laws which oblige a betrothed woman to await for a biennium the return of a betrothed man absent in the same province, and for a triennium if he has gone into a foreign province, have been corrected by canon law. The forum of conscience is chiefly to be regarded in this matter. If with the betrothed woman consenting the betrothed man departed, she is bound to wait until he return according to the predetermined time. Similarly if with the betrothed woman consenting the domicile be changed, the betrothals subsist; otherwise if it be done without her knowledge. In all these things, before betrothals be dissolved, the parish priest is always to be consulted.

XVII. QUESTION X. *What are the supervening causes which suffice for dissolving betrothals?* ANSWER. This is the general rule which is commonly assigned. As often as a grave change, vicissitude, or circumstance emerges which, had it been known or foreseen before the betrothals were contracted, would have been an impediment to the celebration of the contract, it suffices for dissolving the betrothals in respect of the innocent party, who is not the cause. For this condition — *if things stand as they now are, unless a notable change happen* — is always implanted in the contract of betrothals. Nor hence does it follow that all betrothals are conditioned, but only those to which a condition is appended from the free will of the contracting parties. But the general condition implanted in the contract itself does not hinder the betrothals from being absolute, and from inducing the impediment of public honesty.

XVIII. A notable defect of beauty, with which the betrothed woman was endowed at the time of the contract, and afterwards has been made deformed, is a sufficient cause for dissolving betrothals, because with a notably deformed girl a prudent betrothed man would not have contracted. The crime of heresy, a scandalous deed bearing infamy, grave enmities, quarrels between the betrothed, and the rest which suffice for a separation from bed, much more suffice for dissolving betrothals. Similarly any impediment whatsoever, whether diriment or impedient, which is adverse to the contracting of matrimony, is enough for rescinding betrothals. Similarly grave poverty supervening upon one of the betrothed, who at the time of the contract abounded in riches, is enough for dissolving betrothals. If nevertheless the betrothed woman should have her whole designated dowry, and the betrothed man were rich, although the other goods of the betrothed woman had perished, then it does not seem a sufficient cause for dissolving the betrothals. But if each of the betrothed be made poor, then by a

stronger right the betrothals may be dissolved, because the burdens of matrimony could then be more difficultly sustained, teach Pontius, Rebello, Leander, and the Salmanticenses. But this is not absolutely true. When both are poor, the condition of each is equal. Are betrothals not valid among the poor, provided the betrothed be able to earn bread whereby they may feed themselves and their offspring? In practice nevertheless I myself judge that betrothals of this kind ought easily to be dissolved. Because the rich made poor bear poverty too grievously, and are with difficulty induced to labour. And besides, a rich betrothed man made poor perhaps wishes to abstain from matrimony. Wherefore like cases are to be subjected to a prudent parish priest, that, the circumstances being regarded, he may judge what is expedient in the Lord. This is certain, that those sin who contract matrimony unless they probably foresee that they can acquire those things which are necessary for sustaining the burdens of matrimony.

XIX. If one of the betrothed become far richer, the other remaining in the state in which the betrothals were contracted, that the betrothals are not dissolved is to me the more probable. For no deception is then in him who has been made richer. Fornication contracted after betrothals dissolves them, as much in respect of the betrothed man as of the betrothed woman, because each violates the fidelity of the betrothals: although the betrothed woman commits a baser crime, it does not nevertheless take away that the betrothed man's fornication suffices for dissolving the betrothals. If nevertheless the innocent party wish to contract matrimony, the betrothals subsist. When both fornicate, the betrothals can be dissolved, because there is not given a mutual compensation, in that the betrothed woman's fornication is far baser and brings infamy upon the betrothed man. A betrothed woman oppressed by force after betrothals can by right be rejected by the betrothed man, because a grave, nay a most grave, change has happened.

XX. QUESTION XI. *What antecedent causes dissolve betrothals?* ANSWER. There are several, which, if they be unknown to the contracting parties, can dissolve betrothals, otherwise if they were known to them. 1. If a noble and rich man promise to a poor and ignoble girl, thinking her to be rich, noble, and so forth. 2. Preceding fornication of the betrothed woman, as soon as it becomes known to the betrothed man, dissolves the betrothals. On the contrary the occult fornication of the betrothed man inflicts no infamy upon the betrothed woman, and therefore here does not absolutely dissolve them. 3. An accidental cause unknown, which gave cause to the contract, affords a right to the innocent party that he may be able to draw back from the contract. 4. An ignoble betrothed woman is reputed noble, a poor one is believed rich, a deformed one beautiful, a corrupt one is reckoned a virgin: if she wish to contract betrothals, she is bound to lay open these defects, because if she concealed them, she would deceive the betrothed man in a grave matter. But she is not bound to defame herself. True. But neither can she by right deceive her neighbour. What then? Let her abstain from the contract. For the rest, if she wish to enter upon the contract, she ought to lay open the occult and grave defects. This is observed in the sale of a horse, a cow, or an ass by a man truly Christian.

XXI. QUESTION XII. *Who is the lawful judge for dissolving betrothals?* ANSWER. The ecclesiastical one, namely the proper bishop, or his delegate. A parish priest in the contentious forum is not a judge. If the cause be occult, the betrothed can by their own authority draw back from the contract. If the betrothed woman be guilty of occult fornication, she ought to be admonished and persuaded by the betrothed man to withdraw; if she refuse, he can call her before a judge: if she be defamed, she herself is the cause.

XXII. The cause which is assigned for dissolving betrothals ought to be morally certain. In the exterior forum the confession of each party suffices. In the interior forum one trustworthy witness suffices. In the exterior forum also, if the cause be a diriment or impedient impediment, one grave witness worthy of credit suffices. But these things pertain to the ministers of the forum.

XXIII. QUESTION XIII. *Do children sin mortally who contract betrothals or matrimony with their parents unaware or unwilling?* ANSWER. Theologians and canonists commonly affirm it. For if children ought to honour and revere their parents and to obey them, assuredly they are bound to obey them and to honour them in a business most grave of all, whereon depends the institution of life, the peace of families, and the preservation of cities and kingdoms. Parents nevertheless cannot compel their children to marry this woman rather than that. Children under grave fault ought to consult their parents concerning matrimony to be contracted. But parents ought to instruct their children to take a betrothed woman modest, honourable, of good morals, and equal to themselves both in riches and in condition of state. Marriages nevertheless celebrated with parents unwilling are valid, though unlawful.

Chapter VII — On clandestine matrimony, on the banns, and on the other things which ought to precede matrimony

I. QUESTION I. *What is clandestine matrimony?* ANSWER. It is that which is celebrated without the presence of the parish priest and of witnesses, as is gathered from Trent, session 24, chapter 1. Before Trent clandestine marriages were valid. Trent declared them invalid for most grave causes. For marriages of this kind fight with the fidelity to be preserved between spouses. For those who contract secretly and without witnesses can easily recede from the consent given; one party can with impunity desert the other, since no testimony can be adduced. The offspring also is subject to uncertainty. Lastly the dignity of the sacrament is violated, and its knot and bond.

II. The Church, in declaring clandestine marriages invalid, did not change the essence of the sacrament, but, that the sacrament might be worthily celebrated, appended conditions, which being lacking, she declared the contracting parties unfit for celebrating the sacrament. Clandestine matrimony has not even the force of betrothals, as the common opinion teaches.

III. QUESTION II. *Whether in any case after Trent clandestine matrimony be valid?* ANSWER. Unbelievers, even subject to the civil power of Catholic Princes, can enter upon matrimony without the solemnity prescribed by Trent. Similarly the clandestine marriages of the faithful, where Trent is not received, are valid. For a law not accepted does not annul a contract. But where Trent is received, there is given no case in which matrimony without the presence of the parish priest and of witnesses is valid. If the parish priest be lacking, although a hundred witnesses were present, the matrimony is null.

IV. Travellers passing through places where Trent has been promulgated are bound to contract before the parish priest and witnesses. Travellers departing from places where Trent has been promulgated, and passing through places where Trent has not been received, very many teach contract validly, yet affirm that these sin mortally. I should not dare to assert such matrimony valid, since it can be contracted before the parish priest and witnesses.

V. Does he opine truly who teaches that Catholics who in fraud go to those places where Trent has not been promulgated can validly celebrate matrimony?

VI. This opinion is to me utterly false and adverse to the Council of Trent. Catholics therefore will be able to pass over to the places of heretics or unbelievers, and there contract secretly, and, returning to their own country, publicly enter upon another matrimony. For this, among other things, is the absurdity which Trent warns follows upon clandestine marriages. *He does not commit fraud,* says Sánchez, *who uses his own right*. True. But whence has he it, that Catholics possess a right of circumventing the most grave law of Trent, which declares Catholics unfit for contracting occult marriages of this kind? It is denied that they possess this right.

VII. The faithful dwelling under the tyranny of unbelievers, if they can in no way have the presence of a parish priest, let them at least employ witnesses, that in the way they can they may observe the law. For in this way later adulterous marriages are hindered, which absurdity, among others, Trent intends to avoid.

VIII. Catholics subject to a heretical Prince, after matrimony celebrated according to the laws of Trent, cannot present themselves to a heretical minister assisting as a minister at an ecclesiastical sacred rite; but they can present themselves to him, if he assist as a political and civil minister, as the Sacred Congregation of the Holy Office declared on the 18th of November 1671, reported by Benedict XIV, Book 6 *On the Synod,* chapter 5, no. 4. Which declaration he confirms in constitution 49, § 1, at the end, Vol. I, where he forbids the faithful dwelling in the kingdom of Serbia and the neighbouring regions, after matrimony celebrated with the Catholic rite, to renew it before the Cadi, unless the ceremony of the nuptials to be performed before the Cadi were a merely civil act and contained no Mahometan superstition.

IX. QUESTION III. *Who is the parish priest prescribed by Trent?* ANSWER. He ought to be the proper parish priest at least of one of the contracting parties, or a priest with his licence. Usage obtains in several places that matrimony be celebrated in the parish of the woman, when the man is of another parish; this man nevertheless ought to have testimonial letters from his own parish priest concerning the accustomed banns. But the proper parish priest is not of origin, but of domicile. Who is the parish priest of domicile has been said elsewhere. Outside his own parish or diocese a parish priest can assist at the matrimony of his own parishioners; but he ought to seek licence from the parish priest of the place, as seems to me the more probable. Who is the parish priest of vagrants has been said elsewhere.

X. QUESTION IV. *Who besides the parish priest, or a priest designated by him, can assist at matrimony?* ANSWER. There can assist: bishops in their own dioceses; archbishops in the dioceses of suffragans when they are actually visiting; Cardinals in the Church of their own title; papal Legates in the province of their legation; the Chapter, the See being vacant, or its Vicar; Abbots of a Church subject to no bishop; the Vicar general of a bishop.

XI. Licences extorted by force, by grave fear falling upon a constant man, or by fraud, that a priest may assist at a matrimony, are null and make the matrimony null, whatever others say to the contrary. For this licence must needs be free and express.

XII. QUESTION V. *Whether for the validity of matrimony two witnesses be required?* ANSWER. All affirm it, and that matrimony contracted before the parish priest and one witness is null: because Trent besides the parish priest prescribes two witnesses, who ought to be present with physical and moral

presence, and to perceive the consent of each spouse; they ought to be witnesses, and co-witnesses together with the parish priest.

XIII. A parish priest is called by force, guile, or fear to assist at a matrimony: is this matrimony to be called valid? The more recent authors commonly affirm it, and adduce several declarations of the Congregation of Cardinals. To which, if they be authentic, I subscribe. But these being set aside, this matrimony would seem to me invalid, at which a parish priest compelled by guile, fraud, or fear falling upon a constant man should assist. For the wishes of the Council are that this sacrament be freely celebrated. Grave fear struck into the betrothed makes the matrimony null, as has been said above. Why not fear struck into the parish priest? That those sin mortally who contract matrimony before a parish priest held by force, or by guile, or assisting by chance in passing, all teach. What if the parish priest should close his eyes and stop his ears, and protest that he neither sees nor hears what is done? That even then the matrimony is valid the Salmanticenses and Leander affirm, and assert it out of Farinacius from the Declarations of the Cardinals. These declarations being set aside, which I with difficulty believe to be authentic, I should call such a matrimony null. One must nevertheless stand by the decisions, if they be authentic.

XIV. QUESTION VI. *What ought a parish priest to perform in the celebration of matrimony?* ANSWER. He ought first to question the contracting parties whether they wish mutually to join themselves. Their reciprocal consent being heard, he ought to join them, pronouncing the words prescribed by the Council: *I join you together in matrimony,* and so forth.

XV. Would a parish priest sin mortally who omitted these words *I join you together,* and so forth? Sánchez denies it. But the nuptial blessing, and the reported words, or like ones, by which parish priests join the contracting parties, are one of the chief moments of sacred tradition, by which Catholics evince against the heretics that matrimony is a sacrament. On what ground therefore does anyone call the aforesaid formula of words a light matter? Do they not bear a mystery of great signification, since they portend the conjunction of Christ with the Church? Besides, is not that opinion exceedingly probable which defends that those words are the form of the sacrament? Is not the safer opinion to be chosen in the performing of the sacraments?

XVI. QUESTION VII. *Whether the banns of a future matrimony be necessary by the necessity of the sacrament, or of precept?* ANSWER. That they are not necessary by the necessity of the sacrament all affirm; but that they are necessary by the necessity of precept is certain, as is established from Trent, session 24, chapter 1. If the spouses be of diverse parishes, the banns ought to be made in each parish on three feast days amid the solemnities of the Masses. That this precept obliges under mortal sin the common and true opinion teaches. From this precept supreme Princes are exempt. From this precept the bishop alone can dispense, as Trent decrees. For a just dispensation some cause is required. Bishops nevertheless ought to beware lest they be too easy in granting dispensations of this kind.

XVII. Whosoever knows any impediment which can be proved by witnesses is bound under grave fault to manifest it, as all teach. If it be occult, which cannot be proved by witnesses, some deny that anyone is bound to lay it open; but the affirmative opinion is common. For everyone is bound to obey a superior commanding. But a parish priest promulgating the banns lawfully commands that impediments between the future spouses be manifested. There is added that upon one revealing impediments the proof does not lie.

XVIII. QUESTION VIII. *Do spouses sin if they consummate matrimony before the nuptial blessing?* ANSWER. Some deny it. But the Council of Trent exhorts, session 24, chapter 1, that they dwell not in the same house before the sacred blessing to be received in the Church. Concerning this blessing Pope Siricius in his epistle to Himerius, chapter 4, writes thus: *That blessing which a priest imposes upon those about to marry is among the faithful as it were the seal of a certain sacrilege, if it be violated by any transgression.* Like things Pope Hormisdas writes; and the Fourth Council of Carthage, reported part 1, distinction 30, question 5, chapter 1, says: *The bridegroom and bride, when they are to be blessed by the priest, are offered by their parents or by the paranymphs; and when they have received the blessing, on that same night, out of reverence for the blessing itself, let them remain in virginity.* So speak all the Fathers: and from the tradition of the Fathers we evince against the heretics that matrimony is a sacrament, as has been indicated above.

XIX. That readers may on the occasion given understand how far the manner of opining of very many casuists differs from the doctrine of the holy Fathers, let them hear what after Fr. Sánchez Fr. Viva writes, question 4, article 4, no. 6, where he says: "The blessing of the nuptials does not seem to be a grave matter, nor greatly congruous to the progress of matrimony. For the nuptial blessing is not a sacrament, but a certain sacramental, nor of so great moment as the sacramentals which are sent before Baptism. But although it is not free from venial fault simply to omit it without any cause, against the use and custom of the Church, nevertheless it is probable that there is no fault, from a just cause — namely by reason of a forbidden season, in Advent or Lent — to consummate matrimony before the blessing of the Church; since it seems to be a counsel, not a precept, to send it before."

XX. These things cannot be read and compared with the doctrine of the holy Fathers and of the Councils without the mind being kindled with zeal for Christian discipline. *The sacred blessing of pastors does not seem to be a grave matter, nor greatly congruous to the progress of matrimony?* The matrimony of Catholics is a sacrament, and the blessing of priests is not greatly congruous? Whether anything of offence to pious ears is contained in these words, let the wise judge. Those therefore sin, and indeed mortally, who consummate matrimony before the blessing.

Dissertation II — On diriment and impedient impediments, and their dispensation

Chapter I — On diriment impediments

I. Fifteen impediments are numbered after Trent, contained in these verses:

Error, condition, vow, kinship, crime, Disparity of worship, force, order, bond, Honesty, affinity, if clandestine, if impotent, If the woman be seized, and not restored to a safe place.

These forbid marriages to be made, and undo them when made.

II. QUESTION I. *Whether error of person dissolves matrimony?* ANSWER. Error of person by the law of nature annuls the contract, because this error takes away consent, when one person is substituted for another. This error nevertheless must needs be antecedent, giving cause to the contract, as when someone intends to marry Rachel, prepared not to marry Lia. It is disputed only whether concomitant error renders matrimony null. Some affirm it, others deny it. To me the affirmative opinion is the more probable, because concomitant error, although it does not make it involuntary positively, yet makes it so negatively. Error concerning accidental qualities, whether antecedent or concomitant, according to the more probable opinion does not annul matrimony; unless the accidental quality throw back the error into the very substance of the person, or the consent given were only under the condition of such a quality — for instance: *I take thee, if thou be rich, if thou be noble; otherwise I take thee not.*

III. QUESTION II. *What is understood by the name of condition?* ANSWER. Condition betrays servitude. Those are called slaves whose master has full dominion of selling, letting, and employing them, and so forth; these are called also *mancipia.* This condition of servitude according to all annuls matrimony. It is disputed only whether error of servitude annuls it by civil and ecclesiastical right alone, or also by the right of nature. To me the more probable opinion is that this impediment proceeds from the law of nature itself, and has been determined by positive law. He who knows a woman to be a slave and nevertheless marries her, the matrimony is valid. It is valid also if a man ignorant that she is a slave marry her, when he himself is a slave: because the condition of each is equal.

IV. There are three cases in which the laws dispose that a slave obtains liberty through matrimony: 1. When the master bestows a dowry; 2. When a master receives a female slave as wife, or a mistress a slave; 3. When a master delivers a female slave to a free man ignorant of her servitude. In these three cases, even in the last, the matrimony is valid. For this servitude is of no moment, as though it were not.

V. In servitude the offspring follows the womb, as the laws dispose. If a man be born of a slave mother and a free father, he is a slave. On the contrary he who is begotten of a free mother and a slave father is free. Slaves of penalty are called those condemned by a judge to the galleys, to perpetual exile, or to death, which they decline by flight. Their marriages are null as regards civil effects, namely of legitimation, inheritance, and so forth. But as regards the conjugal and sacramental

bond they are annulled by no ecclesiastical law. The marriages of other slaves contracted with the master unwilling are now according to all held ratified and valid.

VI. QUESTION III. *What is the impediment of a vow and of sacred Order?* ANSWER. A simple vow makes matrimony unlawful, not invalid. A solemn vow emitted in an approved Religion renders null a matrimony to be contracted; and likewise a simple vow emitted in the Society of Jesus after a biennium of noviceship.

VII. QUESTION IV. *What is the impediment of kinship?* ANSWER. Kinship is threefold: natural, spiritual, and legal. Natural is called *consanguinity,* as it were a unity of blood: because blood-relations descend from the same stock and are as it were conjoined in it. Spiritual kinship is that affinity which is contracted from Baptism or Confirmation, and is called also *co-paternity.* Legal kinship arises from legal adoption, and is called adoption.

VIII. QUESTION V. *What is consanguinity, and of how many kinds is it?* ANSWER. It is a bond of persons descending from the same stock, contracted by carnal propagation. It is divided into lines and degrees. A *line* is an ordered collection of persons descending from the same stock. It is twofold: one *direct,* which is the collection of those of whom one descends from another, as a son from a father, a grandson from a son, and so on to infinity. This is regarded in two ways. One is of *ascendants,* by which ascent is made from the begotten to the begetters, as from a son to a father, from a father to a grandfather, and so forth. The other of *descendants,* by which descent is made from a father to a son, from a son to a grandson, and so forth. The second line is *transverse,* which is the collection of those who descend from the same stock, without one deriving his origin from another, as brothers, cousins, and so forth. This is considered under a twofold aspect. One is *equal,* as two brothers, who descend in the same degree from a single stock. The other is called *unequal,* as an uncle and a nephew, who stand unequally distant from the same stock. A *degree* is the greater or lesser distance of one person from another according to the line of consanguinity. The *stock,* lastly, is called that person from whom the other blood-relations draw their origin, as the father is the stock of sons, and a grandfather of grandsons.

IX. QUESTION VI. *How many are the rules which are assigned by theologians and canonists for the computation of the degrees of consanguinity?* ANSWER. Three. 1. In the direct line of ascendants and descendants there are as many degrees as there are persons, the stock being taken away. Hence father, son, grandson, great-grandson, great-great-grandson are five persons and four degrees: the son is in the first degree with the father, the grandson in the second, the great-grandson in the third, the great-great-grandson in the fourth; since there are as many degrees as there are generations. 2. The rule: In the collateral equal line persons are distant from one another by as many degrees as they are from the common stock. Thus two brothers are distant in the first degree from one another, because they are distant by one degree from the stock. The sons of two brothers are blood-relations in the second degree, because they are distant in the same from the stock. 3. The rule is: In the collateral unequal line persons are distant from one another by as many degrees as he is distant from the stock who is the more remote. Wherefore an uncle and a brother's son are unequally distant from the grandfather, in whom they are conjoined. For the former is in the first, since he is his son; but the latter is distant in the second degree. Therefore they are distant from one another in the second degree, because the more remote person is distant by two degrees from the stock.

X. In the direct line canon law and civil law agree in the computation of degrees. In the transverse or collateral line the civil law differs from the canon. For the civil law numbers the degrees by persons, and numbers as many degrees as there are persons, the stock being taken away. Thus two brothers are indeed distant by one degree from the common father, but they are distant from one another by two degrees, because there are two persons; the sons of two brothers are distant in the fourth degree, because there are four persons, the stock being taken away. On the contrary canon law numbers the degrees not by persons but by the distance from the stock. The reason of the canonical computation is that persons in the transverse order are not conjoined with one another save by reason of the stock from which they descend. Therefore they cannot be more or less distant from one another than they are distant from the stock from which they descend. Hence two brothers are distant from one another in the first degree, because both are conjoined in the first with the stock. If they be unequally distant from the stock, as an uncle and a brother's son, they are distant from one another by that degree by which he is distant from the stock who is the more remote, as has been said.

XI. In the first degree of the direct line there are no marriages by the law of nature, as the Fathers commonly teach. Theologians dispute whether in every degree of the direct line marriages are unlawful, and whether Adam, if he should now rise again, could marry some woman; but this disputation I judge futile. For it is enough that there are none up to the fourth degree. For in the fifth degree they are either dead, or are in an age so bowed down that it would be most absurd to wish to contract matrimony between them.

XII. That in the first degree of the transverse line there are no marriages by the law of nature, Soto, Toletus, de Lugo, Gonet, and others contend. But the contrary denying opinion is more probable. For at the beginning of the world brothers in fact married sisters. Nor is it to the purpose that they answer that this was done by divine dispensation. What? Did God establish such a law, which scarcely promulgated could not be observed without a dispensation?

XIII. Spiritual kinship, as has been indicated, is called a nearness of persons introduced by ecclesiastical right. This induces an impediment between godparents and the one baptized or confirmed, and the father and mother of the one baptized or confirmed. For this kinship nevertheless solemn Baptism is required. If a child be baptized privately at home, very many teach that this kinship is not contracted between the godparents and the one baptized and the father and mother of the one baptized, but only with the one baptizing.

XIV. That legal kinship arising from adoption may induce an impediment, six conditions are required: 1. That the adopter be male; 2. That the adopter be twenty-five years old; 3. That he be able naturally to beget sons; 4. The adopter ought to exceed the adopted by eighteen years, that by reason of age he can be called his son; 5. The adopter and the adopted ought to be present; 6. The authority of the Prince or of the Magistrate must accede. They distinguish a twofold adoption. The first is *perfect,* which is called also *arrogation,* and is made by the rescript of the Prince with an extraneous person who is *sui juris*. The other, *imperfect,* is called simple adoption. This does not require that the adopted be *sui juris,* nor the rescript of the supreme Prince; but the authority of any Magistrate suffices. The arrogated necessarily succeeds the arrogator, both by testament and *ab intestato*. The simply adopted succeeds only *ab intestato*.

XV. That perfect adoption induces a diriment impediment by positive right all affirm. Concerning the imperfect they dispute on either side. To me it is the more probable that it does not induce one, as St.

Thomas seems to defend, Suppl., q. 57, art. 1, reply 1. This impediment lasts between the adopter and the adopted, between the wife of the adopter and the adopted, and between the wife of the adopted and the adopter, in perpetuity; between the adopter and the posterity of the adopted up to the fourth degree inclusively. In the collateral line, namely between the adopted and the carnal and legitimate sons of the adopter, the impediment lasts only so long as they persist subject to the power of the adopter. The paternal power being taken away either by the death of the adopter, or by the emancipation of the adopted, whether legal or natural, that impediment vanishes, nor does it extend beyond the first degree. Chapter *unicum,* on legal kinship.

XVI. QUESTION VII. *What is the impediment of crime?* ANSWER. It is adultery with a promise of future matrimony after the death of the other spouse; or it is the homicide of a spouse with adultery; or the homicide of either spouse perpetrated by the consent of an accomplice without adultery; or adultery with a matrimony of the present contracted with the accomplice. And so this crime is fourfold: 1. Homicide alone; 2. Homicide with adultery; 3. Adultery with a promise of future matrimony; 4. Adultery with matrimony.

XVII. That homicide with adultery may induce a diriment impediment, the following conditions are required: 1. That death in fact followed by force of such an action; 2. The matrimony antecedent to the killing of the spouse ought to be valid; 3. The adultery ought to be consummated; 4. The adultery must needs precede the killing; 5. The adulterer and the adulteress ought to be conscious of the matrimony of each. There is always required a mind of future matrimony, as authors commonly teach, although some teach that homicide with adultery suffices.

XVIII. Homicide without adultery induces a diriment impediment when a man and a woman conspire in a machination for the death of the wife or of the husband, with the intention that, death following, they may enter upon matrimony. And it is required that death in fact follow.

XIX. Adultery with a promise of future matrimony without homicide induces a diriment impediment, when the adultery is consummated, and both the adulterer and the adulteress are conscious of the matrimony. Again, both the adultery and the promise ought to precede the death of the spouse, and the promise must needs be manifested by external signs and accepted; not nevertheless that it be mutual, nor according to many that it be sincere.

XX. Adultery with a matrimony of the present contracted induces a diriment impediment, if the preceding matrimony was valid, and both were conscious, and they in fact attempted to contract matrimony.

XXI. QUESTION VIII. *What is the impediment of disparity of worship?* ANSWER. Disparity of worship signifies a diverse religion, such as is between a believer and an unbaptized unbeliever. This impediment has been introduced by ecclesiastical right, from which, a just and grave cause urging, the Supreme Pontiff can dispense. For a believer ought to contract matrimony as a sacrament. But an unbaptized person is capable of no sacrament without Baptism. When a danger of subversion threatens, marriages of this kind are forbidden by natural and divine right. Similarly the marriages of Catholics with heretics are forbidden both by divine and by ecclesiastical right, yet not invalid. For heretics are excommunicated. Therefore they are not to be admitted into the most straitened society of matrimony. And assuredly the Supreme Pontiffs permit these save in causes most grave and most urgent, for the avoiding of graver inconveniences.

XXII. QUESTION IX. *What is the impediment of coercion and of bond?* ANSWER. This impediment of coercion arises from force or fear, by which someone is compelled to contract matrimony. Force here must needs be extrinsically inflicted, and the fear must be such as falls upon a constant man, as has been explained above. The impediment of bond is that which spouses contract from matrimony, and they cannot take another wife while the former lives. Of this impediment, or of polygamy, it has been said above.

XXIII. QUESTION X. *What is the impediment of public honesty, and between whom is it contracted?* ANSWER. This impediment arises from matrimony and from betrothals. It is contracted between the betrothed man and the mother, sister, and daughter of the betrothed woman, or between the betrothed woman and the father, brother, and son of the betrothed man, provided nevertheless that the betrothals first contracted were valid. For if they be invalid on some head, no impediment arises. But the impediment arising from ratified matrimony extends up to the fourth degree, because Trent limited only the impediment arising from betrothals.

XXIV. From clandestine matrimony there arises the impediment of public honesty, because these marriages are not void from a defect of consent, but on account of the omission of the solemnities. But only those marriages which are null from a defect of consent do not induce the impediment of public honesty. This impediment of public honesty is perpetual, whether it arise from ratified matrimony or from betrothals. If valid betrothals be dissolved by mutual consent, the impediment nevertheless lasts, because as soon as valid betrothals were contracted, the impediment arose. Second betrothals, as being null, supposing that the first are valid, induce no impediment.

XXV. QUESTION XI. *What is the impediment of affinity?* ANSWER. Affinity is a nearness of persons proceeding from carnal copulation. That copulation is necessary which suffices for the consummation of matrimony. Affinity arises from copulation whether lawful or fornicating, and lasts in perpetuity. The blood-relations of a man do not become through his carnal copulation affines to the blood-relations of the woman with whom he had copulation, nor conversely, because affinity does not beget affinity. Only therefore he who had carnal copulation becomes affine to the blood-relations of the woman, and the woman affine to the blood-relations of the man. The impediment of affinity dissolves matrimony, and arises from lawful copulation up to the fourth degree, from unlawful up to the second inclusively, as Trent determined.

XXVI. QUESTION XII. *What is the impediment of impotence?* ANSWER. I shall touch upon a few heads with that caution which I can, lest the pen itself be stained by turning over so putrid a matter.

XXVII. Impotence is an ineptitude for exercising conjugal copulation with penetration of the woman's vessel and effusion of seed within it, apt for the generation of offspring. Here one impotence supervenes upon matrimony, another precedes it; one is perpetual, another for a time; one natural and intimate, another accidental and coming from without. Natural impotence is of one kind from a defect of heat in the man, of another from an excessive straitness of parts in the woman. Again, natural impotence is of one kind absolute in respect of all, of another relative — that is, in respect of this woman and not of another. Accidental impotence is of one kind from nature, as in the aged; of another from man, as in the emasculated and in eunuchs; of another from a demon, as in those bewitched.

XXVIII. Absolute impotence is a diriment impediment of matrimony. Similarly that is reputed impotence by which, on account of excessive heat or straitness in the woman, seed can be admitted neither wholly nor in part within the natural vessel, when it can be removed by no remedy at all. And this also induces a diriment impediment of matrimony by natural and ecclesiastical right, as all confess. Whether this impotence be mutual, or in one alone, whether it be known or unknown to the spouses, it dissolves the matrimony, nor can they cede their own right, because the absurdities which would follow thence are known. And they sin mortally who, conscious of impotence, contract matrimony.

XXIX. Temporal impotence does not dissolve matrimony, as is had in chapter *Fraternitatis,* and all teach. That is called temporal impotence, or for a time, which can be removed without sin and without danger to life. He nevertheless sins mortally who, or she who, conscious of the same contracts, on account of the injury inflicted upon the party, and on account of the other absurdities proceeding thence. Those who are strong in a true faculty of coming together enter upon a valid matrimony, even if they be sterile either by nature or on account of old age. Several things would have to be said concerning relative impotence. But because this rarely happens, and the other things are clear, therefore I pass them over.

XXX. Accidental impotence proceeding from a defect of age, as in boys, renders matrimony null by ecclesiastical right. Old age is not a diriment impediment. If nevertheless they were impotent for coming together in a manner apt for generation, the matrimony would be null. Eunuchs lacking both testicles are unfit for matrimony, but fit if they lack only one.

XXXI. Impotence proceeding from bewitchment, if within a triennium it cannot be removed by prayers, fasts, penance, and the exorcisms of the Church, is judged perpetual, and renders matrimony void. Similarly it is reputed perpetual when it cannot be removed without another bewitchment, since it is never lawful to remove a bewitchment by a bewitchment.

XXXII. Impotence supervening upon matrimony, from whatsoever head it proceed, in no way dissolves the matrimony. Impotent persons of this kind cannot attempt intercourse, when there is danger of effusing seed outside the vessel, and they have learned by experiment that they are in truth inept for copulation. It is hard; but such men will suffer the tribulation of the flesh. If on the contrary it happen that seed is not infrequently admitted within the vessel, although sometimes beyond their intention it turn out otherwise, they are not to be prohibited from the conjugal office. There is need nevertheless of prudence.

XXXIII. QUESTION XIII. *What is the impediment of clandestinity and of abduction?* ANSWER. The impediment of clandestinity arises from an occult matrimony without the presence of the parish priest and of witnesses, and dissolves matrimony by ecclesiastical right, of which it has been said above. Abduction is an impedient impediment, when a man leads away a wife from the house of her own husband. This abduction hinders matrimony not only with the woman abducted, but with any other whatsoever, when she is truly a wife under the power of a husband, and he resists. And even if the woman abducted consent, both she and the abductor are bound by the impediment, if the husband resist.

XXXIV. Abduction which is a diriment impediment is the violent leading away of a woman from place to place for the cause of matrimony. Violence is twofold. One physical, by which by force a

woman is dragged from her own house. The other moral, which stirs up threats and fear falling upon a constant man. Either is required for abduction. For if a woman be led away from her parents' house with her own consent, even if she be deceived by guile and fraud, it is not abduction inducing an impediment, because then it is flight, not abduction, since all violence, whether physical or moral, is lacking as often as the woman consents. Nor does it matter that the woman abducted be a virgin or corrupt. It is said *from place to place,* that is, she ought to be led from the place in which she is to a place in which she is under the power of the abductor, although no copulation follow. Wherefore if he lead her from chamber to chamber that he may know her, it is not abduction. There is added *for the cause of matrimony,* because if this intention be lacking, and for another end — for instance for the fulfilling of lust — the woman be led away, it is not properly abduction inducing an impediment. Read the penalties constituted against abductors in Trent, session 24, chapter 6.

Chapter II — On impedient impediments

I. A twofold kind of impedient impediments. One proceeds without a delict, another from a delict. Of the former kind are five, contained in these verses:

The Church's prohibition, and also a festal season, And catechism, betrothals — join a vow: These hinder marriages from being made, but permit them made to stand.

Of the latter kind are seven, contained in these other verses:

Incest, abduction, betrothal, the death of a wife, The raising of one's own offspring, the death of a presbyter, Or if a solemn penitent should take one that is his own: These forbid this marriage to be made.

II. *The Church's prohibition* signifies the prohibition of a superior, namely a parish priest or bishop, that matrimony be not celebrated at such a time. *A festal season* is from the first Sunday of Advent inclusively up to the Epiphany inclusively, and from the day of Ashes up to the octave of Easter inclusively. *Catechism,* or instruction of faith, brings in that impediment which he contracts who answers for an infant while the solemn ceremonies are supplied in the Church, when Baptism, necessity urging, has been administered privately. Godparents of Baptism contract a diriment impediment, godparents of catechism an impedient one. That this impediment was taken away by Trent very many contend. *Betrothals* lawfully contracted with any person whatsoever hinder matrimony with another. *A simple vow* of chastity, of not marrying, of receiving sacred Orders, of entering Religion, is an impediment hindering matrimony. A woman cannot lawfully contract with a man bound by one of these vows. *Incest* is copulation of a husband with the blood-relations of his wife, or conversely of a wife with the blood-relations of her husband. Of *abduction* it has already been said.

III. *Wife-murder* perpetrated not with a mind of contracting but out of anger, vengeance, or another cause, hinders matrimony with any other person whatsoever, even if the wife had been an adulteress. *The raising of sons* begets an impediment by reason of spiritual kinship, which then comes about if a spouse baptize the son either of the other spouse or of each, or raise him from the sacred font, or present him to be confirmed, with the mind of denying the conjugal debt. If nevertheless from necessity the son of the other spouse be baptized, no impediment is contracted. *The killing of a presbyter* brings in an impediment, when someone kills a presbyter. That anyone may incur this impediment nevertheless, he must be convicted of the killing in the external forum. *Solemn penance*

begets an impediment so long as it lasts, since it does not befit those who give their labour to mourning and weeping to celebrate nuptials, which bring gladness. *Marriage with a nun* is the last impediment, which is then contracted if anyone knowingly does not fear to take in marriage a virgin espoused to God. He is in perpetuity deprived of the right of matrimony on account of the injury inflicted upon the divine spouse Christ.

IV. He who, bound by one of the recounted impediments, contracts matrimony, is not deprived of the right of asking the debt, save in the vow of chastity and in incest; he is nevertheless bound to render it even when bound by these. In the rest he can both ask and render. Authors advert that, the *forbidden season, the vow,* and *betrothals* being excepted, the other impediments have grown obsolete. Wherefore the impedient impediments which now are in force are expressed in this verse:

The Church's prohibition, a season, betrothals, a vow.

As regards this nevertheless one must cleave to custom.

Chapter III — On the power and causes of dispensing in the impediments recounted

I. QUESTION I. *Who has power of dispensing from diriment impediments?* ANSWER. The common opinion of theologians is that, use and custom acceding, the Roman Pontiff alone by ordinary right dispenses from the aforesaid impediments, bishops and Legates *a latere* being excluded.

II. QUESTION II. *Whether bishops, urgent necessity pressing, can dispense from some diriment impediment before matrimony is contracted?* ANSWER. The common opinion affirms it, provided the necessity be urgent and grave, and access to the Supreme Pontiff be not open, and there be danger of infamy or of incontinence or of another evil in delay. No express law, no canon declares that a bishop cannot perform in his diocese in these cases those things which are necessary for the salvation of his sheep. From custom and use alone do the Supreme Pontiffs dispense in impediments of this kind. Therefore, when such necessity urges, who hinders a dispensation from being sought from the Pontiff, and being granted otherwise by a bishop? Two extremes in this as in the rest are to be declined: both an excessive facility of dispensing without a lawful cause, and an excessive severity of straitening the authority of bishops, which of its own nature is only for the common good of the Church, restricted by the Supreme Pontiffs. Therefore as often as the common good demands, and the Pontiff cannot be approached, and there is danger in delay, bishops can dispense, both before and after matrimony contracted.

III. QUESTION III. *Is it required that the matrimony contracted be in good faith, that a bishop may dispense from an impediment?* ANSWER. Good faith in one spouse alone suffices, as the common opinion teaches. Several also contend that a bishop can dispense even if bad faith preceded in both. The more probable opinion nevertheless requires good faith at least in one spouse.

IV. QUESTION IV. *From what impediments can a bishop dispense outside the case of necessity?* ANSWER. Bonacina, Henríquez, Sánchez, Castropalao, and the Salmanticenses teach that bishops can dispense in an impediment supervening upon matrimony on account of affinity and spiritual kinship, and in a simple vow of chastity, that the spouses may ask the debt of one another, although there be no urgent necessity; and this, they say, is established from lawful custom.

V. Several privileges are wont to be alleged as granted to Mendicant Friars of dispensing in an impediment supervening upon matrimony on account of copulation had with a blood-relation of a spouse in the first or second degree, or on account of a simple vow of chastity emitted before matrimony, that they may be able mutually to render and to ask. All these privileges to me are fictitious, because I have been able to find no authentic document by which it may be evinced that these privileges are lawful.

VI. QUESTION V. *Do superiors sin who dispense from impediments without a cause?* ANSWER. It is agreed among all that both those granting and those seeking a dispensation without a cause sin. Authors dispute whether it be a mortal or a venial sin. Suárez, Bellarmine, Toletus, and other graver theologians affirm that it is mortal. This opinion is true. St. Bernard calls a dispensation without a cause *a cruel dissipation.* Who does not see that to trample down at pleasure laws passed for the common good of the Church is a deadly sin? Smallness of matter can excuse from grave fault.

VII. QUESTION VI. *Is a dispensation of this kind granted without a cause valid?* ANSWER. Theologians commonly teach that a dispensation of an inferior in a superior's law without a cause is null. Hence they infer that a bishop dispenses invalidly in a pontifical law without a cause. Similarly that the Pope dispenses invalidly in a vow, in an oath, or in any other divine law, a just cause being taken away.

VIII. Some teach that a legislator can validly dispense in a law passed by himself without a just cause: because, they say, in his own law the Legislator operates as lord. Therefore, just as a prodigal, they say, validly transfers the dominion of his own goods, although in squandering he sins, so a legislator validly dispenses in his own law with others, otherwise with himself. This opinion is to me false. The distinction of dispensation in respect of himself and of others seems to me fictitious. Every law is passed for the common good. By natural and divine law a legislator is bound to promote the common good as much in respect of himself as of his subjects. Legislators are subject to the laws *directively,* subjects *coercively.* Therefore by the same reason by which the more recent authors affirm that he dispenses invalidly with himself, they ought to affirm that he dispenses invalidly with others.

IX. QUESTION VII. *What are the just causes of dispensation?* ANSWER. Several are assigned. 1. The removal of suits, scandals, and quarrels, and the good of peace; 2. If in the town in which a woman dwells she cannot conveniently find an equal whom she may marry; 3. A defect of dowry, when a girl finds a blood-relation who will espouse her without a dowry; 4. The preservation of riches in the same family; 5. The repairing of a matrimony contracted in good faith; 6. The request of Kings and great Princes; 7. Excellence of merits toward the Church; 8. The furnishing of money in aid of the Church.

X. Whether all these causes be lawful, let those judge whom it concerns; the last does not approve itself to me, concerning which Fr. Viva, question 11, article 2, no. 4, says: *Sánchez nevertheless notes that he who seeks matrimonial dispensations without a cause by exhibiting a copious alms does not sin, just as neither does he who without a cause uses what he has sought. The reason, because although they be sought without a cause, they are nevertheless not granted without a cause.* Is this a robust reason? They are not granted without a cause, because they are granted on account of money. What will Lutherans and Protestants not prate, reading such things? Will they not blurt out that these laws are money-making? But we shall shake their calumny by opposing the Tridentine Synod, which established that dispensations are to be granted: 1. Rarely; 2. From a cause; 3. Gratis. Nor does it matter that some interpret the laws less rightly.

XI. When at the time of the dispensation a cause existed, even if afterwards it cease, the dispensation subsists: because as soon as a valid dispensation was granted, the impediment is taken away. Otherwise it is to be said of a dispensation from those things which have a successive course. You obtained a dispensation from fasting on account of debility: the debility ceasing, the dispensation ceases.

XII. QUESTION VIII. *What is a subreptitious dispensation?* ANSWER. It has already been said above that it is that which is granted either on account of a falsity expressed, or on account of a truth concealed. If you desire more, read Vol. X, Book 2, dissertation 3, chapter 5.

Dissertation III — On the obligation and sins of the betrothed and of spouses

Chapter I — On the end of betrothals, and the obligation and sins of the betrothed

I. QUESTION I. *What is the end of betrothals?* ANSWER. Betrothals were therefore instituted by the Church, that the faithful might approach the great sacrament of matrimony adorned with virtues and sanctity. For betrothals are to this sacrament what the catechumenate is to Baptism, the clerical tonsure to Orders, the noviceship of Religious to solemn monastic profession, as in the *Supplement,* question 43, article 1, reply 6, the Angelic teaches, saying: *The first espousals are properly called betrothals, which are certain sacramentals, as is the exorcism of Baptism.* Chiefly for these three sacraments to be rightly received the Church has established that the faithful be prepared and disposed by the exercise of virtues: because in the receiving of these they embrace a new kind of life, and profess a new state. But how shall they sustain the burdens, offices, and duties of the new state, as befits and is expedient both for families and for the commonwealth, and not merely for private felicity, unless they approach it well-mannered, instructed, and proved? As therefore those who are about to profess the monastic religion are constituted candidates under the care and vigilance of a watchful master, that they may thoroughly learn what they ought to profess; so the betrothed ought under the mastership of their own parish priest to exercise the apprenticeship of the conjugal state, that they may prepare themselves for celebrating so great a sacrament, and may be well disposed for sustaining the burdens which follow thence.

II. QUESTION II. *What are the duties of parish priests in the instruction of the betrothed?* ANSWER. First of all a parish priest ought to instruct young men and girls that they contract not betrothals tumultuously and suddenly, nor in taverns and profane places, nor after drinking-bouts, sportive spectacles, and dances; but let them send before serious considerations, and before witnesses, chiefly their parents, prepared with a singular affection of piety, let them approach the celebration of this sacramental rite. Let the parish priest explore the skill of the betrothed in the Christian religion, whether they are versed in those things which as Christians they cannot be ignorant of without sin. But besides those things which it befits Christians to know, they must needs be instructed in those which regard the conjugal state. They are gravely to be admonished that they dwell not under the same roof, lest a mutual and burning love from excessive nearness and familiarity burst forth into impure flames.

III. Let him instruct them that from the ancient custom of the Church betrothals and marriages were wont to be celebrated through the prayers of the faithful and the blessing of the Church, that the troublesome tribulation of the flesh, which is wont to accompany marriages, married persons might be able to bear with Christian fortitude. Tertullian, Book 2 *To his Wife,* chapter 8, teaches this: *Whence shall we suffice to narrate the felicity of that matrimony which the Church conciliates, and the oblation confirms, and the blessing seals, and the angels announce, and the Father holds ratified? For not even on earth do sons rightly and lawfully marry without their fathers' consent.*

IV. That a parish priest may be able to imprint the true image of Christians upon the souls of the betrothed, let him first propose to them to be seriously meditated the order of uncreated Wisdom, whereby God willed to propagate those souls which are to occupy the seats of the damned spirits. He willed this propagation to be at once carnal and spiritual, or made fruitful by divine grace. Hence it is that the persons destined for this generation first contract betrothals, which are a certain sacramental rite, says St. Thomas, and, the apprenticeship of Christian virtues being performed, they receive the great sacrament of matrimony, by which their souls are sanctified by the grace of the Redeemer for the procreating of offspring. *Happy,* says Tertullian, *are the marriages which the Church conciliates* — that is, which are made in the spirit of the Church, and for the ends predetermined by God. Tertullian subjoins that marriages are confirmed by the oblation, namely when the betrothed are signed with the heavenly blessing by those set over the Church amid the solemnities of the Masses and the common prayers of the faithful. Just as for the other sacraments to be rightly received there precede sacramentals, as lustral water, eulogies, and the interior virtues of the soul; so betrothals are, as we have seen from St. Thomas and Tertullian, certain sacramentals, by which the candidates of matrimony, being sealed, ought chiefly to exercise themselves in those virtues which lead to the guarding of the conjugal covenant whole and unstained. And the preparation of the betrothed must needs be so much the greater and more diligent, as they ought to serve not themselves only but others also. For married persons are public persons, chosen for preparing and preserving the Christian commonwealth, for multiplying the people of God, and for filling paradise. To these things both betrothals and marriages by divine institution look.

V. A virgin, betrothals having been contracted, is to be veiled, says Tertullian — that is, she ought to withdraw herself from the eyes, conversations, and familiarity of men, and chiefly of her betrothed, lest the flower of virginity contract defilement, and lest by a reciprocal lust they conciliate to themselves a divine curse in place of a heavenly blessing. Let the betrothed bear themselves chastely, modestly, and bashfully, that they may kindle in their betrothed a love not carnal but divine. *What example have the betrothed?* says Tertullian, Book *On the Veiling of Virgins,* chapter 11: *Rebecca, who, when she was being led to a bridegroom as yet unknown and herself unknown, as soon as she learned that he was the one whom she had descried from afar, did not sustain the wrestling of the right hand, nor the meeting of a kiss, nor the communication of a salutation; but confessing what she had felt — that is, that she was espoused in spirit — denied herself a virgin, by being veiled, and already a woman, out of the discipline of Christ. For she showed that nuptials also are made by affection and by the mind, as also is the marriage-veil.* What of this, that Tertullian sets before Christian betrothed the example not of Rebecca only but even of heathen brides? He carps at the vanity of exterior apparatus and the pomps of married women. He reproaches Christian betrothed with cutting through the very laws of nature, and with dishonouring in Christians that very modesty implanted by nature which even heathen brides guard. *Nay rather,* Tertullian goes on there, *among the heathen they are led veiled to their husbands. … Among us not even natural things are preserved, as though our God were other than nature.* And again, chapter 12, he cries out against the more exquisite adornment and superstitious ornament of the betrothed: *They arrange the hair, and with the needle they wantonly insert a fringe upon themselves, and by the tresses divided from the forehead they profess an open womanliness. Then they seek the shape of a coiffure from the mirror, and macerate the face with a more fastidious washing, perhaps interpolating it with some medicament; they make the mantle project outwards, and pinch the shoe into many shapes. … Why do I pursue each thing? The manifest array alone carries about their whole womanliness.* Tertullian in the same place, chapters 14 and 15, prescribes to betrothed virgins a withdrawal from the

company of men. He sets forth the monstrous abortions of ruined modesty, and describes one by one the evils which the study of pleasing brings forth. *The very concupiscence of not lying hidden is not chaste: it suffers something which is not of a virgin, the study of pleasing men. Strive as you will with a chaste mind, it must needs be that she is imperilled by the publishing of herself, while she is struck by uncertain and manifold darts, while she is tickled by the fingers of those pointing at her, while she is loved too much, while amid embraces and assiduous kisses she grows warm. Thus the brow is hardened, thus modesty is worn away, thus it is loosened, thus it learns to desire to please otherwise. But indeed true and whole and pure virginity fears nothing more than itself: it will not endure even the eyes of women; it has other eyes of its own. It flees to the veiling of the head, as to a helmet, as to a shield, which may protect its own good against the strokes of temptations, against the darts of scandals, against suspicions and whisperings and rivalries, and against envy itself.*

VI. That these things have grown obsolete, and antiquated by a contrary use, some will reply, who, seeing an opposite corruption everywhere prevailing, and unable to coerce it within the confines prescribed both by nature and by the Scriptures for modesty and Christian decency, opine that the testimonies of the Scriptures and the doctrine of the Fathers, nay the very rights of nature, are to be adapted and accommodated in whatever way to the morals of today. But Tertullian, kindled with zeal for truth, chapter 16, thunders in this fashion: *In this the defence of our opinion consists, according to Scripture, according to nature, according to discipline. Scripture founds the law, nature attests it, discipline exacts it. Which of these accords with the contrary opinion, or what colour has the diverse sentence? Of God is Scripture, of God is nature, of God is discipline. Whatsoever is contrary to these is not of God. If Scripture is uncertain, nature is manifest. And concerning the testimony of nature Scripture cannot be uncertain. If nature be doubted, discipline shows what is more ratified with God. Nothing is dearer to him than humility, nothing more acceptable than modesty, nothing more hateful than glory and the study of pleasing men. Let that therefore be to thee Scripture, nature, and discipline, which thou shalt have found ratified with God; as they command us to examine all things, and to follow the better.*

VII. These things, however somewhat prolix, I have willed to transcribe out of Tertullian (and only the study of brevity hinders me from transcribing like things from almost all the Fathers), that parish priests may have present the true and ancient discipline of the betrothed to be inculcated upon the betrothed of today. These men ought to cry out more loftily. If discipline and morals have been changed, have the holy Scriptures? Have the divine laws been changed? Has nature been changed? Is it less prone to evil? Is it less lustful, less frail, less slippery? Nay it has been made more ardent, more shameless, more luxurious by evil custom, you say. Therefore it is to be coerced with stronger barriers, healed with stronger remedies, guarded with a keener study. These things, I say, parish priests ought to inculcate and to exaggerate for the sake of the elect, and that the reprobate may have no excuse. Let them draw documents to be delivered to the betrothed from the Fathers, from the Rituals, and from the holy Scriptures themselves.

VIII. Let parish priests besides imbue the betrothed subject to their own care, and teach them the most grave burdens which accompany the conjugal state; that constant and reciprocal love with which they ought to follow one another, whether infirm or sound; a robust patience, by which they ought to tolerate mutual infirmities, defects, and excesses. Let them diligently explain the most grave burden of educating offspring, of ruling a family, and of directing all things to the glory of God. Let them admonish in graver words that, if either be entangled in some custom of sinning, they should straightway study to tear it out, lest either absolution be denied them when the nuptials are to be

celebrated, or they perfect the sacrament of matrimony sacrilegiously, and lay the foundations of a new state with sacrileges and outrages, whence afterwards innumerable evils, dissensions, hatreds, and internecine quarrels remain. Let them diligently instruct them that they learn to love one another with a Christian and divine love: because if they shall have done this, throughout the whole course of life the same flame will burn; but on the contrary, if from an unchaste and venereal love, from embraces, kisses, and obscene touches they take their beginning, both in this and in the future life they will be burned with pitch and sulphur. Carnal pleasures do not extinguish the thirst, but irritate and increase it. With vehement desire riches are coveted by the avaricious, girls by the unchaste; but once possessed they straightway grow cheap. A betrothed woman given into the power and use of her betrothed becomes to him after a few days an object of loathing and weariness, unless a divine love confirm the conjugal bond. Why are marriages commonly not covenants of reciprocal love, not knots of mutual benevolence and tranquillity, but occasions of discords, hatreds, and hardships? Because an impotent lust, obscene outrages, and a chain of crimes, not the sacrament of Christ, joined their bodies: it bound them not in the Lord, but in the mire of luxury, no otherwise than horses and mules, as is said in Tobias 6: *They who in such manner receive matrimony as to shut out God from themselves and from their mind, and so give themselves to their lust as the horse and mule which have not understanding, over them the demon hath power. But thou … shalt take the virgin with the fear of the Lord, moved rather for love of children than for lust, that in the seed of Abraham thou mayest obtain a blessing in children.*

IX. A parish priest will be able to read several most salutary documents, both in the holy Scriptures and in the ritual books, to be explained to the betrothed — some from the altar, others in the tribunal of penance. For he ought to exhort the betrothed that they frequent the divine sacraments, by whose grace they may be able to press down a kindling lust, and to prepare their souls, adorned with the offices of virtues, for the binding of the sacramental covenant. In confession he will instruct them in most grave words with what chastity, with what modesty and honesty they ought to exercise matrimony. He will temper his discourse according to the diverse acumen and knowledge of the betrothed. If a parish priest be prudent, he will be able to manifest all things which shall be necessary for Christian instruction, without pronouncing a word less modest and chaste. He will imbue them with this, that those things only are permitted to married persons which conduce to the begetting of sons in Christ, all those being rejected which the modesty implanted by nature abhors. If the betrothed be well-mannered, a brief instruction concerning the use of matrimony, always within and never outside confession, will suffice. Wherefore a parish priest ought chiefly to bend himself to this, that he educate and exercise girls and young men in the holy fear of God, and make them chaste and modest, and propagators of the progeny of God.

Chapter II — Several opinions concerning the sins of the betrothed are resolved

I. You have heard, Christian reader, the holy discipline of the betrothed drawn from the divine Scriptures and the Fathers. I am compelled to transcribe the opinions of very many, that I may succour readers less skilled, and admonish them to abstain from those which will appear to them themselves false. Readers are not only to be instructed, but also to be untaught.

II. QUESTION I. *Do the betrothed sin mortally by taking morose delight in future copulation?* ANSWER. Some distinguish delight in copulation thought of as present and thought of as future. Lest I seem to

impose upon them, behold what out of others Fr. Sporer writes, part 4, chapter 1, section 1, no. 428: "It is one thing to consent and take complacency in a copulation thought of as future, and in the venereal delight to follow at some time from such future copulation; which to the betrothed is not unlawful. For since from the betrothals themselves contracted, and as it were by an inchoate right, such copulation and delight is to be at some time in the future, they ought not to be saddened by it or to turn away from it, but can lawfully consent to it, take complacency in it, or rejoice over it; since it is nothing else than to rejoice over the hope of a future good, which hope is present and lawful. So with very many Sánchez, Diana, and so forth."

III. These men ought to have adverted that the human mind can indeed reach these metaphysical precisions. But concupiscence does not make precisions; it is borne and wallows in the venereal mire as in fact it is. Wherefore this complacency is equally deadly in the betrothed as in other men.

IV. QUESTION II. *Are touches, kisses, and embraces lawful between the betrothed?* ANSWER. Fr. Thomas Sánchez, Book 1, disputation 2, no. 5, teaches these things: "According to the common opinion embraces and kisses between the betrothed *de futuro* are lawful, on the ground that betrothals are a certain beginning of matrimony, and consequently grant a right of using the matrimonial preambular pleasure. Therefore through betrothals a right in the body is acquired, otherwise no use of it would be granted; and consequently he who violates this right by fornication will be guilty, beyond the fornication, of an injustice committed, necessarily to be opened in confession." And this opinion is exceedingly probable.

V. These men therefore distinguish a twofold carnal pleasure: one *preambular,* which is lawful to the betrothed; another *consummated,* which befits the married. They bring forth the reason. Betrothals are the beginning of matrimony. Therefore *through betrothals an inchoate right in the body is acquired; otherwise no use of it would be granted.* Therefore preambular pleasure is to be granted to the betrothed. This doctrine is common, says Fr. Sánchez, among the more recent authors. The same the Salmanticenses teach, tract 9, chapter 15, point 6, no. 91, where they say: *Just as betrothals are between them a certain inchoation of matrimony, so also there are lawful in that state acts which are in some manner an inchoation and beginning of copulation.* Sánchez, and so forth.

VI. Fr. Thomas Tamburini, Book 7, chapter 5, no. 61, page 193, says: "To the betrothed *de futuro* it is exceedingly probably lawful without sin to have certain signs of love, such as kisses, touches, modest looks, and amatory conversations, even on account of the delight residing in them, but without danger of pollution, or of consent to it, or to copulation; but by no means immodest ones. So Thomas Sánchez. … I find one excuse in a betrothed man exercising these chaste actions with a foreseen but not intended danger of pollution, and without danger of consent to it. For if he were in an occasion in which he would be held UNMANNERLY if he abstained from them, he could usurp them, because there is already present a reasonable excuse."

VII. This doctrine is more filthy than the preceding. There would be need of Tertullian's words against paradoxes so unheard-of. Can the betrothed exercise mutual kisses, touches, and embraces even with a foresight of pollution? We admonish confessors and all readers to beware of these lax opinions. Let adversaries evince that these comments are not adverse to evangelical chastity, and then let them attain the victory. Can the betrothed exercise mutual kisses, touches, and embraces even with a foresight of pollution, lest one be held unmannerly?

VIII. The unchaste doctrine of Tamburini Fr. Sporer transcribes at no. 430, and Fr. Claude La Croix, Book 6, part 5, question 12, no. 141, transcribes all the recounted paradoxes, without disapproving them, but after his probabilistic manner subjects all things to the arbitration of his readers; he shows himself nevertheless to incline to the contrary opinions as more probable. But what does it matter, if the others be probable?

IX. Fr. George Gobat, tract 10, no. 672, writes here: "Sánchez in the place cited, no. 49, uses indeed the name of *sensitive* delight, but by this he certainly understands venereal delight, as is plain from no. 3. … I confess nevertheless that it not rarely happens that a confessor is compelled in practice to suppose the opinion of Sánchez, unless he wish to dismiss such betrothed persons without absolution, as being those to whom he will with difficulty persuade either that those embraces, kisses, and so forth are mortal, or that, acknowledging them to be mortal, they should form a purpose of amending themselves."

X. The dilemma of Fr. Gobat is marvellous. Either a confessor will with difficulty persuade that kisses, embraces, and touches of this kind exercised with venereal delight are deadly sins; or if the betrothed acknowledge them to be mortal, they will with difficulty form a purpose of amending themselves. Therefore either they would have to be dismissed without absolution, or the opinion of Sánchez is to be employed. Not the first: therefore the second. For to this a confessor is compelled — that he admit the opinion of Fr. Sánchez, *unless he wish to dismiss such betrothed persons without absolution,* and to diminish the frequenting of the churches. But such betrothed persons from such touches, kisses, and embraces take *venereal delight,* and according to Tamburini sometimes with a foresight of pollution. But this delight, replies Sánchez, is *an inchoation of copulation, and in all unmarried persons would be a mortal fault*. It is nevertheless to be adverted, subjoins Fr. Gobat in the place cited, that the betrothals be absolute: for if the betrothals were suspended by a condition, the doctrine of Fr. Sánchez would not be to be admitted. *But in no way is this doctrine to be preached to those betrothed who have contracted betrothals under a condition.*

XI. I myself set down nothing against these paradoxes, to be lamented rather than refuted. Let confessors themselves compare the recounted opinions with the doctrine of the holy Fathers, which I have indicated in the preceding chapter, and with the Gospel of Christ; and then let them themselves sit as judges.

Chapter III — On the sins of spouses in contracting matrimony, and on their obligation in the mutual rendering of the debt

I. Spouses sin mortally if they contract feignedly; if with some impediment, whether diriment or impedient, known to them, they celebrate the sacred nuptials. Besides they sin if with a conscience of mortal sin they approach this sacrament. For this is a sacrament of the living. Therefore they perpetrate a sacrilege who, defiled with mortal sin, approach it.

II. They sin also more or less who after the manner of pagans profane the sacred solemnity of the nuptials with excessive and immodest luxury and with satanic and immoderate pomps. Several ritual books prescribe the sacred nuptial blessing. But are the sacred rites of the Church to be exercised amid the revived spectres of the heathen? Run through the histories, whether ancient or recent, the morals and customs of the pagans; inquire whether a more profane luxury, whether more

immoderate pomps, whether more dissolute dances, more obscene songs, more intemperate banquets, more shameless capering stalked abroad at the time of nuptials among pagans, unbelievers, and heretics, or among not a few Catholics, who venerate the sacred nuptials as a great sacrament portending the union of Christ with the Church, and who by a solemn rite in Baptism renounced the pomps of the world. Who would not feel himself moved, while he sees prestiges of the pagans so profane conciliated with the more sacred rites?

III. QUESTION I. *How great is the obligation of spouses to paying the conjugal office?* ANSWER. Matrimony being celebrated, several burdens follow thence, of which the first regards the spouses themselves, and is set in their mutual conjunction. Neither of the spouses is absolutely bound to ask, but to render each is bound. A husband is bound to render to a wife asking even tacitly by signs, and a wife to a husband. For by force of the matrimonial contract they are gravely bound to this reciprocal payment; and those who infringe it gravely offend.

IV. QUESTION II. *What causes excuse from rendering the conjugal office?* ANSWER. Several. 1. Danger of life, or of grave infirmity; a slight inconvenience nevertheless does not suffice. Wives often sustain slight inconveniences, nor on that account are they free from paying this. There is need nevertheless of the confessor's prudence, because a general rule cannot be prescribed. 2. If the one asking be infected with the French disease, or with leprosy, if from intercourse a grave danger of one's own infection threaten: for if the danger of catching leprosy be absent, the debt is to be paid. 3. If the other spouse asking be an adulterer. 4. Too frequent asking excuses from rendering the debt.

V. The multiplication of offspring is not a just cause of denying the debt. A woman who has experienced that she bears her own sons dead does not on that account sin by rendering the debt to one asking; and if she be obnoxious to a danger of incontinence, she can even ask, trusting in the divine providence, which will not cease to succour those who exercise matrimony holily.

VI. A spouse sins who by unlawful means renders himself unfit for paying the debt; as if he pollute himself, or approach other women, beyond these crimes he perpetrates an injustice against the innocent spouse. Nay, neither can they lawfully by excessive voluntary austerity so extenuate themselves as to become unfit for rendering the debt. But this happens most rarely. From moderate exercises of piety nevertheless, and from fasts prescribed by the Church, a spouse ought not to abstain, that he may become more robust and vigorous for rendering the debt. Nay, in the time of fasts spouses ought to observe continence, although they be not rigorously bound.

VII. A secretly adulterous spouse can ask without sin, not as a thing owed out of justice, but to be granted out of benevolence: because he is not bound to undergo a penalty before the judge's sentence. An innocent spouse can ask the debt from the other spouse who on account of an impediment of affinity contracted from fornication perpetrated after the matrimony has lost the right of asking. If he lawfully asks, by a stronger right he can render. A spouse bound by a vow of chastity cannot render to the other asking, if this one had no right of asking; on the contrary if the right be present, he is bound to render. When a spouse asks unlawfully, because he is bound by a vow of chastity, then the other can render, if the partner cannot be turned away, because the vow does not take away the right of asking arisen from a lawful matrimony, but only effects that he asks unlawfully. Nor hence does it follow that the one rendering becomes a partaker of the other's sin. For a spouse rendering gives his labour to a lawful thing, not to the other's sin, just as one who from grave and pressing necessity seeks a loan from a usurer.

VIII. QUESTION III. *How from an impediment of affinity or of spiritual kinship are spouses hindered from asking the debt?* ANSWER. Two impediments besides a vow are wont to supervene upon matrimony. One from affinity contracted on account of fornication with the blood-relations of a spouse; the other from spiritual kinship, as if one spouse should outside the case of necessity raise from the sacred font, or hold at confirmation, a son common to both; in which case he would sin gravely, and would be deprived of the right of asking the debt. But he who commits incest in the first or second degree with a blood-relation of the other spouse is deprived of the right of asking, but is bound to render, as I have said. Authors dispute concerning a spouse consenting to, or affording counsel for, the perpetrating of incest, whether then each be deprived of the right of asking; and the arguments for either opinion are such as to make the matter doubtful. For the asking of the debt is granted to the innocent only. One consenting to the other's incest is guilty. Therefore for the security of conscience a dispensation is to be sought. A spouse who should sin with a blood-relation of his own, not of his spouse, would perpetrate a graver crime, but would not lose the right of asking the debt, because he would not contract affinity. On the contrary, if both spouses perpetrated incest with a blood-relation of the other, both would be deprived of the right of asking and of rendering; and therefore they would have to be separated until they obtained a dispensation. A wife compelled by fear from a blood-relation of her husband to incest, unless such compulsion were such as to excuse from sin — which scarcely, and hardly even so, happens — would be deprived of the right of asking the debt. If a spouse sin with a blood-relation of the other and labour under an ignorance of fact, namely that she is a blood-relation of the spouse, authors commonly teach that he is not deprived of the right of asking the debt; but if he knows her to be a blood-relation, although he be ignorant of the penalty of the privation of the right of asking the debt, he is nevertheless deprived of the right of asking.

IX. QUESTION IV. *Can he who is certain that the matrimony is void render the debt to a spouse asking, ignorant that the matrimony is void, that he may avoid infamy or grave loss?* ANSWER. The common opinion teaches that a spouse certainly knowing an impediment annulling the matrimony can in no way render, even if a danger of death threaten, or he be compelled by censures. The reason is evident, because in this case the copulation would be fornicating; therefore it is in no way to be committed for any evil whatsoever, whether death or infamy. The things which are objected are of no moment. An ecclesiastical judge, from invincible ignorance judging the matrimony valid, compels by censures to the observing of the matrimony, and therefore does not dispense. If the judge dispense, when he can, every question ceases.

X. QUESTION V. *Whether a confessor certainly knowing a matrimony to be null is bound to admonish a penitent spouse believing by invincible ignorance that it is valid?* ANSWER. If the woman labour under invincible ignorance, all confess that she is to be admonished. Similarly if the ignorance of right and of fact be invincible, and the confessor foresee that his admonition will profit, all confess that he ought to admonish the penitent. On the contrary, if the confessor foresee that his admonition will not profit, then the confessor would bear himself most imprudently if he admonished, say the Salmanticenses with very many.

XI. Above, in Vol. II, I have already routed these opinions, which are to me false. In few words I now touch upon the matter. All are bound by divine right to know the truths which pertain to their own state, and to inquire into them and learn them, as all theologians teach with St. Thomas. The truth concerning diriment impediments of matrimony is one whose knowledge greatly pertains to married

persons. Therefore married persons violate this divine mandate of inquiring into the truth pertaining to their own state, as often as they are affected with such a disposition that they either neglect or refuse to know it. Married persons labouring under an invincible ignorance of right and of fact concerning such an impediment diriment of matrimony are foreseen to be in this disposition, that they will not expel this ignorance and learn the truth. Therefore they are violators and contemners of the divine mandate of inquiring into the truth. Therefore their ignorance is vincible, since it can be overcome by them through the means of the confessor's admonition. If the ignorance be vincible, therefore according to all the penitents are to be admonished. Is there a chink open for escape? Why does the confessor keep silence? Because he foresees that the truth will not be received by the penitent spouse if he manifest it. This is the whole reason for silence. You are deceived. There are infamies, scandals, death, or other most grave evils about to arise, which prescribe silence. You are inept. These absurdities do not impose silence, if the ignorance be vincible, as all confess. And yet in our case the ignorance, which was otherwise invincible, becomes vincible at that very moment at which the spouses are foreseen as not about to receive the knowledge of the truth to be manifested by the confessor. External evils which are feared can in no way make the confessor's silence honourable. Therefore the penitents are indisposed for this sacrament.

XII. Adversaries reply that such penitents are disposed, just as are those who are not so affected in mind as to abstain from sins if they were to be tortured by a slow fire; and yet it would be imprudence to propose such things to them, and to adduce a test of their weakness. A most inept example. I should repute a confessor most imprudent who should propose like hypotheses of the most atrocious torments of tyrants. But why? Because here and now the precept of undergoing martyrdom does not urge. And that I may stab adversaries with their own point: imagine a fire prepared, and a tyrant before his tribunal, sitting and decreeing death for this Christian, who is ignorant of all these things. Is he not to be admonished of the imminent punishment, if he confess? Is he not to be animated and raised up for undergoing the slow fire? Is silence to be kept? Then only would a confessor be imprudent when, no occasion of martyrdom occurring, there were no cause for testing the penitent's weakness. In our case the precept of not fornicating in a null matrimony urges. And divine grace is present, by which the precept can be observed. Adversaries teach that God imparts his grace even to the blinded and the hardened. And now do they despair of the grace of illumination, by which they may embrace the truth, being granted to their own penitents who are just and receive the sacraments? They inveigh, and deservedly, against Jansenius, that light is lacking to the just, that grace is lacking, by which the precepts possible to them stand; and they themselves frequently assert divine precepts impossible by reason of invincible ignorance, and deny that grace is present by which they become possible even to those frequenting the sacraments. For if grace be present by which the ignorance can be overcome, it is vincible, not invincible.

XIII. The testimonies of Innocent III and of St. Augustine I have with a full pen made plain in Vol. II of the *Apparatus,* dissertation 1, chapter 4, to be ineptly obtruded by adversaries, as also the precept of fraternal correction. See also above, Vol. I, Book 2, dissertation 1, chapter 2, no. 21. The opinion of the Salmanticenses, of Sánchez, and of others, who teach that a confessor ought not to admonish spouses of an impediment either before or after matrimony, if he foresee that it will profit nothing, is to me evidently false. Grave theologians teach that penitents are to be admonished, and by opportune means the matrimony deferred. Most rarely do circumstances occur in which matrimony cannot be deferred. If nevertheless circumstances should urge, they suggest either that the privilege of two

months be used, or that a vow of chastity be elicited, until a dispensation be obtained either from the bishop or from the Pope.

XIV. I am unwilling to produce the matter further. Only some absurdities I shall here indicate in passing which follow upon the adversaries' opinion. 1. A confessor would not be bound to admonish penitents invincibly ignorant that gain exacted beyond the principal as owed out of benevolence is to be restored. 2. Similarly he ought not to admonish a knightly man provoked to a duel, in good faith thinking that it must be accepted lest his honour be clouded and he incur the mark of cowardice. 3. That those are not to be admonished who in good faith believe the killing of a calumniator lawful, when no other mode occurs of escaping infamy. 4. That those are to be left in their ignorance who in good faith believe that a judge can judge according to a less probable opinion, and can accept money when litigants have on their side opinions equally probable. 5. That those are not to be enlightened who invincibly believe it lawful to retain a concubine exceedingly useful for delight. 6. Girls who certainly reckon that the abortion of an unanimated foetus can be procured without sin for the avoiding of infamy. 7. Very many who hold it for certain that a proximate occasion exceedingly convenient is not to be forsaken are to be left in the darkness of ignorance.

XV. That these and six hundred other like things can be invincibly ignored adversaries will not deny, if the kindly casuists themselves who maintained these and other things in good faith invincibly ignored them. Silence therefore is to be kept, and dissimulation used, when a confessor foresees penitents so addicted to vices of this kind that his admonition will profit nothing. Nor is it to the purpose that it be objected that ignorance of impediments is of fact. For the rest, that readers may have it discovered how far the lax manner of opining extends itself, besides those things which have been said in the preceding book, let them hear what follows.

XVI. Fr. George Gobat, tract 7, no. 315, writes here: "What shall a confessor do if he see a penitent obnoxious from invincible ignorance, for example, to softness, from whose gravity, being taught it, he will scarcely abstain on account of a depraved habit? By these words the question was proposed of this vice, when it could be of several. But I answered from writings in the place cited, chapter 37, no. 61, that if, the circumstances of that penitent being duly considered, it be altogether judged that the admonition will profit nothing at all, but that, the grave crime being known by him to be committed, he will nevertheless perpetrate it no more rarely than he did when ignorant of so great a baseness, THE MANIFESTATION OF THE TRUTH IS TO BE DISSEMBLED BEFORE GOD."

XVII. Not even the knowledge of crimes against nature themselves is a confessor bound to manifest to the ignorant, *but the manifestation of the truth is to be dissembled.* While we propose comments so unheard-of to be detested, some cry out that we burden the casuists. But they ought at some time at last to be ashamed to object these things. Are these not of public right? Can they not be pernicious to the unskilled? Fr. Gobat adds that he reckons there is scarcely a confessor so sagacious that he can prudently judge of anyone that his admonition will not profit toward the diminution of sins against nature.

XVIII. But forthwith in the same place, no. 317, Fr. Gobat subjoins: "And indeed more than once I have learned that there are those who inculpably are ignorant of the mortal malice of this outrage. Therefore, practically speaking, the question is not so much of him alone who will scarcely omit, or scarcely abstain, as those letters speak — that is, who sometimes, though most rarely, will abstain — as, alas for the grief, confessors groan that they have found several of this most foul and at the same

time most fetid bran. Concerning this also I reckon that the opinion of St. Augustine is to be understood. For morally that admonition does not so much profit as it hinders, which would prevent only six, eight, or ten formally mortal sins, but will cause two hundred, three hundred likewise mortal."

XIX. The opinion of St. Augustine saying, *If I knew that it would not profit thee, I would not admonish thee, I would not terrify thee,* those men abuse with too good a faith who transcribe it out of other books without having read it in the fount. Consult Vol. II of the *Apparatus,* dissertation 1, chapter 4, where I have transcribed the whole sermon out of Augustine, not out of the casuists. The holy Doctor addresses a dying man, and raises and animates him to hope. And the cited casuists do not hesitate to wrest this opinion of so great a Doctor to this, that confessors ought by silence to dissemble the very horrid crimes against nature. If you admonish penitents, says Fr. Gobat with others, you will obtain that they abstain from eight or ten formal pollutions. Meanwhile they will perpetrate two hundred and three hundred formal outrages. Therefore silence is to be permitted, that materially they may wallow in the mire of lust, because by their pollutions, whose malice they invincibly ignored, they will enter the gates of Paradise. These are the little flowers of the new kindliness.

XX. QUESTION VI. *Whether, if one of the spouses prudently doubt whether the contracted matrimony be valid, he can ask the debt or render it?* ANSWER. He ought forthwith diligently to inquire into the truth. If he shall have been negligent, he will offend according to the quality of the negligence. If, diligence being employed, a prudent doubt persist, he is bound to render to the spouse not doubting; but he cannot ask, as Innocent III openly teaches, chapter *Inquisitionibus* on sentences of excommunication. Wherefore I reject as false the opinion of those who teach that this man can ask, even if the doubt persist after diligence employed in each. He who lightly doubts ought to shake off the doubt by the judgment of a prudent man.

XXI. QUESTION VII. *How are null marriages to be reintegrated?* ANSWER. A matrimony can be void either from a defect of consent, or on account of an impediment occult or public, or because the presence of the parish priest and of witnesses was lacking. That a matrimony null from any of these heads may grow valid, all those things are to be supplied which the laws of the Church prescribe. If the presence of the parish priest and of witnesses was lacking, the matrimony is to be reintegrated before the parish priest and witnesses. If consent was lacking, it is to be renewed. If it was void on account of an impediment, a dispensation is to be sought.

XXII. To a spouse affirming that consent was lacking to him no credence is to be had, as is had in chapter *Per tuas* on proofs. He who contracted feignedly is bound out of justice to apply true consent, because to each his own right is to be preserved. But to a spouse sincerely contracting the other contracting party's consent is by right owed not only in the very celebration of the contract, but also after the contract celebrated, and for the whole time of life: because the innocent party contracted in perpetuity.

XXIII. QUESTION VIII. *When a matrimony is void on account of some diriment impediment, is it required that each spouse be made certain?* ANSWER. If the impediment be known to each, there is no question. Straits press on every side when one party alone is conscious and guilty of the impediment, which cannot be manifested to the innocent spouse without danger of infamy — as if a wife had had copulation with her husband's brother, or conversely. It is agreed among all that first a dispensation is

to be obtained by the conscious party, and that meanwhile abstinence is to be kept from asking the debt. The things which follow make the highest trouble.

XXIV. The pontifical letters of dispensation contain this clause: *the other party being ignorant, the former being first made certain of the nullity of the prior consent*. The reason urges. For a null contract cannot be reintegrated, unless it be anew made valid. But how can it be made valid unless each party consent again? But each party cannot consent again, unless it be established to each that the matrimony first contracted was null.

XXV. That theologians might cut this Gordian knot, various things have been devised. Very many teach that the innocent spouse is to be admonished generally and confusedly concerning a void matrimony. The matter would be easy, if this generic manifestation elicited a new consent, and begot no suspicion in the innocent spouse. For what if the innocent spouse suffer scandal, and be led into a suspicion that the other spouse has in fact perpetrated an outrage? Then other theologians teach that the impediment is in no way to be indicated when such things are feared; but that it suffices that, a dispensation being obtained, the guilty party draw the other into consent by enticements and blandishments in this manner: *With such love do I follow thee, that if there were no matrimony between us, I should now wish to marry thee! Nay, now I take thee as mine. Dost thou do this on thy part?* If she reply *I do,* or by a like word betray consent, the business is reckoned done. Can this be hoped for from a simple spouse of good faith?

XXVI. But what is to be said if this cannot be hoped for from a spouse being awakened — nay, if the answer be feared which Fr. Sporer reports at no. 459: *I must already have thee. But if I had thee not, I should wish all the devils to have thee*? Therefore others teach that the innocent spouse is not necessarily to be admonished, but that it is enough that the guilty spouse renew consent, copulation being had with marital affection: for the other by rendering consents. To the said clause *the party being made certain* they answer that it is to be understood as when this can conveniently be observed. If it consisted in this, all things would most easily be dissolved. I suggest that, according to the diversity of circumstances, bishops are to be consulted. For they are the pastors. If the Pontiffs, the aforesaid clause being added, that the innocent party be made certain, impart a dispensation, by what authority do some erect a tribunal above the pontifical dispensations themselves, by extending them beyond the clauses which restrict them? In these straits therefore consult either the bishops or the Roman See.

XXVII. QUESTION IX. *Ought a matrimony void on account of an occult diriment impediment, or void from a defect of consent, to be reintegrated before the parish priest and witnesses?* ANSWER. All affirm it, because a null matrimony was also clandestine. Similarly when a diriment impediment is public, and has been or is to be brought to the contentious forum, the matrimony is to be reintegrated before the parish priest and witnesses. Concerning an occult impediment which cannot be proved by witnesses, theologians dispute whether consent is to be renewed before the parish priest and witnesses.

XXVIII. The affirmative opinion most grave theologians defend — Pontius and Basil, Book 3, chapter 6, Paul Comitolus, Book 1, question 110, where he reports the answer of Clement VIII so affirming, who dispensed that in a like case the spouses should contract secretly between themselves, consent being renewed, with the legitimation of the offspring. The opposite opinion is defended by Sánchez, Bonacina, Castropalao, and very many others. I answer in few words that in these cases bishops or the Roman Pontiff are to be consulted.

Chapter IV — On the sins which spouses can perpetrate in the exercise of the conjugal office against the end, the time, the place, and the good of offspring

I. QUESTION I. *How can spouses sin against the end of matrimony?* ANSWER. They sin: 1. If they be mingled for the sake of pleasure alone. Formerly some taught the opposite, whose opinion Innocent XI condemned: *The work of marriage exercised for pleasure alone is utterly free from all fault and venial defect*. Brutes, not men endowed with reason, operate for the sake of pleasure alone.

II. QUESTION II. *What is the end on account of which the conjugal act is lawful and meritorious?* ANSWER. It is the procreation of offspring, or the rendering of the debt. Some teach that the conjugal act is lawful and good when exercised for the recovering or confirming of bodily health. The Doctors of the Church openly teach the opposite. Let it suffice to allege one, St. Thomas, who in the Suppl., q. 49, art. 5, reply 4, has this: *Although to intend the preservation of health be not of itself evil, nevertheless this intention is made evil if health be intended from something which is not of itself ordained to this; as if a man should seek from the sacrament of Baptism only bodily health; and similarly also in the case proposed in the act of matrimony.* The same teach Augustine, Jerome, and all the Doctors of the Church. The reason is clear. Matrimony was not instituted for the recovering or preserving of the health of the body. Therefore he abuses matrimony who exercises it as a means by which he may seek bodily health. Spouses also vitiate the conjugal office if they act too shamelessly and intemperately, says St. Augustine, Book *On the Good of Marriage,* chapter 16.

III. QUESTION III. *Are those free from venial fault who use matrimony against their own incontinence and against other graver outrages?* ANSWER. Fr. Claude La Croix, Book 6, part 3, no. 291, candidly confesses that Sts. Augustine, Bonaventure, Thomas, and Gregory the Great, reported in chapter *Nervi,* distinction 13, teach that the conjugal act exercised for the avoiding of one's own incontinence is a venial sin; but he subjoins: *Very many other theologians and jurists, with Durandus, Cajetan, Medina, Navarrus, Almain, Gaspar, Layman, Coninck, Rebello, Hurtado, Henríquez, Pontius, Mastrius, Aversa, say most probably that there will be no sin.* Behold in what place the first lights of the Catholic Church are held by very many Probabilists.

IV. But we, this new manner of opining being dismissed, bring into the midst the doctrine of the holy Fathers. St. Augustine, expounding the words of St. Paul, 1 Corinthians 7, *Return together again, lest Satan tempt you for your incontinency; but I speak this by indulgence, not by commandment,* teaches these things in the *Enchiridion,* chapter 78: *It could be thought to be no sin to be mingled with a spouse, not for the sake of procreating children, which is the good of nuptials, but even of carnal pleasure, so that fornication or adultery or any other uncleanness — a deadly evil which it is base even to speak of — be avoided by an infirmity which can be dragged along by Satan tempting. It could therefore, as I have said, be thought to be no sin, had he not added: But I say this according to pardon, not according to command. Who now would deny it to be a sin, when apostolic authority is granted as pardon to those doing it?*

V. St. Thomas in the Suppl., q. 49, art. 5, reply 7, confirms the doctrine of Augustine, Gregory, and all the other Fathers with these words: *But if a man intend by the act of matrimony to avoid fornication in his spouse, it is not any sin, because this is a certain rendering of the debt which pertains to the good of fidelity. But if he intend to avoid fornication in himself, then there is there a certain superfluity; and according to this it is a venial sin: nor for this was matrimony instituted, save according to indulgence, which is of venial sins.* This same doctrine St. Thomas repeats on 1 Corinthians 7, lecture 1, where he says: *It is to be considered that the conjugal act*

is sometimes meritorious and without all fault, mortal or venial; for instance when it is ordained to the good of offspring to be procreated or educated for the worship of God, for thus it is an act of religion; or when it is done for the cause of rendering the debt, for thus it is an act of justice. But every act of virtue is meritorious, if it be with charity. Sometimes indeed it is with venial fault, namely when someone is excited to the matrimonial act from concupiscence, which nevertheless stands within the limits of matrimony, namely that he be content with his wife alone. Sometimes indeed it is a mortal fault, namely when concupiscence is borne beyond the limits of matrimony, namely when someone approaches his wife as willingly, or more willingly, as he would approach another. In the first way therefore the act of matrimony does not require indulgence; in the second way it has indulgence, inasmuch as one who trusts in concupiscence toward his wife is not guilty of mortal sin; in the third way it has no indulgence at all. Like things teach Gregory, Anselm, Bonaventure, and the rest of the Fathers, and among the more recent the graver theologians commonly.

VI. Let parish priests and confessors nevertheless be prudent in admonishing and instructing spouses in the holy end of matrimony, of procreating and educating offspring for the worship of God. Let them inculcate this end and no other: of capturing carnal pleasure, of saturating concupiscence. Let them most cautiously and most chastely remember. For since that office is scarcely wont to be exercised without pleasure and concupiscence, if they should wish to look into such things more subtly than is fitting, they will offend ears and expose themselves to danger.

VII. QUESTION IV. *Do spouses sin who exercise the matrimonial act on days of fasting and on the day on which they have received the Eucharist?* ANSWER. Very many deny it; but the Fathers and Councils affirm it. It pleases me to transcribe a few things from cause 33, question 4, chapter 3, where these things are had concerning the time of fasts: *Brethren, you ought not only to abstain from all uncleanness, but also most studiously to contain yourselves from your own wives. Let no one on the days of fasts be joined to his own wife.* Again there, chapter 4, it is subjoined concerning feast days: *If a wife is taken for the cause of procreating children, much time seems to be granted for that use; and since the feast days themselves show that on these times one ought to cease from the reason of conception, and to keep it more purely according to the law.* Again there, chapter 1, it is inculcated out of St. Augustine: *It is sometimes lawful for a Christian to come together with his wife, sometimes indeed it is not lawful. For on account of the procession of prayer it is sometimes not lawful to come together; nay, even from lawful things one must abstain, that what is sought may more easily be obtained. Whence the Apostle says that one must abstain by consent for a time, that one may be free for prayer.* Read there several things.

VIII. La Croix, Book 6, part 3, no. 311, says: "That of itself, speaking, it is lawful to have the use of matrimony on the day of communion, has been said in Book 6," and so forth. To the canons and the holy Fathers he answers with Sánchez, Coninck, Aversa, and others, that they suggest a counsel.

IX. That it may be always more evidently discovered by confessors how far the doctrine of very many casuists differs from the doctrine of the holy canons and of the Fathers, I transcribe a few things out of many. In cause 33, chapter 4, these things are had: *If the loaves of proposition could not be eaten by those who had touched their own wives, how much more can that bread which came down from Heaven not be violated and touched by those who a little before have clung to conjugal embraces? Not that we condemn nuptials (for this we do not say), but because at that time in which we are about to eat the flesh of the Lamb, we ought not to be free for the works of the flesh.* If Christians ought to approach the Eucharist fasting from all food, how much more must they needs be fasting from the conjugal office? Concerning feast days, in the same place, chapter 2, these things are prescribed out of St. Augustine: *As often as either the day of the Lord's Nativity*

or the other festivities draw near, as I have frequently admonished, for several days before we ought to abstain not only from the company of unbelieving concubines, but even from our own wives. Frequently then did the Fathers of the Church admonish spouses.

X. After the sacred canons and the Fathers of the Church, St. Thomas in the Suppl., q. 64, art. 5, assigns the reason: *Just as certain places are sacred because they are deputed to sacred things, so certain times are sacred for the same reason. But in a sacred place it is not lawful to ask the debt. Therefore neither in a sacred time.* What to these things say the Probabilists? The Angelic in the same place dissolves all the sophisms which can be opposed.

XI. But that those may be touched with some shame who on feast days and on the very day of sacred communion defend the conjugal office lawful, it pleases me to transcribe what the Catechism of the Council of Trent, which excels six hundred casuists, prescribes, part 2, chapter 8, § 34. This is the title of the cited paragraph: *That spouses must sometimes abstain from the conjugal office.* Then these things are had: *But since all good things are to be obtained from God by holy prayers, this is another thing which it behoves to teach the faithful, that they abstain sometimes from the office of matrimony for the cause of praying and beseeching God: and above all let them know that this is to be observed by them for at least three days before they receive the sacred Eucharist, and more often when the solemn fasts of Lent are celebrated, as OUR fathers rightly and holily PRESCRIBED. For thus it will come about that they themselves feel the goods of matrimony increased daily with a greater accumulation of divine grace; and, spreading the studies of piety, they not only pass this life tranquilly and placidly, but also lean upon the true and stable hope, which confoundeth not, of obtaining eternal life by God's benignity.*

XII. QUESTION V. *Whether the conjugal office be vicious by reason of a place either public or sacred?* ANSWER. If copulation be exercised in the presence of others, it is a mortal sin, no one denying it, on account of the scandal. Touches themselves between spouses in the presence of others are vicious. The conjugal office in a sacred place, urgent necessity being taken away, is sacrilegious. In the time of the menstrual flux the conjugal office is unlawful. For in Leviticus 20 these things are prescribed by God: *He that lieth with a woman in her flowers … both shall be destroyed out of the midst of their people.* Again chapter 18: *Thou shalt not approach to a woman having her flowers.* The testimonies of Augustine, Jerome, and the other Fathers I pass over.

XIII. Nevertheless Fr. Dominic Viva writes these things, question 7, article 1, no. 3: "It is asked secondly, at what time the conjugal act is unlawful? I answer that it is not unlawful on feast days, or on days of fasting, nor on the day of communion, nor at the time when the wife is pregnant, or suckles offspring, or suffers menstruation, nor before the nuptial blessings; although it is a counsel to abstain at those times."

XIV. Holy Scripture commands that those approaching a menstruous woman be destroyed out of the midst of the people. Viva and others will reply that Christ lightened the law, and did not aggravate it. But all the Fathers, the canons, and the Councils maintain that at such a time this office is unlawful. Ought one not rather to stand by these than by modern authors?

XV. That those who approach a pregnant wife are defiled with venial fault all the Fathers to a man teach. The most distinguished D. Eusebius Amort in his *Dissertation on Conjugal Intercourse with Pregnant Wives* brings into the midst all the most clear testimonies of the Fathers, and utterly routs the contrary opinion of adversaries. Even the nurses themselves disapprove the same doctrine: for

these, while they suckle, abstain from the conjugal office; and mistresses who are mothers most severely guard the nurses of their own sons that they be not known by their husbands, on account of the harm to the offspring. A hard law, you say. Hard to the hard, to the carnal, and to the intemperate who would wish to wallow like swine in the bitumen of lust. But it is a sweet law to Christians temperate and well-mannered, who are joined not for the fulfilling of venery, but for the cause of procreating offspring. Demented spouses are forthwith to be separated. To a drunken man asking a wife is not bound to render, save for the avoiding of greater evils.

XVI. QUESTION VI. *How can spouses sin against the mode of exercising the conjugal office?* ANSWER. There is no need to look into such things, since nature itself, endowed with the light of reason, is the mistress. Christian spouses ought always to have before their eyes the rules of their own profession, which is holy and immaculate. But the chief rule of married persons is that which Tobias, chapter 8, assigns: *And now, Lord, thou knowest that not for fleshly lust do I take my sister to wife, but only for the love of posterity, in which thy name may be blessed.* Nature itself teaches that in the conjugal office the woman be beneath and the man above. Spouses therefore sin if they invert this order prescribed by nature, by exercising that office standing, sitting, the man beneath and the woman above, or if after the manner of cattle they come together preposterously, though the vessel be preserved. Excessive corpulence of the man, and tenderness of the spouse, can sometimes excuse, so that they may know one another in a manner nearer to honesty.

XVII. QUESTION VII. *If a husband be accustomed, while he performs the office, to withdraw himself, that he may hinder generation, does a wife sin by rendering the debt?* ANSWER. John Pontas proposes this case, under the word *Conjugal Debt,* case 39. He contends that the woman is obnoxious to no fault, provided she herself dissent, resist, and oppose as far as she can. And he strives to prove this by the example of Onan, who on account of the effusion of seed in intercourse with Thamar was struck by God. But Thamar was not punished. What thence? Therefore Thamar did not sin, because she is not read to have been struck? Inept is that consequence. Does God always punish all sinners in this world? Onan sinned more gravely: therefore God punished him. Thamar sinned less, therefore perhaps he did not strike her. But to search out the divine secrets is not permitted us. This is certain, that a wife sins mortally who has certainly learned by experiment that her beastly husband of set purpose squanders the seed destined for generation, if she does not deny the debt, because she gives her labour to a thing by its own nature unlawful and gravely criminal.

XVIII. Fr. Sánchez, Diana, Sporer, and others have devised shameful opinions, and have undertaken to make honourable modes of coming together carried into execution by the filthiest husbands, such as can scarcely be reported without detriment to natural modesty. Fr. Claude La Croix, Book 6, part 3, from no. 328 to no. 350, after his manner stuffs in a census of all the opinions which modern doctors have devised in this matter, chiefly Sánchez, Diana, Gobat, Mendo, Dicastillo, and others. These things, if wives read them, will learn what perhaps they are ignorant of.

XIX. Some formerly taught lax opinions even concerning the procuring of abortion, two of which Innocent XI proscribed, namely no. 34: *It is lawful to procure abortion before the animation of the foetus, lest a girl be found pregnant.* Sánchez teaches that a woman oppressed by force can forthwith expel the seed, as an unjust assailant of chastity, for the avoiding of infamy: which opinion I repute false. Pregnant women procuring abortion, and the rest who give their labour to it, are obnoxious to the excommunication passed by Sixtus V. The other thesis the same Innocent XI proscribed, no. 35: *It*

seems probable that every foetus, so long as it is in the womb, lacks a rational soul, and then first begins to have one when it is brought forth; and consequently it will have to be said that homicide is committed in no abortion.

Chapter V — Whence chiefly it comes about that very many marriages abound with inconveniences and hardships. Admonitions to confessors and parish priests

I. The chief cause is that very many, God not being consulted, undertake so great a business at the suggestion of avarice alone, or of luxury, or of ambition. These causes Hugh of St. Victor sets forth in his epistle to his companion, saying: "Wives are taken today, not for the cause of avoiding fornication, but for the cause of luxury; not for the cause of offspring, but for the cause of money. Riches are wont to be chosen in wives rather than chastity. Many take wives not with their eyes but with their fingers — that is, they take wives not on account of the virtues which they see in them, but on account of the moneys which they can count out. The best thing is that which avarice does not conciliate, and which luxury does not couple."

II. Those who for the cause of saturating venery celebrate the great sacrament of matrimony cast themselves into the most grave hardships. No less unhappy are the marriages which are contracted from a cupidity of moneys. Two young men strove to take a philosopher's daughter as betrothed, of whom one was poor but prudent and well-mannered; the other rich but frivolous and imprudent. The philosopher, the rich youth being rejected, espoused his daughter to the poor young man. To friends reproaching him with the deed he replied: *I had rather give my daughter to a man in need of money than to money in need of a man.* A sentence worthy of a wise philosopher.

III. The other chief cause of quarrels, brawls, and aversions which are wont to accompany matrimony is the outrages, basenesses, and obscenities with which the betrothed, being contaminated, approach this sacrament. Whence it arises that neither do wives wish to be subject to their husbands, nor are husbands wont to love their wives as befits. Wives are bound to obey their husbands, says St. Paul, Ephesians 5: *Let women be subject to their husbands, as to the Lord: because the husband is the head of the wife, as Christ is the head of the church. He is the saviour of his body. Therefore as the church is subject to Christ, so also let the wives be to their husbands in all things.* But why women often transgress this precept, for the most part husbands are the cause, who neglect to go before women with the example of virtues, who neglect with Christian prudence to bear the defects of the weaker sex, who neglect to follow their wives with a divine love, against the mandate of the same Apostle: for Paul forthwith subjoins in the same place: *Husbands, love your wives, as Christ also loved the church, and delivered himself up for it. … So also ought men to love their wives as their own bodies. He that loveth his wife loveth himself. For no man ever hated his own flesh; but nourisheth and cherisheth it, as also Christ doth the church: because we are members of his body, of his flesh, and of his bones. For this cause shall a man leave his father and mother, and shall cleave to his wife; and they shall be two in one flesh. This is a great sacrament; but I speak in Christ and in the church. Nevertheless let every one of you in particular love his wife as himself: and let the wife fear her husband.*

IV. The other and most grave cause why so many families wither and are extinguished, why so many dissensions and aversions burn, is that pestiferous corruption hitherto unknown to all nations, even to the very heathen and Turks — namely of promiscuous conversations between men and women. The matrimony being entered upon, the husband espouses his own mistress, the wife her own lover. Both, if not in words, at least in deed consent that each may have his own little lover and her own

little paramour. The Platonic community of husbands and of wives, if not full, at least half-full, has been brought in. Even if a community of bed did not happen — which is not most difficult — is it not a great crime that a wife should be the mistress either of another husband or of a most shameless youth; that she should be in servitude to these for solace, sport, and diversion, so that from them she may receive again and again the tributes of servitude, little gifts, and services? Those wives who, their own husbands being neglected, converse, play, dance, and caper with other men and husbands, are not the wives whom Paul describes, but imitate the vilest harlots and little strumpets of the crossroads; who defame Christ, who defame the Church, who dishonour their husbands, who break off the succession of families, who disturb society, and who bring in a gross and asinine ignorance into almost all assemblies of men. Men, their own offices being neglected, sow the time with their little mistresses. Of all evils of this kind the husbands are the cause. They are unwilling to coerce their own concupiscence. They are not content with the drink of their own fount, but seek out others' muddy cisterns; and therefore they cannot contain their wives in order. But these wives, made bolder by the depraved examples of their husbands, and with the reins shaken out, become unbridled, and lead their life with their own lovers. Hence the form of times, of hours, and of the best government is disturbed, and all things are confounded. All these things are known to the blear-eyed and to the barbers. What remedy is there? For the wrath of God is kindled, and the fury of divine vengeance strikes with the scourge of a most mournful blindness those who most boldly contend to maintain against holy Scripture, the Fathers, the theologians, the preachers, and experience itself that a most pernicious corruption is honourable.

V. The first ADMONITION which I exhibit to parish priests and confessors is that they altogether deny the sacraments to husbands and wives who are followers of the Platonic and half-full community, until they come to their senses. Otherwise with those not coming to their senses they will descend into hell. If any remedy is left to be applied to so dire a plague, it is in the hand of confessors. Let them suspend absolution to these men, until these marital commerces be broken off. Unless this be done, the die is cast, and no hope of salvation remains.

VI. The second ADMONITION is that parish priests and confessors learn from the Apostle St. Paul the reason and form of the discourse with which they ought to address them. Let them expound in a grave oration the sublimity, excellence, and pre-eminence of evangelical matrimony. Let them interpret the divine documents of the same Apostle. Let them declare the chastity, honesty, and holiness of the conjugal office. Let them often intone the saying of St. Paul: *That every one of you should know how to possess his vessel in sanctification and honour, not in the passion of lust, like the Gentiles that know not God.* Let them represent in congruous words the perpetuity of reciprocal love, and the indissolubility of the mutual bond even unto death. Let them set forth the opposition of the disciples, who, when they had heard the burdens of matrimony, cried out: *If the case of a man with his wife be so, it is not expedient to marry;* who said to them: *All men take not this word.* Matthew 19. Not to be long: if parish priests shall have kindled the fire of charity in married persons, if they shall have excited in them the spirit of Christianity, if they shall have formed true Christians, superfluous are, and can be handed over to the fire, all those questions and opinions concerning wifely matters which not a few have stirred up, whereby they bring scandal even to the heretics themselves. Since indeed married persons, when they shall have been joined to Jesus Christ by the bond of charity, will be united between themselves; and the interior virtue itself, probity, and sanctity will eloquently teach the honesty, purity, and chastity which spouses ought to acknowledge, without there being need that

they be instructed by others. Opinions most filthy, wherever they are read in the books of certain men, offend readers and dishonour Christian spouses. And let these things concerning the great sacrament of matrimony suffice to have been said.

Dissertation IV — On censures in general and severally

Chapter I — The notion and partition of a censure, and who can pass censures

I. QUESTION I. *What is a censure, and of how many kinds is it?* ANSWER. It is *an ecclesiastical medicinal penalty of the exterior forum, by which a baptized believer is deprived of the use of certain spiritual goods, that he may depart from contumacy.* It is called a *penalty,* because it supposes a fault. *Medicinal,* because it wills amendment. *Of the exterior forum,* because he who inflicts it must be endowed with jurisdiction. It *deprives of the use of certain spiritual goods,* which are proper to Christians. The very conversation with the faithful of which excommunication deprives one is a certain spiritual good.

II. A censure is distributed into three species: excommunication, suspension, and interdict. Irregularity from a delict, deposition, and degradation are not medicinal penalties. Cessation from divine offices is not a censure, but a precept.

III. One censure is *from man,* another *from law.* All indeed are from man; but when superiors by force of a law or statute inflict a censure, it is called a censure from law. Wherefore the Pontiffs alone and oecumenical Councils can pass censures from law in the universal Church, and a bishop in his own diocese. Censures from man all superiors who have jurisdiction in the exterior forum can inflict. This censure, if it be not contracted, vanishes when the superior dies; if it be contracted, it lasts even when the superior is dead, until absolution be obtained. A censure passed from law lasts as the law lasts. Another censure is called *general,* passed against all who, for example, steal in such a place; another *particular,* passed against this or that person. Another is *of sentence passed,* which by the very deed binds the guilty before the judge's sentence. Another *of sentence to be passed,* which is incurred only after the judge's sentence. It is reputed of sentence passed when it is said *by that very deed, straightway, forthwith, immediately.* It is judged of sentence to be passed when the superior says *We command under penalty of excommunication or interdict,* or *he shall be excommunicated, he shall be suspended.* In doubt it is to be judged that the censure is of sentence to be passed, not of sentence passed. When it is said *let him be anathema,* or *let him be excommunicated,* the censure is of sentence passed.

IV. QUESTION II. *Who by ordinary right can pass censures?* ANSWER. It is a truth of faith that the Church can pass censures. In the first place, the Supreme Pontiff by ordinary right has power in the universal Church of passing censures. Similarly general Councils in the universal Church, provincial ones in the province, diocesan ones in the diocese, enjoy the same power; and likewise Patriarchs, Archbishops, and Bishops; Cardinals in their own Churches can pass censures; likewise Generals, Provincials, Rectors, Provosts, Priors, and Guardians of Regulars in respect of their own subjects; and the Chapter of a cathedral Church, the See being vacant.

V. This power can be delegated by ordinary right even to a cleric, and not only to a priest, provided the cleric be not married. This power delegated by the Supreme Pontiff can be subdelegated by force of a privilege granted by the Apostolic See to papal delegates. No one can excommunicate himself, just as neither can he pass sentence in his own cause. He who inflicts censures is required to be baptized, a cleric not married, marked at least with the first tonsure.

VI. The mode of passing censures has no determinate formula or precise words; but it is enough to employ those which suffice for expressing the judge's will. But tribunals have their own prescribed formulas. An admonition ought to precede a censure, because a censure is not passed save against the contumacious. But he is not called contumacious who was not first admonished. And this admonition must needs be canonical, even if the delict be notorious. This admonition ought to be threefold, or one which is equivalent to three. Then a threefold admonition precedes when the guilty party is thrice admonished at a congruous time, the space of two or more days flowing between. One is equivalent to three when the judge assigns a congruous time for three, for instance of six or ten days. If there be danger in delay, within the same day, nay within a few hours, three intervals being always assigned for the threefold admonition, he can pass the censure. This admonition must needs be made in writing or before witnesses. If a censure is to be passed against several, it is enough that it be made in the church before the people. If an interdict is to be passed against a community, not individuals but only those are to be admonished whose fault is the cause of the interdict. If the delinquent study to decline the admonition, it suffices that the admonition be made either in the church or at his house. Authors assert no censure valid unless a threefold admonition, or one equivalent to three, precede.

VII. On festal days censures ought not to be passed; they are nevertheless valid, though unlawful, even when passed on these days. Those who have a limited territory cannot pass censures outside it. When nevertheless the cognizance of the cause has been made in their own territory, or when the contumacy is so notorious that it needs no discussion, and a canonical admonition has preceded, a censure can validly be passed by a bishop even dwelling in another's territory. When a bishop has been unjustly expelled from his own diocese, he can in places nearer to it exercise contentious jurisdiction over his own subjects, licence having been sought from the Ordinary, although not obtained, as is had in the *Clementine Quamvis* on the competent forum. A bishop can also inflict censures upon a subject delinquent in his own territory, even if he has passed to another territory: otherwise delicts would remain unpunished, and ecclesiastical discipline would be frustrated, since a subject could not be punished by another bishop. But a bishop cannot punish with censures a subject sinning in another's territory. If nevertheless he return to his own diocese, and there be convicted by the injured party of a delict committed in another's territory, he can be compelled by censures by the bishop to repair the injured party. Another's subject delinquent in his own diocese a bishop can punish, unless he depart before the cause be known.

Chapter II — On the fault on account of which a censure can be passed, and what causes excuse from censures

I. QUESTION I. *Whether for the passing of a censure a proper fault and contumacy be required?* ANSWER. A censure is an ecclesiastical penalty; therefore it supposes a fault against the precepts of the Church. Wherefore delicts against natural or divine right, unless they be at the same time forbidden by the Church, do not lie subject to censures. Because censures are passed for the repressing of contumacy against the Church. Hence a censure cannot be inflicted for a sin altogether past or present, unless it have a successive course, by force of which someone can be called contumacious. No one can be bound with censures for another's fault. A general interdict does not touch the innocent immediately, save inasmuch as they have a connexion with the guilty.

II. The lesser excommunication can be passed for a venial fault, and in fact is inflicted for civil communication with an excommunicate to be shunned, which unless it be done in contempt, or in the crime for which the censure has been contracted, or in sacred matters, does not exceed a light fault. But the greater excommunication, suspension, and interdict, since they are most grave penalties, cannot be inflicted save for a mortal fault. A fault can be light in itself, but grave in order to the end. It is the part of superiors to judge whether such an action, the circumstances being regarded, be grave in respect of the end. Wherefore when superiors forbid something by an express precept, a censure being added, the transgression is mortal, and the censure is incurred. For an internal act a censure cannot be passed. Wherefore for a merely internal heresy excommunication cannot be passed, unless it be manifested by an external sign; but it suffices that a man alone in his chamber manifest it, because then it is external, though occult. On the contrary, if anyone exercise an external act of heresy or of idolatry without an interior act, he does not incur excommunication in the interior forum; although in the exterior forum he would be held as excommunicated, if it became known. When an internal act is connected with an external action, as attention of mind with vocal prayer, then he who should omit the internal act, although he posited the external, would be obnoxious to the censure: since although the Church lacks direct power over interior acts, yet while she commands external ones, she indirectly enjoins the internal which are necessarily conjoined with the external. By this reason the Church punishes interior simony connected with an exterior largess; she excommunicates Inquisitors who out of hatred or love of gain do or omit anything, provided this hatred or love break forth into external acts. The exterior sin on account of which a censure is inflicted ought in its own kind to be consummated: as if *stuprum* be forbidden under a censure, consummated copulation is understood, unless the law express the attempt also.

III. QUESTION II. *Whether a censure passed against the executors of a crime comprehends also those commanding and counselling?* ANSWER. The common opinion denies that those commanding and counselling are comprehended, unless in some clause they be expressly or implicitly included, because in merely penal matters odious things are to be restricted. When a censure is passed against those counselling or commanding homicide, even if the man be prepared for the homicide, those who counsel or command incur the censure, whatever some say to the contrary.

IV. What if the counsellor revoke his counsel, and the one commanding his mandate, before the execution of the work? Some distinguish between a counsellor and a mandatary. Others reject this distinction in this business. But they dispute whether they incur the censure when the revocation becomes known to the mandatary or counsellor, made with a sincere mind, not languid but efficacious and valid, by the one commanding and counselling. The first opinion denies it. The other affirms it; and the arguments of this second opinion seem the more urgent. What if the revocation, efficacious and validly made, do not become known to the mandatary or counsellor? That even then the revokers incur the censure the Salmanticenses with very many others defend. But this opinion is false.

V. QUESTION III. *What conditions are required that anyone can be entangled in censures?* ANSWER. Several. 1. That he be a wayfarer; 2. That he be a subject; 3. That he be baptized; 4. That he be endowed with reason; 5. That he be a determinate person. This last condition is understood of excommunication, which cannot be passed against a community, city, college, and so forth, as is gathered from chapter *Romana* on sentences of excommunication, in the Sixth. One person can be struck with several

censures, as all teach. He who is excommunicated can be interdicted and suspended. A man can be excommunicated by diverse judges for the same delict — namely by the bishop of origin, of domicile, and by the Pontiff. In practice nevertheless no guilty party is excommunicated for one delict save by a single excommunication.

VI. Authors dispute whether censures are multiplied as often as transgressions against a precept to which a censure is annexed are repeated. And they commonly answer that if the transgressions be formally interrupted — as if someone today should strike a cleric, and after a week again strike the same or another cleric — the censure would be multiplied according to the formal multiplication of the transgressions. When one man strikes three clerics at once, just as he perpetrates three crimes, so he incurs a threefold penalty of censure, as seems the more probable.

VII. QUESTION IV. *What causes excuse from censures?* ANSWER. Several. 1. Necessity of acting against a precept, just as it excuses from sin, so it excuses from a censure. An excommunication has been passed against those labouring on a feast day. That necessity which renders the work lawful on such a day likewise exempts from the censure. 2. The nullity of the censure; 3. The innocence of the man; 4. Ignorance; 5. Impotence; 6. Fear; 7. The injustice of the cause.

VIII. Ignorance, as has been said elsewhere, is of one kind of right, of another of fact, of another of penalty. One is invincible, another vincible; another gross, affected, or supine. He labours under ignorance of right who is ignorant of a law forbidding or commanding. He labours under ignorance of fact who is ignorant that he whom he beats is a cleric. Ignorance of penalty is when someone is ignorant that a penalty has been appended to such a crime. You know that the beating of a cleric is forbidden; you know that he whom you beat is a cleric; but you know not that a penalty has been appended to this unlawful beating of a cleric. That is invincible which cannot be overcome by human industry; and vincible which can be overcome.

IX. Fr. Viva, question 1 on censures, article 6, no. 7, with the Probabilists distinguishes vincible ignorance into *inculpable* and *culpable.* He calls *culpably vincible* that which a man can overcome, and believes himself bound to employ the diligence by which he may overcome it and acquire the knowledge of the truth. He calls *inculpably vincible* that which a man can overcome, diligence being employed, but believes himself not bound to employ this diligence, that he may attain the truth. This vincible ignorance void of malice, new and unheard-of, burst into the light after the birthdays of Probabilism, which in Vol. II of the *Apparatus* I have utterly routed. This vincible ignorance, which is always noxious, is of one kind called *affected,* when a man studiously wills to be ignorant of what he is bound to know. Another is *gross,* when from a certain torpor a man neglects the inquiry into truth. Another is called *supine,* when a man, distracted by various businesses, omits to investigate what he is bound to know. Lastly another is *antecedent,* which is the cause of the act. Another is *concomitant,* which is not the cause of the act, but without it the act would be done — as when someone burns so with hatred against a man that, killing him who is truly a cleric but is in fact unknown by him to be so, he would kill the same if he did know it.

X. Ignorance truly invincible, whether of right or of fact, just as it excuses from fault, so it exempts from censure. Ignorance venially vincible excuses from a censure for the incurring of which a mortal fault is required. Ignorance nevertheless is not presumed in the exterior forum unless it be proved, as is said in chapter *Ignorantia* on the rules of law in the Sixth. Ignorance of fact excuses, but not of law. He who knows that homicide is forbidden by divine right, but is invincibly ignorant of the

ecclesiastical law forbidding it under a censure, does not according to very many incur the censure, although he sin against natural and divine right: because, they say, for the contracting of a censure contumacy is necessary, which an admonition ought to precede. For the penalty of censure differs from those penalties passed either by the civil forum or by the ecclesiastical forum, which are contracted even if they be ignored, when the law is known. Wherefore a homicide, from whom the law forbidding it is not hidden, is obnoxious to capital punishment even if he be ignorant of this penalty. Similarly he who knows the ecclesiastical law forbidding such an act would incur irregularity from a delict, although he were ignorant of such a penalty. On the contrary, if he were invincibly ignorant of the ecclesiastical law, just as he would be immune from fault, so he would be free from irregularity from a delict.

XI. Very many and grave theologians teach that invincible ignorance of a censure alone, passed by a universal law of the Church or a universal canon, does not excuse from incurring it him who knows the same law. Fr. Antoine turns over this question at large. I settle the matter in few words. The hypothesis being admitted that the ignorance of the censure were utterly invincible, it would not be contracted, although passed by a universal law or canon. But because it does not so easily happen that ignorance of a censure annexed to a universal law be truly invincible, therefore transgressors of the same law are not easily to be judged exempt from it. Who would judge that man immune from a censure who should commit a duel, knowing it to be forbidden by the Church, because he is ignorant that a censure has been annexed to this prohibition?

XII. When in a law it is said, *he who shall knowingly do this, he who shall presume to do it, he who shall rashly do it,* then by reason of clauses of this kind authors commonly teach that vincible ignorance excuses from the censure: because by such clauses the law requires a greater knowledge than other laws destitute of these clauses. The Salmanticenses with others contend that even affected ignorance itself excuses from the censure. But this opinion to me is false, because affected ignorance is equivalent to knowledge.

XIII. Grave fear falling upon a constant man excuses from a censure, even from a sin forbidden only by ecclesiastical right. If the thing forbidden be of divine right, under an ecclesiastical censure, it does not excuse from the sin, but from the censure only. He who, struck by grave fear, should kill a cleric, would sin against natural and divine right, but would not incur the censure.

XIV. He who doubts whether a judge has passed a sentence of censure or not, ought to judge that it has not been passed, because in merely penal matters the milder part is to be embraced. He who is certain that a censure has been passed, whether from law or from man, but doubts whether he has contracted it, ought to bear himself as if he were entangled in the censure, until either he lay aside the doubt, or be absolved from the censure.

XV. An innocent man who in the exterior forum is excommunicated according to what is alleged and proved is before God not excommunicated. But in the presence of those who are conscious of the excommunication, if they be uncertain of his innocence, he ought to bear himself as entangled in the censure: because a judge's sentence, valid and lawful although in fact unjust, is to be obeyed, both for the avoiding of scandal and in obedience to the supreme authority. Wherefore it is the more probable that this innocent man ought to abstain from the reception and from the administration of his own Order, even privately, and from external communication with the faithful: whence Clement XI by right disapproved theses 90, 91, and 92 of Paschasius Quesnel.

Chapter III — On absolution from censures

I. QUESTION I. *Whether one entangled in a censure is bound under mortal sin to seek and solicit absolution as soon as he can?* ANSWER. The affirmative opinion is common. The Salmanticenses, tract 10, chapter 1, point 1, no. 1, say: *Any delay is mortal of its own kind, unless it be excused by smallness of matter or from other heads.* With both thumbs I subscribe to this doctrine; whence it is inferred how false is the opinion concerning the delay of a sinner's conversion to God. Any delay in procuring absolution from an ecclesiastical censure, which deprives one of the use of certain spiritual goods, is of its own kind a mortal sin; and shall the delay of seeking absolution from a mortal sin, which deprives one of eternal life, be immune from mortal fault? I fear lest in respect of some that axiom be true: *These men amplify ecclesiastical right, and cut short the Decalogue.* Segregation from God, from the fellowship of the Angels, destination to dwell with devils — because it is remote from the senses — does not urge, does not prick, as does segregation from external and visible communication with the faithful.

II. QUESTION II. *Of how many kinds is absolution from a censure?* ANSWER. One is absolute, by which the guilty party is absolutely loosed from the bond. Another conditioned, which depends upon a condition either past or present, as *if thou hast satisfied the party, if thou shalt satisfy.* Another absolution is called *for caution,* as when someone doubts that he is affected by a censure; which absolution can be imparted by any confessor whatsoever, a promise being made of furnishing satisfaction to the party, or of approaching the superior when the truth is discovered. Others are called *with relapse,* or with the penalty of falling back into the same censure, unless he who is absolved shall have performed what is imposed. Another is from one determinate effect, the rest being left, as when the Pontiff absolves someone and renders him fit for obtaining a benefice or another privilege. Without one of these absolutions a censure does not cease, neither by the death of the Superior passing it, nor by change of territory, nor by the death of the excommunicate: for the contrary opinion has been condemned by Alexander VII, no. 4: *As regards the forum of conscience, the guilty party being corrected and his contumacy ceasing, the censure ceases.*

III. In absolution from a censure the formulas prescribed in the Rituals are to be observed. The solemnity to be observed in absolutions of this kind is had in chapter *Per tuas* on sentences of excommunication. The conditions nevertheless there prescribed are not today observed. Theologians dispute whether absolution be valid, the injured party not being satisfied with a real or pledged satisfaction. Many affirm it; but they say that the one absolving sins mortally and is obnoxious to restitution. When in a bull of Jubilee, or in another privilege, a faculty is granted of absolving from censures with this clause, *the party being satisfied, otherwise let the absolution not hold,* the absolution is not valid, the condition not being fulfilled, unless the one to be absolved be impotent to satisfy.

IV. It is agreed among all that one entangled in censures can validly be absolved even unwilling and resisting, and not only unknowing or not asking. Authors nevertheless distinguish a twofold resistance: one of not receding from the sin and the contumacy for which the censure was passed; the other of not asking absolution, although the guilty party be amended from the sin. In the former case, if the sin have a successive course, as heresy, theft, and so forth, they say he cannot be absolved unwilling, save by him who has power above the law and the precept. But if the sin be complete, as fornication, blasphemy, and other past sins, then they teach that he can be absolved even unwilling. Similarly they defend that he who is amended from the sin and is unwilling to ask absolution can be

absolved. They advert nevertheless that then absolution is to be imparted only when it is foreseen to be more medicinal than the censure.

V. A man can be absolved from one censure and not from another. But he who has the faculty of absolving from all censures can perform it by a single absolution. But if he lack such power, then he must be absolved by another who is endowed with this power. He who, being entangled in several censures, manifests one guilefully, the others being concealed, it is not to be thought that the confessor wills to absolve from all, unless he express it. If nevertheless the guilty party omit some from forgetfulness, and the judge absolve generally, then, unless something else be established, he is to be reckoned to will to absolve from all. Hence in the time of a Jubilee a man is generally absolved from all censures, although he have forgotten some; and from the forgotten sin to which a censure is annexed he can be absolved by any priest whatsoever; unless nevertheless some of the censures have conjoined a work of satisfying and compensating the injured party. For if the one to be absolved should conceal that he had not satisfied the injured party, that he had not receded from heresy, the absolution would be null.

VI. QUESTION III. *Who can absolve from censures?* ANSWER. All those who can pass censures can also absolve their own subjects from them: this a bishop can perform even in another's territory. He who has power of absolving from reserved cases has at the same time the faculty of absolving from censures, since absolution from censures ought to precede absolution from reserved cases to which censures are annexed. A faculty granted in a Jubilee, or in another privilege, of absolving from censures reserved to the Supreme Pontiff extends also to absolving an excommunicate denounced by name, whether by law or by man, if nevertheless he shall first have satisfied.

VII. Parish priests and ordinary confessors who can absolve from mortal sins can absolve from censures passed by law and not reserved, as authors commonly teach, and gather from chapter *Nuper* 29 on sentences of excommunication, and St. Thomas confirms it in the Suppl., q. 34, art. 1. On the contrary from censures reserved in law he only can absolve who passed them, or a superior, or a successor, or one delegated by the same. Wherefore from censures reserved to the Pontiff the Pontiff alone, from those reserved to the bishop the bishop alone, can absolve. In the article of death, as has been said elsewhere, any priest whatsoever can absolve from all censures; and, as Trent declared, session 24, chapter 7, the same faculty of absolving is granted to any confessor whatsoever, when access to the superior to whom the censures are reserved is impossible or exceedingly difficult, as is had in chapter *Nuper a nobis* 29 on sentences of excommunication, in these words: *But if it be difficult from some just cause that he who is to be absolved from excommunication approach him, we concede by indulgence that (the caution being furnished according to the form of the Church, that he will obey the mandate of excommunication) he be absolved by his own bishop or proper priest*. In these cases nevertheless — namely in the article of death, or by reason of an impediment — the confessor ought to exact from him whom he absolves an oath that, when he can, he will present himself to the superior. But if he shall have omitted, opportunity being given, to execute what he promised, he will fall back into the same censure. And although the confessor either from ignorance or from forgetfulness omit to impose this burden of appearing before the superior when the penitent can, nevertheless the penitent is bound to appear, because this burden depends not upon the confessor but upon the law. When nevertheless he is absolved from reserved cases to which censures are not annexed, there is no debt of appearing.

VIII. QUESTION IV. *Who can absolve from censures passed by man?* ANSWER. He can absolve who passed the censure by a particular sentence against a determinate person, or a superior, or delegates. The same very many hold, if the censure was passed by man by way of a general sentence, precept, or statute for the avoiding of future delicts. But others more probably teach that from these censures not reserved, though passed by man, any confessor whatsoever can absolve, just as from censures passed by law.

IX. QUESTION V. *What are the censures and cases reserved to the Supreme Pontiff from which bishops can absolve by ordinary right?* ANSWER. Bishops can by ordinary right absolve from censures reserved to the Supreme Pontiff contracted from an occult delict, as Trent, session 24, chapter 6 *On Reformation,* established. Likewise from censures contracted for public delicts, when a grave necessity urges which renders access to the Supreme Pontiff difficult.

X. They dispute whether this faculty granted to bishops by Trent was revoked by the Bull of the Supper as regards the cases contained in it. Very many denied it, others affirmed it; but Alexander VII seems to have taken away the suit by condemning the following thesis, no. 3: *The opinion asserting that the Bull of the Supper forbids absolution from heresy and other crimes only when they are public, and that this does not derogate from the Tridentine faculty, in which the discourse is of occult crimes, was in the year 1629 on the 18th day of July in the consistory of the sacred Congregation of the Most Eminent Cardinals seen and not tolerated.*

XI. There are nevertheless not wanting those who deny that by the recounted thesis the faculty granted to bishops by Trent was taken away, chiefly since in the proscribed thesis no mention is made of bishops, to whom this faculty belongs by law, and Trent only declared that it was not taken from them. But this decision does not depend upon the reasonings of theologians. Wherefore I now leave the controversy to be settled by those whom it concerns.

XII. By the name of an occult delict that is commonly understood which either has not been brought to the contentious forum, or is not known to the greater part of the parish, province, monastery, and so forth. Wherefore although it can be proved by witnesses, if it be not public in the said manner, it is commonly called occult. But they assert that it has then been brought to the contentious forum when it has been reported by one witness and proved. If nevertheless the accused have purged himself in the forum even by false witnesses, and been absolved, they contend that this guilty party can be absolved by a bishop having the faculty over occult delicts. So teach the Salmanticenses, tract 10, chapter 2, point 6, nos. 59 and 60, where they cite several authors. The Salmanticenses add in the same place that a guilty party punished in the contentious forum can be absolved by a bishop, because the judgment is finished: which opinion to me is false, since the delict is then known and notorious with a notoriety of right and of fact.

XIII. QUESTION VI. *What faculty have Regulars of absolving from cases and censures reserved to the Supreme Pontiff?* ANSWER. Fr. Viva teaches that authors defend that Regulars can absolve from all cases reserved to the Apostolic See, the cases of the Bull of the Supper being excepted, and the six of Clement VIII in Italy outside the City. This is certain, that the power of absolving from pontifical cases does not infer a power of absolving from cases reserved to the bishop, since Alexander VII condemned this thesis, no. 12: *Mendicants can absolve from cases reserved to the bishop without obtaining for this the faculty of bishops.* He distinguishes nevertheless upon this proposition, no. 7, a threefold kind of cases reserved to a bishop. For some are reserved to the bishop by law or by custom, as the light striking of a cleric, and so forth: from these he says mendicants can absolve. Other cases are reserved

to the bishop in a Synod: from these also Regulars can absolve, while they are not noted in the table, teach authors, subjoins the same Fr. Viva. Lastly there are cases reserved and set forth in the table: and of these the condemned thesis speaks. When a faculty is granted of absolving from all censures, it is understood, says Fr. Viva, even from reserved ones, because any priest whatsoever has the faculty of absolving from those not reserved.

XIV. Lastly, by the concession of absolving from all cases reserved to the Apostolic See there are not understood the cases comprehended in the Bull of the Supper. Neither by the concession of absolving from the cases of the Bull of the Supper is there understood a faculty granted of absolving from heresy. That the opposite nevertheless is probable Fr. Viva concludes.

XV. The things which I have hitherto recounted out of Fr. Viva are in fact found among authors. The Salmanticenses, tract 10, chapter 2, point 6, no. 90, teach that regular Prelates can absolve their own subjects from all censures reserved to the Apostolic See, those excepted which are contained in the Bull of the Supper. They add that regular Prelates have by common law the same power over their own subjects which bishops have over their own diocesans. They allege several privileges granted to Mendicants, and chiefly the constitution of St. Pius V.

XVI. I myself bring forth no judgment upon the faculty of Regulars of absolving either their own subjects or others. All greatly desire a distinct and perspicuous decision of the cases and reserved censures from which Regulars can absolve. But in vain do they expect this from theologians. For what can theologians decide upon privileges which are cited and are not found; or, if they be found, either have been revoked, or it is disputed whether they have been revoked? The decision of those things which regard the jurisdiction of absolving depends not upon the reasonings of theologians, but upon the will of the Supreme Pontiff. The Moderators of the sacred regular Orders ought to solicit and to urge that they themselves obtain from the Holy Apostolic See a perspicuous declaration of the faculty granted to Regulars. It is the part of those Moderators to settle this most grave controversy in the said manner, that subjects may know what jurisdiction they have in the recounted matter.

Chapter IV — On censures severally, namely on the greater and lesser excommunication

I. QUESTION I. *What is excommunication, and of how many kinds is it?* ANSWER. It is *a censure by which a man is separated from the ecclesiastical communion of the faithful.* It is distributed into greater and lesser. The greater is *a censure by which a man is not only deprived of the participation of the sacraments, but is also segregated from the communion of the faithful.* The lesser is called *a censure by which a man is deprived of the participation of the sacraments and of the administration of the same, and of passive election to dignities and benefices of the Church.* The greater deprives a man of all things which lie subject to the jurisdiction of the Church, but by no means of all spiritual goods which are above the jurisdiction of the Church. Wherefore if an excommunicate recover the state of grace, he communicates with the other members of the same mystical body. The ecclesiastical goods of which an excommunicate is deprived are of two kinds. Some are civil, which regard human society, as cohabitation, salutation, conversations, and so forth. Others are spiritual and sacred, which similarly are distributed into two kinds. Some are exterior, as ecclesiastical burial, and attendance at the celebration of the divine offices. Others are called mixed, as participation of the sacraments, the use of the sacrifice, communication in prayers, and so forth.

II. Ten effects of the greater excommunication are wont to be recounted: 1. Privation of the suffrages of the Church; 2. Privation, both active and passive, of the sacraments; 3. Privation of sacred things; 4. Unfitness for receiving Orders and for their use; 5. Privation of ecclesiastical jurisdiction; 6. Unfitness for exercising legitimate acts in judgment; 7. Unfitness for conferring ecclesiastical benefices; 8. Incapacity for obtaining the same and their fruits; 9. Unfitness for obtaining a privilege; 10. Privation of civil and forensic communion with the rest of the faithful.

III. All these effects excommunication does not beget if it be unjust and invalid. And if it were publicly established to be null, then the excommunicate could bear himself as if he were not such, both in the external and in the internal forum. If it be doubtful whether it be valid or not, the excommunication is to be obeyed.

IV. QUESTION II. *Who are called excommunicates tolerated, and who to be shunned?* ANSWER. Those only are called to be shunned, by the constitution of Constance, who are excommunicated by name and denounced, or are notorious strikers of clerics. All the rest are tolerated. But that a man may be called excommunicated by name so that he must be shunned, two things are required: 1. That in the excommunication the name of the excommunicated person be expressed; 2. That it be publicly declared that such a one is excommunicated: which declaration ought to be made in a public place, either amid the solemnities of the Masses, or by affixing a paper in a public place. Before an excommunicate be denounced as such, he is to be cited that he may defend himself, unless the delict be public and notorious. He who has been declared to have incurred excommunication, if within a congruous term he lawfully appeal, can bear himself as tolerated.

V. Public and notorious strikers of clerics are called those who are known with a notoriety of right and of fact. Those excommunicated in one place are to be shunned also in another place where the excommunication is secret, as the more probable opinion holds. Excommunicates who are tolerated cannot communicate in divine or human things with others; but the rest of the faithful can communicate with them in human things. Wherefore the constitution of Constance is for the benefit of the faithful, not of the excommunicated. An excommunicate sins mortally if he administer, if he celebrate, and so forth. The sacraments nevertheless are valid, the sacrament of Penance excepted, which administered by an excommunicate to be shunned is null. Wherefore the faithful who should confess to an excommunicate to be shunned would have to repeat their confessions. Whether in the article of death absolution is to be sought from the same has been said above.

VI. Very many teach that in danger of death a priest excommunicated and to be shunned can assist at a marriage for the consulting of the honour of a woman known by a man, and for constituting the sons legitimate, if there were no other priest. The Salmanticenses, no. 37, with others teach that a tolerated excommunicate can validly and lawfully administer the sacraments except Penance. Nay they add that he can validly administer the sacrament of Penance itself, and, if he be asked, even lawfully: because when he is tolerated, he does not lose the power of administering the sacraments for the utility of the faithful, as is drawn from the Council of Constance. Which opinion does not approve itself to me, nor should I judge that believer well disposed who, having the store of a confessor, should wish to confess to a tolerated excommunicate.

VII. QUESTION III. *What penalty does an excommunicate incur who unlawfully administers the sacraments?* ANSWER. An excommunicate, whether to be shunned or tolerated, incurs irregularity when he unlawfully administers the sacraments, as the common opinion teaches. An excommunicate also,

whether to be shunned or tolerated, sins mortally if he receive the sacraments. Ignorance nevertheless, invincible inadvertence of the excommunication, necessity, scandal, and infamy can excuse. In these cases the common opinion teaches that either the one to be shunned or the tolerated can receive the sacraments. They dispute only concerning the sacrament of Penance, whether it be validly received by an excommunicate ignorant of his own excommunication, or that he may avoid a grave inconvenience. The more common opinion affirms it, whether he be one to be shunned or tolerated, provided the ignorance of right and of fact be invincible, and he approach with the due dispositions.

VIII. QUESTION IV. *What harms does the third effect of excommunication bring?* ANSWER. It deprives one, whether to be shunned or tolerated, of the office of celebrating the divine offices and of assisting at them. But by the name of offices are understood all the sacred functions which are performed publicly by the Church, as the celebration of Masses, the canonical hours, public prayers, processions, blessings, consecrations of chrism, and accompanying the Eucharist when it is carried to the sick. Excommunicates nevertheless can hear a sermon, and enter the church privately and pray there; nay they are bound to pour forth prayers and to recite the canonical hours if they be clerics, otherwise they would carry off a convenience from their iniquity. They cannot nevertheless in reciting the hours employ a companion without venial fault, a just cause being taken away. Neither those to be shunned nor the tolerated can hear Mass; nay, if one to be shunned were present, he would have to be admonished to withdraw; and if, being ordered, he did not withdraw, he would incur a new excommunication. And when he could not be expelled, the faithful ought to withdraw, lest they communicate with him. If the priest have not begun the canon, he ought to interrupt the Mass and go away. If he have begun the canon, he ought to pursue the Mass with one minister up to the taking of the chalice, and omit all the rest, or perform the same in the sacristy, if a fit place be there.

IX. Excommunicates sin mortally if they defer to obtain absolution, as I said above, that they may be able to hear Mass on a feast day: because by the same precept by which they are bound to hear Mass, they are obliged to remove impediments.

X. Excommunicates are deprived of ecclesiastical burial, or in a sacred place. By the name of a sacred place are understood temples, cemeteries, cloisters, and other places deputed to celebrating the divine offices and to divine worship. This nevertheless is understood of excommunicates to be shunned, who, if they have been buried in a sacred place, are to be exhumed and cast forth; and the sacred place is to be purged by aspersion. Those who bury these men in a sacred place incur the greater excommunication. But those commanding and procuring it contract the lesser excommunication. But those who bury tolerated excommunicates, even heretics, who have not been specially denounced, do not incur excommunication, as authors commonly teach. But he who should bury a heretic condemned by a judge's sentence would incur the greater excommunication.

XI. The fifth effect deprives an excommunicate, whether to be shunned or tolerated, of all use of ecclesiastical jurisdiction. A tolerated excommunicate nevertheless, if he be sought out by the parties, can lawfully and validly exercise acts of jurisdiction, as to elect, present, and confer benefices, on account of the faculty which the constitution of Martin V affords the faithful of communicating with a tolerated excommunicate. But if the faithful litigants should reject a tolerated excommunicate, then his acts would be of no value. Those giving the exception would have to manifest within eight days

the species of the excommunication. Things done through ecclesiastical jurisdiction by an excommunicate to be shunned are unlawful and invalid, nor are subjects bound to obey him.

XII. QUESTION V. *Whether an election is null to which an excommunicate to be shunned concurs?* ANSWER. It is null if without the suffrage of the excommunicate to be shunned it could not be concluded. But if his suffrage be not necessary, and the electors either be ignorant of the excommunication or cannot repel the excommunicate, the election is not to be abrogated.

XIII. The resignation of a benefice made by a tolerated excommunicate is valid; nay even that made by one to be shunned, if it be simple and not in favour of another: because such a resignation is not an act of ecclesiastical jurisdiction, but a simple cession of a benefice. The things which are done by an excommunicate to be shunned as a private person are valid, although unlawful, if he communicate with others. A testament nevertheless made by an excommunicate on account of heresy, or of the striking of a Cardinal, would be null, from chapter *Felicis* on penalties in the Sixth. They assert also that instruments made by a notary excommunicated and to be shunned are invalid.

XIV. QUESTION VI. *What unfitness do excommunicates incur by force of the seventh effect?* ANSWER. Those bound by the greater excommunication are unfit for ecclesiastical benefices. Wherefore election, presentation, postulation, nomination, collation, and the impetration of letters in favour of an excommunicate are null; and both those electing and presenting, and those receiving a benefice whether by cause of commutation or of resignation, sin mortally; and besides the lesser excommunication which those conferring a benefice upon an excommunicate to be shunned incur, they also contract a suspension from the collation of such a benefice. And these things extend also to the suspended, the interdicted, and the irregular. A collation made by the Pontiff is excepted, because the one conferring is presumed to dispense, unless a man be excommunicated for heresy, which is not taken away by a general clause. If anyone were vincibly ignorant of his own excommunication, or of the absolution from the excommunication, the collation of the benefice would be null, as the common opinion teaches. An excommunicate receiving a benefice does not make the fruits his own, but is bound to restore them. When nevertheless he receives it in good faith, being ignorant of his own excommunication, when he recalls it he ought to dismiss the benefice, and to restore that in which he has been made richer.

XV. QUESTION VII. *Whether an excommunicate loses the fruits and the benefice?* ANSWER. The eighth effect deprives an excommunicate not of the benefice, but of the fruits of the benefice only, from the time at which he was excommunicated, whether to be shunned or tolerated. And by the name of fruits are understood all revenues, pensions, and distributions; but by no means the patrimony. Theologians dispute keenly whether an excommunicate ought to restore the fruits before or after the judge's sentence. To me it seems the more probable that an excommunicate ought to restore the fruits before the judge's sentence. Since the cause of the restitution is the excommunication. Therefore, the excommunication being posited, the restitution necessarily follows.

XVI. QUESTION VIII. *What is forensic and civil excommunication?* ANSWER. The ninth effect of excommunication is that an excommunicate cannot be a judge, plaintiff, advocate, witness, notary, or procurator in the forum. If nevertheless he be tolerated, he can defend a client, provided he be not repelled, just as he can be repelled if his excommunication be known. Wherefore judgments of a forum are valid in which the plaintiff, witness, or notary is a tolerated excommunicate; on the contrary, if he be one to be shunned, and if the judge himself have been such, all the acts of such a

forum are void, as the more common opinion teaches. The testimony of an excommunicate, if it be admitted by a judge, is valid. An excommunicate nevertheless can be cited, and act as defendant in judgment. He ought nevertheless to do this through a procurator, unless he be poor.

XVII. The tenth effect of excommunication is a privation of political communication by way of commerce or society, unless necessity excuse, or unless the excommunicate be requested. He who communicates in civil things with an excommunicate to be shunned sins venially, in sacred things mortally. Communication with a tolerated one includes no fault. A continued civil communication nevertheless with one to be shunned, according to the more probable opinion, is not free from grave fault, and carries with it the lesser excommunication. Nevertheless: 1. When the excommunication has been passed by the Pope by a singular sentence, by name, he who knowingly communicates with such an excommunicate incurs the greater excommunication reserved to the Pope himself, if nevertheless he be a cleric and communicate in divine things. 2. When the excommunication has been passed against participants: for then he who communicates is bound by the same excommunication with which the excommunicate is entangled, from which he can be absolved only by him by whom the excommunicate can be absolved. He does not nevertheless incur this excommunication by communicating, unless a threefold admonition or one equivalent to three precede. 3. When someone communicates in the criminal crime — that is, in that crime for which a man has been excommunicated — affording him help, counsel, or favour. That I may comprehend all things in few words, there are five cases in which it is not lawful to communicate with an excommunicate, contained in these verses:

If for delicts anyone be struck with anathema, Mouth, prayer, greeting, communion, table are denied.

By *mouth* are forbidden words, signs, embraces, nods, letters, messages, and so forth. *Prayer* forbids communication in sacred things. *Greeting* forbids a salutation for the cause of honouring. *Communion* forbids cohabitation, cooperation, and counsel in any business whatsoever. *Table* forbids communication in food, drink, banquets, assisting and sitting together, and so forth.

XVIII. QUESTION IX. *In what cases is it lawful to communicate with an excommunicate?* ANSWER. They are contained in this single verse:

Use, law, lowliness, a thing unknown, and necessity.

Use signifies every true and not feigned utility, spiritual and temporal, whether of the excommunicate or of the one excommunicating. *Law* signifies matrimony, by force of which a wife can ask the debt from an excommunicated husband, and can communicate with him in the rest also, as in the government of the house and in other businesses, sacred things being excepted. And this is understood even if both were excommunicated, unless the excommunicates contracted the matrimony, or the excommunication was passed for the cause of matrimony, or lastly unless they were separated by divorce. In these cases they would not enjoy the privilege of communication. *Lowliness* signifies the communication which sons legitimate, adoptive, and illegitimate, grandsons, great-grandsons, and the rest in the degree of the direct line can have; and affines, as a son-in-law, daughter-in-law, stepson, and stepdaughter, can mutually communicate, and wards with guardians. *A thing unknown* signifies ignorance or inadvertence. *Necessity* indicates some grave necessity, whether temporal or spiritual, whether of the excommunicate, or of the one excommunicating, or of a third person.

XIX. QUESTION X. *What is the lesser excommunication, and what are its effects?* ANSWER. It is *an ecclesiastical censure depriving one of the passive reception of the sacraments;* and this privation is the chief effect of the lesser excommunication. Wherefore he sins mortally who, entangled in this excommunication, receives any sacrament. Concerning the administration of the sacraments they differ whether such an excommunicate sin mortally or venially. Nay very many defend that he does not sin even venially. But it is difficult to exempt this man from venial fault. All nevertheless affirm that he sins mortally if he celebrate, because then he receives the sacrament. Another effect of this excommunication is a privation of passive election to ecclesiastical benefices. Any approved confessor can absolve from it.

XX. QUESTION XI. *When is the excommunication of the canon incurred for the striking of a cleric?* ANSWER. "If anyone, at the devil's persuading, shall have laid violent hands upon a cleric or a monk, let him lie under the bond of anathema, and let no bishop presume to absolve him, save when the peril of death urges, until he be presented to the apostolic sight and receive his mandates." This is the canon which is had in cause 17, question 4. That *at the devil's persuading* signifies a striking which is a mortal sin by reason of the injury inflicted upon a clerical person. The gravity of which injury is to be taken with regard to the dignity and religious state. Although this be reserved to the Apostolic See, regular Prelates can absolve their own subjects who are strikers of Religious.

XXI. By the name of a cleric or monk come even those marked with the first tonsure, provided they wear the clerical habit; all Regulars of either sex, clerics, novices, and lay brothers enjoy this privilege of the canon. Likewise the Knights of St. James, of St. John, of Calatrava, of Alcántara, of St. Lazarus in Savoy, of St. Stephen of Florence, of the Order of Christ in Portugal, as very many authors teach. Of this privilege married clerics do not enjoy, unless they wear the tonsure; nor the tertiaries of St. Dominic and St. Francis; excluded also from this privilege are clerics who, ecclesiastical garments being cast off, mingle themselves in secular businesses and, being thrice admonished by the Superior, are not corrected.

XXII. All possessed of reason of either sex, who lay violent hands upon a cleric, incur this excommunication of the canon. Youths guilty of this striking before puberty can be absolved by a bishop. Likewise those commanding, inducing, counselling, nay consenting, affording help, and those who by guile, fraud, or malice do not hinder it, incur this excommunication. Likewise he who holds as ratified a striking made in his own name, although he neither gave a mandate nor afforded help. It is nevertheless required: 1. That the striking be made in his name, the striker judging that it will be pleasing to him; 2. That by an exterior sensible sign he betray his approbation; 3. That when the striking was committed to execution, he himself was habitually fit for affording the mandate or counsel: because if he had then been demented, he would not incur it. Sleep nevertheless and drunkenness do not hinder him from contracting it.

XXIII. QUESTION XII. *What acts are called violent against a cleric, on account of whose striking excommunication is incurred?* ANSWER. All lay violent hands who with some part of the body — as with mouth, foot, arm, or hand — strike a cleric or a thing adhering to him, whether immediately or by means of a staff, sword, or poison; if they violently detain a cleric; if they thrust him into prison; if they pursue him, urging him to injury or to a precipice; if they cast spittle or dust upon him; if they tear his garments; if they beat him with a reed; if they hurt the very horse on which he sits, or break the bridle and stop it: which actions all injure either the person or his honour, and dishonour him, as

is clearly gathered from chapter *Nuper* on sentences of excommunication; and so they suffice for contracting excommunication. But by no means do they contract it who offend a cleric with words only, who brandish a stroke that they may hurt him, but in fact touch neither him nor a thing adhering to him; nor those who without violence filch or steal a cleric's clothes, a horse on a journey, or money, although it should follow thence that he could not pursue his journey. Those who give poison to a cleric are excommunicated. If a nun should drink poison to kill the foetus, she would not be obnoxious to this censure, because she would inflict injury upon the foetus, not upon herself; but he who should by force give poison to a pregnant nun would contract excommunication, because he would inflict violence both upon the nun and upon the foetus to be killed.

XXIV. QUESTION XIII. *What causes excuse those laying violent hands upon a cleric from contracting excommunication?* ANSWER. Ignorance of right and of fact, grave fear, just defence, and all the rest which exempt from grave fault; the title of correction, by force of which masters, prelates, and parents can strike disciples and sons, and exercise all those things which are prudently judged opportune for their amendment. Similarly immune from this censure are those who should strike a cleric basely handling their own wives, mothers, sisters, or daughters, whether that they might avenge the injury or turn him from the crime, provided they strike him in the very crime or immediately after, even if he do not fornicate with them, but only dishonour them with base kisses, touches, and embraces. A woman also solicited and provoked by a deed by a cleric, if she should repel him by a violent striking when she cannot with words alone, would be free from the censure. Clerics who, being thrice admonished, do not wear the tonsure and the clerical habit, if they act as soldiers or footpads, lose the privilege of the canon.

XXV. Of the excommunication contracted on account of a duel it has been said above, on the fifth precept of the Decalogue. It would have to be said also of the censures contained in the Bull of the Supper. But I have given that entire in Vol. I of the *Apparatus,* and touched upon a synopsis of the same in Vol. X, Book 1, dissertation 2, chapter 2, § 3. Wherefore if you desire more, see there.

Chapter V — On suspension and its effects, and on deposition and degradation

I. QUESTION I. *What is suspension, and of how many kinds is it?* ANSWER. It is *a privation of the use and exercise of any office and dignity,* if it be regarded absolutely. But at present it is *an ecclesiastical censure by which a cleric is deprived of the use of an office or of a benefice.* It is divided into that which is from the office only, into another which is from the benefice only, and into that which is from both. Moreover one is from law, another from man. By the name of *office* is understood every spiritual power, whether of order, or of jurisdiction, or of administration ecclesiastical. But by the name of *benefice* comes the right of perceiving ecclesiastical proceeds by force of a spiritual title. Suspension is also divided into temporal and perpetual. The former is for a month, for a year, for a biennium, and so forth; the latter is limited by no duration. Partial suspension is subdivided into several other partial ones. For a priest is sometimes suspended from the celebration of Mass alone, sometimes from hearing confessions, sometimes simply from his Order. A bishop can be suspended from the collation either of the tonsure alone, or of the presbyterate, or of Order absolutely. Similarly in a benefice a man is sometimes suspended from the daily distributions, or from half the part of the fruits; and the same can be done

in jurisdiction. For the form of suspension no words are designated in law, but those are employed which manifest the superior's will.

II. Those who violate a suspension absolutely sin mortally. One suspended from an Order, if he exercise it, besides the mortal sin contracts irregularity. Acts nevertheless exercised by one suspended are valid, although unlawful, if they be acts of Order, not of jurisdiction. But he who is suspended from jurisdiction, if he be one to be shunned, then exercises acts of jurisdiction invalidly, because suspension of jurisdiction is an actual privation of it. One suspended from an Order is not by that very fact suspended from jurisdiction.

III. QUESTION II. *Whether one suspended from an office be suspended from a benefice, or conversely?* ANSWER. One suspended from a benefice is not by that very fact suspended from the office. Wherefore he can and is bound to celebrate and to recite the other divine offices, because the penalty does not exempt from the burden. And although the office be on account of the benefice, yet in punishment of the delict the guilty party can be deprived of the fruits of the benefice, the burden of serving the Church remaining. One suspended from an office, even a most grave one, is not by that very fact suspended from the benefice, as the more probable opinion teaches.

IV. QUESTION III. *What are the effects of suspension from an office, from jurisdiction, from a benefice?* ANSWER. One suspended absolutely from an office remains deprived of all use of Order and of jurisdiction, and of any ministry whatsoever which can be exercised by a cleric alone. Wherefore he cannot administer the sacraments, celebrate, excommunicate, absolve, impart indulgences, approve for confessions, exercise pontifical functions, nor perform the other ministries which depend upon Order. It is nevertheless certain that if he be suspended from Order only, he is not suspended from jurisdiction.

V. Suspension from jurisdiction passed absolutely deprives one of all use of spiritual jurisdiction, and of an act of Order which cannot be exercised without jurisdiction, as the collation of Order and sacramental absolution. But one thus suspended can celebrate and minister the other sacraments; unless nevertheless he should administer them by office as a parish priest, because then he would exercise an act of jurisdiction of which he is deprived. If a man be suspended from a determinate part of jurisdiction, he is not suspended from another; as if a parish priest be suspended from hearing confessions, he can celebrate and administer the other sacraments.

VI. Suspension of Order passed absolutely and simply deprives one of every act of any Order whatsoever, both major and minor, because an indefinite proposition in moral matter is equivalent to a universal one. Similarly he who is suspended from the collation of Orders can confer no Order. I omit other little questions, whose decision depends upon the formula by which the suspension is prescribed.

VII. QUESTION IV. *For what cause can suspension be passed?* ANSWER. It cannot be passed for a venial sin, as has been said above. For suspension by its own nature is a grave penalty, which cannot by right be inflicted save for a grave fault. Obnoxious to suspension are clerics even marked with the first tonsure. Censures passed in law absolutely against clerics do not comprehend Cardinals and bishops. Suspension can be passed directly against the community itself, and indirectly against the members. It does not nevertheless affect distributively the individual persons as regards their

particular ministries, but according as they constitute one body, and according to the offices and ministries common to them.

VIII. Suspension can be hindered by a lawful appeal interposed at a congruous time, as has been said above of an appeal from censures. The appeal nevertheless ought to precede the suspension itself, that it may hinder it, if it be a suspension from office and from entrance into the Church, as is had in chapter *Is qui* 20 on sentences of excommunication in the Sixth. Any other suspension is hindered by a subsequent appeal.

IX. A suspension passed for a time ceases of itself, that time having elapsed, without absolution. From a suspension passed by man he can absolve who passed it. From a suspension passed by law the Ordinary of the suspended person can absolve, or his Vicar. From a suspension reserved to the Pope, if it proceed from an occult delict, a bishop can absolve his own subjects, if it have not been brought to the contentious forum.

X. QUESTION V. *What do deposition and degradation signify?* ANSWER. Often deposition and degradation are taken for the same; authors nevertheless distinguish the one from the other. Simple deposition they describe in these words: *It is a penalty depriving a cleric of office and benefice in perpetuity by ordinary right irremissibly.* Degradation is divided into verbal and real. Each deprives a cleric in perpetuity of office and benefice; but the former retains the privilege of the canon and of the forum; the latter utterly loses it. A cleric nevertheless struck with either verbal or real degradation is bound to recite the canonical hours, if he be constituted in sacred Orders, nor can he validly contract matrimony.

XI. Verbal degradation was formerly made for adultery, theft, homicide, and other graver crimes. According to the present-day discipline of the Church only the more atrocious crimes are struck with degradation. The crimes expressed in canon law for which a cleric ought to be struck with real degradation are heresy, the falsification of apostolic letters, sodomy, and conspiracy against his own bishop with incorrigibility acceding. Several things are wont to be said of the solemnity to be observed in real degradation, which do not pertain to our purpose.

Chapter VI — On interdict, and on cessation from divine offices

I. QUESTION I. *What is interdict, and of how many kinds is it?* ANSWER. It is *an ecclesiastical censure by which all divine offices, and the administration of certain sacraments, and ecclesiastical burial are forbidden.* It is divided into local and personal. The former affects a place, the latter persons. It is called mixed when a place and persons are at once interdicted. Again each interdict is divided into general and special. The former is when a kingdom, or province, or diocese, or city, or town, or village is interdicted. A general personal interdict is when it is passed against a political body moderated by its own laws, and at once indirectly against all the persons constituting such a community. A special personal interdict is when it is passed against determinate persons, as against Peter, Francis, and so forth. When nevertheless it is passed by law, it is not required that the persons be named. This special personal interdict is divided into total, which contains all the effects of interdict; and into partial, which comprehends only some. A local interdict does not always include a personal one, nor conversely. Wherefore, the people being interdicted, the churches or parishes of that place are not interdicted: because in law these interdicts are of diverse species.

II. QUESTION II. *Who are bound to observe a local interdict?* ANSWER. All the inhabitants, both lay and ecclesiastical, even Regulars, because the interdict is upon celebrating the divine offices in such a place. Wherefore the Prelate himself (the Pope excepted) who passes a local interdict is obnoxious to the observance of the same. When a city is interdicted by a general local interdict, all the churches of the same city, even those of Regulars, are subject to the interdict, and all the persons who are members of the same city: although very many be innocent, yet not as innocent but as parts of the city they lie subject to the interdict. Bishops are excepted, who are not comprehended under a general interdict unless express mention of them be made. Infants also and the demented are judged exempt; their corpses nevertheless cannot be delivered to ecclesiastical burial, because they are interdicted. Similarly very many authors free strangers and foreigners from the interdict, because they are not parts of the people. The people being interdicted, the clergy is not interdicted; nor, the clergy being interdicted, is the people interdicted.

III. QUESTION III. *Who, and for what cause, can pass an interdict?* ANSWER. Those who have the faculty of passing censures can pass an interdict. Prelates of Religions nevertheless can pass a personal interdict, but not a local one, by which they might suspend their own churches from sacred rites, unless they had jurisdiction over the people. The cause of passing an interdict is a grave fault, as has been said above. A general interdict, local or personal, can be passed even for another's fault — of the community, or of its rectors — under which even the innocent are comprehended, as has been said elsewhere. A general personal interdict, or a local one whether general or special, cannot be passed for the fault of some particular person, but can be imposed only for the fault either of the community, or of the rector, or of the Prince, or of the Prelate. But a special personal interdict cannot be inflicted for another's fault, even of the head; but only for the delict of that person who is struck with the interdict. Authors dispute whether a special personal interdict can be inflicted for a venial fault. Of an interdict passed by law some affirm it, others more probably deny it. All nevertheless affirm that an interdict passed by man requires a mortal fault. An interdict, whether general local or general personal, cannot be imposed for a debt of moneys, nay nor even a special local interdict; but a special personal interdict can, as very many say; but scarcely has this been customary.

IV. QUESTION IV. *What are the effects of an interdict?* ANSWER. Three: 1. Prohibition of the celebration and hearing of the divine offices; 2. Privation of certain sacraments; 3. Privation of ecclesiastical burial. By the name of divine offices are understood Mass, the canonical hours, and other prayers solemnly celebrated, the blessings of nuptials, of water, of oil, of chrism, and every function ordained by the Church to the worship of God. All these things are forbidden in a common place deputed thereto; otherwise privately, and in a place not deputed to celebrating the divine offices. Similarly it is lawful to hold sermons. Nay by the new law of Boniface VIII in chapter *Alma Mater* on sentences of excommunication in the Sixth, all clerics and Regulars in the time of a general local interdict can daily celebrate Masses and perform the divine offices in any churches and monasteries whatsoever, four conditions being added: 1. That it be with lowered voice, that is, without chant; 2. With the doors closed, yet so that an exit lie open for those willing to go out: wherefore an officer will have to be set over it, who may forbid the interdicted to enter and permit the privileged to go out; 3. The bells not being rung; 4. The interdicted and excommunicated being excluded. On four solemnities nevertheless — of the Lord's Nativity, of Easter, of Pentecost, and of the Assumption of the Blessed Virgin — the divine offices can be solemnly celebrated with open doors, with loud voice, and with the bells rung. The interdicted nevertheless ought not to approach the altar, who gave the cause of the

same. Which privilege Martin V extended to the feast of the Body of Christ, and Eugenius IV to its octave. Regulars enjoy a privilege, as very many report (whether truly or falsely I know not), of admitting to the divine offices the servants, procurators, and workmen of the monastery.

V. QUESTION V. *What sacraments are forbidden to be ministered in the time of an interdict?* ANSWER. There are forbidden the active administration and the passive reception of certain sacraments. Baptism nevertheless is excepted, which can be administered with the accustomed rite of the Church, interdicted persons nevertheless being excluded, who cannot baptize save in a case of necessity. The sacrament of Confirmation also can be administered, and chrism confected, even in an interdicted place. Likewise the sacrament of matrimony is excepted according to very many, who contend that it can be celebrated by a person even specially, and not merely generally, interdicted. The sacrament of Penance can be conferred upon all, even the healthy, excepting the excommunicated, and those who gave the cause of the interdict, and those who afforded help, counsel, and so forth for the perpetrating of the delict for which the interdict was passed, unless they first satisfy or give caution concerning satisfaction. Chapter *Alma* on sentences in the Sixth.

VI. In the time of an interdict neither the Eucharist, nor Order, nor extreme unction can be administered. In the article of death the Eucharist can be carried to the sick even to those personally interdicted. Very many affirm that extreme unction also can be administered to the sick who cannot receive the other sacraments.

VII. QUESTION VI. *To whom is ecclesiastical burial forbidden in the time of an interdict?* ANSWER. Every interdict, whether local or personal, deprives all of ecclesiastical burial. If nevertheless the interdict be local, persons who did not give cause to the interdict, and are not denounced by name, can be buried in a sacred place not interdicted. But in a sacred interdicted place neither infants nor the demented can lawfully be buried.

VIII. QUESTION VII. *What sin do violators of an interdict perpetrate, and what penalties do they incur?* ANSWER. They sin mortally, because they violate a precept of the Church in a grave matter. Interdicted clerics exercising an act of their own Order become irregular; and those compelling clerics to celebrate the divine offices publicly in an interdicted place, a just cause being taken away, would incur excommunication reserved to the Supreme Pontiff. And this censure would be contracted also by interdicted persons who, being admonished, should not go out of the church. Likewise Religious, even exempt, violating an interdict contract by that very deed the greater excommunication, when the interdict is observed in the mother church, or in the parochial place in which they themselves dwell, as is had in *Clementine* 1 on sentences of excommunication. Those who knowingly bury interdicted persons in a sacred place outside the excepted cases incur excommunication reserved to the bishop.

IX. QUESTION VIII. *What is understood by an interdict from entrance into the Church?* ANSWER. There is understood a privation of the exercise of sacred Order, and of burial in the church itself and in its cemetery, and a privation of hearing the divine offices in the church.

X. QUESTION IX. *Who can absolve from an interdict?* ANSWER. If the interdict passed be for a time, or under a condition, the time having elapsed or the condition being fulfilled, it ceases without absolution; otherwise an interdict passed absolutely. When an interdict has been passed by law, the Supreme Pontiff can suspend its effects without taking it away. He who passed an interdict for a time can take it away. When the interdict is local, even if the place — say a church — be dispensed, the

interdict does not on that account cease, and therefore corpses cannot be buried in such a place. But an interdict passed against a community, if this be dissolved, ceases in respect of the innocent. But from a local interdict, or a general personal one, passed by law and not reserved, a bishop can absolve. If the interdict have been passed by man, he who passed it, and not an inferior, can absolve, as I have said. Very many teach that from a particular personal interdict not reserved any confessor whatsoever can absolve.

XI. QUESTION X. *What is cessation from divine offices, and what are its effects?* ANSWER. It is a prohibition imposed upon clerics that under penalty of mortal sin they cease from the celebration of the divine offices, and abstain from the administration of the sacraments, the case of necessity excepted. It is nevertheless not a censure, nor a penalty, but a mere prohibition made by the Church on account of a most grave sorrow conceived from some grave injury against divine worship, or against the Church itself. Wherefore this is not done save on account of a most grave public delict against the common good of the Church, or against her immunity, contumacy acceding. The following conditions ought to concur, that it may be justly done: 1. That in the one prohibiting there be lawful power; 2. That the cause be evident and grave; 3. That it evidently be established that cause has been given; 4. This cause ought to be expressed publicly; 5. It ought to be intimated to the party; 6. The party is to be asked whether it wishes to satisfy; 7. That the greater part of the chapter judge that the cessation is to be induced; 8. That, the cessation being posited, each party discuss the cause of the cessation before the Pontiff; 9. That when chapters are gathered for passing the cessation, all be called who have a vote. These conditions are gathered from chapter *Si canonici* 1 and chapter *Quamvis* 8 on the office of the ordinary in the Sixth. But if a Prelate indict a cessation, the six former conditions only are required. Only those who have episcopal jurisdiction, or one like it, can pass this cessation.

Chapter VII — On irregularity in general and in particular, from delict and from defect

I. QUESTION I. *What is irregularity, and what are its effects?* ANSWER. It is *a canonical impediment by which a baptized man is directly interdicted from the reception of Orders, and secondarily from their use*. It is an impediment and not a penalty, that it may be distinguished from a censure, which supposes a fault. *Canonical* signifies that this impediment has been brought in by ecclesiastical right. *A baptized man* betrays that neither an unbeliever nor a woman lies subject to irregularity. The last particles again distinguish irregularity from censures.

II. There are three effects of irregularity: 1. It hinders the reception of Orders and of the first tonsure; 2. It deprives one of the use of all Orders if it be total, but of certain ones if it be partial; 3. It renders one unfit for receiving any benefice whatsoever if it be total: for if it be partial, very many contend that by it the reception of a benefice is not hindered whose duties the irregular man can perform. Irregularity supervening upon a benefice already obtained does not induce the privation of the same, but those who possess it can only be deprived by a judge's sentence.

III. QUESTION II. *Of how many kinds is irregularity?* ANSWER. There are two kinds of irregularities. One from *defect,* the other from *delict*. From defect nine are numbered: 1. From defect of soul; 2. From defect of body; 3. From defect of birth; 4. From defect of age; 5. From defect of liberty; 6. From defect of obligation; 7. From defect of sacrament; 8. From defect of good repute; 9. From defect of lenity.

IV. Irregularity from delict is eightfold: 1. From voluntary and unjust homicide; 2. From unjust and voluntary mutilation; 3. From casual homicide or mutilation; 4. From the iteration of Baptism; 5. From the violation of censures; 6. From the unworthy reception or administration of Orders; 7. From apostasy from the faith, or from external heresy; 8. From a delict to which infamy is annexed. It is divided also into total and partial. The former deprives one of every Order to be received and of the exercise of an Order received, as is that which is contracted from homicide. The latter deprives one of some exercise of an Order only, as if a priest's thumb be cut off, he cannot celebrate, but he can hear confessions. Similarly a deacon deprived of a thumb is unfit for the priesthood, but fit for the office of deacon.

V. A delict inducing irregularity must be an external mortal sin, since a most grave penalty cannot be contracted save for a grave delict. Nor does it matter that it be occult. There are excepted nevertheless delicts to which infamy and notoriety are annexed, which if they were occult do not induce irregularity. But other delicts — as voluntary homicide, heresy, the iteration of Baptism, the violation of a censure by the exercise of an Order — beget irregularity even when occult. Concerning occult homicide there is no dispute.

VI. QUESTION III. *What things excuse from contracting irregularity from delict?* ANSWER. All those things which excuse from mortal sin, as ignorance, inadvertence, grave fear, and so forth. Doubt does not excuse, as is had in chapter *Ad audientiam,* title on homicide: *Since in doubtful matters we ought always to choose the safer part, it befits us to enjoin upon the aforesaid presbyter that he minister not in sacred Orders.* Here there is no distinction of a doubt of right or of fact.

VII. QUESTION IV. *Whether irregularity from delict be taken away by Baptism, by religious profession, or by dispensation?* ANSWER. Irregularity from delict ceases through Baptism. That it ceases also through religious profession the common opinion affirms. Lastly that it ceases through dispensation all confess. The Supreme Pontiff for a just cause can dispense from any irregularity whatsoever. He who is entangled in several irregularities of diverse species ought in seeking a dispensation to express them all; if they be of the same species, he ought to manifest that he has contracted these irregularities several times.

VIII. Besides the Supreme Pontiff, bishops with their own subjects, and regular Prelates with their own, can dispense from irregularities from an occult delict which has not been brought to the contentious forum, homicide excepted, as the common opinion teaches.

IX. QUESTION V. *What is required that a man contract irregularity from voluntary homicide?* ANSWER. That homicide is called directly voluntary which is perpetrated with a direct will of killing, whence death necessarily follows, as if a deadly wound be inflicted, if poison be given, and so forth. He who directly posits like causes is called a voluntary homicide. Hence it follows that he who kills an assailant in defending himself with the moderation of a blameless defence does not incur the irregularity of directly voluntary homicide. But it is required that death follow, that the said irregularity be contracted. Wherefore even if a mortal wound be inflicted, or poison be given, if death do not follow, irregularity is not incurred. The Salmanticenses, chapter 8, no. 4, add that he who after a mortal wound or the giving of poison should repent of the delict does not incur irregularity in the forum of conscience. But this opinion to me is false.

X. The Salmanticenses with others also deny, no. 6, that he who kills a man in a sudden brawl incurs the irregularity reserved to the Supreme Pontiff. But the more probable opinion affirms it. And this irregularity is incurred also by those commanding, counselling, and so forth, as has already been said above.

XI. That the Supreme Pontiff can dispense from this irregularity all confess, yet from a most grave and most singular cause, on account of the highest unseemliness which such a delict bears. That bishops cannot absolve from this irregularity Trent established. That regular Prelates can dispense from this irregularity, if the homicide be occult, the Salmanticenses teach, no. 17, pontifical privileges being adduced; but these privileges are to me suspect.

XII. This irregularity is contracted also by the mutilation of some member of the body, as if a man should pluck out an eye, cut off an ear, a foot, or any part whatsoever which has a distinct office in the body. He who out of anger should cut off his own finger, or another part lacking an office, or should basely deform himself, would become irregular; otherwise if he did this in another, as is had in chapter *Quidam,* and so forth. He who should so weaken some member that it remained dead — it is the more probable that he would incur irregularity. From this irregularity, when occult and not brought to the contentious forum, bishops can dispense.

XIII. QUESTION VI. *When is irregularity contracted from casual homicide or mutilation?* ANSWER. That homicide is casual which happens beyond the intention of the slayer, both direct and indirect; and then, just as the slayer is immune from fault, so he is from irregularity: and the same is of mutilation. But he who posits a cause whence he foresees, or is bound to foresee, homicide or mutilation, becomes irregular. He who does a lawful work, and employs all diligence lest homicide or mutilation follow, would not then become irregular, even if homicide or mutilation happen. But if that action in some way flowed into the homicide or mutilation, it would not now be good and lawful; and if the actor were negligent in guarding against the effect, he would become irregular, unless the negligence were light. Hence if a master should strike a disciple, or a father a son, only lightly, he would not become irregular, even if death or mutilation supervened beyond his intention. The same is to be said of him who should ride a fierce horse, if the killing of a boy should happen; or of one ringing bells, if the clapper should fall and kill a man; or of a keeper of a wild beast breaking its bonds and killing a man. Nor does a physician become irregular if a sick man die without his grave negligence.

XIV. He who gives his labour to an unlawful thing, whence death comes about, becomes irregular; but if the thing be unlawful and brings by its own nature no danger of death, he would not become irregular, provided there were no negligence in guarding against the effect. He who is bound by office to hinder a killing or a mutilation, if he omit it by a mortal fault against justice, becomes according to the more probable opinion irregular: because he who omits to defend him whom out of justice he was bound to defend is a true homicide, for he morally concurs to such a death; otherwise he who is bound only out of charity.

XV. QUESTION VII. *When is irregularity contracted from homicide or mutilation by cause of defence against an unjust assailant?* ANSWER. He who kills an unjust assailant, exceeding mortally the mode of a blameless defence, becomes irregular. On the contrary those who observe the moderation are immune from irregularity, just as from fault. Similarly defenders of this kind do not contract irregularity if they observe the moderation for the avoiding of a grave wound; otherwise if the wound which is feared were light. But then a defender is seen to observe the moderation of a blameless

defence when the one assailed can by no other way — neither by entreaties, nor by flight, nor by clamour — decline death or a grave wound. For if by these ways he could decline death or a grave wound, he would not observe the necessary moderation.

XVI. He who steals, or perpetrates adultery, being caught in the delict and assailed by the master or the husband, if to defend himself he kill the husband or the master, incurs irregularity, because he gives his labour to an unlawful thing, and the homicide is voluntary in its cause. So affirms the more probable and true opinion.

XVII. From the iteration of Baptism, but not of Confirmation, irregularity is incurred. This irregularity is incurred by the one rebaptized, by the one rebaptizing, by one ministering to the one rebaptizing, and by him who outside necessity permits himself to be baptized by a heretic. This irregularity hinders ascent to other Orders, but not ministering in those received, as the common opinion teaches. Very many nevertheless require for the contracting of this irregularity a solemn rebaptism, and say that a private one does not suffice.

XVIII. Those entangled in the greater excommunication, those suspended, those interdicted personally or in an interdicted place, who exercise an act of a major Order, become irregular. But he who is suspended from one Order, and exercises the office of another Order from which he is not suspended, does not become irregular. From the said irregularity when occult a bishop can dispense, and similarly regular Prelates can absolve their own subjects.

XIX. Those who receive sacred Orders by stealth — for instance without examination and approbation; those who on the same day receive several Orders, of which one is sacred, without a dispensation; those who after matrimony contracted, even before consummation, receive a sacred Order, the wife resisting — incur irregularity. Similarly clerics become irregular who usurp a sacred Order which they have not, and knowingly minister in it with the solemn rite.

XX. Irregularity is also contracted from a delict to which infamy is annexed, as are in clerics perjury with false testimony in judgment, sodomy, and simony: which crimes, if they be notorious, induce irregularity.

XXI. From an office likewise irregularity is contracted, as from the profession of a stage-player: for stage-players are infamous, as is had from chapter *Definimus,* cause 4, question 1, and from laws 1 and 2 on those who are noted with infamy. Very many teach that the offices of executioners, of lictors, and of butchers also have infamy annexed; and in fact in the common estimation of men those offices labour under infamy.

XXII. Infamy which arises from a personal delict is taken away by an amendment which is as notorious as the deed which begot the infamy. But infamy of right is not taken away by amendment, but by dispensation. The Supreme Pontiff for a just cause can dispense from this irregularity. But infamy which has been induced by a judge's decree can be taken away by his dispensation or by a superior's. That regular Prelates can dispense from this irregularity, whether before or after entrance into Religion, authors commonly teach.

XXIII. QUESTION VIII. *What are the irregularities from defect of soul?* ANSWER. Three, namely defect of reason, of knowledge, and of faith. Boys before the use of reason, the demented, the possessed, the furious, lunatics, epileptics, and those who are seized by the falling sickness unexpectedly, are

excluded from sacred Orders. Defect of knowledge is an impediment to receiving sacred Orders, from which not even the Supreme Pontiff can dispense. By industry and study alone can it be taken away. Irregular from defect of faith are the sons of heretics whose parents are irregular from delict.

XXIV. QUESTION IX. *What are the defects of body which beget irregularity?* ANSWER. Those who lack an arm or a hand; a presbyter who lacks two fingers with half the palm, if the fingers be the thumb and index; likewise those who lack the light of the left eye, and those who lack all hearing, are reputed irregular. If nevertheless privation of hearing supervene, it is not reputed an impediment. If the light of the right eye can supply the defect of the left, it is not reputed an impediment. Defects which beget a notable deformity induce irregularity, as the privation of an eye, of the nose, of a foot; or those having eyes too deformed, labouring under excessive weakness of body, a hump, leprosy, or the French disease, are held irregular. But here all things are permitted to the judgment of the bishop. Eunuchs and hermaphrodites, even occult ones, are irregular. All the illegitimate, whether bastards, or spurious, or incestuous, or sacrilegious, are irregular. Those nevertheless born of a matrimony contracted in good faith in the face of the Church, but void on account of some occult impediment, are not held irregular, as is gathered from chapter *Cum inter,* and so forth. It is to be said otherwise if the matrimony were contracted in bad faith.

XXV. This irregularity ceases: 1. Through a subsequent matrimony; 2. Through absolute legitimation; 3. Through a dispensation which the Supreme Pontiff alone can impart.

XXVI. QUESTION X. *Who are called irregular from defect of liberty, of age, and of obligation?* ANSWER. Bondmen or slaves are irregular so long as they dwell in the state of servitude. If a slave, with his master knowing and not contradicting, receive Orders or even the first tonsure, he becomes free; but if he do it with his master contradicting or unknowing, he sins mortally, and remains a slave. If a bishop conscious of the servitude confer major Orders, he is bound to satisfy the master. Of defect of age it has been said above. Defect of obligation is when a man is bound to render accounts, or is found implicated in …

… secular businesses by office, as courtiers, soldiers, and so forth, until they free themselves from such an obligation.

XXVII. QUESTION XI. *What is irregularity from defect of sacrament?* ANSWER. It is that which arises from bigamy, or from matrimony contracted several times. A threefold bigamy is distinguished: true, interpretative, and similitudinary. *True* is when a man has had several lawful wives successively. Another species of bigamy is called *interpretative,* which, although it be not true, is so named from a fiction of law, and is contracted in four ways: 1. When a man contracts two marriages, one valid, the other void; 2. When a man contracts two marriages in fact void; 3. When a man has married a widow, or one corrupted by another; 4. When a man has married a virgin who after the nuptials committed adultery, and nevertheless after the adultery he knew her. He who married a corrupt woman thinking her in good faith to be a virgin becomes, according to the more probable opinion, irregular. The third species of bigamy is called *similitudinary,* which a man contracts when after solemn profession, or after a sacred Order received, he contracts matrimony, whether with a virgin or with a corrupt woman.

XXVIII. Bigamy is called a defect of sacrament, because it does not represent the union of Christ with the Church. Bigamists are reputed irregular both on account of incontinence, and on account of

the division of affection which they transfer from a deceased wife to another, and on account of the defect of sacrament. From this impediment the Supreme Pontiff can dispense, but not bishops.

XXIX. QUESTION XII. *How is irregularity contracted from defect of lenity?* ANSWER. A baptized man, but not an unbeliever, becomes irregular if he voluntarily and proximately concurs to the death or mutilation of his neighbour, from defect of lenity. Hence irregular are judges passing sentence, assessors of judges, fiscal promoters, procurators, officers, apprehenders, accusers, advocates, denouncers, and necessary and voluntary witnesses, when by force of such actions the accused is killed; but not those who testify in favour of the accused. Temporal and ecclesiastical lords do not become irregular when, having jurisdiction, they commit causes of blood to others, and admonish that their ministers be vigilant against malefactors and punish them according to the laws. Ecclesiastical judges delivering the degraded to the secular arm, entreating that they treat them kindly, do not become irregular; nor clerics consulted by a judge, if they answer that such a delict is to be struck by the laws with the penalty of death. The same is to be said of confessors, who can deny absolution to a judge unwilling to punish malefactors according to the laws.

XXX. Those who fight in a just war by public authority against enemies, if with their own hands they kill or mutilate, become irregular. But the rest of the soldiers in such a just war assisting at the battle, who kill or mutilate no one with their own hands, do not become irregular, as all commonly confess. If the war be unjust, and someone be killed or mutilated, all become irregular, because all concur to the unjust slaying. That a soldier defending himself in a just war with the moderation of a blameless defence does not become irregular very many teach, because this defence is to him just. Physicians and surgeons who according to the rules of their own art amputate a member do not become irregular. Clerics and monks exercising the art of medicine and surgery become irregular from defect of lenity if they amputate some member, because these arts are forbidden them, with cutting and cauterizing. They can nevertheless open a vein for the diminishing of blood without becoming irregular. The Church deservedly removes men from sacred Orders on account of defect of lenity, because meekness and lenity is a prerogative and character of the Priesthood of Christ, who as a meek lamb came into the world sent by the Father. Bishops cannot dispense from irregularity from defect of lenity, even if it be occult, as the more probable opinion defends. He who desires more, let him read the canonists and moralists, who have compiled thick and great volumes upon this argument.

An Admonition

I repeat what I have indicated elsewhere, namely that all desire that superiors would recall to a mature examination the multitude of excommunications and censures, and would restrict them to that small number which their wisdom should judge more consonant. This is certain to all the wise, that a multitude of precepts is by no means fit for coercing the malice of men. St. Augustine adverts, epistle 118 to Januarius, *that our Lord Jesus Christ, as he himself speaks in the Gospel, has subjected us to a light yoke and a light burden; whence with sacraments very few in number, most excellent in signification, he has bound together the society of the new people.* More fully in epistle 119 to the same Januarius he suggests that the precepts of the Church are to be cut back, in these words: *Without any doubt I reckon that they are to be cut away. For although neither could this be found how they are against the faith, yet they press down with servile burdens Religion itself, which the mercy of God willed to be free with most few and most manifest celebrations of sacraments, so that the condition of the Jews is more tolerable, who, even if they have not acknowledged the time of*

liberty, are nevertheless subjected to legal burdens, not to human presumptions. But the Church of God, constituted amid much chaff and much cockle, tolerates many things; and yet those things which are against the faith or against a good life she does not approve, nor keep silence about, nor foster.

Dissertation V — On the religious state

Prologue

I have published four volumes upon this argument, of which the first is entitled *Historico-Apologetic Commentary,* and so forth; the other, *Apostolico-Monastic Discipline.* Against this *Apostolico-Monastic Discipline* two volumes came forth: one entitled *The Vindication of Regulars;* the other marked with this epigraph, *The Cloistered Life.* These two little books, truly famous and full of erroneous comments, fables, and jeers, I ground down and utterly shattered in the work entitled *A Defence of the Decrees of the Council of Trent,* distributed into two volumes, and published by the command of the most wise Pontiff Benedict XIV. From these I shall cull a few things.

Chapter I — The notion of the religious state, and its obligation of aspiring to evangelical perfection

I. QUESTION I. *What is the religious state?* ANSWER. It is a way of arriving more easily at evangelical perfection. From the virtue of Religion, which is eminent among the moral virtues, this sacred state draws its name; and therefore it is called *religious.* It brings with it stability and immobility. That it may be such, it requires an approbation made by the Church, as is had from the Fourth Lateran Council, chapter *Nimia.* Necessary also is the profession of three vows according to some one of the rules approved by the Apostolic See. Hence individual Orders have their own proper rule and constitutions, to whose norm they compose the religious state.

II. QUESTION II. *Whether Religious are bound under a grave precept to tend to perfection?* ANSWER. This question needs perspicuous explication. All Christians, whether lay or ecclesiastical, whether secular or cloistered, are bound by a precept of aspiring to perfection. Perhaps to the unskilled this truth will be impassable. Let them know therefore that this perfection of which our discourse now is, is set in charity, as the Gospel and all the Fathers teach. Hence St. Thomas, II-II, q. 186, art. 2, describes the religious state as being *a certain discipline or exercise of arriving at perfection.* For that Religious might more easily and expeditiously attain this goal, they vow the three evangelical counsels, to which the rest are reduced. These three vows are instruments and as it were the wheels of the chariot which pave the way for attaining this prize. All the evangelical precepts are necessary means; the counsels are free instruments ordained to the precept of charity. This precept is the end and goal of all the precepts and counsels. Neither in the counsels therefore, nor in the other mandates, but in charity alone is evangelical perfection set, to which under precept all, both Christians and religious men, are bound to aspire. When Christ said *Be you therefore perfect, as also your heavenly Father is perfect,* Matthew 5, he intoned this not to monks, not to the cloistered, but addressed utterly the whole human race, since then there were neither monks nor cloistered.

III. With a gross error therefore are those Christians wrapped about who, reckoning this evangelical perfection to be something of supererogation and of counsel, and to belong only to religious men, attempt nothing for the attaining of it. Charity here separates the soul from the love of the world and of those things which are in the world, and joins it to God. And the more the soul is separated from the concupiscence of the flesh, from the concupiscence of the eyes, and from the pride of life, as St.

John says, 1 epistle, chapter 2, the more intimately is it coupled to God. To this union with God all Christians are bound by precept. Therefore all Christians are obliged to tend to the perfection of charity. This only is the difference, that Christians are bound to run to perfection by the way of the precepts alone; but religious men, that they might more easily address that same goal, have embraced also the evangelical counsels, and by three solemn vows have imposed the same upon themselves to be observed.

IV. Christians therefore must needs be vigilant in observing the precepts, which enjoin a study of prayer, custody of the senses, compression of the flesh, equity, and purity of heart: because these and all the other mandates are, as has been said, necessary instruments for arriving at the perfection of charity, or union with God. And because this union is greater and more intense in one and less in another, therefore one becomes more perfect than another.

V. On the contrary religious men, besides these precepts, are bound to observe the three vows and their own rule and constitutions, which the holy Patriarchs, the divine Godhead breathing upon them, prescribed as means which help and more easily conduce to the goal set before them.

VI. Whence, you will say, can we gather that men, whether Christians or religious, fulfil this precept of aspiring to perfection? Christians who vigilantly abstain from vain pomps, from luxury, from display, from the occasions of violating the precepts of the Decalogue; who apply themselves to the study of prayer; who preserve justice and equity, and attribute to each what is his; who do to others what they would wish done to themselves; who fulfil the duties of their own state: these give signs that they walk by the way of evangelical perfection.

VII. If Christians themselves must fulfil the duties of their own state and the offices of ruling a family, of educating sons, of providing necessaries for their household, and all the rest; how much more are religious men bound to execute the duties, vows, rites, statutes, and laws of their own Religion? But whence can it be gathered that religious men bestow their labour with a sincere mind upon the study of perfection? Perhaps from the observance of silence, from assiduity of prayer, from the compression of the senses, of the flesh, and of the appetitions, from the execution of the vows of poverty, chastity, and obedience? Assuredly all these are signs. These are probable enough, but sometimes fallacious. For all these can be the fruits of hypocrisy. That a man may prepare himself a way to government, to prefectures, that he may procure for himself the estimation of a religious man and of an observer of his own institute, he can execute all the aforesaid, and under the cloak of sacred Religion become a martyr of the devil. What then are the arguments of a soul aspiring to Christian perfection? The exercises of charity; love toward all; patience and tolerance of injuries; candour of soul; sincerity of tongue; docility of mind; contempt of worldly things; the trampling down of political respects; the fortitude of an evangelical breast; a study of professing openly the discourses of Christ, hostile and adverse to flesh and blood; a neglect of one's own estimation and of worldly things. These are the indications which show a soul running in the stadium of Christian perfection. Since indeed means can be found without an end; but an end cannot subsist without means. Ceremonies therefore and observances of vows, constitutions, and other rites can appear outwardly destitute of the nuptial garment and covered with the mask of hypocrisy. But the exercises of charity, which are their end, cannot stand without the same.

VIII. Hence you may gather that those superiors of Regulars do not sufficiently satisfy their own office who in their Chapters continually cry out against certain transgressions of ceremonies, and

scarcely inculcate anything else upon their subjects than the custody of silence, frequency of choir, and the observance of fasts and of certain genuflexions. I praise all these things; but I grieve at this, that they omit to exhort, persuade, and urge to the exercises of charity. For this flame being kindled in the souls of Religious, all the rest flow of their own accord. Charity indeed is a most fruitful plant bearing fruits ripe for eternity. Charity is kind, is patient, envieth not, dealeth not perversely, is not puffed up, beareth all things, endureth all things, seeketh not the things that are her own but the things which are Jesus Christ's, dreads not the power of the age, fears not the calumnies of adversaries; but with undaunted breast in word and work fulfils exactly the law of Christ and the duties of her own profession. That heavenly fire always burns where it is present, and continually emits flames. If it burned in the hearts of Superiors, beyond doubt it would send its sparks into the souls of subjects. Let those therefore who, the preaching of charity being neglected, inculcate only the observation of ceremonies, fill themselves with charity, that, pouring this into others, they may procure for themselves the best subjects.

IX. Charity joins souls with the sweetest covenant of benevolence, and makes them one heart and one soul. In that community in which aversions, dissensions, and contrary factions boil; in which Superiors put on the mask of prudence with craft and cunning, a double heart and an amphibological tongue, candour, sincerity, and affability being driven out — there assuredly the flame of charity does not burn, but a lying and worldly spirit, and that knowledge which St. James calls diabolical, dominates. If superiors play with words, tergiversate in deeds, deny, answer, delude, trim their sails, and set themselves against, as the reckonings of times bear, between subjects and the superiors themselves, their craftiness being detected, no sincerity, no candour of soul, no charity flourishes. But on the contrary murmurs, dissensions, aversions, and perpetual wars are carried on. Superiors who with open soul, sincere heart, and ingenuous tongue gather and embrace their subjects bind them to themselves and oblige them at that very time at which they deny favours, when they cannot impart them with the law safe. But let us return to the path from a digression otherwise opportune.

X. Those Religious therefore who, the exercise of prayer, mortification, penance, abstinence, and of their own rule and constitutions being neglected, perform only those things which they cannot omit; who indulge in games, storytelling, idleness, solaces, and diversions; who, taking up cape or cloak, go about the cities and follow after curious things; who, if the table be not furnished to their palate, murmur; who deride the exhortations and mandates of superiors, and jest, tell tales, and dispute about them — these run not the way of evangelical perfection, but of eternal damnation.

XI. That I may contract many things into few: all Christians, whether lay or religious, are bound to aspire to evangelical perfection by force of a precept binding under mortal sin, but by various means, which all lead by one and a narrow way to the same goal. Lay Christians by the exact observation of the precepts alone; Religious add to the execution of the precepts the observance of the three vows and of their own constitutions. These vows, these constitutions and rules are not, say the Fathers, packs and weights which oppress, but are wings which lighten the journey and raise upward. Wherefore the religious state is named a school of arriving more easily at the perfection of charity, to which all Christians are bound to tend. More gravely assuredly and more wickedly do Religious sin who violate this precept than lay Christians. Since religious men, instructed by God with a richer store of graces and gifts, can more easily and conveniently tread the narrow evangelical path. Therefore these are held sacrilegious, ungrateful, and most worthless servants of God, when they

squander and dilapidate so many talents received from God. Since indeed, segregated from the cares of the world and from the dangers of the world to which wretched Christians are obnoxious, compelled to think nothing of food and clothing, they can most easily be free for God alone and for the observance of their own institute. Wherefore they will be beaten doubly, if they omit, much more if they contemn, the attaining of evangelical perfection.

XII. Theologians are wont to dispute whether the observance of the three vows suffice, the other laws being neglected which do not oblige to grave fault; and again they debate whether a continued transgression of those laws induce a virtual and interpretative contempt. But I settle the matter in few words. The three vows are common to all sacred Orders. Every religious Order is distinguished from another by its own peculiar statutes, rules, and constitutions. Therefore besides the three vows common to all, the observance of one's own institute is necessary; otherwise that Religious would be of no determinate Order who kept only the three vows. Necessary therefore is the observance of one's own rule and constitutions, that a man may be said to be free for the study of evangelical perfection.

XIII. Does the transgression of this or that monastic constitution intercept the way of Christian perfection? A constant and firm mind of fulfilling one's own profession is to be distinguished from the transgression of this or that law proceeding from a subreption of soul and from weakness. Daily we all fall. Those who from infirmity violate some law not obliging to fault, at least grave, stumble and in some manner limp on the way; but they rise again at once, and restore their mind and strength that they may run more swiftly; and because we are weak and infirm, we limp anew, and at the same time anew take up wings, more or less, according as the fire of charity burns more or less in the heart. Those therefore who from common infirmity violate some constitution are not outside the way of perfection, provided they keep a firm and constant mind of observing their own profession. On the contrary those who everywhere violate the peculiar laws of their own institute, caring nothing for the transgressions of the same, and persevering in the same corruption, are outside the narrow path, and run the broad and spacious way of perdition. Nor does it avail them at all that they dwell in Convents where the observance of the laws, at least for the greater part, has passed into desuetude, since no corruption prescribes against a law. In brief, the vows and the constitutions are joined by a reciprocal knot. The constitutions are the safeguards of the vows; the vows are the bulwark of charity. Charity, the vows, and the constitutions hold out mutual hands to one another. This knot being gravely injured and broken, the whole edifice must needs fall. Those who with deliberate mind violate their own constitutions indiscriminately lie, if they boast either the observance of the vows or the exercise of charity.

XIV. Three vows are necessary for constituting the religious state, and indeed emitted with a solemn rite in the face of the Church: for that state includes firmness and stability. These three vows of poverty, chastity, and obedience denounce perpetual war upon the three evils of the world which St. John describes, 1 epistle, chapter 2: *All that is in the world is the concupiscence of the flesh, the concupiscence of the eyes, and the pride of life*. Of these three vows the discourse will presently return. Meanwhile if you desire more on this matter, read St. Thomas, II-II, q. 186, articles 6 and 8.

Chapter II — On the vow of poverty

I. The vow of poverty is the first foundation of the regular life. The matter of that vow is the abdication of temporal things, manifested by Christ the Lord, Matthew 19: *If thou wilt be perfect, go, sell*

what thou hast, and give to the poor. The other two counsels — of cultivating virginity, and of abnegating one's own will and subjecting oneself to a man's authority — the divine Master expressed in few words. But the very method by which the Apostles and the first Christians committed to execution the evangelical counsel of poverty the Evangelist Luke describes clearly and distinctly, Acts 2: *And all they that believed were together, and had all things common. Their possessions and goods they sold, and divided them to all, according as every one had need.* More fully does the holy Evangelist express this form of poverty in chapter 4: *And the multitude of believers had but one heart and one soul: neither did any one say that aught of the things which he possessed was his own; but all things were common unto them. … For neither was there any one needy among them. For as many as were owners of lands or houses sold them, and brought the price of the things they sold, and laid it down before the feet of the apostles. And distribution was made to every one, according as he had need.*

II. This is that poverty propped by the community of goods, which Christ set forth in his apostolic College as the foundation of heavenly perfection, which, being set in charity, joins men with the bond of the concord of love mutually with one another and with God. For the propriety of goods kindles cupidity, and like a seditious citizen stirs up tumults, quarrels, and dissensions, sunders hearts and souls, and drags them apart into contrary factions. But community, since it takes away all propriety, tears up also the root of contentions, quarrels, and dissensions, and induces a communion of heavenly goods. For these two things are connected: 1. *They were one heart and one soul;* 2. *All things were common unto them.*

III. Poverty taken generally admits several degrees: of which one excludes the dominion and use of any thing whatsoever as one's own; another rejects dominion and proper use, yet retains the capacity for dominion; a third neither absolutely abdicates dominion nor becomes incapable of dominion, but only uses no thing as its own; a fourth betrays a privation neither of dominion nor of use, but admits only that measure of goods which is necessary for the sustentation of life, and rejects all the rest. To these four degrees all the others are reduced. The first degree of poverty Regulars now vow. The third the scholars of the Society name. The other two anyone can vow.

IV. Very many theologians exhibit this definition of monastic poverty: *The vow of poverty is a voluntary abdication of temporal goods, by which the one vowing is deprived of the propriety of the same.* Others say more compressedly: *It is the abdication of dominion.* Which definitions, exactly squared to the rule of Metaphysics, describe poverty taken generally, but not as to be committed to execution. Two things they distinguish in this vow. The first they call *essential,* set in the abdication of dominion. The other they call *accidental,* which regards the use of goods. Hence they infer that the connexion of the vow of poverty with the community of goods is accidental — which holds true of poverty taken generally: whether that suffice for explaining monastic poverty I shall presently say.

Chapter III — Regulars vowing evangelical poverty vow the very community of goods

I. All theologians and canonists teach that Regulars are bound by force of an ecclesiastical precept gravely obliging to the community of goods, private purses being driven out. But whether this precept enter the very essence of the vow, or range outside it, comes to the same thing as regards that which is the head of the disputation. For whether Regulars violate the vow directly, while they retain a private purse, necessity being taken away, or the precept, they perpetrate a mortal sacrilege.

Wherefore even if what I am about to say were false, they would not on that account perceive any emolument thence, since according to all theologians and canonists Regulars are bound by a most grave ecclesiastical precept of observing the common life.

II. And that what I am about to say may be more evidently plain, we must have before our eyes that the vow of poverty taken generally, precise from every circumstance, admits several degrees, mention of which was made in the preceding chapter; and that in this acceptation it betrays neither one before another, nor includes nor rejects community. Another thing is no less manifest, namely that any solemn vow whatsoever claims for itself a certain and predetermined matter. These things being constituted, I evince what I proposed.

III. All Regulars vow poverty to God — not an uncertain poverty, not one squared to the rule of some metaphysical definition which some have fashioned for themselves; but they vow that poverty which is determined in their own rules. This first proposition is inescapable. For poverty admits a latitude and very many degrees, as all confess and as in fact is established; therefore it must be determined by the intention of the one vowing. But this determination cannot be made by individual Regulars; otherwise there would be as many kinds of poverties as there are men vowing, and all things would be confused and disturbed. Wherefore all the sacred Orders have their own rules, in which is defined the poverty which all of the same Order ought to keep. But all the Rules — of Sts. Basil, Augustine, Benedict, Francis, and of all the holy Patriarchs — determine for the matter of the vow of poverty the common life. Therefore Regulars vowing poverty vow the common life. Unless the second proposition be true, I am willing that the cause should fall of its own accord. I could here transcribe the texts of all the Rules, which from a study of brevity I pass over. Let it suffice to indicate in passing that in all the aforesaid rules like things are had: *Let all things be common to you, as you read in the Acts of the Apostles*.

IV. But although this argumentation were false, not on that account, as I have said, would a private purse be lawful to Regulars, since according to all, both theologians and canonists, they are bound by a most grave ecclesiastical precept to observe the common life void of every private purse. Hence a Religious places all his goods, both present and future, under the dominion of the Religion, on this condition and agreement, that the Religion may dispose of those goods for the common use of the Religious as shall have seemed to it expedient; and the Religion in turn binds itself by the same bond to furnish food and clothing and all necessaries to the Religious. Further, just as in any contract whatsoever, one party failing in fulfilling its own duty, the other also necessarily fails; so likewise if the Religion be lacking to its own office in the congruous provision of food and clothing, forthwith there arises in the professed Religious a right of nature, antecedent to any contract whatsoever, of procuring that food and clothing which the Religion ought to bestow. This is the whole that can be said in favour of Religious and of a private purse. For the rest, the superiors of Religions as much as the Religious are bound by a most grave precept either to reintegrate the contract, if it be broken, or to observe it, if it stand, as I shall say below.

Chapter IV — The decrees of the Council of Trent and the constitutions of the Supreme Pontiffs urge Regulars to an exact common life, private purses being driven out

I. Of the decrees of the Councils and of the Pontiffs which prescribe the common life to Regulars, I shall transcribe only those which Trent prescribes, session 25, chapter 1: "Since the holy Synod is not ignorant how much of splendour and of utility arises in the Church of God from Monasteries piously instituted and rightly administered, it has judged it necessary, that the ancient regular discipline may the more easily and maturely be instituted where it has collapsed, and may more constantly persevere where it has been preserved, to command, as by this decree it does command, that all Regulars, both men and women, order and compose their life to the prescript of the Rule which they have professed; and above all that they faithfully observe those things which pertain to the perfection of their profession — as the vows of obedience, poverty, and chastity, and if there be any other vows and precepts peculiar to some Rule and Order, respectively pertaining to their essence, AND ALSO TO THE COMMON LIFE, FOOD, AND CLOTHING to be preserved; and let all care and diligence be employed by superiors, as much in general and provincial Chapters as in their visitations, which at their own times they should not omit to make, that they depart not from these things: since it is established that these things which pertain to the substance of the regular life cannot be relaxed by them. For if those things which are the base and foundations of the whole regular discipline be not exactly observed, the whole edifice must needs fall."

II. Again the same Council, chapter 2, adds: "Let it therefore be lawful to no Regulars, whether men or women, to possess or to HOLD as their own, or even IN THE NAME OF THE CONVENT, immovable or movable goods of whatsoever quality they be, and in whatsoever manner acquired by them; but let them straightway be delivered to the superior and incorporated into the Convent. Nor let it hereafter be lawful for superiors to grant stable goods to any Regular, even for USUFRUCT, or USE, ADMINISTRATION, or COMMENDAM. But the administration of the goods of Monasteries or Convents shall belong to the officials of the same alone, removable at the nod of superiors. But the use of movables let superiors so permit that their furniture may befit the state of poverty which they have professed; and let there be nothing superfluous in it, nor let anything which is necessary be denied them. But if anyone be found or convicted of holding anything otherwise, let him be deprived for a biennium of active and passive voice, and let him also be punished according to the constitutions of his rule and order."

III. Clement VIII confirmed the decrees of Trent by a constitution given in the year 1599, in which these things are prescribed: "I. That the decrees of the Tridentine Council concerning the guarding of the vow of poverty may be more faithfully observed, it is commanded that no one of the brethren, even if he be a superior, can possess immovable or movable goods, or money, proceeds, rents, ALMS, whether from sermons, or from lectures, or for MASSES to be celebrated both in his own Church and anywhere, or acquired by any other just labour of theirs, and by whatsoever cause and name, even if they be the subsidies of blood-relations, or the largesses of pious persons, legacies, or donations, as his own, or even in the name of the Convent; but let them straightway be delivered to the superior and be incorporated, and be confounded with the other goods, revenues, moneys, and proceeds of that place, that thence common food and clothing may be supplied to all. II. Nor let it be lawful IN ANY WAY to superiors, whosoever they be, to grant to the same Brethren or to any of them stable goods, even for USUFRUCT, or USE, ADMINISTRATION, or COMMENDAM, even under the name

of DEPOSIT or CUSTODY. III. But of those things which shall have been granted for necessity, let no one possess anything as his own, nor use it as his own. IV. He who shall have offended in any of the aforesaid, let him incur not only the penalties prescribed by the Tridentine Council, but others also much graver to be imposed at the arbitration of superiors. V. NO DISPENSATION of any superiors whatsoever, NO LICENCE as regards immovable or movable goods, can excuse them from being obnoxious to the faults and penalties imposed by the decrees of the same Council and to be incurred by that very deed, EVEN IF SUPERIORS SHOULD ASSERT THAT THEY CAN GRANT DISPENSATIONS OR LICENCES OF THIS KIND: to whom in that matter we will that credence be by no means given. VI. Let the clothing of the brethren and the furniture of the cells be procured from the common money, and let it be altogether uniform for the brethren and for superiors whosoever they be, and befit the state of poverty which they have professed. Nor let anything which is necessary to anyone be denied. VII. Let all the garments of the brethren, whether woollen or linen, and all other furniture, be carried to some convenient place of the Convent, and there be diligently guarded by one or two brethren deputed to this office, that thence, at the superior's arbitration, they may be opportunely supplied according as each shall have need. VIII. Let all superiors also, whosoever they be, feed on the same bread, the same wine, and the same relish, or (as they say) portion, at the common table, first or second, unless they be hindered by cause of infirmity; nor let anything singular be able in any way to be offered, which anyone may use privately for food. If anyone shall have sinned in that matter, let him receive no nourishment that day save bread and water. IX. Let all superiors, even Generals, or those who have particular revenues or provisions by reason of their offices, take care that their receipts and expenses be faithfully and diligently noted in a distinct book; nor let them expend anything for other uses than those necessary by reason of their office. But when it shall happen that they tarry in some Convent, let them confer into the common stock that quantity of money out of which food may be supplied to themselves and to those who shall be with them according to the prescript of the rule and constitutions. X. Let no one of the superiors of places be able by himself to have or exercise the administration of goods or of other things, and the dispensation of moneys and of the revenues of his Convent; but let this whole burden be so committed by the General to three brethren of the same Convent, that one may have the care of collecting and exacting things, goods, and revenues; another, as depositary, may faithfully and exactly keep the moneys and the rest collected and exacted by the former; another may provide from the moneys and things received from the depositary for the Prior and the Brethren and the whole Convent in necessaries, the Prior nevertheless commanding, not according to his own affection but according to the rule of charity, as a good dispenser — the confusion of offices of this kind being utterly interdicted. XI. But let these three render an account of expenditure as well as of receipt every month to the local Superior, two or three Brethren of the same Convent, of the more approved and skilled in the use of things, being also employed. Then let them again render it in the presence of the Prior and the aforesaid skilled men to the General when he shall have come. Lastly let the General himself in any next general Chapter, at least before three Judges to be constituted by the Chapter itself for this, be bound to render an account of all these things, and of his whole administration both public and private, of which also an authentic copy shall be written out from the acts of the Chapter, to this end that it may be transmitted at every mandate of ours or of the Apostolic See. XII. In each Convent let that number of Brethren henceforth be constituted and retained which either from its own proper revenues, or from common ones, or even from the alms of individuals and any other

receipts whatsoever to be conferred into the common stock as aforesaid, can conveniently be sustained. But let the revenues and all the aforesaid be diligently kept in a common and safe place. XIII. But to superiors we interdict and forbid that they can declare, interpret, or relax in any way at all the decrees of the Tridentine Council or these ours, decreeing, and so forth. But if anyone shall have presumed to attempt the contrary, let him by that very deed be deprived of every grade and office, and remain perpetually unfit for them."

IV. Urban VIII confirmed the aforesaid constitution of Clement VIII, as is had in the Roman Bullary, Vol. IV, page 63. And Paul V, Gregory XV, Alexander VII, and Innocent X confirmed the constitutions of Clement and Urban. The testimonies of these Pontiffs I pass over, that I be not long.

V. Lastly Innocent XII confirmed the decrees of Trent and the constitutions of the preceding Pontiffs, and strengthened them against false and erroneous comments, and rooted out every root of tergiversating and cavilling. These decrees are had in the Bullary of the same Pontiff, page 167 and following. The beginning of the decrees is this: *His Holiness,* and so forth. *That regular discipline may be kept whole and entire and may flourish for the salvation of Religious and for the edification and utility of the whole Christian people, and that if anywhere it has collapsed it may, the Lord helping, be repaired; he constituted and declared that the licence of receiving Novices in individual approved Orders was benignly granted, provided nevertheless that those things which have been salutarily constituted for the right instituting of the regular life, both by the most holy Tridentine Synod and by the Roman Pontiffs our Predecessors, chiefly by CLEMENT VIII of happy memory in his general decrees for the reformation of Regulars, and also by INNOCENT X and ALEXANDER VII for the reception of Novices and the education of the Professed — to all which His Holiness firmly adheres, and so far as need be confirms and renews them, saving nevertheless in this part the statutes or ordinations of individual Orders approved or published by the Apostolic See in FORM SPECIFIC after the same decrees — be exactly and inviolably observed.*

VI. That clause (*saving nevertheless in this part,* and so forth) was omitted in the *Apostolico-Monastic Discipline* as not necessary, both because it does not regard the exact community, and because the discourse is of an approbation in *specific form,* by which approbation it is established that no constitutions of Regulars permitting a private purse were confirmed after Clement VIII. This will now be more clearly plain. The things therefore which follow settle the cause.

VII. *Wherefore the sacred Congregation specially deputed by the same most holy Lord of ours upon regular discipline … by mandate of His Holiness announces by the tenor of the present decree to the Superiors of all and singular the regular Orders … both Generals and Provincials, by whatsoever name they be named, and to the rest whom it concerns, that in each Province throughout Italy and the adjacent Islands they depute as soon as possible some Convents, such as they shall have judged more fit, or at least one, and there establish by apostolic authority the entire observance of the Rule and Constitutions of each Order, and of the apostolic decrees, but chiefly of the EXACT COMMON LIFE. But after it shall have sufficiently appeared to the same Congregation that the regular observance, signally as regards the exact common life, has been WITH EFFECT established, both from the report of the same Superiors General or Provincial, and from the testimony confirmed by oath of the Superior and of the brethren dwelling in the aforesaid Convents, then His Holiness will benignly grant the aforesaid licence, which he has hitherto deferred, of receiving Novices there. …*

Further, lest regular discipline, while it is established in Convents already erected, be relaxed in those to be erected, and what is constituted on the one part be at the same time destroyed on the other, the sacred Congregation, His Holiness likewise approving, willed and decreed that no Monasteries, Colleges, Houses, Convents, or other places of

Religious ought henceforth to be founded, erected, or in any way instituted, save under the EXPRESS OBLIGATION of the exact COMMON LIFE to be perpetually and inviolably observed by all the Religious dwelling there; and moreover that no foundations of this kind are henceforth to be admitted, unless, besides the other things required for it, it be first lawfully established that there are annual revenues, or a certain hope of alms, by which at least twelve Religious can conveniently be sustained in the EXACT COMMON LIFE.

VIII. Let him now weigh the things which follow, who writing against me says that I of set purpose passed over the above-indicated clause *saving nevertheless,* and so forth — let him weigh, I say, what follows in the Innocentian decree.

IX. *Notwithstanding as regards ALL and SINGULAR the aforesaid, apostolic constitutions and ordinations, and also the STATUTES, customs, and privileges of any Orders whatsoever, and all other things whatsoever to the contrary.* At the last the same sacred Congregation *seriously admonishes and beseeches all Regulars, of whatsoever Order and Institute they be, in the words of HIS HOLINESS, that, all delay being postponed, as befits sons of obedience, they institute and compose their life to the prescript of the Rule which they have embraced, and sincerely and faithfully obey the apostolic decrees published FOR THEIR ETERNAL SALVATION. Nor let them suffer themselves to be led away from this obedience by empty interpretations or fallacies, OR UNDER PRETEXT OF RELAXATIONS, TO EXCUSING EXCUSES IN SINS. But, mindful of their profession, by which they made themselves wholly over to God's service, let them briskly pursue the way of Christian perfection which they have undertaken — arduous indeed, but sprinkled with the sweetness of divine charity — the cares of earthly things being cast away.*

X. Lastly, lest under pretext of the silence or toleration of the Apostolic See anyone should be able to follow a corruption contrary to honesty, the same Supreme Pontiff Innocent XII published the following decree, inserted in the cited Bullary, page 309, whose beginning is *Debitum pastoralis officii,* in which among other things these things are had:

XI. *As we have not without grave trouble of soul learned, although the observance of decrees of this kind has been prosperously and happily introduced in very many Monasteries or Convents of religious men, and thence a richer harvest of holy works daily arises there, the Lord blessing it; yet the same seed does not elsewhere bear the same fruits: for neither has the enemy of the human race ceased, nor does he yet cease, to oversow in the field of the Lord cockle which chokes the mind of the Father of the family: hence it is that we, mindful of that prophetic admonition, Cry, cease not, lift up thy voice like a trumpet — that our constant and unshaken will of pursuing a work of this kind with peculiar study and the highest contention of soul may more and more become known, and that to ALL TRANSGRESSORS every occasion of excusing themselves UNDER THE VAIN AND FALSE PRETEXT OF OUR SILENCE may utterly be cut off — of our own motion approve in perpetuity by the tenor of the present the aforesaid Congregation of Cardinals and Prelates upon regular discipline,* and so forth. … *But let the faculties of the same Congregation thus confirmed by us be these … of designating and deputing Convents, Monasteries, Colleges, and Houses for Noviceships and Professorships,* and so forth. … *Of promoting the decrees both of CLEMENT VIII of happy memory, our Predecessor … chiefly upon the reformation of Regulars, and above all the observance of the EXACT COMMON LIFE; and to this effect alone of diligently examining new foundations of any Convents, Monasteries, Colleges, and Houses of this kind, lest henceforth it happen that places of religious men be founded, erected, or in any way instituted, save in those in which the same COMMON LIFE according to the prescript of the last of the said decrees can be perpetually and exactly observed,* and so forth. *Notwithstanding,* and so forth, *the statutes and customs of any Orders, Congregations, Societies, and Institutes whatsoever, and any others whatsoever strengthened even by oath, APOSTOLIC CONFIRMATION, or any other firmness whatsoever, and also privileges,*

indults, and apostolic letters granted, confirmed, and renewed to the same Orders, Congregations, Societies, and Institutes, and to their superiors and persons, and to others whatsoever, under whatsoever tenors and forms of words, and with any derogatory clauses whatsoever, even derogatory of derogatories, and other more efficacious, most efficacious, and unusual annulling clauses, and with other decrees in general or even in special, or in any other way whatsoever to the contrary, and so forth.

XII. Lastly Innocent XII instituted a peculiar Congregation which should receive the oath of the exact community to be observed, to be furnished by Regulars, before it impart the faculty of admitting to Religion. I reckon it worth the labour to subjoin the form of that oath. It is of the following tenor:

A copy of the formulary which Regulars swear concerning the exact community to be observed

We the undersigned make faith, and testify IN THE WORD OF TRUTH, that in this Convent of N. a perfect community of goods has been established, and that all the goods of the particular Brethren, both as regards ALL MONEYS, and as regards clothes and other things, whether they be life-rents, or alms, whether proceeding from sermons or from whatsoever source, ARE ALL CONFOUNDED with the goods and revenues of the Convent, and incorporated with them, according to the decrees of Clement VIII of holy memory and of Innocent XII and of the sacred Congregation of Discipline, so that out of all these provision is equally made both in time of health and in time of infirmity. And a common Wardrobe has been established, in which are laid up the garments of all the Brethren, and all things which are for common use: out of which Wardrobe provision is equally made for all according to the need of each Brother. In this Convent also, besides the perfect community of the aforesaid goods, regular observance flourishes according to the rigour of our constitutions. And the Novices in this Convent are religiously nourished and educated in all the exercises pertaining to the state of our Religion, and are proved both by day and by night. Wherefore the undersigned humbly supplicate, affirming all the aforesaid WITH AN OATH, the sacred Congregation of regular Discipline for licence of receiving youths to the habit. Done on the day, and so forth, in the year, and so forth.

XIII. This is the oath which the Superiors of Regulars exhibit to the sacred Congregation upon regular Discipline every second or third year, that they may obtain from the same sacred Congregation the faculty of receiving youths to the habit of Religion. Let us form a hypothesis in which the Roman See could and would prescribe a common life void of every private purse. In this hypothesis could it have employed clearer words, more luculent and more urgent clauses, than those which it employed in the recounted decrees? Whither therefore will those who opine the opposite betake themselves? Can they themselves find either more luculent expressions or more efficacious formulas of prescribing the observance of an exact community? Will they deny to the Roman Church the power of prescribing a perfect community of things? No chink lies open here for escape.

Chapter V — Community being taken away, neither the vow of obedience nor the observance of regular discipline can long stand

I. The violation of poverty is the rock upon which cloistered men most easily strike. Hence Religions both ancient and later have suffered more or less relaxation. Nevertheless the Institutors of the sacred Orders not only did not mitigate this poverty circumscribed by an exact common life, but fortified it with stronger safeguards. The mendicant Orders, seeing monastic discipline collapsed on account of redundant riches, rejected riches and revenues even to be possessed in common, and

determined to live by begging. To these succeeded the Clerks Regular, who, beholding the collapsed discipline of the Mendicants, that they themselves might not be obnoxious to this vicissitude, prescribed a poverty so severe that some determined not even to receive offerings for the celebration of Masses, others not even to seek alms. Why this? The counsel of poverty is free. To possess riches absolutely brings no evil. The Patriarchs of the sacred Orders learned by the experiment of so many ages that the observance of that common life is most difficult and most easily violated by those vowing it. It would have been of their charity to temper this poverty, to permit private purses and life-rents, that by this way they might remove from their subjects the occasions of sinning. For when a law concerning a free and innocuous thing is with difficulty observed by subjects, it is the part of a wise legislator either to take the same away, or to temper it and accommodate it to common use.

II. On the contrary, all the Patriarchs to a man not only did not relax the law of poverty, but strengthened it more severely and fortified it with new safeguards. Why did none of the holy Patriarchs grant private purses and revenues to individual Religious? Why did all without exception most severely forbid them? Let them object to me even one Patriarch who granted private purses and revenues, and I am willing to submit the fasces to them and to sing their victory.

III. What therefore is the cause why all the holy Patriarchs conspired to this, that by unanimous consent they should restrict, straiten, and by every conceivable mode confirm this vow of poverty? Because, the poverty of the common life being taken away, the vow of exact obedience and the observance of regular discipline must needs fall. Since indeed the profession of the regular life, as regards poverty, is a mutual contract, as I have indicated, by force of which subjects with a solemn rite cede all their goods, both present and future, to the Religion; the Religion in turn binds itself by the same sacred bond of feeding and clothing its subjects, both healthy and infirm. If the Prelates of Religions do not discharge their pledged faith, by ministering all necessaries to their subjects, it necessarily follows that subjects are loosed from the bond of obedience, as regards the procuring of those things which are necessary for food and clothing. Therefore, community being taken away, the vow of obedience, and consequently the regular discipline itself, falls in ruins.

IV. The industries, labours, and means which subjects employ that they may acquire a private purse most often are not congruous to Religion. If Prelates attempt to hinder them, subjects oppose the right of nature of providing for themselves in food and clothing not bestowed by the Prelates. Since indeed in cloisters from which a perfect community is exiled, some sum is delivered for clothing, in one place greater, in another less, which does not suffice for the whole. The furniture of cells is not given at least entire. For journeys, for letters, either little or nothing. For the curing of infirmity certain things are held out, as in a hospital; and those who have not whence to succour themselves languish most wretchedly. But those who abound — far be it that they bestow anything upon infirm brethren. Hence some depart in the highest penury; others dying leave very much money. By what helps did they procure vast private purses?

V. Suppose Prelates forbid unfit subjects to hold sermons, because they are not endowed with that probity of morals which is required that outside the cloisters they may be an example to Christians; that they hear not the confessions of Nuns; that they mingle not themselves in earthly businesses; that they seek not patronages; that they wander not through the cities. Straightway subjects cry out: we lose these gains; who will give us clothes; who will pay the expenses of letters, of journeys, of infirmities? Who will hold out chocolate, who tobacco, who so many other things either necessary or

congruous? Life-rents are either scanty or none, and so forth; by the common patrimony provision is not made for us: therefore by the right of nature, which precedes every vow, we can justly procure these things for ourselves. What thence? Men rude in letters, destitute of integrity of morals or of prudence go forth from the cloisters; the unskilled preach, the unlearned hear confessions, the inept transact businesses. Those hunt favours and patronages; these canvass for prefectures and offices. If Prelates wish to interdict them, subjects oppose, as I have said, the right of nature.

VI. The evils, scandals, relaxation of discipline, and other absurdities which proceed thence I am unwilling to express in my own words. Dionysius the Carthusian, *On the Reformation of the Cloister,* chapter 16, writes these things: *From a private purse, as from a poisonous root, many sins proceed — as for instance contumacy, pride, contention, partiality, avarice, vainglory, envy, lying, luxury. Since those abounding in a private purse become bold for resisting even superiors, nor do they patiently receive discipline and correction; and they effect partialities, and sometimes are free for revellings and drunkennesses, from which they slip into the vices of the flesh, and most wickedly break their vow of preserving chastity.* What if we used this liberty of writing? Like and graver absurdities flowing from a private purse Trithemius and Nider, St. Antoninus, Cajetan, and the theologians commonly describe. Behold the weight of the reasons why the holy Patriarchs even of the last age declared war upon a private purse. Other austerities, as fasts, rough clothing, and several other exercises of penance, they either diminished or took away. But the community of goods, although they acknowledged it to have been a stone of stumbling against which very many struck, they not only did not diminish, but, as I have said, prescribed it more severely: because, this exact community of goods being taken away, the whole monastic discipline must needs fall in ruins.

Chapter VI — How hostilely life-rents fight with the vow of monastic poverty. The excuses and sophisms with which the corruption of private purses is wont to be encrusted

I. Riches and evangelical poverty are no less opposed than chastity and luxury. Wherefore Christ said: *If thou wilt be perfect, go, sell what thou hast, and give to the poor.* To sell and to retain — do they not mutually fight in hostile fashion? Do not these two — to sell all things, as all the Fathers interpret, which the Gospel itself has clearly and perspicuously published, and to retain some things — constitute a monstrous chimera? And yet this chimera is familiar. Before young men make profession, they reserve to themselves life-rents, richer or smaller, as the domestic patrimony permits.

II. They reply that they reserve these revenues not for themselves but for the Religion. For the Religion has the absolute dominion of these revenues, but the Religious the pure and mere use, by the licence and faculty of Superiors. But dominion, and not the mere use of fact, fights with the vow of poverty. Rightly and prettily. What fills and saturates our appetitions — dominion or use? Dominion absolutely is sterile, and is uniquely sought on account of use. If you separate dominion from use, it becomes futile and vain. I would most easily concede to you a most perfect dominion, provided the Religion always had the use of the moneys. What would that dominion in such a case profit you? If a husband had the dominion and another the use of his wife, would he keep chastity? The husband with his dominion would be continent and chaste; the other with his sole use would fulfil venery.

III. They insist that the Superior can at his nod revoke this use. Excellently. But he never revokes it, as experience establishes. If Superiors could revoke at their nod the use of a private purse, why do they not revoke it? Why do they not bring in community at nightfall? Why do they not obey the decrees of so many Councils and Supreme Pontiffs? I have already exhibited a perspicuous answer.

Chapter VII — On the games of Regulars, and other things which fight with the vow of poverty

I. QUESTION I. *Are games of dice and of chance lawful to Regulars?* ANSWER. That Religious can indulge in games which consist in jesting speech and sportive deeds, which exercise the body, and which are directed to gladdening the spirit and restoring strength, all with St. Thomas, II-II, q. 168, art. 2, concede.

II. On the contrary all theologians and all the Rules approved by the Apostolic See most severely forbid games of dice to Religious bound by the vow of poverty. By the name of dice all games of chance are understood. What of this, that these games are forbidden to Christians themselves; nay all the heathen Philosophers execrated games of this kind, as I have made plain in Vol. VII of the *Christian Theology*? The Constitutions of the Order of Preachers condemn to the penalty of prison Brethren who shall have been found playing at dice, no otherwise than those guilty of the flesh and of theft. A game of chance is the fruit of avarice alone and of a desire of growing rich. What is more adverse to evangelical poverty than this desire of increasing riches?

III. QUESTION II. *Whether it repugn the vow of poverty that Regulars have silver instruments, as spoons, a knife, a fork, a box for tobacco, watches, and things of that kind?* ANSWER. All these things are opposed to the solemn vow of poverty, and overturn the state of monastic discipline. For poverty and the preciousness of gold and silver directly fight. These things are discovered by their own nature. All the monastic Rules forbid the use of gold and silver in instruments of this kind. The Constitutions of the Order of Preachers, distinction 1, chapter 10, prescribe these things: *Let no Brother or Sister of our Order, of whatsoever grade (N.B.) or condition he be, use spoons and instruments of gold or silver, or even of precious stones, whether at table, or in girdles, or in cloaks, or in knives or their sheaths, or in any other utensils of things whatsoever. But if any transgressors of these things be found, let them be utterly deprived of those instruments, and let them be applied to the community, and let the transgressors moreover be GRAVELY punished.* A grave punishment supposes a grave fault. Nor should you object that constitutions of this kind do not oblige to fault. Constitutions do not oblige to fault which do not expose the vow of poverty. But that vow binds to fault, and indeed a grave one. Do you dare therefore to condemn a use so common? Not I, but regular discipline; not I, but the vows which have marked your lips for God, detest all the aforesaid. But Religious learned and upright use these instruments. What thence? They sin the more gravely, because by their own doctrine and probity they inflict a graver scandal upon the rest of the little ones.

Chapter VIII — How grave is the obligation of Prelates of bringing in community. What Regulars ought to do who dwell in cloisters where, the common life being driven

out, private purses creep in. And whether young men can lawfully receive the religious habit in these places

I. QUESTION I. *Are the Prelates of Regulars in a continual state of mortal sin who do not with sincere mind and with all their strength endeavour to restore the common life where it has collapsed?* ANSWER. All the Fathers affirm it, and all the monastic Rules, and all the Councils, and at last from the pontifical constitutions adduced by me it is most luculent. If I should confirm it by reasonings however valid and unconquered, I should not decline the censure of rigorism and of exaggeration. Wherefore I shall adduce into the midst what not only holy men but other theologians of no such great estimation teach.

II. St. Antoninus, part 3, title 16, chapter 1: *I sufficiently believe that those who betake themselves to Monasteries where the common life is not lived, if they be Prelates and do not do what is possible to them without notable scandal, that the common life may be lived, are not in a safe state.*

III. John Excuria, *On Reformation,* part 3, article 2: *All Prelates, both major and minor — each namely respectively according to his dignity, office, commission, or faculty — are bound by a debt of justice to reform their deformed religious subjects to the observance of the regular life. For from their hands the blood of their subjects is required.*

IV. Sylvester, under the word *Religious* 6, § 7: *If a Prelate does not do what he can without great scandal, that the common life be lived, he is not in a safe state.*

V. Ludovicus Lopez de Texeda, Book 2, tract 2, controversy 7, doubt 2, no. 24: *I add that Prelates of Religions are bound by the merits of their office to employ due diligence that their religious subjects pass their life in common; and therefore they are held to be exceedingly solicitous concerning those things which are necessary for food and clothing. Wherefore if they do not bestow them, when they conveniently can, they sin mortally, and are unworthy of the office of Prelates, and ought to be deposed: because they afford a handle to Religious to seek private purses and to infringe the laudable vow of poverty.*

VI. Thomas Sánchez, *On the Decalogue,* Book 7, chapter 19, no. 27: *It is deduced thirdly that a Prelate is not in a good state who, so far as he can without grave scandal, does not strive that Religious live in common, and that superfluous uses be avoided.*

VII. Valentia, 2-2, disputation 3, question 4, no. 2: *It follows fourthly that both Prelates and subjects are in a bad state who do not lead the common life, when from the common revenues they can sufficiently live.*

VIII. Francis Pellizarius, *Tract on Nuns,* chapter 4, section 1, question 4: *It is gathered from Sánchez, asserting with St. Antoninus and Sylvester, that just as a Prelate of Regulars is not in a good state if, so far as he can without grave scandal, he does not strive that Religious live in common and avoid superfluous uses; so also that subjects resisting are not in a good state, when they cannot sufficiently live, but when they wish to abound and to dispose more freely. For this is adverse to the vow of poverty.*

IX. John Baptist Lezana, *Regular Questions,* chapter 18, no. 14: *Prelates who, so far as they can, do not take care that their subjects live the common life without a private purse or property, and avoid superfluous uses, are not in a good state. The reason is, because the vow of poverty requires this, and the Councils and Supreme Pontiffs prescribe it.*

X. Gabriel of St. Vincent, *On the Religious State,* disputation 3, question 10, no. 132: *A Superior sins gravely by not providing his subjects with necessaries, both because he affords an occasion of the relaxation of*

Religion by giving occasion of introducing a private purse, and because he deprives subjects of the right which they have to the goods of the Monastery.

XI. Thomas of Jesus, *Mirror of Religious,* part 4, chapter 2: *I conclude that a Prelate sins mortally who does not take care that the manner of the common life be observed in Monasteries. Let the same judgment be of him who does not, so far as in him lies, endeavour to reduce the common life, already relaxed, to its pristine observance. Nay even those subjects themselves who contradict Prelates willing to restore the common life are to be punished with the same fault. First, because they contravene by that very deed the decrees of Councils and of Pontiffs, by which the observance of this life is strictly prescribed. Secondly, because where the common life is not observed, the souls of monks are exposed to various dangers concerning the transgression of the vow of poverty. Thirdly, because Prelates neglecting to reform the observance of the common life contravene legal justice, since by office they are bound to consult the common good. Moreover they abuse the dispensation committed to them, and sin against fidelity, and often against distributive justice.*

XII. Servatius Lairvelz, a most grave and at the same time most pious author, in his *Optics of Regulars,* mirror 12: *It is certain to me that those Prelates are in continual mortal sin who, so far as they can, do not reform their own Monasteries, and who do not, so far as they can, reduce their own Religious to the common life.*

XIII. QUESTION II. *Are regular subjects resisting the introduction of the common life, private purses being driven out, in the state of mortal sin?* ANSWER. From the things which have been said the resolution of the proposed question is evidently plain. Nevertheless for the greater confirmation I shall subjoin what the cited and other authors teach.

XIV. St. Antoninus, part 3, title 16, chapter 1: *If subjects are, and resist this good when it is attempted — not because they cannot live sufficiently, but because they wish to abound and to do with their own after their own mode — they seem to be in a bad state, since they live in a secular manner and wish to persevere in a bad state.*

XV. Cardinal de Turrecremata on the Rule of St. Benedict, tract 94: *Most gravely do they sin who rashly resist the reformation of abuses of this kind in Monasteries, and defend themselves and others lest they be purged of a stain of this kind.*

XVI. Sylvester, under the word *Religious* 6, § 7: *But subjects resisting the said community, not because they cannot live sufficiently but because they wish to abound, seem to be in a bad state.*

XVII. Thomas Sánchez, Book 7, chapter 22, no. 27: *Similarly subjects sin mortally who give cause of a private purse by resisting the common life, when necessaries are ministered to them; similarly those who murmur gravely and pour forth complaints the more.*

XVIII. Lezana, *Regular Questions,* chapter 6, no. 60: *It is nevertheless to be added, and greatly to be noted, that Religious ought to be prepared for receiving the reformation and introduction of the common life, if it be newly instituted or restored by Prelates, and that they cannot in any other way resist under a most grave mortal sin. The reason is because, since the common life obliges under mortal sin, all Religious cannot be excused from it, save because the Prelates of the Monasteries do not provide them with the necessaries for food: whence, the aforesaid necessities being established as to be sufficiently provided for, no reason of excuse will remain. And this is the common reason of theologians.*

XIX. Thomas of Jesus, *Mirror of Religious,* part 4, chapter 2: *I said that they sin gravely, because they are unwilling to acquiesce in the reformation of the common life, namely on account of the grave harm emerging from their contradiction.*

XX. Francis Lopez, Book 2, tract 2, controversy 7, doubt 7, no. 24: *But Religious are bound by the merit of their profession and state to live in common, and to be content with those things which are ministered by the Religion.*

XXI. Angelus Pistachius Castelli, tract 4, *On the Vow of Poverty,* chapter 4, no. 5: *Subjects resisting the common life sin mortally.*

XXII. Alteserra, *Origins of Monasteries,* Book 1, chapter 17: *Monks can be compelled to a reformation according to the prescript of the rule which they have professed. Nor can they defend themselves by the observance of a long time, because against those things which are of the substance of the regular life there is no prescription of time, nor dispensation.*

XXIII. Emmanuel Rodriguez, Vol. II, question 65, article 3, where, the Tridentine decree being reported (session 25, chapter 2), he infers these things: *From which Decree you will gather that Religious ought and are bound to reform themselves to the prescript of the rule which they have professed;* article 4: *Superiors sin who neglect to instruct or to reform, and still more those who contravene those willing to be reformed, and even singular persons hindering those things which contravene the mind and the words of the Council; which is a sin.*

XXIV. Caramuel on the Rule of St. Benedict, no. 650: *Those who have emitted vows in an irregular Monastery — that is, where abuses have crept in against the rule — are bound to lie subject to reformation, and to obey a Superior eliminating unlawful abuses.* So speaks Caramuel; and in this controversy he is so consistent with himself that in his *Regular Theology,* no. 651, he writes thus: *How perilously do they deceive themselves who reckon that by force of the vow they are not bound to the common life, because at the time of their profession it was not observed in the Monastery.*

XXV. In the last place I adduce the Chapter of the Premonstratensian Order celebrated under the most learned John le Paige, which is had inserted in the Premonstratensian Library, Book 5, page 1019: *Let the Reverend Lord Abbot reduce his Religious to the common life, and recall them … lest anyone flatter himself in this and obtrude the licence of Superiors, let him hear Innocent III in chapter Cum ad Monasterium: Nor let an Abbot esteem that he can dispense with any Monk upon having property; and the Council of Trent, session 25, in the decree on Regulars,* and so forth. *Whence it follows that both Prelates and subject Religious are in a bad state and fall basely, through whom it stands that all in the Monastery do not lead the common life.* What more? Scarcely can one find even a single theologian of any name who teaches the opposite.

XXVI. From all these things I thus conclude. According to the common judgment of theologians, the Prelates of Regulars are bound under a most grave mortal sin to bring in with all their strength a common life void of a private purse. This first proposition is most certain. The second: All subjects are bound by a law obliging to mortal sin to be prepared in mind for receiving a common life void of a private purse, as commonly all, even the kindlier, teach. Therefore one or the other necessarily follows. Either Prelates are engaged in the extreme peril of damnation, because they do not endeavour with all their strength to fulfil the most grave precept of introducing the common life; or subjects are true proprietaries, because they resist their Prelates busying themselves to bring in the community of goods, or betray a contumacious will of resisting, on account of the scandal of whose repugnance the Prelates desist from fulfilling their office. No place for tergiversating remains here. If you desire more, read the *Apostolico-Monastic Discipline,* part 3, dissertation 5, chapter 4.

XXVII. QUESTION III. *How ought Regulars to bear themselves who dwell in those Convents where, the common life being taken away, the pest of private purses creeps, that they may consult their own conscience?* ANSWER.

Scarcely can I designate a way of directing one's own conscience and of having a private purse. I shall transcribe what the most celebrated John de Turrecremata, Cardinal, teaches in his Commentaries on the Rule of St. Benedict, chapter 94, in these words:

XXVIII. *Most gravely do they sin who rashly resist the reformation of abuses of this kind, and defend themselves and others lest they be purged of such a stain. The reason is, because these are formally contemning the remedies of their own salvation; and such a sin is against the Holy Ghost. Whence those who live in deformed Monasteries are of a fivefold kind. For some are of a grieving and bitter soul that they do not live in observance, yet from their soul they aspire to reformation. Others are those who are unwilling to live otherwise, and prefer to remain as they are, yet would be unwilling to resist Superiors if they wished to reform. The third are those who positively will so to live under deformity that they pertinaciously resist all reformation. The fourth are found neutral, careless on every side of living either thus or otherwise. The fifth are those who appear of good will, and intend to reform; but either from a certain fragility of soul, or because they intend for themselves no congruous mode of reformation, they defer it and seek delays.*

But of all these Religious, those of the second and third kind, who deliberately are unwilling to be reformed, whether they resist or not, if they persist thus unto the end, are in a state of damnation. Of Religious of the fourth kind it is said that they are under peril of salvation, in that they do not profit in the school of religion, nor tend to perfection according to the exigency of their own state, and are careless of their own salvation. Of Religious of the fifth kind the peril of their own salvation appears on account of their tepidity and affections, because they expose themselves to hazard and scandalize the little ones.

Religious of the first kind, who live in deformed places where the rule is not observed, with a purpose of reforming themselves if they could, are bound to do all these things, that they may live more securely and more safely consult their own salvation:

1. To labour for another Convent where they can live regularly, and to transfer themselves thither, unless perhaps they should have a certain hope of reforming their own place by their presence.

2. If they cannot have a reformed place, or for some worthy cause have omitted it, let them grieve over this, and always do what in them lies for the inducing of reformation.

3. Let them not live in a singular manner. Let them dispose of the goods granted them, only with the Superior's licence, unto necessary use, with an ever-present purpose of resigning them at the Superior's pleasure; nay, giving away every superfluous thing, or rather receiving the provision of things from another without any money.

XXIX. Each man is bound to decline the proximate occasion of violating his own vow. But when the occasion is necessary, then opportune remedies are to be employed for the avoiding of the law's transgression. To very many the occasion of having a private purse is necessary, since they cannot remove it. Let these therefore, that they may consult their own good, observe their own rule in food and clothing, abstinence, fasts, and roughness of garments. So much of a private purse is lawful to them as is required for procuring those things which the Religion would supply, if in it an exact community flourished. What is over, let them deliver to the Religion, to be confounded with the other goods of the monastery.

XXX. QUESTION IV. *Is it lawful for young men to receive the habit of Religion, and to make profession, in those cloisters where the community of things and the other chief rules are not observed?* ANSWER. All the graver theologians commonly deny it. St. Antoninus, part 3, title 16, chapter 2, says: *And when anyone from*

ignorance or error should intend to enter it (the Religion) in which men do not live well, it would be cruelty not to make him cautious and to recall him from his purpose. That I might decline the crime of this cruelty, I have willed to admonish readers upon this matter.

XXXI. Cardinal Cajetan, 2-2, question 189, article 9, writes these things: *That act which is to induce to the conventual life is an act evil of its own kind, since a man is induced to a reprehensible life. But every reprehensible life is evil. … Whence it is blameworthy not only to induce, but even to enter, and to receive persons of either sex to an irregular life, although the Church tolerate this permissively.* But the Church after Cajetan's death moved every stone that she might hinder the reception of young men where an exact common life and regular observance do not flourish, as we have seen above from Clement VIII and Innocent XII. The opinion of Cajetan is confirmed in part 2, Book 3 *On Regulars,* canon *Cum virum,* no. 48, by Prosper Fagnanus. Martin Navarrus, part 1, *On the Decretals,* chapter 12, no. 45, from the cited doctrine of Cajetan concludes: *He who persuades another to enter a Religion so relaxed as we now describe, where the rule is perversely observed, sins.* Graver things teach Nazarius, Nider, and the rest commonly.

XXXII. Ludovicus Lopez in his *Instruction of Confessors,* chapter 43, teaches: *To induce to a Religion, or to enter one, where men live ill as regards regular discipline, is a sin.*

XXXIII. Sánchez, Book 4 *On the Decalogue,* chapter 16, no. 14, says: *It is unlawful to enter a Monastery so collapsed and not proximately to be reformed, although it be tolerated by the Church.*

XXXIV. Paul Layman, Book 4, tract 5, chapter 6, no. 5, writes: *He who has vowed Religion absolutely is not bound, nay nor even can he lawfully enter an Order whose regular discipline has collapsed, and most of whose professed live ill, so that they do not observe even the substantial vows; and therefore a danger of perversion threatens the one entering,* as Cajetan, Major, Navarrus, Valentia, Rodriguez, Sánchez, and Lessius teach.

XXXV. And Leander teaches these things, tract 1 *On Justice,* question 14, no. 35: *Whether the aforesaid person vowing, by entering a Religion collapsed as regards substantials, not only does not satisfy his vow, but even sins mortally? I answer that it must be said that not only would he not satisfy his vow, but that he would moreover sin mortally on account of the danger of perversion.*

XXXVI. The Salmanticenses, tract 15, chapter 1, point 1, no. 2, say these things: *For the rest, we hold it discovered that one does not satisfy a vow (of entering Religion) by entering a relaxed Religion, collapsed as regards its principal obligations, unless perhaps a proximate hope of reformation underlie. Because such a Religion does not deserve the name of a Religion, nor does it conduce to perfection, but to perdition; nor by entering it would dangers be fled, but perhaps greater ones would be embraced.* The same teach Paderinus, Martínez de Prado, Lezana, Cassianus of St. Elias, Rorarius, Bonacina, and commonly all. Consult also the *Apostolico-Monastic Discipline,* dissertation 6, chapter 13, and the *Defence of the Decrees of the Council of Trent,* dissertation 2.

XXXVII. Religion is a school of evangelical perfection, in which one arrives more easily at the desired prize. Religious walk as it were drawn by a chariot for attaining the palm. Christians in the world go their journey on foot, hedged about on every side by rocks and snares. If the chariot be excellently ordered, well closed and strong, religious men walk most happily. On the contrary, if the chariot be disturbed, injured, and half-broken, then they are more unhappy who ride in such a chariot, and are engaged in a graver danger of breaking legs, arms, and heads, than Christians who walk on foot.

XXXVIII. QUESTION V. *Whether to have redundant revenues in common fights with the vow of poverty?* ANSWER. St. Thomas, II-II, q. 88, art. 7, answers *that to have superabundant riches in common, whether in*

movable or in immovable things, is an impediment to perfection, although it does not totally exclude it; but to have of exterior things in common, whether movable or immovable, as much as suffices for simple food, does not impede the perfection of Religion, if poverty be considered by comparison to the common end of Religions, which is to be free for divine services.

XXXIX. Extreme diligence and the highest caution are to be employed in this matter. Superiors ought to afford food and clothing to the norm of their own Rule: charity in this provision ought to shine forth. Food ought not to be delicate, but diligently and opportunely prepared, as befits regular sobriety. Clothing likewise is to be promptly delivered. Great care is to be had of the infirm. The other extreme, of riches to be possessed even in common, is to be avoided. Not on account of poverty but on account of riches have all Religions suffered shipwreck. Shall they be called poor men of Jesus Christ, and his disciples and companions, who possess proud buildings, splendid palaces, and vast revenues? If they should perform such things, beyond doubt they would induce the relaxation and perversion of Religion. For the Religion of Christ Jesus and redundant riches are opposed by contradiction.

Chapter IX — On the vow of chastity and of obedience

I. QUESTION I. *What is the vow of religious chastity?* ANSWER. It is a perpetual abstinence from every venereal act, both internal and external. Priests sinning against this vow increase the malice on account of the twofold title or bond by which priests are bound to preserving chastity. The observance of this vow depends very much upon modesty of the eyes, upon solitude, upon mortification of the flesh, and upon the declining of idleness. Wherefore every Religion prescribes fasts, temperance of food, and other virtues more or less as a safeguard of chastity. They renounce riches, that they may preserve their soul immune from affection for money. They are separated from the world, that, every occasion being taken away, they may more easily guard that chastity which Christians themselves are bound to observe, whether virginal or matrimonial, in the midst of the snares of the world and amid the very prestiges of women. A look at venery and a deliberate lustful delight thrust down into Hell a Christian and a religious man equally, with a difference only in the circumstance of sacrilege.

II. This virtue is carried like the most limpid crystal in a putrid and muddy body. Most easily is the bitumen kindled and the fire of luxury burns, and sulphurous exhalations obscure the candour of chastity, unless it be guarded by assiduous vigilance. Concupiscence is a dire wild beast, which always roars and machinates revolutions. If at the outset it be restrained by a heroic spirit, and bridled by continual custody, a victory of this kind is easy. Never nevertheless is it to be trusted, since it weaves its rebellion out of craft and from ambush. Preachers and confessors above all must needs be vigilant. For these by reason of their ministry frequently address women. From spiritual conversations the beginning is taken; but unless the highest caution be employed, all things fall away into the flesh. Confessors have their own spiritual daughters, with whom they weave familiar discourses. That virginal and at the same time womanly breath, those warm sighs, and the familiarity of a spiritual paternity with a spiritual daughter are to be fled as the hiss of a basilisk. Women are to be handled no otherwise than persons infected with plague. Let spiritual nourishment be held out, and let separation forthwith succeed; otherwise the pest of luxury sends in its enchantments. But

since there are innumerable books which treat this argument more fully, therefore I abstain from further discourse.

III. QUESTION II. *To what is a Regular bound by reason of the vow of obedience?* ANSWER. The vow of obedience is an oblation of one's own will made to God, while a Regular promises to obey his superiors in all those things which they shall command according to his own rule. Wherefore a Regular is bound under grave fault to the precepts of superiors. When a superior does not command, but only wishes and exhorts, even if a subject do not obey, he does not on that account violate the vow of obedience, because he transgresses no precept. But the precepts of superiors must be of a grave matter.

IV. Four conditions the holy Doctors commonly require for exact obedience: 1. That there be a prompt execution of that which is commanded; 2. That the interior will accede to the external execution; 3. That a subject submit his own judgment in a doubtful or controverted matter to the judgment of his superior; 4. That, the superior's will being known, a precept is not to be awaited, but that which the superior desires is to be fulfilled. These conditions nevertheless are required for the greater perfection of obedience, but not for the nature of the same virtue. For this, and that a sin at least a grave one be avoided, it is enough that in fact the subject obey and execute the imposed precept. It is nevertheless to be adverted that superiors sometimes suspend precepts that they may avoid scandal, because they foresee subjects by no means prepared for fulfilling the precept. And then subjects who afford these arguments for resisting the mandates of superiors are in a bad state, and can sin mortally, the gravity of the thing to be commanded being regarded. For in these things the circumstances are to be regarded.

V. Superiors can by right command all those things which are contained within the confines of the Rule and Constitutions, or which even indirectly conduce to the preservation and decorum of the Rule and of the Religion. Prelates can also forbid those things which tend to the violating of their own laws, and command other things which gravely expedite the observation of the Rule and Constitutions. Wherefore a superior can command, necessity urging, that subjects serve Religious and minister the sacraments to Christians infected with plague, chiefly if the Religious profess an Order instituted for procuring the salvation of neighbours.

VI. In a doubtful matter a subject is bound to obey a superior commanding, because possession stands for the superior, as theologians commonly teach. Certain Probabilists contend that subjects having on their side an opinion even less probable are free from the obedience to be furnished, although the opposite opinion be more probable and stand for the superior. And so they are compelled to teach, the probabilistic system being admitted. Hence indeed it appears more luculently how seditious and pernicious Probabilism is to the authority of superiors and to good government.

VII. Superiors on the contrary can command nothing above or contrary to the Rule. A subject nevertheless is not the lawful judge whether that which the Prelate enjoins be against or above the Rule, unless the thing be evident. General Chapters can prescribe and establish new statutes also, which may increase the decorum of the Order and more strongly confirm regular observance. To prefectures also to be accepted and undertaken Prelates can by right urge their subjects with their precepts; otherwise as to accepting dignities or a bishopric outside the Order.

VIII. Regulars sin gravely either while they refuse to fulfil the precept of a superior, or while they contemn his voice, or while they resist him reforming abuses and corruptions brought in against the Rule and Constitutions. They sin venially if they neglect to commit to execution those things which they know to be prescribed by a superior, although not under precept — as when they inculcate the observance of the Rule and Constitutions. And although Constitutions by their own nature do not oblige to fault, yet in fact they are never deliberately violated without some venial fault. But those who from habit and custom transgress them indiscriminately dispose themselves to a tacit contempt, and sin against the precept of aspiring to perfection.

IX. Superiors who dissemble transgressions of the Rule and Constitutions, who neglect to correct and hinder the same with all their strength, either from torpor and negligence or from a certain connivance, sin mortally, as Diana, the Salmanticenses, La Croix, and others commonly teach. For Superiors are destined by their office to the custody of the laws and to the promoting of the observance of the whole discipline. Their negligence in hindering transgressions inflicts a most grave detriment upon Religion. For hence proceed most grave absurdities, and hence have flowed all the relaxations of the sacred Orders. For upon these transgressions there succeed violations of the vows, scandals, the loss of chastity, and the pest of property.

Chapter X — On the noviceship of Regulars

I. Before young men profess a Religion with solemn rite, they ought for an entire year to wear the habit of Religion openly. But this reception of the religious garment must needs be free and not forced. Those who compel girls to this reception sin mortally, and contract excommunication, as Trent, session 25, chapter 18, established. But those who compel male youths by threats sin mortally, but do not incur excommunication. Youths who having been compelled had performed their noviceship, if they freely emitted profession, the noviceship would have been valid. The year of this noviceship ought to be entire, as Trent, session 25, chapter 15, prescribes, continuous and not interrupted. He who for a day should lay aside the habit, or go out of the cloister with the mind of not returning, although after a day he returned, would be said to have interrupted the noviceship; otherwise if for some hours he laid it aside without going out of the monastery.

II. Unfit for this noviceship by the right of nature are the decrepit, the demented, those habitually infirm with a grave disease, slaves truly such with their master resisting, spouses after matrimony consummated without mutual consent, and the professed of another Order without the licence of superiors. By positive right there cannot be received bishops and archbishops, who without the express faculty of the Supreme Pontiff cannot profess a regular Religion. But the rest of ecclesiastics are altogether free, even those assigned to the care of souls, to profess the regular life.

III. The Supreme Pontiffs have published several constitutions in which they determine the conditions of those to be received into the regular Orders. Sixtus V by his constitution *Cum de omnibus* forbade that men who had passed the sixteenth year be received unless a severe inquisition were sent before concerning their birth, past life, and the quality of their parents. And if it were found that they had perpetrated robberies or other like crimes, or that they were suspected of the same, or condemned, or that it be prudently feared that they will be condemned; if they be burdened with debt above their strength, or bound to render accounts, whence suits and troubles are foreseen — he forbids that they be received, and declares null the profession emitted by them. But Prelates who

shall have knowingly received such men he deprives of active and passive voice, of grades and prefectures, and constitutes them unfit for future dignities and grades. This constitution he tempered by another constitution whose beginning is *Ad Romanum Pontificem,* not as regards the penalties, but as regards the crimes. Gregory XIV by another constitution called *Circumspecta* partly took away, partly increased the moderations of the Sixtine constitution. And at last Clement VIII reduced profession to the terms of common law: so that unless some impediment of common law stand in the way, the profession is valid. But he left the penalties against transgressors in their force. Now nevertheless by force of the constitution of the same Clement VIII Regulars can receive youths even beyond the nineteenth year, an oath being exacted that they are neither criminal, nor obnoxious to the rendering of accounts, nor guilty of theft or homicide, nor bound by the other impediments recounted in the Sixtine constitution. Prelates who neglect scrutiny of this kind gravely offend and are subject to the penalties of the Sixtine Bull. The profession nevertheless will be valid, provided nothing repugn against common law.

IV. Novices are partakers of all the privileges of Regulars, since they are under the power of the Religion and sustain its burdens. Wherefore they are immune from the jurisdiction of the bishop and enjoy the privilege of the forum. The superiors of the Religion can dispense with them upon the precepts of the Church and upon their vows, which nevertheless they ought to fulfil if they lay aside the habit of Religion. On the contrary if they be absolved from censures, irregularity, or reservation, if they go out of the Religion which they had in good faith embraced, they remain absolved.

V. If in the year of noviceship a novice die, the heir *ab intestato* succeeds to his goods. Free donations between the living, lucrative contracts, and renunciations of temporal goods, offices, and dignities are void and null, unless they be made with the licence of the bishop or of his Vicar within two months before profession, as Trent determined. Goods which a novice hopes will come to him he can renounce to the Religion which he is about to profess, even while his father lives; otherwise to another determinate person. To the goods which come to a novice by right of blood, unless he himself dispose according to the prescript of Trent before profession, the Order which he has professed succeeds, if it be capable of immovable goods.

Chapter XI — On the profession of Regulars

I. Monastic profession, as I have indicated elsewhere, is a contract by which a man offers himself to God in some approved Religion, emitting with solemn rite the three vows of poverty, chastity, and obedience before a consenting Prelate, who in God's name accepts these vows. It is twofold: express, which is made by words before a superior; and tacit, which is performed by signs and actions determined by law — as if a novice, the sixteenth year and the entire year of his noviceship being completed, exercise the actions of the professed and wear their habit, he emits a tacit profession, provided nevertheless that the Prelate consent, and that the novice himself do it freely, not compelled, or induced by no fear gravely struck in from without, and that he advert that by actions of this kind he incurs a tacit profession, and have the mind of professing. But although this profession be named tacit, in fact it is express in its own way.

II. That the profession of Regulars be lawful, there is required a lawful power, which resides either in the Roman Pontiff or in the superior of the Religion according to the peculiar rules of each Order. In this or that Order the superior alone does not suffice, but the consent of the greater part of the

Fathers of the council, or of the Chapter, is necessary. If the greater part of those Fathers resist, neither the superior of that convent in which the noviceship is, nor the major superiors can admit a novice to profession; but the immediate superior resisting, and the consent of the greater part of the Fathers of the council acceding, the major superiors, as a Provincial or a General, can admit a novice to profession. For the rest, every Order ought to consult its own laws.

III. There are several impediments which can render a profession null: 1. Age before the sixteenth year completed; 2. If the year of noviceship be not entire, or be interrupted; 3. Defect of liberty, as if a slave profess with his master resisting; 4. Matrimony consummated with the other spouse resisting; 5. The episcopate, the Pontiff's licence not acceding; 6. Excessive old age, or a grave and incurable disease hindering the observance of the Rule; 7. Diversity of sex, as if a man profess in a Monastery of women, or conversely; 8. Grave fear unjustly struck in; 9. Error concerning the essence of the religious state; 10. If the mind of obliging oneself be lacking, or if he be accepted with a feigned mind by the superior, it is null in the forum of conscience; 11. Lastly if there happen some defect which by force of the Constitutions of the Order annuls the profession.

IV. That a profession null on the part of each — of the accepting superior and of the professed — may be reintegrated, the reciprocal consent of each party is required. But if it be null from a defect of the consent of the professed alone, then it suffices that he alone renew his consent, and let the profession emitted stand ratified. But some profession can be null from an impediment which admits no remedy by which it could be healed.

V. The effects of regular profession are: 1. The remission of all sins, even as regards the penalty, as St. Thomas teaches, II-II, q. 189, art. 3, reply 3, to whom the rest of the theologians subscribe; 2. It is a taking away of irregularity from defect of birth for the receiving of sacred Orders, but not for exercising a prefecture; 3. It takes away the ingratitude of a son toward his father, who can no longer disinherit the son; 4. It dissolves a ratified and unconsummated matrimony; 5. It commutes vows made in the world: which commutation is made by the profession itself. Wherefore even if a professed man should frequently neglect the observance of the fasts and other austerities of the Order, nevertheless the commutation made stands; 6. It is a provision of food and clothing, which the Religion is bound to minister to the professed, healthy and infirm, and it is bound to educate them in studies according to their own vocation.

VI. Trent, session 25, chapter 19, imparts to Regulars the faculty of protesting against a profession emitted, three conditions being added: 1. That the protest and the cause of rescinding the profession be instituted before a five-year period has elapsed from the day of the profession emitted; 2. That the protester lay not aside the habit of Religion while the cause of protest is pending; 3. That the cause of rescinding the profession be instituted before his own superior and the ordinary, who ought to pass sentence.

VII. That a man may lawfully protest against his own profession, he ought to have certain and evident foundations. For he who is doubtful cannot lawfully protest, because in doubt the presumption stands for the profession. Several things would have to be said of this protest. But since all these things pertain to the external forum, and are treated by not a few canonists, therefore I pass them over.

VIII. This only I would have Masters of novices gather hence, with how great diligence and vigilance they are gravely bound to weigh the vocation of candidates. The chief cause of relaxed regular discipline is a defect of divine vocation to the professing of that sublime state. Since indeed very many, not God calling — as Cardinal Bellarmine adverts, Book 2 *On the Groaning of the Dove* — but by reasons which cannot be explained, give their names to this sacred warfare. Others who preside over novices, if they close their eyes upon this most grave business lest their own cloisters remain empty, admit to profession those not called. This first foundation of heavenly vocation being lacking, what wonder if the whole edifice fall in ruins? Is chastity not a special gift of the Holy Ghost? That it may be preserved unstained, it is required not as a human grace, expecting strength from infirmity, but as flowing from God, victorious and triumphant. The divine vocation being taken away, that most singular grace is lacking; and those destitute of this grace sacrilegiously pollute, dishonour, and corrupt chastity. Behold the root of all evils exposed. Let Masters of novices therefore be most cautious in weighing their vocation.

IX. It is not hidden from me what these men are wont to object, namely that the world is set in wickedness, and the morals of Christians relaxed and daily more corrupt. From this soil, they say, the plants must be transferred into the gardens of Regulars, which, if they have been struck by hail before the olives are grafted in, can scarcely bear fruits worthy of eternal life. Wherefore the sound plants are to be separated from the infected. But the sound, you reply, are few, and the multiplied cloisters must be filled. I should be too long if I wished to discuss this objection according to its dignity. See the *Apostolico-Monastic Discipline,* part 2, dissertation 1, chapter 15, where you will find the difficulty discussed at large. The propagation of Regulars and their perennial succession is not carnal but spiritual, descending from God. Do thou receive only those called to profession, and leave the care to God, that he may send labourers. If thou shalt do otherwise, thou wilt expose thyself and others to the danger of perishing eternally.

Chapter XII — On the study of letters upon which Regulars are bound to apply themselves; what method is to be observed in learning the sciences

I. All Christians more or less, according as their condition bears, ought to give their labour to the holy Scriptures. But upon this study Regulars and all men addicted to sacred things are most gravely bound to apply themselves. John Trithemius, Abbot of the illustrious Order of the most holy Patriarch Benedict — most fruitful of distinguished men, not only in ancient times but even in our own age, God being its author — in homily 4 *On the Study of the Sacred Scriptures,* thus addresses his monks: *We see among you certain men ignorant of the Scriptures, unstable of mind, unruly and wandering, to whom we impute ignorance the more, the less they are inclined to discipline. It is base indeed not to know what thou art commanded; it is baser to know and not to learn; but basest of all to contemn. And there are among you those who despise saving knowledge; there are also those who neglect to learn: what if I add that there are others who utterly contemn the knowledge of the divine Scriptures?*

And a little before he has these things: *O most foolish and most abandoned loiterers, who contemn saving knowledge, and love ignorance of the divine Scriptures rather than understanding! Will affected ignorance render you obnoxious to fewer stripes? Or will you therefore be innocent before God when you offend, because you are willingly ignorant of the mandates of God? With a twofold penalty shall you be tormented: the one, that you*

contemn to know the way of the mandates of God; the other, that you have not kept the words of God. … Of you also, O most foolish men of darkness, is that saying of St. Jerome understood, that there ignorance is no longer excusable where it is known what that is which is ignored. But it is the more to be guarded against by you, lest you at last be reckoned with those who said to God: Depart from us, we will not the way of thy sciences.

II. Nor are those only to be blamed who unhappily labour under a gross and supine ignorance of those things which regard their own state; but also those who in a certain most mournful sleep most willingly slumber, who are unwilling to move either arm or foot that they may attain necessary knowledge; and moreover those who wear away their time in learning arts, sciences, and disciplines which draw them away from the knowledge which cloistered men ought chiefly to procure. It pleases me to transcribe the words of Louis of Granada, part 2, *On Prayer,* chapter 4, § 7: "How many are studious today in the World! And among these, how few are disciples of JESUS CHRIST! And what is most bitter, those very men who, having recently left the world, embrace Religion, at that very time at which they ought to strip off the old man and devote themselves to this discipline, when they have scarcely begun to taste God, and have with difficulty opened their eyes to knowing him, are placed among the gentile Philosophers, and are exercised in worldly sciences, where for a long time not a word of JESUS CHRIST is heard. Which study, although on account of the change of times and the perversity of heretics it be in some way necessary, we ought nevertheless to receive it as a great wound of our age and life, as being that which snatches from us so much time, and separates us and makes us exiles for so many years from the company of our Saviour. Chiefly if we attend to what Gregory Nazianzen says, that all those sciences and disciplines of the gentiles entered into the Church as the plagues of Egypt on account of our sins. But since the wretched condition of the times has driven us to this necessity, a congruous time would have to be given and assigned to it; and so provision would have to be made that the edifice and foundation of virtue should be so constituted in the souls of those who begin that they might suffice for sustaining that burden. But so long as the work is tender, and the Christian yet an infant tastes JESUS CHRIST, it is folly to wean him from that very thing, and to give him a taste of the books of the gentiles, where he sees nothing but subtle arguments and sophisms full of fallacies. But what, if we weigh it well, is this other than to imitate the cruelty of Pharaoh machinating the ruin of the people of God, when he commanded that as soon as a Hebrew male was born he should be suffocated in the river and in the waters of Egypt? All things (says the Wise Man) have their time … a time of embracing, and a time to be far from embraces. That time was owed to God, for embracing and for procuring a love so strong that it could not be suffocated or extinguished by the waters of the world: which being done, it will be permitted a little to recede from his embraces, that one may attend to the necessities of one's neighbour. What else did our God will in the law, when he forbade that the newly betrothed should be compelled to take arms and go forth to war? What did he signify, when he forbade to work with the firstborn of an ox, and to shear the firstlings of the sheep, save that that beginning of the firstborn, of which we here speak, should be free from bonds and burdens, that it might expend itself wholly upon itself and upon its own progress? Against all these laws they act who steal away that time from the study of true wisdom and of true knowledge, that they may addict themselves wholly to human sciences." Thus far the most wise Louis of Granada, to whom nothing is lacking save antiquity, that he might be named a Father of the Church.

III. If the reckoning of the times compelled our elders, when the Philosophy of the Arabs flourished, to give their labour to the Aristotelian doctrines, that they might stab heathen and superstitious men

with their own weapons, the opposite vicissitude of the times ought to urge us to apply ourselves to those studies which are opportune for refuting and converting heretics and bad Catholics. At present among the heathen and the Turks who surround us there is no study of Philosophy: they labour under a supine ignorance, and little is needed whereby it may be refuted. There are now heretics who assail Catholic dogmas, and certain Catholic writers who, with a pious intention but forestalled by a false manner of opining, accommodate the rules of evangelical Morals, even unwillingly, too much to human appetitions. Upon that study therefore, that we may imitate our elders, we must apply ourselves which is opportune for tearing up the errors of these men. Christian Theology consists of things to be believed and things to be done; and these two cannot long stand separated.

IV. The method therefore which I suggest to be held by novices, the year of noviceship being completed (far be it that I should wish to erect a tribunal, and propose it as a censor), is this. In a few months let them learn the just rules of reasoning drawn from Dialectic, without the trifles and sophistical cavillings which corrupt the mind, or at least dispose it perversely. Let those rules teach the way of inquiring into truth, since truth alone and unique is the way which leads to heaven. Four or five months having elapsed in this study, let them expend upon the reading of holy Scripture and of ecclesiastical history that triennium which they are wont to consume in the study of Philosophy. It were exceedingly to be desired that someone should publish a course of ecclesiastical history accommodated to the use of the schools, and digested into opportune tracts or dissertations. There would have to be sent before a brief synopsis of the history of the Old Testament, illustrated with few but opportune disputations. Afterwards a specimen of Christian history would have to be run through, that young men might know who were our heroes, and what their acts and deeds. Some very brief dissertations could be added for every century. That work ought to be like a philosophical course, to be substituted for it, and to be completed, as that is, in a triennium. Young men instructed with these safeguards would approach the learning of sacred Christian Theology, both of things to be believed and of things to be done. Then true and constant theologians would depart from the schools. These things I have indicated in passing, subjecting them to the judgment of the wise.

V. Very many other things concerning the religious state would have to be said; but I should overleap the confines of a compendium if I went further. Let these things therefore which have been said suffice, and let them turn out to the greater glory of God and the profit of readers. Amen.

End of the Work

End of the Work

The Printer's Catalogue of Concina's Works

The list of the Author's works printed at the end of Tome II (pp. 350-351), translated for this site from the Latin of the print. (ed.)

THE COMPLETE WORKS OF THE REV. FR. DANIELE CONCINA, OF THE ORDER OF PREACHERS, PRINTED UP TO THE PRESENT DAY

Written in Latin

A Historical-Apologetic Commentary, divided into two Dissertations, of which the first refutes with anticritical Animadversions what the Continuators of Bollandus, in their Commentaries lately published on the Acts of the same Patriarch, have put out in writing with a too intemperate criticism against the discipline of poverty established by the holy Patriarch Dominic in his Order; the second vindicates the same discipline from the laxer interpretations of Fr. Raphael de Pornasio. To these are added a Historical Dissertation on the origin of Regular Discipline, first restored in the Order of Preachers by Blessed Raymond of Vineis, the twenty-third Master General of the same Order, and a little Moral Question on Regulars in disguise, under the name of Carlo Antonio Plantamura. Venice, 1736; again 1745. In quarto.

Apostolic-Monastic Discipline, illustrated with Theological Dissertations and divided into two Parts: in the first of which the vow of poverty, bounded by the Common Life, is discussed; in the other, the remaining chief heads of the same Discipline. Some select Monuments of the ancient Theologians are added. Venice, 1739; again 1750. In quarto.

A Preface to the Reader in the Dictionary of cases of conscience of John Pontas, and Critical-Moral Animadversions on the faults of Pontas, or certain Observations of the Augsburg Translator, with a Supplement of two cases which are wanting in the same Dictionary.

Theological-Moral Letters to the Most Illustrious and Most Reverend Bishop N. N. Venice, 1744, in quarto; and again at the same place, at Lucca, and at Rome.

A Theological Commentary on the Rescript of Benedict XIV, Supreme Pontiff, to the seven Petitions of the Archbishop of Compostela regarding the law of fasting. Venice, 1745; again 1755. In quarto.

A Defence of the Decrees of the Council of Trent and of the Apostolic Constitutions of the Roman Church in the cause of Monastic Poverty, against two Books entitled *Vita Claustralis* and *Vindiciae Regularium*, etc., to the Supreme Pontiff Benedict XIV. To it are added a Censure of the *Censura Disciplinae Apostolico-Monasticae*, and Animadversions on the *Epistola Exegetica* of P. G. C. of Bologna. 1745; again 1758. In quarto.

A Commentary on the Encyclical Letter of Benedict XIV against usury, in which Catholic doctrine is illustrated and the errors of Nicolaus Broedersen and of others are refuted. Rome, 1746, 1748. In quarto.

The Usury of the Triple Contract, demonstrated with Historical-Theological Dissertations against the Casuists of a softer Ethics and Nicolaus Broedersen. Two Appendices to the Author's Commentary against usury are added. Rome, 1746 and 1748. In quarto.

Christian Theology, Dogmatic and Moral, dedicated to the Supreme Pontiff BENEDICT XIV, happily reigning, and divided into ten Tomes; to which is added an Apparatus comprised in two Tomes, the first of which, besides the Decrees and Pontifical Constitutions that hand down the right norm of faith and morals, gives a Book on the Theological Loci, or on the purer sources of Christian Ethics, while the other treats the arguments of Conscience and of Probabilism in two distinct Books. Rome, 1750; again 1754 and 1758. In quarto.

On the Sacrament of Penance and its Minister, a Dogmatic-Moral Commentary. Rome, 1750. In quarto. Though it is a part of the Christian Theology, it is nevertheless sold separately.

On Theatrical Shows, forbidden to every Christian, both lay and cleric: two Dissertations. A third Dissertation, on Priests in Masks, is added. Rome, 1752, 1754. In quarto.

A Letter to Polycarp, a most distinguished Man, in which the Monastic Life of Blessed Nicholas Giustiniani, a Venetian, is vindicated from fables and empty fictions. Trent, 1746, 1755. In quarto.

On Sacramental Absolution to be imparted or deferred to Relapsers and to the Habituated, a Theological Dissertation. Rome, 1755. In quarto.

On the Life and Deeds of Fr. Thomas Maria Ferrari, of the Order of Preachers, Cardinal of the Holy Roman Church of the Title of St. Clement: three Books. Rome, 1750, 1755.

Eight Letters to the Rev. Fr. Carlo Noceti on particular Arguments contained in his Book entitled VERITAS VINDICATA. To these are added very many Lax Opinions collected from various Casuists; also the Censure of the Rev. Fr. Eusebius Amort, Canon of the Lateran, on the Moral Theology of the Rev. Fr. C. L. C., etc.

Issued in Italian, whose titles we nevertheless set down here in Latin

The Old and New Discipline of the Roman Church concerning the sacred Lenten Fast, expressed in two Apostolic Letters, *Non ambigimus* and *In suprema*, of Benedict XIV, Supreme Pontiff, happily reigning, and illustrated with Historical-Critical-Theological Animadversions. Venice, [the year cannot be read in our copy]. In quarto.

On the History of Probabilism and Rigorism, Theological-Moral-Critical Dissertations, in which the foundations of Christian Theology are explained and vindicated from the cavils of the more recent Probabilists. A work divided into two Tomes. At the end of the second Tome is added an Apologetic Dissertation against the Pamphlet *Difesa della Dissertazione Teologico-morale-critica de' Signori Abate Pietro Copellotti, ed Arciprete Bartolammeo Casali*, etc. Lucca, 1743, and again 1748. In quarto.

Lent Appealing from the contentious Court of certain recent Casuists to the Tribunal of right sense and of the good faith of the Christian people, on the precept of the fast, to be joined with the eating of meats on the sole ground that Lenten foods do harm. A Dissertation against two Pamphlets lately published on this matter. The third Edition, enriched with new additions, namely two Pontifical Briefs on fasting and an entire Dissertation against the Book entitled *Difesa*, etc., of which above, in the History of Probabilism. Venice, 1744, 1756. In quarto.

Critical-Moral Observations, by which the History of Probabilism and Rigorism is vindicated against the Book entitled *Giustificazione di più Personaggi, e di altri Soggetti ragguardevoli in Lucca*, 1748, set forth in this Letter to the Author of the same Dissertation. Pesaro, 1745. In quarto.

An Examination of the Theological Book entitled *Saggio de' Supplementi Teologici, Morali, Critici, di cui abbisogna la Storia del Probabilismo e del Rigorismo*, etc., printed at Lucca in the year 1744 by the Rev. Fr. Niccolò Ghezzi. Pesaro, 1745. In quarto.

An Explication of Four Paradoxes which very much prevail in our age: Animadversions on two Books of the Rev. Frs. Lecchi and Bovio, entitled *Avvertenze* and *Dissertazione*, etc. A brief account is set before of the Books published by certain Probabilists in defence both of Probabilism and of other moral opinions. Lucca, 1745, and again 1750. In quarto.

An Exposition of the Dogma which the Roman Church proposes to be believed concerning usury, together with a refutation of the Book entitled *Dell'impiego del danaro*. Naples, 1746, 1756. In quarto.

Historical Monuments concerning the use of Chocolate in time of fasting, set forth in a Letter to the Most Illustrious and Most Reverend Archbishop N. N. Venice, 1748, in octavo; and again 1749, with the Animadversions of another, anonymous, Author added, regarding the Book written under the name *Quaresima appellante*.

An Instruction for Confessors and Penitents, that they may worthily minister and frequent the Sacrament of Penance. Venice, 1753, and again 1755. In octavo.

On Revealed Religion, against the Atheists, Deists, Materialists, and Indifferentists who deny the truth of the mysteries: five Books. Venice, 1754. In quarto, 2 vols.

On the Theatres of the present day, hostile to the Christian profession: two Books, by which the two Dissertations on theatrical shows are confirmed. Rome, 1755. In quarto.

Apologetic Works for the same Author, written and published by others in the vernacular tongue

A Defence of the Doctrine of the Angelic Doctor St. Thomas Aquinas set forth in II-II, q. 154, art. 4. Lucca, 1746. In quarto.

Theological-Moral Letters of Eusebius Eranistes, in which the History of Probabilism and Rigorism of Fr. Daniele Concina is vindicated. Third edition. Trent, 1752. In octavo, 6 vols.

Letters of Adelphus Cariteus and of Philarmindus Arenius against the Pamphlet published against the Theological-Moral Letters of Eusebius Eranistes. Trent, 1753, and again 1754.

Anticritical Notes of Eudoxius Filenus on the Reply put forth by the Very Rev. Fr. I. S. to the Theological-Moral Letters of Eusebius Eranistes. Trent, 1752 and 1753. 2 vols.

Specimens and Observations of Joannes Ambrosius Tonischus concerning Theatres and Games of dice. To these is added a Dissertation on the same Games by an Anonymous Author. Venice, 1755.

Critical Animadversions, by which the Work entitled *Dell'impiego del danaro* is refuted in compendium. Lucca, 1755. In quarto.

A Supplement, or Observations, on the first seven Tomes of the Literary History of Italy. Lucca, 1753. In octavo, 2 vols.

Observations of Eusebius Eranistes regarding the Literary History. In octavo, 2 vols. Venice, 1756.

Letters of Agenor regarding the Defence of Fr. Concina and of Eusebius Eranistes. In octavo, 3 vols. Venice, 1756, 1758.

The Slenderness of Probabilism, or very brief notions by which a man may direct himself safely in the business of eternal salvation. Venice, 1758.

A Treatise on the Proximate Rule of human actions in the choice of opinions, in which the falsity, improbability, and absurdity of the probabilist system are laid open, and also the grave danger of following it in practice. A work of Fr. Giovanni Vincenzo Patuzzi, O.P. Venice, 1758. 2 vols. in quarto.

In Latin

Twelve Letters of Fr. Vincenzo M. Dinelli, of the Order of Preachers, Professor at the Casanatense, to Carlo Noceti, Theologian of the Society of Jesus, on the very great fidelity and diligence of Daniele Concina in pointing out and transcribing the passages of the Casuists. Rome and Venice, 1754. In quarto.

The Rule of Moral Actions in Matters of Opinion, or the Question of the Probable Opinion. 1756. In quarto.