

A HANDBOOK OF MORAL THEOLOGY

by Antony Koch, D.D.

adapted and edited by Arthur Preuss

VOLUME V

Man's Duties to His Fellowmen

St. Louis: B. Herder Book Co. • Second edition, 1924 • In the public domain.

Transcribed page by page from the print, with every word preserved and the printed

pages marked in the margin; the connected Latin and Greek are given in our own literal English.

Prepared for the Morals of the Church library, where the text may be read and searched online.

CONTENTS

Title Pages (Volume V)	4
Contents (as printed)	5
Part I: Man's Duties to his Fellowmen Individually	7
Chapter I: The Fundamental Virtues Governing Man's Relations with his Fellowmen	8
Section 1: Respect	8
2. the Duty of Respecting One's Fellowmen.—	8
Section 2: Justice	11
Section 3: Charity	14
Chapter II: Man's Duties with Regard to the Spiritual Welfare of his Fellowmen ...	20
Section I the Spiritual Works of Mercy	
2. the Duty of Giving a Good Example.-	20
Section 2: Sins Against the Spiritual Welfare of Others	25
Section 3: Duties with Regard to the Giving and Taking of Scandal	28
Section 4: The Duty and Virtue of Veracity	30
Section 5: The Sin of Lying	33
Section 6: The Duty of Keeping Secrets	39
3. the Means of Keeping a Secret.—	42
Section 7: The Duty and Virtue of Fidelity	45
Chapter III: Duties with Regard to the Ideal Possessions of Others	48
Section 1: The Duty of Respecting the Honor and Good Name of Others	48
Section 2: Sins Against the Honor and Good Name of Others	50
Section 3: The Duty of Restitution Arising From Calumny and Detraction	58
Chapter IV: Duties with Regard to the Material Possessions of Others	60
Section 1: The Right to Life	60
Section 2: The Right of Self-Defense	62
Section 3: The Moral Principles Involved in War	65
Section 4: Capital Punishment	71
Section 5: Man's Right to the Necessities of Life	79
Section 6: The Duty of Giving Alms	83
Section 7: Duties with Regard to the Mortal Remains of the Dead	94
Section 8: Duties with Regard to the Bodily Life of Others	99
Chapter V: Man's Duties with Regard to the Temporal Possessions of his Fellowmen	108
Section 1: The Original Titles of Private Ownership	108
Section 2: The Derivative Titles of Ownership	112
Section 3: Nature and Division of Contracts	116

Section 4: The So-Called Gratuitous Contracts	119
Section 5: The So-Called Onerous Contracts	125
Section 6: Subsidiary Contracts	147
Section 7: Partnerships and Stock Companies	152
Section 8: Gaming and Wagering Contracts	157
Section 9: Sins Against the Property of Others	162
Section 10: The Duty of Restitution	174
A. Restitution in General	174
Article 1: The Duty of Restoring Property Belonging to Others	175
Article 2: The Duty of Repairing Unjust Damage or Loss Inflicted on Others	179
Article 3: The Circumstances of Restitution	186
Article 4: Causes Which Excuse From Restitution	191
B. Restitution in Particular	195
Article 1: Restitution for Damage Caused to Life and Limb	195
Article 2: The Duty of Restitution Arising From Broken Matrimonial Engagements	197
Article 3: The Duty of Restitution Arising From Fornication and Adultery	199
Article 4: Restitution for Damage Done to the Property of Others	204
Article 5: Restitution for Damage Done in the Choice of a Vocation or the Pursuit of an ... Occupation	207
Article 6: Restitution for Spiritual Damage	208
Part II: Man's Duties to his Fellow-Men as a Whole, or to Society	211
Chapter I: Definition and Division of Society	212
Chapter II: The Christian Family	215
Section 1: The Mutual Duties of the Married	215
Section 2: The Social Position of Woman	232
Section 3: The Duties of Parents to Their Children	237
Section 4: The Duties of Children to Their Parents	246
Section 5: The Mutual Duties of Brothers and Sisters and Other Relatives, and of ... Masters and Servants	251
Chapter III: The Christian State	254
Section 1: Nature and Purpose of the State	254
Section 2: The Duties of Public Officials	256
Section 3: The Duties of Citizens	260
General Index (to all the five Volumes)	268

Title Pages (Volume V)

A HANDBOOK OF MORAL THEOLOGY

BY

THE REVEREND ANTONY KOCH, D.D.

Professor of Theology

Adapted and Edited by

ARTHUR PREUSS

VOLUME V

MAN'S DUTIES TO HIS FELLOWMEN

SECOND EDITION

B. HERDER BOOK CO.

17 SOUTH BROADWAY, ST. LOUIS, MO.

AND

68 GREAT RUSSELL ST., LONDON, W. C.

1924

Contents (as printed)

- PART I. MAN'S DUTIES TO HIS FELLOWMEN INDIVIDUALLY — p. 1
 - CH. I. The Fundamental Virtues Governing Man's Relations with his Fellowmen — p. 1
 - § 1. Respect — p. 1
 - § 2. Justice — p. 10
 - § 3. Charity — p. 15
 - CH. II. Man's Duties with Regard to the Spiritual Welfare of his Fellowmen — p. 27
 - § 1. The Spiritual Works of Mercy — p. 27
 - § 2. Sins against the Spiritual Welfare of Others — p. 39
 - § 3. Duties with Regard to the Giving and Taking of Scandal — p. 47
 - § 4. The Duty and Virtue of Veracity — p. 52
 - § 5. The Sin of Lying — p. 58
 - § 6. The Duty of Keeping Secrets — p. 73
 - § 7. The Duty and Virtue of Fidelity — p. 85
 - CH. III. Duties with Regard to the Ideal Possessions of Others — p. 91
 - § 1. The Duty of Respecting the Honor and Good Name of Others — p. 91
 - § 2. Sins against the Honor due to Others — p. 96
 - § 3. The Duty of Restitution Arising from Calumny and Detraction — p. 113
 - CH. IV. Duties with Regard to the Bodily Possessions of Others — p. 118
 - § 1. The Right to Life — p. 118
 - § 2. The Right of Self-Defense — p. 124
 - § 3. The Moral Principles Involved in War — p. 132
 - § 4. Capital Punishment — p. 146
 - § 5. Man's Right to the Necessities of Life — p. 163
 - § 6. The Duty of Giving Alms — p. 173
 - § 7. Duties with Regard to the Mortal Remains of the Dead — p. 195
 - § 8. Duties with Regard to the Bodily Life of Others — p. 208
 - CH. V. Man's Duties with Regard to the Material Possessions of his Fellowmen — p. 225
 - § 1. The Original Titles of Private Ownership — p. 225
 - § 2. The Derivative Titles of Ownership — p. 235
 - § 3. Nature and Division of Contracts — p. 242
 - § 4. The So-Called Gratuitous Contracts — p. 250
 - § 5. The So-Called Onerous Contracts — p. 264
 - § 6. Subsidiary Contracts — p. 315
 - § 7. Partnerships and Stock Companies — p. 327
 - § 8. Gaming and Wagering Contracts — p. 338
 - § 9. Sins against the Property of Others — p. 349
 - § 10. The Duty of Restitution — p. 375
 - A. Restitution in General — p. 375
 - Art. 1. The Duty of Restoring Property Belonging to Others — p. 379

- Art. 2. The Duty of Repairing Unjust Damage or Loss Inflicted on Others — p. 389
 - Art. 3. The Circumstances of Restitution — p. 403
 - Art. 4. Causes which Excuse from Restitution — p. 416
 - B. Restitution in Particular — p. 425
 - Art. 1. Restitution for Damage Caused to Life and Limb — p. 425
 - Art. 2. The Duty of Restitution Arising from Broken Matrimonial Engagements — p. 429
 - Art. 3. The Duty of Restitution Arising from Fornication and Adultery — p. 433
 - Art. 4. Restitution for Damage Done to the Property of Others — p. 443
 - Art. 5. Restitution for Damage Done in the Choice of a Vocation or the Pursuit of an Occupation — p. 450
 - Art. 6. Restitution for Spiritual Damage — p. 453
- PART II. MAN'S DUTIES TO HIS FELLOWMEN COLLECTIVELY, OR TO SOCIETY — p. 457
 - CH. I. Definition and Division of Society — p. 457
 - CH. II. The Christian Family — p. 463
 - § 1. The Mutual Duties of the Married — p. 463
 - § 2. The Social Position of Woman — p. 499
 - § 3. The Duties of Parents to their Children — p. 511
 - § 4. The Duties of Children to their Parents — p. 532
 - § 5. The Mutual Duties of Brothers and Sisters and other Relatives, and of Masters and Servants — p. 542
 - CH. III. The Christian State — p. 548
 - § 1. Nature and Purpose of the State — p. 548
 - § 2. The Duties of Public Officials — p. 554
 - § 3. The Duties of Citizens — p. 563
- ALPHABETICAL INDEX TO THE FIVE VOLUMES OF THIS HANDBOOK — p. 581

Part I: Man's Duties to his Fellowmen Individually

Chapter I: The Fundamental Virtues Governing Man's Relations with his Fellowmen

SECTION 1: RESPECT

[¹] I. DEFINITION.—The respect which a Christian owes to his fellowman may be defined as a due acknowledgment of that fellowman's dignity as a human being and a Christian, and a just regard for the good qualities he possesses, especially those of the moral order.

True respect for one's fellowmen, like true self-knowledge and self-love, is based on supernatural Revelation.¹

¹ Matth. VI, 26, 30; VIII, 5 sqq.; X, 29 sqq.; XII, 12; XVI, 26; Mark II, 17; VII, 24 sqq.; Luke XIII, 16; XV, 4 sqq.; XIX, 1 sqq.; Gal. III, 27 sqq.; Col. III, 11.

2. THE DUTY OF RESPECTING ONE'S FELLOWMEN.—

[²] The precept commanding us to respect our fellowmen is frequently inculcated by the New Testament. Thus we are commanded to "love one another with the charity of brotherhood"² and to treat one another "with honor."³ We are assured that whatever we do to any one of our brethren, even the least, we do to the Lord Himself.⁴ The "new commandment" which Christ gave is that we should love one another as He loves us.⁵ This commandment He repeated over and over.⁶ We are to make no distinction between the strong and the weak, the rich and the poor.⁷ "If you have respect to persons, you commit sin, being reproved by the law as transgressors,"⁸ says St. James.

² Caritas fraterna, φιλαδελφία.

³ Rom. XII, 10.

⁴ Matth. XXV, 40.

⁵ John XIII, 34; 1 Pet. II, 17.

⁶ John XV, 12, 17.

⁷ Jas. II, 1-9.

⁸ Jas. II, 9.

Mutual respect between men, and especially between Christians, is a necessary foundation of true charity. To a considerable extent, of course, the respect we pay to our neighbor is gauged by his personal ability and his virtues, particularly by his honesty and fidelity. The external manifestation of this respect forms an important element of what is known as public opinion.

Nature demands that we honor our fellowmen in proportion to their worth and dignity. This precept is enforced by Divine Revelation. We will quote but two passages. "Render therefore to all men their dues: tribute to whom tribute is due; custom to whom custom; fear to whom fear; honor to whom honor."⁹ "Let the priests that rule well be esteemed worthy of double honor: especially they who labor in the word and doctrine."¹⁰

⁹ Rom. XIII, 7.

¹⁰ 1 Tim. V, 17.—Cfr. F. von Holtzendorff, *Wesen und Wert der öffentlichen Meinung*, Munich 1879; A. Stöckl, *Das Christentum*, Vol. II, pp. 327 sqq.

|³| The respect we owe our fellowmen need not and should not blind us to their faults, much less to their moral unworthiness if they are wicked. Christ publicly condemned the scribes and Pharisees because of their hypocrisy and want of charity.¹¹ St. Paul says: “If any man love not our Lord Jesus Christ, let him be anathema, maranatha,”¹² i.e., let him be cut off from Christian fellowship,¹³ and the same Apostle admonishes the Thessalonians: “If any one obeyeth not what we say by this letter, take note of him, and hold no intercourse with him, in order that he may be ashamed.”¹⁴ He adds, however: “Do not regard him as an enemy, but admonish him as a brother,”¹⁵ meaning that the social and religious ostracism inflicted upon a contumacious Christian should be tempered by zeal for his eternal salvation.¹⁶

¹¹ Matth. XXIII, 13 sqq.

¹² 1 Cor. XVI, 22.

¹³ Cfr. C. Lattey, S.J., in the *Westminster Version*, III, 2, p. 33, note 3: “In the New Testament he is ‘anathema’ who is cut off from the Christian community (1 Cor. XVI, 22; Gal. I, 8–9), from Christ (Rom. IX, 3), or, as here [1 Cor. XII, 3], from God, and so under His curse. No one speaking thus of Christ can be moved by the Holy Ghost.”

¹⁴ 2 Thess. III, 14 sqq.

¹⁵ 2 Thess. III, 15.

¹⁶ C. Lattey, *Thess.*, Westm. Version, p. 15.—Cfr. St. Augustine, *Epist.*, 153 (al. 54), n. 5: “I do not think that the heavenly Teacher commands us to love impiety when He commands us to love our enemies, . . . since without doubt, if we piously worship God, we can have no enemies roused against us with the bitterest hatred and no persecutors except the impious. Are the impious therefore to be loved? Are good deeds to be done to the impious? Are prayers also to be offered for the impious? Certainly. For it is God who commands this; yet by this means He does not join us to the society of the impious, with whom He Himself is surely not associated when He spares them and grants them life and salvation.” (Migne, P. L., XXXIII, 655).

|⁴| If a person whose conduct we are in duty bound to condemn holds an office in Church or State, we must distinguish between the office and its unworthy occupant;—no matter how deeply we may be disgusted with the latter, we must never lose respect for the former. This applies particularly to ecclesiastics. “Petri dignitas etiam in indigno herede non deficit,” says a medieval adage.

We violate the respect due to our fellowman if we despise him, or employ him as a means to a wicked end, or withhold from him the personal rights or prerogatives to which he is in justice entitled. The grievousness of the sin thus committed is gauged by the character of the right or prerogative involved, e.g., liberty of conscience.

A particularly offensive sin against the precept here under consideration is involved in the grosser forms of slavery. It is true that the treatment of slaves is usually softened by natural compassion and kindness on the part either of the master or of public opinion, or by the precepts of religion; that the law has in some instances granted the wretched slaves a certain measure of protection, and that it is not necessary to assume that every slaveholder is a cruel tyrant. Yet the status of a slave is by its very definition not that of a person, but rather that of a brute beast or an inanimate object that is bought and sold according to the whims of its owner. Dr. Devas is undoubtedly right when he says that “slavery by its very nature encourages immorality, hinders proper family life among the slaves, gives the master an arbitrary power with which no man can be trusted, fosters the scorn of manual

labor, as a degradation for the freeman, and thus is always a social evil, any incidental advantages which it may give being attainable by serfdom.”¹⁷

¹⁷ *Political Economy*, 3rd ed., pp. 529 sq.—Cfr. Leo XIII, *Epist. ad Episc. Brasil.*, 5 Maii 1888; P. Allard, Art. “Slavery,” in the *Catholic Encyclopedia*, Vol. XIV, pp. 36 sqq.; J. J. Fox, *ibid.*, pp. 39 sqq.; A. Ebeling, *Die Sklaverei von der ältesten Zeit bis auf die Gegenwart*, Paderborn 1899; J. E. Ross, C.S.P., *Christian Ethics*, N.Y. 1919, p. 328.

¹⁵ | Though slavery, at least in its cruder forms, has for the most part been abolished, it unfortunately still persists in an applied sense as an attribute of twentieth-century industrialism.

¹⁶ | “In modern times,” writes Archbishop Simar, “the working classes live under conditions similar to those of pagan antiquity. All too frequently the laborer is degraded to the level of a mere tool for money-making, and no regard is paid to his bodily health, his social and economic welfare, and his spiritual, religious, and moral development. The evils and dangers which threaten humanity in consequence of this social injustice have their fountain-head in un-Christian views and principles, and therefore cannot be successfully and permanently abolished unless Christianity is again allowed to govern all social relations. The fundamental postulate of reform is respect for the personal dignity of every man as a man and as a Christian, for in no other soil can true charity and its concomitant spirit of self-sacrifice thrive.”¹⁸ The keynote of the famous Labor Encyclical of Leo XIII, “*Rerum Novarum*,” is the principle that conditions of labor shall be made more human and less servile, and that the worker be placed in a condition of greater economic freedom both as regards his security against want and the conditions of his labor. The worker is to be regarded as a human agent, not as a mere tool; and as one who has the right by means of his labor to achieve a wholesome human existence, since, as the Pope says, it is only by his labor that he can preserve and develop himself. His necessity gives him the right to such conditions of labor as will enable him to achieve a thoroughly human existence. Moreover, the same necessity demands that he should claim this right; since, as Leo XIII declares, “a man cannot give up his soul to servitude.” Yet that is just what he is required to do under the system now largely prevalent in modern industry.

¹⁸ Simar, *Moraltheologie*, 3rd ed., p. 372.—Cfr. Th. Meyer, S. J., *Die christlich-ethischen Sozialprinzipien und die Arbeiterfrage*, 4th ed., Freiburg i. B. 1906; Reuter-Lehmkuhl, S. J., *Neoconfessarius*, pp. 214 sqq.; J. Biederlack, S. J., *Die soziale Frage*, 7th ed., pp. 206 sqq.

¹⁷ | Furthermore, as Fr. Cuthbert points out in a recent brochure, the laborer is not “relieved of that servitude merely by receiving a higher wage; he simply sells his soul at a higher rate, unless the essential conditions of servitude are abolished. To continue to blunt his mind and soul by excessive bodily labor, to go through the continuous monotony of a machine-existence, to be perpetually harassed by the insecurity of labor dependent on the arbitrary will of an employer; to have to work in circumstances degrading to body and soul—under such conditions labor cannot but be demoralizing, however high the rate of wage might be. The new conscious aim in labor organization, which puts human personality in the foreground and explicitly regards wages and material advantages as mere means to an end, has undoubtedly a higher human and ethical quality than was found in the purely materialistic schools of economics: and for that reason deserves the sympathetic attention of all Catholics. The fact that this new purpose on the part of the labor organizations is associated among certain sections with a policy of expropriation, hardly distinguished, if at all, from confiscation of the capitalist's property, must not blind us to the justice of the main purpose itself: nor is it helpful to the cause of the Catholic Church to regard merely the extravagances and more violently revolutionary

forms of the movement and to ignore the saner teaching of those who regard an economic revolution as inevitable, but believe that, with reasonableness on all sides, a just and peaceful solution of the problem is possible. That the economic system must be radically changed in many ways, few will be found to doubt, who have given any serious attention to the subject. Capitalism in the forms in which it has hitherto dominated the industrial world, is bound sooner or later to give way before the growing unity and consciousness of power among the workers; just as in the latter Middle Ages, feudalism had to give way before the growing power of the commercial class. The only question to-day is whether this radical economic change can be brought about peacefully by a mutual recognition of reasonable claims on the part of the employer and the worker, or whether a violent solution is inevitable. If either party refuses to treat with the other in a spirit of reasonableness and with intent to recognize the fundamental principles of justice underlying the situation, then violent revolution, in the opinion of sane and impartial observers, will surely come: and unfortunately on both sides there are those who are prepared to stake their all upon a violent issue. If that issue is to be avoided, it is needful that all who wish for a peaceful solution should unite in a careful and sympathetic consideration of the ethical questions involved. For, after all, the problem as it presents itself to-day, is primarily and ultimately an ethical problem. 'It is not merely discontent as to wages,' says H. S. Furniss,¹⁹ 'but dissatisfaction with their lives as wage-earners, that lies at the heart of the trouble'²⁰

READINGS.—H. Th. Simar, *Lehrbuch der Moralthologie*, PP. 371 sqq.—Grimm, *Die Ethik Jesu*, Pp. 74 sqq.—I. Döllinger, *Heidentum und Judentum*, pp. 665 sqq.—A. Stöckl, *Das Christentum*, Vol. II, pp. 327 sqq.—P. Allard, *Les Esclaves Chrétiens depuis les Premiers Temps de l'Église*, 3rd ed., Paris 1900.—F. X. Linsenmann, *Lehrbuch der Moralthologie*, pp. 658 sqq.—A. Ebeling, *Die Sklaverei von der ältesten Zeit bis auf die Gegenwart*, Paderborn 1899.—V. Cathrein, S. J., *Moralphilosophie*, 5th ed., Vol. II, pp. 444 sqq.—P. Schanz, *Apologie des Christentums*, Vol. III, 3rd ed., Pp. 618 sqq., 635 sqq.—A. Harnack, *Die Mission und Ausbreitung des Christentums*, Vol. I, 2nd ed., Pp. 145 sqq.—Th. Meyer, *Institutiones Iuris Naturalis*, Vol. II, Freiburg i. B. 1900, pp. 71 sqq.—IDEM, *Die christlich-ethischen Sozialprinzipien und die Arbeiterfrage*, 4th ed., Freiburg 1906.—Reuter-Lehmkuhl, *Neo-Confessarius*, Pp. 214 sqq.—H. Biederlack, S. J., *Die soziale Frage*, 7th ed., Pp. 206 sqq.—Fr. Cuthbert, O.S.F.C., *The Ethics of Labor*, N. Y. 1922.

¹⁹ The Industrial Outlook, Intr., p. 16.

²⁰ Fr. Cuthbert, O.S.F.C., *The Ethics of Labor*, N. Y. 1922, Pp. 5 sqq.

SECTION 2: JUSTICE

[10] I. DEFINITION.—The respect we owe our fellowman refers immediately to his person, whilst justice (*iustitia*) is concerned with the rights which belong to him by nature.¹

¹ Cfr. Walter, *Naturrecht*, PP. 66 sqq.; J. Haring, *Der Rechts- und Gesetzesbegriff*, Graz 1899.

Justice may be defined as a habitual and constant disposition which inclines the will to give to every man his due or right (*suum cuique*) and, if necessary, to sacrifice one's own interests in favor of the common welfare.² Justice is essentially a virtue that governs man's relations to others (*virtus ad alterum*).

² M. Cronin, *The Science of Ethics*, Vol. II, N. Y. 1917, pp. 81 sqq.—St. Ambrose, *De Offic.*, I, c. 24 (n. 115): "Justice is that which gives to each his due, claims nothing belonging to another, and neglects its own advantage in order to preserve the common equity." (Migne, P. L., XVI, 57).—St. Augustine, *De Civ. Dei*, l. XIX, c. 21, n. 1: "Iustitia ea virtus

est, quae sua cuique tribuit." (P. L., XLI, 649).—St. Bernard, *De Diversis*, s. 102, n. 1: "Iustitia est virtus, quae suum cuique reddit." (P. L., CLXXXIII, 728).—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 58, art. 1: "Iustitia est virtus, qua quis constanti et perpetuâ voluntate ius suum unicuique tribuit."

2. DIVISION.—In view of the various relations of justice existing in society we may distinguish three species of this virtue: ³

³ Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 61, art. 1-2. * Cfr. Rom. XIII, 1-2, 5-7; 1 Pet. II, 13-16.

[¹¹] a) Legal justice, which defines the duties of the individual in relation to the social order. It is called legal (*iustitia legalis*) because these duties are generally determined by positive law.* b) Distributive justice, which regulates the distribution by the State of burdens and rewards among its subjects (*iustitia distributiva secundum proportionalitatem*).⁵ c) Commutative justice, which governs the relations between men as private individuals (*iustitia commutativa*). This species of justice demands a perfect adjustment of rights and prescribes that they be duly observed and respected.⁶ Commutative justice is the most perfect species of justice, and its violation not only involves moral guilt, but in addition entails the duty of restitution.

⁵ Jer. XXI, 12; XXII, 3; Prov. VIII, 15 sq.; Wisd. VI, 1-8.

⁶ Cfr., for instance, Ex. XX, 15, 17; Tob. IV, 15 sq.; Slater, *A Manual of Moral Theology*, I, 341 sq.; M. Cronin, *The Science of Ethics*, Vol. II, pp. 81 sqq.

A subspecies of distributive justice is vindictive justice, which metes out condign punishment to those who commit crimes and thereby injure the common weal.⁷ Vindictive justice (*iustitia vindicativa*) may be reduced to legal justice, in so far as the superior who punishes or the subject who is punished promotes the common weal, or to commutative justice, in so far as every judge is supposed to punish by virtue of his office and in accordance with the law.

⁷ Rom. XIII, 4; 1 Pet. II, 14.

[¹²] It is objected that this conception of justice unduly stresses the demand of *suum cuique* and thus, by favoring selfishness, runs counter to the social ethos. This is a mistake. Egotism is absolutely excluded by the principle of giving to every one that which is his due or right. Commutative justice, in a sense, interferes with the freedom of the individual; however, legal and distributive justice counteract this effect by reuniting the separated members. One-sided insistence on commutative justice leads to extreme individualism, whilst undue emphasis on legal and distributive justice is apt to entail extreme Socialism. Here, as everywhere, it is necessary to stick closely to the golden mean.⁸ 3. Justice in all its forms is a duty inculcated both by the moral law of nature and by Divine Revelation.⁹ It is not only one of the so-called fundamental virtues, but a general virtue. "As the will of God directed to the creature, regarded in its total content, constitutes right, i.e., that which directs and governs human actions, so the totality of the free actions corresponding • to the divine will is justice, as *virtus generalis*." > 10 "Justice," says St. Bonaventure, 'is said to surround all the powers of man, for it is not only a cardinal virtue, but likewise a general virtue, comprehending the entire rectitude of the soul, because it is defined as the right governance of the will. Hence it comprehends not only those virtues which control man's relations to his fellowmen, as, for example, equity and liberality, but also those that govern his relations to himself, for example, penance and innocence, as well as his relations towards God, e. g., worship, piety, and obedience." ¹¹ That which is due to a man according to the dictates of justice is called his right. Every man has a right to live, to enjoy a good name, to hold property, etc. Whoever deprives him of any of

these rights is guilty of an injustice (*iniuria*), which is a mortal sin *ex genere suo*, because it destroys charity, though it admits of smallness of matter (*parvitas materiae*).¹²

⁸ F. A. Göpfert, *Moraltheologie*, Vol. II, 7th ed., pp. 75 sq.

⁹ Cfr. S. Lueg and B. Mairhofer, *Bibl. Realkonkordanz*, Vol. I, 5th ed., Ratisbon 1900, pp. 534 sqq. 10J. E. Pruner, *Lehre vom Recht, und von der Gerechtigkeit*, I, 5.

¹¹ *Breviloquium*, P. V. c. 4: "Prudence rectifies the rational power, fortitude the irascible power, and temperance the concupiscible power; justice, however, rectifies all these powers in relation to another. And because that other may determinately be one's neighbor, the same man may also be related to himself as to another, and the other may also be God Himself. Hence justice is said to encompass all the powers, for it is not only a cardinal virtue but also a general virtue, comprehending the rectitude of the whole soul, since it is itself called rectitude of the will. Therefore it comprehends not only the virtues ordering one toward one's neighbor, such as equity and liberality, but also those ordering one toward oneself, such as penance and innocence, and likewise toward God, such as worship, piety, and obedience."—Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 58, art. 5.

¹² Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 59, art. 1-4; J. Schwane, *Die Gerechtigkeit*, Pp. 45 sqq. 18 Slater, *Mor. Theol.*, I, 343r

|¹³| Rights, then, are the subject-matter of justice.

A right may be defined as the moral power of having, doing, or exacting something.! Justice and right, therefore, are by no means synonymous terms. A right is a claim inhering in the human personality; whereas justice regulates the proper distribution of rights. A right is something definite and concrete, whereas justice is that which defines, determines, or guides. Rights, strictly speaking, appertain to jurisprudence, whereas justice belongs to ethics. The virtue of justice may be derived and developed from the principles of moral science. Christian revelation, containing within itself the highest and most perfect system of morality, also furnishes the most complete notion of justice. But the knowledge of what is "right" must be gathered from the science of jurisprudence, and in discussing the "rights" of men, theology is as dependent upon jurisprudence as jurisprudence in its turn is dependent upon the fundamental truths of Christianity for the correct notion of justice. We have a divine revelation concerning justice, but none concerning rights.¹⁴ It is easy to be a jurist, but it is difficult to practice justice.

¹⁴ Cfr. Linsenmann, *Moraltheol.*, P. 408.

|¹⁴| READINGS.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 58-61 (Jos. Rickaby, S. J., *Aquinas Ethicus, or the Moral Teaching of St. Thomas*, Vol. II, London 1896, pp. [11 sqq.]).—J. Schwane, *Die Gerechtigkeit*, Freiburg 1873.—A. Van Gestel, *De Iustitia et Lege Civili*, 2nd ed., Gröningen 1896, pp. 9 sqq., 46 sqq.—V. Cathrein S. J., *Moralphilosophie*, Vol. I, 5th ed., pp. 355 sqq.—Thos. Slater, S. J., *A Manual of Moral Theology*, Vol. I, PP. 340 sqq.—V. Cathrein, S.J., *Recht, Naturrecht und positives Recht*, Freiburg 1901.—A. Vermeersch, S. J., *Quaestiones de Iustitia*, Bruges 1901, pp. 6 sqq.—J. E. Pruner, *Lehre vom Recht und von der Gerechtigkeit*, Vol. I, Ratisbon 1857, Pp. 5 sqq.—J. Kiefer, *Die Tugend der ausgleichenden Gerechtigkeit*, 2nd ed., Eichstätt 1908. —J. A. Ryan, *Distributive Justice*, New York 1916.—J. E. Ross, C.S.P., *Christian Ethics*, Pp. 241 sqq., New York 1919.—M. Cronin, *The Science of Ethics*, Vol. II, Dublin 1917, pp. 80 sqq. —H. Woods, S. J., *A First Book in Ethics*, N. Y. 1923, pp. 71 sqq.

SECTION 3: CHARITY

[15] I. DEFINITION.—Charity, as here understood, is a virtue by which we love God above all things for His own sake and our neighbor because of God. In this part of our treatise we deal with charity only in relation to our neighbor.

We love our neighbor if we wish him well (*bene velle*) both in regard to his temporal and eternal destiny, and if we aid him to the best of our ability in attaining that destiny (*bene facere*).

Charity, therefore, includes both the benevolent disposition which the Scholastics term *amor affectivus* and that constant inclination to do good which is known as *amor effectivus*.¹

¹ Tob. IV, 16; Matth. VII, 12; I Thess. IV, 9; 1 John II, 10; III, 18, IV, 12.

In the form of philanthropy or humanity, charity as a moral virtue was known and to some extent practiced by the ancient pagans.²

² Cfr. F. Bittner, *Lehrbuch der kath. Moralthologie*, Pp. 420 sqq.

2. CHARITY AS A DUTY.—Whilst the Mosaic law³ limited the exercise of charity to the members of the Jewish nation, Christianity proclaims it as a universal duty, the fulfilment of which forms a distinctive badge of the true Catholic.⁴ For the precept inculcating love of neighbor virtually contains all the other commandments, even the "first and greatest," which is to love God above all things, and if we disobey this law, the observance of the others is unavailing for salvation, because sanctifying grace cannot dwell in the soul without charity.⁵ It follows that both as *amor affectivus* and as *amor effectivus* charity is a sacred duty. "What shall it profit, my brethren, if a man say he hath faith, but hath not works? Shall faith be able to save him? And if a brother or sister be naked, and want daily food, and one of you say to them: Go in peace, be ye warmed and filled, yet give them not those things that are necessary for the body, what shall it profit?"⁶ "My little children, let us not love in word, nor in tongue, but in deed and in truth."⁷ Christ called the precept of charity which He gave to His disciples "a new commandment." He explained its meaning more fully, revealed its chief motives, and gave us a perfect model of its exercise in His own appearance and conduct, and, in re-creating man by means of grace enabled him for the first time since the Fall to observe the law of charity in its perfection.⁸ 3. THE RULE OF CHARITY.—The rule or norm of charity is Christian self-love,⁹ its principal motive is the love of God.¹⁰ We must love our neighbor first of all because he is a child of God, redeemed by Jesus Christ, and as such an object of divine love; and, secondly, because such is God's will, revealed to us in Sacred Scripture and by the example of our Divine Saviour.¹¹ God has created all men in His own image and likeness; all rational creatures form one great family under Him, as their common Father; all are capable, through grace, of attaining eternal happiness with Him in Heaven.¹²

³ Lev. XIX, 18, 34; Matth. V, 43; Luke X, 36 sq.

⁴ Matth. XXII, 39; John XIII, 34 sq.; XV, 12, 17; 1 John II, 10.

⁵ Matth. XXII, 40; Rom. XIII, 8-10; 1 Cor. XIII, 1-3; x John III, 14 sq.; IV, 7 sq., 20 sq.

⁶ Jas. II, 14 sq.: "What shall it profit, my brethren, if a man say that he hath faith, but hath not works? Shall faith be able to save him? And if a brother or sister be naked and lack daily food, and one of you say to them, 'Go in peace, be ye warmed and filled,' but you give them not those things that are necessary for the body, what shall it profit?"

⁷ 1 Ioa. III, 18: "My little children, let us not love in word nor in tongue, but in deed and in truth." Cfr. Prop. damn. sub Innoc. XI, n. 10: "We are not bound to love our neighbor by an internal and formal act"; n. 11: "We can satisfy the precept of loving our neighbor by external acts alone." (Denz.-Bannwart, *Enchiridion*, n. 1160 sq.)

⁸ Simar, *Moraltheol.*, 2nd ed., pp. 375 sq.

⁹ See this Handbook, Vol. III, qu pp. 4 sqq.

¹⁰ See this Handbook, Vol. IV, pp. 71 sqq.—Cfr. Tob. IV, 16; Matth. VII, 12.—St. Augustine, *De Vera Relig.*, c. 46, n. 87: "This is the rule of love: that whatever good things he wishes to happen to himself, he should also wish for the other, and whatever evil things he does not wish to happen to himself, he should not wish for the other. He maintains this disposition toward all men." (Migne, P. L., XXXIV, 161).—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 25, art. 1.

¹¹ Mal. II, 10; Matth. XXII, 39; hn XIII, 34; XV, 12, 17; Rom. V, 8 sq.; Eph. IV, 1-6.

¹² Slater, *Mor. Theol.*, I, 179,

| 17 | 4. THE QUALITIES OF CHARITY.—Christian charity must of its very nature be religious, that is to say, it must have its motive and purpose in God;¹³ and, in the second place, universal, i. e., it must embrace both the physical and the spiritual needs of our fellowmen and extend to all without exception, even to personal enemies.¹⁴ Finally, charity must be effective, i.e., it must not consist in mere sentimentality or empty words, but manifest itself in deeds and sacrifices.¹⁵

¹³ Luke XIV, 26; I John III, 17 sq.—Cfr. St. Thomas, *Summa Theologica*, 2a 2ae, qu. 44, art. 7.

¹⁴ Matth. V, 43-47; VI, 12, 15; XXII, 39; Luke XXIII, 24; Rom. XII, 14-21.—Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 25, art. 8 sq.; Randlinger, *Die Feindesliebe*, pp. 79 sqq., 101 sqq.

¹⁵ John XIII, 34; XV, 12; Rom. V, 6-8; Jas. II, 15 sq.; = John III, 16-18.

| 18 | The characteristic notes of charity are summed up by St. Paul in a famous passage as follows:

"Charity is patient, is kind; charity envieth not, is not pretentious, is not puffed up, becometh not angry, seeketh not her own, is not provoked, regardeth not evil; rejoiceth not over wickedness, but rejoiceth with the truth; beareth all things, believeth all things, hopeth all things, endureth all things." ¹⁶ a) The purest form of charity is that by which the Christian believer loves his enemies. All other kinds of charity may have an admixture of selfishness, but to love one's enemies requires complete self-denial for God's sake. The precept by which we are bound to love our enemies is an essential characteristic of the Christian religion, and in obeying it charity attains its loftiest heights.¹⁷

¹⁶ 1 Cor. XIII, 4-7: "Charity is patient, is kind; charity envieth not, dealeth not perversely, is not puffed up, is not ambitious, seeketh not her own, is not provoked, thinketh no evil, rejoiceth not in iniquity, but rejoiceth with the truth; beareth all things, believeth all things, hopeth all things, endureth all things."—Cfr. Phil. II, 1-4.

¹⁷ St. Augustine, *Enarrat. in Ps.*, XCIII, n. 28: "When God does this (Heb. XII, 6-7), He trains us for an eternal inheritance, and He often bestows this benefit on us through evil men, in whom He exercises and perfects our love, which He wills to extend even to enemies. For Christian love is not perfect unless it fulfills what Christ commanded (Matt. V, 44): Love your enemies, do good to those who hate you, and pray for those who persecute you." (Migne, P. L., XXXVII, 1214).—IDEM, *Serm.*, 56 (al. 48 de Divers.), c. 10, n. 14: "You have enemies; for who lives in this world without an enemy? Attend to yourselves; love them. A raging enemy can in no way harm you as much as you harm yourself if you do not love your enemy. He can harm your farm, or your livestock, or your house, or your manservant, or your maidservant, or your son, or your wife, or at most, if power has been given him, your flesh. Can he harm your soul as you can? Extend yourselves to this perfection, dearly beloved; I exhort you." (P. L., XXXVIII, 383).—Cfr. Gury, *Comp. Theol. Mor.*, Vol. I, n. 199-202; Capitaine, *Die Moral des Klemens von Alex.*, PP. 347 sq.; Seitz, *Die Heilsnotwendigkeit der Kirche*, pp. 183 sqq.

[¹⁹] How must we love our enemies? We must love them both positively and negatively. b) First and above all we are forbidden to hate them, i. e., we must put out of our hearts all ill will and revenge against those who dislike and wrong us, and show them those common marks of Christian charity which are due to all and may be refused to none.¹⁸ Is What those marks are depends largely on the usages of time and place and of the society to which the parties belong.¹⁹ 1° This friendly disposition does not, of course, forbid the use of legal means to protect one's rights, if they have been violated, or to forestall future violations. c) The offender must take the first step towards reconciliation. He must show that he has changed his mind by asking for forgiveness and offering to make due reparation. The offended or injured person, on the other hand, is permitted to await the approaches of the offender, unless there be danger that, if he failed to act, reconciliation would become impossible, or grave scandal would arise, or important duties would be neglected, or unless he himself has retaliated by committing an additional injury against the offender. d) Reconciliation can be effected by showing to one's enemy the ordinary signs of charity which are due to all men. Extraordinary signs of charity (familiar intercourse, visits, etc.) are due only to the members of one's family and to neighbors of equal social standing, but not to strangers or persons of lower social position.²⁰ 2° There are circumstances, however, in which we are bound to show special signs of charity even to our enemy; for instance, when they cannot be withheld without scandal to others, who will ascribe the refusal to hatred; or when they are required to prevent our enemy from falling into grievous sin, for example, by conceiving a more intense hatred for us.²¹ "If thy enemy be hungry, give him to eat; if he thirst, give him water to drink: for thou shalt heap hot coals upon his head, and the Lord will reward thee."²² Different virtues manifest themselves in social intercourse, according as it is narrow or broad, but one thing is always necessary, and that is politeness, based upon that good will which every man owes every other man. Politeness in itself may embody respect, but as a rule it is little more than a manifestation of external deference. Natural ethics demands that we treat all our fellowmen with benevolence.²³ Christianity requires even more, namely, that we sincerely love them, one and all.

¹⁸ Cfr. Slater, *Mor. Theol.*, Vol. I, p. 186.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Op. cit., p. 187; cfr. St. Bernard, *Epist.*, I, n. 13: "An adversary pursues you more gladly when you flee than he withstands you when you resist; and he presses more boldly from behind than he resists to your face." (Migne, P. L., CLXXXII, 78 sq.).

²² Prov. XXV, 21 sq.: "If your enemy is hungry, feed him; if he is thirsty, give him water to drink; for you shall heap live coals upon his head, and the Lord will repay you."—Cfr. Rom. XII, 20 sq.: "But if your enemy is hungry, feed him; if he is thirsty, give him drink; for in doing this you shall heap coals of fire upon his head. Be not overcome by evil, but overcome evil with good."—Cfr. St. Augustine, *Enarr. in Ps.*, CXLIII, n. 3: "In nothing is an enemy so thoroughly overcome as when we are merciful." (Migne, P. L., XXXVII, 1860).—IDEM, *Serm.*, CXLIX (al. XXVI De Divers.), n. 19: "When anyone does good to his enemy and, not overcome by his evil, overcomes evil with good, he will generally repent of his enmities and be angry with himself because he has injured so good a man. But the burning itself is repentance, which consumes his enmities and malice like coals of fire." (Migne, P. L., XXXVIII, 807).—IDEM, *Epist.*, CLIII (al. LIV), c. I, n. 3: "It is easy and natural to hate the wicked because they are evil; but it is rare and pious to love the same persons because they are men, so that in one and the same person you both condemn the fault and approve the nature, and thus hate the fault more unjustly because the nature which you love is defiled by it." (Ibid., XXXIII, 654).—Cfr. Randlinger, *Die Feindesliebe*, p. 86.

²³ M. Cronin, *The Science of thics*, Vol. I, PP. 317 sqq.

²¹ | Against this precept some have objected that it is impossible to love those whom we do not know and who, perhaps, inspire us with a natural antipathy. This objection is based upon a misunderstanding. All that is demanded of us is that we wish our fellowmen well and be willing to help them in case of need. Mutual benevolence is the necessary basis of social intercourse. He who does not wish his fellowmen well, will associate with them solely for his own selfish purposes and thereby make truly social relations impossible, because he denies to others what he demands for himself.

The matter lies somewhat differently with regard to trust and confidence. As long as I do not know a man, I must suppose that he entertains a feeling of benevolence for his fellowmen, and therefore I have no right to treat him with suspicion, much less to harbor enmity against him. But I may and should practice prudent reserve until I have had an opportunity to know the stranger more intimately. This prudent reserve is all the more necessary for the reason that I do not know whether the stranger wishes to enter into closer relations with me or not. Men are differently constituted, and a hasty friendship often changes into enmity when the dissimilarity of natures becomes manifest, whereas a prudent reserve need not disturb mutual good will.

²² | One of the principal difficulties connected with social intercourse is to determine the degree of intimacy one should cultivate with others. As this is largely a matter of character and taste, it must be left to the choice of each individual.²⁴

²⁴ Dorner, *Individuelle und soziale Ethik*, pp. 137 sq.; cfr. Göpfert, *Moraltheol.*, Vol. II, 7th ed., pp. 15 sqq.

The commandment to love all men does not exclude, but, on the contrary, includes a certain order in the practice of this virtue, for the due ordering of charity appertains to the concept of virtue, in as much as a truly virtuous man will have due regard for the proper relations between charity and its object.²⁵

²⁵ St. Augustine, *De Doctrina Christ.*, l. I, c. 27, n. 28: "He lives justly and holily who is an impartial appraiser of things; he is the one who has an ordered love, so that he neither loves what ought not to be loved, nor fails to love what ought to be loved, nor loves more what ought to be loved less, nor loves equally what ought to be loved either less or more, nor loves less or more what ought to be loved equally." (Migne, P. L., XXXIV, 29).—Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 44, art. 8.

The moral value of friendship, when it is founded in God, is clearly indicated by Sacred Scripture. "A faithful friend is a strong defence, and he that hath found him, hath found a treasure. Nothing can be compared to a faithful friend, and no weight of gold and silver is able to countervail the goodness of his fidelity. A faithful friend is the medicine of life and immortality: and they that fear the Lord shall find him."²⁶ St. Augustine says that *amicitia* derives its name from *amor*, and no one can be a faithful and constant friend except in Christ.²⁷ Cicero declares that true friendship can flourish only among the virtuous.²⁸

²⁶ *Ecclus.* VI, 14-16; cfr. *Prov.* XVII, 17; XVIII, 19; *Ecclus.* XXXVII, 1 sqq.; *John* XV, 13-15.

²⁷ St. Augustine, *Contra Duas Epist. Pelag.*, l. I, n. 1: "What else is friendship, which has received its name from nothing other than love and is faithful nowhere except in Christ, in whom alone it can also be eternal and happy?" (Migne, P. L., XLIV, 551). Cfr. the same Saint's *Epistolae*, LXXXII (al. XIX), c. 3, n. 36 and CLV (al. LII), n. 1; CCLVIII (al. CLV), n. 1-4 (P. L., XXXIII, 291, 667, 1071).

²⁸ *Laelius sive de Amicitia*, c. 5: "First of all I hold this: that friendship cannot exist except among the good."—*Ibid.*, c. 6: "Friendship is nothing other than the highest agreement concerning all divine and human things, together with

benevolence and charity."—Ibid., c. 11: "Since an opinion of virtue has been the conciliator of friendship, it is difficult for friendship to remain if you depart from virtue."—Ibid., c. 12: "This law shall be established in friendship: that we neither ask for shameful things nor do them when asked."—Ibid., c. 13: "Let this first law of friendship be established: that we ask honorable things of friends and do honorable things for the sake of friends."—Ibid., c. 18: "The foundation of the stability and constancy which we seek in friendship is fidelity. For nothing that is faithless is stable.... Thus what I said at the beginning becomes true: friendship cannot exist except among the good."—Ibid., c. 22: "He who removes modesty from friendship removes its greatest ornament. Thus pernicious is the error of those who think that license for lusts and all sins lies open in friendship. Friendship was given by nature as an aid to virtues, not a companion of vices."

[²³] Clement of Alexandria distinguishes three kinds of friendship. The first, he says, is based upon equality of virtue and character and is the most excellent and the strongest. The second results from acts of mutual benevolence, and is useful for everyday life. The third is little more than habitual kindness based upon mutual good will. True friendship, he adds, cannot co-exist with injustice and dishonesty, much less with flattery, which is its worst enemy.²⁹ Dear to me are my friends, but my enemies, too, have a claim on my good will and assistance. "My friend shows me what I can do," says Schiller, "my enemy, what I ought to do." Lucky is the man who has many friends, but woe to him who places too much reliance upon them. "A true friend proves his friendship when things grow uncertain," says Quintus Ennius.³⁰ Saint Jerome writes: "A friendship which ceases was never a true friendship."³¹ There are many who stick to a friend as long as he shares their foibles and approves of their doings, but deny him as soon as he ventures to have opinions of his own.

²⁹ Capitaine, *Die Moral des Klemens von Alexandrien*, pp. 345 sq.—Seneca, *De Benefic.*, l. VII, c. 25: "Admonition among friends is so beautiful a thing."—Cicero, *Laelius sive de Amicitia*, c. 25: "Therefore, just as it is proper to true friendship both to admonish and to be admonished, and for the one to do this freely, not harshly, and for the other to receive it patiently, not resentfully, so it must be held that no plague in friendships is greater than adulation, flattery, and servile assent. For although this vice of frivolous and deceitful men, who say everything for pleasure and nothing for truth, must be marked by many names, yet since pretense in all things is vicious—for it takes away the judgment of truth and corrupts it—it is especially opposed to friendship, for it destroys truth, without which the name of friendship cannot have force. For since the power of friendship lies in this, that one mind, as it were, is made from many, how can this come about if not even in each one there is one and always the same mind, but one that is variable, changeable, and manifold? For what can be so pliant, so wandering [variant: tender], as the mind of him who turns himself not only toward another's opinion and will, but even toward his look and nod? Does someone say no? I say no. Does he say yes? I say yes. In short, I have commanded myself to assent to everything, as the same Terence says, but he speaks in the character of Gnatho: to employ this kind of friend is altogether a mark of frivolity. Yet many who resemble Gnatho are superior in position, fortune, and reputation; their flattery is troublesome when authority has been added to vanity." Cfr. Terentius, *Eunuch.*, 252 sq.

³⁰ Quoted by Cicero, *De Amicitia*, a-C. 7.

³¹ *Epist.*, III (al. XLI), n. 6: "I beseech you, do not let the mind lose, together with the eyes, a friend who is long sought, scarcely found, and kept with difficulty. Let gold shine for anyone, and let gleaming metals from loads glitter upon splendid dishes. Charity cannot be compared. Love has no price. Friendship that can cease was never true."—Cfr. St. Ambrose, *De Offc.*, l. II, c. 21, n. 123–137 (P. L., XVI, 179 sq.).—Ovid., *Trist.*, I, 9, 5 sq.: "As long as you are fortunate, you will count many friends. If the times become cloudy, you will be alone."

[²⁵] 5. What should be considered special or common manifestations of charity depends much on the established customs of a locality or community. In a general way it may be said that ordinary signs of charity are those that citizen commonly shows to citizen, relative to relative, neighbor to neighbor, friend to friend; special signs of charity are unusual marks of good will, such as are not ordinarily shown to all within a particular class. If acquaintances are accustomed to exchange greetings when

they meet, if near relatives are always invited to family festivities, if friends visit one another, such courtesies are ordinary signs of charity in the places where they are customary. But it would be a special mark of charity to pay a social call to a mere acquaintance or to invite a friend to a gathering of one's relatives.³²

³² Homiletic and Pastoral Review, Vol. XX (1920), No. 10.

6. Opposed to charity are: contempt, hatred, envy, jealousy, vengefulness, cruelty, joy at the misfortunes of others, unwillingness to be reconciled, and every form of injustice.

READINGS.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 25-27 (Rickaby, *Aquinas Ethicus*, II, 359 sqq.).—F. Dupanloup, *La Charité Chrétienne et ses Œuvres*, Paris 1863 (Germ. tr., *Die christliche Nächstenliebe und ihre Werke*, Ratisbon 1864).—V. Cathrein, *Moralphilosophie*, Vol. II, 5th ed., PP. 77 sqq.—S. Randlinger, *Die Feindesliebe*, PP. 79 sqq., IOI sqq., Paderborn 1906.—Steinmüller, *Die Feindesliebe*, pp. 6 sqq.—F. A. Göpfert, *Moraltheologie*, Vol. II, 7th ed., PP. 15 sqq.—J. Mausbach, *Die Ethik des hl. Augustinus*, Vol. I, Pp. 27 sqq.—E. M. Ommer, *L'Amitié*, Paris 1895—M. Lazarus, *Das Leben der Seele*, Vol.

[26] III, and ed., Berlin 1882, PP. 251 sqq.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 66 sqq.—H. Noldin, S. J., *Summa Theol. Mor.*, Vol. II, pp. 86 sqq.

Chapter II: Man's Duties with Regard to the Spiritual Welfare of his Fellowmen Section I the Spiritual Works of Mercy

[27] Apart from the special duties imposed by one's vocation (for instance, as pastor, teacher, parent, etc.), every man has certain general duties with regard to the salvation of his fellowmen. These are dictated partly by charity and partly by justice, and are commonly known as spiritual works of mercy.¹ They are briefly:

¹ Cfr. St. Thomas, Summa Theol., 2a 2ae, qu. 32, art. 2: "Seven spiritual alms are set down, namely: to teach the ignorant, to counsel the doubtful, to console the sorrowful, to correct the sinner, to forgive the offender, to bear those who are burdensome and troublesome, and to pray for all; these are also contained in this verse: Counsel, chastise, console, forgive, bear, pray." The memorial verse referred to has another form, namely: "Consule, carpe, doce, solare, remitte, fer, ora."

I. THE DUTY OF PRAYING FOR OTHERS, both the Living and the Dead.—Through the Communion of Saints the faithful on earth, especially those who are in the state of sanctifying grace, have a share in all the Masses, prayers, and good works offered to God by the Militant Church and in turn can and should on their part aid the living as well as the poor souls in Purgatory by prayers, indulgences, alms, etc.,² especially by having the holy Sacrifice of the Mass offered for their benefit.³

² 2 Tim. I, 16–18.—St. Augustine, Sermon, CLIX (al. XVII De Verb. Apost.), c. I, n. 1: "Prayer is offered for the other departed; for it is an injury to pray for a martyr, to whose prayers we ourselves ought to be commended." (Migne, P. L., XXXVIII, 868).—St. Thomas, Summa Theol., 3a, Suppl., qu. 71, art. 1–6.—Pohle-Preuss, Mariology, Pp. 142 sqq.; Pohle-Preuss, The Sacraments, Vol. II, Pp. 376 sqq.

³ Pohle-Preuss, Eschatology, Pp. 92 sqq.; Noldin, Summa Theol. Mor., Vol. II, p. 159. * Matth. V, 16.

2. THE DUTY OF GIVING A GOOD EXAMPLE.-

[28] Christ exhorts His hearers: "Let your light shine before men, that they may see your good works, and glorify your Father who is in heaven." * St. Paul admonishes the Romans: "Let every one of you please his neighbor unto good, to edification." ⁵ And the Corinthians: "Giving no offence to any man, that our ministry be not blamed, but in all things let us exhibit ourselves as the ministers of God, in much patience, in tribulation, in necessities, in distresses, in stripes, in prisons, in seditions, in labors, in watchings, in fastings, in chastity, in knowledge, in long-suffering, in sweetness, in the Holy Ghost, in charity unfeigned, in the word of truth, in the power of God."⁶ To the Thessalonians he writes: "Comfort one another, and edify one another." And to Timothy: "Let no man despise thy youth: but be thou an example of the faithful in word, , in conversation, in charity, in faith, in chastity." ⁸ This duty must be performed the more faithfully because, as experience teaches, the power of example is very strong. "Verba movent, exempla trahunt, Words move, but examples draw," says an ancient proverb. Equally wellknown perhaps is Seneca's famous saw:

⁵ Rom. XV, 2.

⁶ 2 Cor. VI, 3 sqq.: "Giving no offence to anyone, that our ministry be not blamed; but in all things let us exhibit ourselves as the ministers of God, in much patience, in tribulations, in necessities, in distresses, in stripes, in prisons, in seditions, in labors, in watchings, in fastings, in chastity, in knowledge, in long-suffering, in sweetness, in the Holy Ghost, in charity unfeigned, in the word of truth, in the power of God...." Cfr. C. J. Callan, O.P., The Epistles of St. Paul, Vol. I, N. Y. 1922, Pp. 506 sqq. 7 1 Thess. V, 11: "Comfort one another and edify one another."

⁸ I Tim. IV, 12: "Let no one despise your youth; but be an example to the faithful in word, in conduct, in charity, in faith, and in chastity."

|²⁹| "Longum iter per praecepta, breve et efficax per exempla, Long is the way through precept, but short and sure through example." Nor does the force of a good example depend entirely upon the station, or the social position, or the learning of him who gives it. On the contrary, every man, no matter how humble or illiterate, can and should promote the salvation of his fellowmen and the glory of God by giving a good example. Virtue must be practiced soberly, yet joyously and without pharisaic ostentation.⁹

According to the Acts of the Apostles, Christ first "began to do" and then "to teach."¹⁰ He told His disciples: "I have given you an example, that as I have done to you, so you do also."¹¹ "Christ suffered for us," says St. Peter, "leaving you an example that you should follow his steps."¹² St. Paul exhorts the Corinthians:

⁹ Seneca, Epist., VI, 5: "The living voice and companionship will benefit you more than a discourse. You ought to come into the presence of the thing itself. First, because men trust their eyes more than their ears; then, because the road through precepts is long, but through examples short and effective."—Cfr. Tit. II, 7;

¹ Pet. II, 9, 12, 15; Matth. 6, 16; Phil. IV, 4.—Seneca, De Ira, l. II, c. 6, n. 2: "To rejoice and be glad is proper and natural to virtue; to be angry is not consistent with its dignity, any more than to mourn."

¹⁰ Acts I, 1.

¹¹ John XIII, 15.

¹² 1 Pet. II, 21.

|³⁰| "Be ye followers of me, as I also am of Christ."¹³ Aside from its inherent power, confirmed by innumerable miracles,¹⁴ Christianity owed its rapid spread mainly to the good example given by its followers, particularly to the heroism of the martyrs, who courageously laid down their lives for the faith.¹⁵ "A good example," says the famous Jesuit pulpiteer, Francis Hunolt,¹⁶ "is like a big clock in a church-tower, by which all other clocks and watches of the neighborhood are regulated." Schiller says: "Words will not avail much where deeds do not speak."

¹³ 1 Cor. XI, 1.

¹⁴ Mark XVI, 20.

¹⁵ Tertullian, Apol., c. 50: "We become more numerous whenever we are mown down by you; the blood of Christians is seed." (Ed. Leopold, P. I, p. 128).

¹⁶ On Hunolt, see the Catholic Encyclopedia, Vol. VII, pp. 562 sqq.

3. Other spiritual works of mercy are instruction (*doctrina*, *consilium*) and fraternal correction (*correctio fraterna*). a) The duty of instructing the ignorant rests principally upon the learned and educated. b) By fraternal correction is meant a brotherly admonition given to a sinner in order to persuade him to mend his ways.¹⁷ Divine Revelation inculcates this as a duty of charity and describes its performance as a highly meritorious work.¹⁸ Fraternal correction is a grave obligation, as it forms part of the precept of charity which binds all men.¹⁹ Private persons, however, are ordinarily not obliged *sub gravi* to exercise fraternal correction, except when there is immediate danger to the spiritual welfare of others, that is to say, under the following conditions: (a) The matter involved must be grave (*res gravis*) and it must be certain (*notitia certa*) that a grievous sin has been committed or there is real and proximate danger that it will be committed; (B) There must be a

reasonable expectation (*spes plena*) that the admonition will be heeded; (y) He who is about to administer a fraternal correction must be the proper person to do so and have no reason to fear serious inconvenience to himself (*grave incommodum*) or greater injury than that which he is trying to prevent.

¹⁷ St. Thomas, *Comment. in Sent.*, IV, dist. 19, qu. 2, art. 1: "Fraternal correction is an admonition of a brother concerning the amendment of faults, proceeding from fraternal charity."—Cfr. *Summa Theol.*, 2a 2ae, qu. 33.—Slater, *Mor. Theol.*, Vol. I, p. 194.

¹⁸ Lev. XIX, 17; *Ecclus.* XIX, 14; *Matth.* XVIII, 15 sqq.; *Gal.* II, 1; 1 *Thess.* V, 14 sq.; 2 *Thess.* II, 14 sq.; 1 *Tim.* V, 20; *Jas.* V, 9 sq.

¹⁹ Slater, *Mor. Theol.*, Vol. I. p. 194.

|³¹| With regard to the manner in which the *correctio fraterna* should be administered, certain rules can be deduced from the utterances of Jesus Christ. "If thy brother shall offend against thee," He says, "go and rebuke him between thee and him alone. If he shall hear thee, thou shalt gain thy brother. And if he will not hear thee, take with thee one or two more, that in the mouth of two or three witnesses every word may stand. And if he will not hear them, tell the church. And if he will not hear the church, let him be to thee as the heathen and the publican."²⁰ It may not always be wise to carry out this injunction literally, but every *correctio fraterna* should be dictated by a pure motive, and inspired by charity; it should be fatherly when administered to subjects, mild when addressed to equals, and respectful when addressed to superiors.

²⁰ *Matth.* XVIII, 15–17: "If your brother sins against you, go and correct him between you and him alone. If he hears you, you have gained your brother. But if he does not hear you, take with you one or two more, so that every word may stand in the mouth of two or three witnesses. If he does not hear them, tell the Church. But if he does not hear the Church, let him be to you as the heathen and the publican."—Cfr. St. Jerome, *In Amos*, I, II, c. 5: "It is a great sin to hate the one correcting you, especially if he corrects you not out of hatred but out of love: whether alone with you alone, whether after taking another brother, whether afterward in the presence of the Church, so that he may appear to charge you with the fault not from zeal for detraction but for your amendment." (Migne, P. L., XXV, 1044).—St. Augustine, *Serm.* LXXXII (al. XVI *De Verbis Domini*), n. 9–10 (P. L., XXXVIII, 510).—*Constit. Apost.*, I, II, c. 38 (ed. Funk, I, 125).—St. Alphonsus, *Theol. Mor.*, I, II, n. 41–42 (ed. Gaudé, I, 334).

|³²| St. Paul earnestly warns the faithful against uncharitable harshness towards the erring when he says in his second Epistle to the Thessalonians: "If any man obey not our word by this epistle, note that man, and do not keep company with him, that he may be ashamed: yet do not esteem him as an enemy, but admonish him as a brother."²¹ St. Augustine says that fraternal correction is an act of charity, of which we must not deprive our fellowman when he is in need of it, for if any one were to die in mortal sin through our failure to administer a fraternal warning, his damnation would be imputable to us.²²

²¹ 2 *Thess.* III, 14 sq.: "But if anyone does not obey our word by this epistle, mark him, and do not associate with him, that he may be ashamed; and do not regard him as an enemy, but correct him as a brother."

²² St. Augustine, *Serm.*, V (al. I *ex Sirmond.*), n. 2: "Correction is, as it were, love.... As He [God] loves and corrects, so also do you, if you have anyone under your authority: although you preserve the affection of love, do not nevertheless withhold the scourge of correction. For if you withhold it, you will not preserve love, because that man dies in sins which, perhaps, if corrected, he would abandon, and true hatred is imputed rather to you." (Migne, P. L., XXXVIII, 54).

|³³| According to St. Alphonsus²³ bishops and pastors are bound to correct their subjects, even at the risk of life, whenever there is hope of betterment, because their office obliges them to succor

their subjects in distress. Those who are ex officio called to preach must censure mortal sins, even when there is no immediate expectation of amendment; first, because it is their duty to stand up for the divine commandments and to combat evil; secondly, because there is nearly always reason to hope that the word of God, no matter where sown, will bear fruit, some time and in some way. They must do their duty even at the risk of personal inconvenience if there is reason to expect good fruit and no greater evil need be apprehended for the community.

²³ Theol. Mor., 1. II, 8. 40, 42.

Private persons, as we have seen, are but rarely obliged under pain of mortal sin to administer fraternal correction, because the conditions enumerated above, as a rule, are not verified in their case. Not to correct those whose state of mind is unknown to us, is a dictate of simple prudence.

[³⁴] It is the more probable opinion that private persons are not, as a rule, obliged to admonish others for committing a material sin through ignorance or inadvertence, though if harm were apt to follow in case such a sin went unrepented, admonition should, of course, be given, for charity requires that we should prevent harm whenever we can.²⁴

²⁴ Slater, Mor. Theol., Vol. I, p. 197.

Gury excuses scrupulous persons from the duty of administering the *correctio fraterna* because they usually lack firmness of judgment, being swayed to and fro by uncertainty or fear.²⁵

²⁵ Cfr. Gury, Comp. Theol. Mor., Vol. I, n. 213.

Göpfert says that the duty of administering the *correctio fraterna* rests in a special manner upon priests in relation to their fellow priests, and adds: "Many a grave scandal could be prevented, many an erring brother could be saved, and much good could be accomplished, were the *correctio fraterna* promptly applied by clergymen to one another."²⁶ Closely connected with the duty of administering fraternal correction is the obligation of denouncing a delinquent to his superior without first attempting to correct him secretly.²⁷ This duty binds in the following cases: (a) If the sin is public: (B) If a paternal admonition by the superior will in all likelihood prove more effective than fraternal correction by an equal; (y) If harm threatens a community from the conduct of the delinquent and can be effectually warded off only by the intervention of the superior; (8) If the delinquent belongs to a religious community whose members have voluntarily renounced their rights in this matter and agreed that any one who becomes aware of a fault in another may straightway inform the superior.

²⁶ Moralthéologie, Vol. II, p. 45.

²⁷ Matth. VII, 1-5.—St. Augustine, Epist., CCXI (al. CIX), n. 11 (Migne, P. L., XXXIII, 962).

[³⁵] However, even in this case, there must be a good reason for disclosing the fault to the superior; such as, for example, the correction of the delinquent, the good name of the community, or the preservation of discipline.²⁸

²⁸ Slater, Mor. Theol., Vol. I, p. 196.

St. Paul, when informed by members of Chloe's family that contentions had arisen among the Christians of Corinth,²⁹ significantly revealed the source of the "denunciation." The so-called Apostolic Constitutions prescribe that the judge (i. e., the bishop) shall not give credence to those who denounce others, but shall institute a careful examination, because "some falsely accuse their fellowmen out of jealousy or envy."³⁰ An effective means of denouncing public evils and helping to

correct them is the periodical press, which should therefore be granted a reasonable measure of liberty. But a journal, to live up to its mission, should be edited by responsible persons, who are willing and able to use their influence at all times for the good of the community. A conscientious editor will not lend his co-operation to the spread of denunciations or scandals and will not publish complaints until he has ascertained that they are justified and that there is good reason to expect that the evil can be cured by publicity. It is wrong to print serious complaints without having made an investigation and still more so to accompany them by offensive or insulting remarks.³¹ It is worse to publish unfounded rumors for political ends or to satisfy a sensation-loving public, or worst of all, to corrupt the masses and incite them to revolt.

²⁹ 1 Cor. I, 11.

³⁰ Const. Apost., I, II, c. 37 (ed. Funk, I, 123).—Of anonymous denunciation Pliny says (Epist., I, X, 63): "To compel unwilling persons to accept something that may perhaps be useless to them is not in keeping with the justice of our times." Again (ibid., 98): "Documents presented without an author ought to have no place in any accusation. For that is both of the worst example and not in keeping with our age."

³¹ F. X. Linsenmann, *Schriftstellertum und literarische Kritik im Lichte der sittlichen Verantwortlichkeit*, Tübingen 1884.

[³⁶] 4. It is a duty to exercise toleration towards those whose religious opinions differ from our own. In practicing toleration we must, however, avoid two extremes, namely, on the one hand, undue importunity in propagating our own ideas and beliefs (commonly called religious proselytism) and, on the other, that false tolerance which is synonymous with indifference to error. To pity the erring and treat them charitably is as much of a Christian duty as to hate and combat error.³² "Love the erring," says St. Augustine in a famous passage, "but kill errors; . . . pray for those whom you refute and convince."³³

³² Zach. VIII, 19; Matth. XIII, 28 sqq.; XXIII, 15; Gal. I, 6–9; VI, 1 sq.; Eph. IV, 15.

³³ *Enarr. in Ps.*, II, 31, n. 20: "What is called toleration . . . exists only amid evils." (Migne, P. L., XXXVI, 271).—IDEM, *Contra Lit. Petil.*, I, I, c. 29, n. 31: "Love men; slay errors; presume upon truth without pride; contend for truth without cruelty; pray for those whom you refute and convince." (P. L., XLIII, 259).—Cfr. C. Romeis, *Das Heil des Christen ausserhalb der Kirche nach der Lehre des hl. Augustin*, Paderborn 1908, pp. 116 sqq.

[³⁷] The great Bishop of Hippo did not betray this principle when he called upon the secular power to proceed against the Donatists on the strength of Luke XIV, 23: "Compel them to come in"; for these heretics, by their violent methods of propaganda, had become a menace to the State as well as to the Church. Personally, St. Augustine was very tolerant, as appears from a passage in one of his letters against the Manichaeans. "Let those rage against you," he says, "who do not know what an effort it requires to find the truth and how difficult it is to eschew error."³⁴

³⁴ *Contra Epist. Manich. (Fundam.)*, c. 2, n. 2: "Let those rage against you who do not know with what labor truth is found and how difficult it is to guard against errors. Let those rage against you who do not know how rare and arduous it is to overcome carnal phantasms by the serenity of a devout mind. Let those rage against you who do not know with what difficulty the inner eye of man is healed, so that it may look upon its sun. . . . Let those rage against you who do not know by what sighs and groans it comes about that God can be understood even in the smallest part. Finally, let those rage against you who have never been deceived by such error as they see you deceived by." (Migne, P. L., XLII, 174).—Cfr. *Serm.*, IV (al. XLIV *De Divers.*), n. 20: "Bear with the sinner, not that you may love the sin in him, but that you may persecute the sin for his sake. Love the sinner, not insofar as he is a sinner, but insofar as he is a man. Just as, if you love a sick man, you persecute the fever—for if you spare the fever, you do not love the sick man. Tell your

brother, therefore, what is true; do not be silent. For what else are we doing than telling you what is true? Do not lie; with truth laid open, say what is true; but until he is corrected, let him be borne with." (P. L., XXXVIII, 43).

[38] The true notion of tolerance was clearly perceived by the poet Goethe, when he said: "Tolerance really ought to be no more than a transient state of the mind; it should lead to recognition. To tolerate means to insult."

Protestants like to extol Luther as the father of the modern idea of religious toleration, which in reality, as Msgr. N. Paulus has shown, is a product of the Renaissance. Luther and his fellow-"reformers" were extremely intolerant.

READINGS.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 32 sq. (Rickaby, *Aquinas Ethicus*, II, 383 sqq.).—Comment. in *Sent.*, IV, dist. 19, qu. 2.—F. Suarez, *De Caritate*, disp. 8 (*Opera Omnia*, XIII, 691 sqq.).—J. E. Ross, C. S. P., *Christian Ethics*, PP. 206 sqq.—M. Cronin, *The Science of Ethics*, Pp. 66 sqq.—H. Noldin, S. J., *Summa Theol. Mor.*, Vol. II, pp. 85 sqq.

On TOLERATION: J. B. Duvoisin, *Essai sur la Tolérance*, in Migne, *Theol. Curs. Compl.*, VI, 1269 sqq.—J. Perrone, *De Tolerantia*, *ibid.*, 1255 sqq.—M. Merkle, *Die Toleranz nach kath. Prinzipien*, Dillingen 1865.—J. Seitz, *Die Heilsnotwendigkeit der Kirche*, Pp. 182 sqq.—W. Köhler, *Reformation und Ketzerprozess*, Tübingen 1901.—N. Paulus, *Die Strassburger Reformatoren und die Gewissensfreiheit*, Freiburg i. B. 1895.—IDEM, *Luther und die Gewissensfreiheit*, Munich 1905.—G. Diessel, *Die wahre Toleranz*, Münster i. W., 1905.—A. Matagrin, *Histoire de la Tolérance Religieuse*, Paris 1905.—A. Vermeersch, S. J., *Tolerance*, (tr. by W. H. Page), N. Y. 1912.

SECTION 2: SINS AGAINST THE SPIRITUAL WELFARE OF OTHERS

[39] Against the duties described in the foregoing Section we may sin either directly or indirectly.

I. We sin directly against the spiritual welfare of our fellowman: a) By commanding or compelling him to do wrong ; b) By seducing him to sin, either through inciting his passions by praise or flattery, censure or fear, or by abusing such influence as we may wield over him on account of higher social position or personal superiority; c) By co-operating in sinful acts through accidental or planned meetings (conspiracy), and d) By becoming accessory to another's sin through silence or concealment, furnishing opportunities for evil, enticing women or girls to places of prostitution or sending them to foreign lands for immoral purposes (white slave traffic), or through the positive furnishing of means for the perpetration of acts of injustice.¹

¹ See this Handbook, Vol. II, pp. 62 sqq.; A. Sleumer, *Die Mitwirkung zur Sünde*, Bonn 1907.

[40] There is no such thing as compelling a man to sin, because the human will is free and cannot be coerced by physical force. But the organs of the body may be influenced in such a way as to make compliance almost irresistible, as in the case of rape. Grave authors say that a woman is usually able to resist physical violence when an attack is made upon her chastity; but physical violence is generally accompanied by the dread of being killed, maimed, or exposed to public disgrace, etc. Imagine the case of a good wife and mother who debates with herself whether she shall resist an attack upon her honor by risking death, and you have a concrete case of conflicting duties. To the same class belong cases in which parents force their children to steal or cheat. Here there is a collision between the respect due to parental authority on the one side, and justice and honesty on the other.

A person may become the prey of temptation without being conscious of any outside influence swaying his interior affections. A powerful means of seduction, which scarcely ever fails to attain its end, is flattery. The strongest of all in our day is the public press, when it combats the truth and caters to the base passions of the multitude.²

² Linsenmann, *Moraltheologie*, pp. 4 London 28 sq.; H. Belloc, *The Free Press*, 1918.

When there is question of co-operating in the sins of others, we must distinguish (α) between formal and material and (β) between immediate and mediate co-operation. α) Formal co-operation (*cooperatio formalis*) is that in which the sin itself is willed. It is always illicit, because it involves sharing the sinful intention of the other (*cooperatio in malam voluntatem*).

|⁴¹| Material co-operation (*cooperatio materialis*) takes place when a man participates in a wicked deed without sharing the evil intention (*cooperatio ad malam actionem*) of the principal. Such co-operation is permitted if the act co-operated in is in itself good, or at least objectively indifferent, or when it is dictated by a just cause, e. g., necessity, great utility, avoidance of a serious inconvenience, etc.

β) Immediate co-operation (*cooperatio immediata*) is a participation in the evil deed itself, not merely in some act preparatory to its commission, which latter would be merely *cooperatio mediata*.

Immediate co-operation in sin is illicit because it involves conscious assent to the sin itself and therefore is equivalent to formal co-operation. Mediate co-operation may be perfectly licit.

Thus a servant is allowed to perform acts for which he is hired, even though he knows that he is furnishing his master a remote occasion of sin or assists materially in carrying out a sinful plan. But he is never permitted to furnish a proximate occasion of sin, not even for the purpose of avoiding great harm to himself.³ To render a licit service to another may amount to formal co-operation in sin, as, e. g., loaning or selling a gun to a notorious poacher or "boot-legger." If there is no reason for suspecting the intention of the purchaser, it is permissible to sell him dangerous weapons, poison, etc., unless there is a statutory law to the contrary.

³ Prop. Damn. sub Innoc. XI, n. 51: "A servant who with lowered shoulders knowingly helps his master climb to the windows to violate a virgin, and repeatedly serves him by carrying a ladder, opening a door, or cooperating in some similar way, does not sin mortally if he does this through fear of notable harm, for instance lest he be badly treated by his master, looked upon with stern eyes, or expelled from the house." (Denzinger-Bannwart, n. 1201).

|⁴²| A priest may give holy Communion to a secret sinner if the latter demands it publicly.

It is forbidden to make images which one knows to be intended for idolatrous worship, except for a very grave cause.⁴

⁴ S. C. Offic. d. d. Ian. 14, 1818: "Those who build temples of heretics or synagogues of Jews are not to be disturbed, provided scandal is absent and it is not done in contempt of religion."

A Catholic is never allowed to play the organ, to sing or to direct the choir at religious services in a heretical church,⁵ or to call in a non-Catholic minister to give the "Lord's Supper" to a sick man.⁶ But to advise the minister that some one desires his services or to prepare the table for him is an indifferent act.⁷

⁵ S. C. Officii, d. d. 19 Iunii 1889.—Cfr. the *Theol.-praktische Quartalschrift*, of Linz, Austria, 1900, pp. 842 sqq.

⁶ S. C. Officii, d. d. 15 Mart. 1848: "Is it lawful for nuns caring for the sick in a hospital to summon a heretical minister who is requested for reasons of religion by a sick heretic? Resp.: According to the points set forth, it is not lawful; let

them conduct themselves passively.”

⁷ C. S. Officii, d. d. 31 Ian. 1872; 14. Dec. 1898.

[⁴³] In deciding whether and to what extent Catholic officials are permitted to co-operate in the enforcement of unjust laws, for instance, a law compelling Catholic children to attend irreligious schools or assisting in a divorce case, we must first of all consider the question whether the act under consideration is one of tolerance or of positive command, and, secondly, whether or not the object directly aimed at is intrinsically evil. If it is evil, official or authoritative co-operation can not be permitted.⁸

⁸ Lehmkuhl in the *Theol.-prakt. Quartalschrift*, 1898, pp. 89 sqq.; P. Schnitzer, *Kath. Eherecht*, 5th ed., pp. 78 sqq.

There is one kind of *cooperatio in malum* which deserves special attention in our days, and that is what Fr. Noldin calls the *cooperatio ad pravas ephemerides*—co-operating with an evil press. This sin is incurred not only by the publishers, editors, and printers of wicked and scandalous newspapers and magazines, but also by their readers. Those who occasionally buy and read such a publication co-operate with the publishers only in a remote manner and may therefore be excused if the offense is not too frequently repeated and there is no danger of scandal. Those, on the other hand, who subscribe to such publications, are guilty of proximate co-operation, and their conduct can be excused only by some grave cause, such as business necessity. If any one has to subscribe to a bad newspaper or magazine for some reasonable cause, let him take due precautions: (a) against the danger of perversion, and therefore read only what he needs to know; (b) against giving scandal to the members of his household or to outsiders. This he can do by letting it be known that he has just reason for keeping the publication in question, but that he disapproves its general tendency, and by keeping it away from those entrusted to his care.

[⁴⁴] The publishers and editors of such sheets are, of course, guilty of formal co-operation in evil. Regular contributors, who do not approve of the publication's tendency, and write only indifferent and harmless articles, can hardly be excused from more or less proximate co-operation, while occasional contributors co-operate only in a remote way, and may therefore be excused more easily.

Catholics must also refrain from supporting anti-Christian and immoral publications by advertising in them.

Those who sell or distribute such publications co-operate proximately in the evil done by them, though less proximately than those who print them; those engaged in such work should try to obtain other employment if they can.⁹

⁹ Noldin, *Summa Theol. Mor.*, Vol. II, pp. 141 sq.

2. We sin indirectly against the spiritual welfare of our fellowmen by giving scandal.

Scandal (*scandalum*) is defined by St. Thomas, following St. Jerome, as "something less rightly done or said that occasions another's spiritual downfall."¹⁰

¹⁰ St. Jerome, *In Matth.*, l. II, c. 15 (Migne, P. L., XXVI, 107); St. Thomas, *Summa Theol.*, 2a 2ae, 43, art. 1.

If the "thing less rightly said or done" is immoral, either in itself or at least according to outward appearance, the scandal is called active or objective (*scandalum activum*). If the act or utterance in question is apt to give scandal merely in an accidental way, and the offense to others, therefore, arises from their own intellectual or moral condition, the scandal is called passive or subjective (*scandalum*

passivum). Subjective or passive scandal, consequently, is identical with the sin caused by the act by which scandal is given (*ruina spiritualis*).¹¹

¹¹ See Gury, *Comp. Theol. Mor.*, Vol. I, n. 214: "A distinction is made between direct or indirect scandal, accordingly as the neighbor's sin is intended by the agent or only foreseen, at least in general. Direct scandal is also called diabolical when the spiritual ruin of the neighbor is precisely intended. But if the sin of another is intended for one's own advantage, it is called simply direct. Theologians commonly distinguish active and passive scandal. Active scandal is that to which the given definition applies. Passive scandal is the spiritual ruin of the neighbor itself and therefore is improperly called scandal, and should better be called the effect of scandal."

|⁴⁵| It follows from what we have said that not every active scandal entails passive scandal, while, conversely, passive scandal may exist where no active scandal has been given. The reason for this is the spiritual and moral disposition of men.

If one takes scandal because of his own ignorance or indecision, this is called *scandalum pusillorum vel infirmorum*; if malice is the cause of the scandal taken, we speak of *scandalum pharisaicum*.¹²

¹² Matth. XV, 11–20; XVIII, 6 sqq.; John VI, 62; Gal. V, 11; 1 John II, 10.—Cfr. Gury, *Comp. Theol. Mor.*, Vol. I, n. 214: "Scandal can be active or given without being passive or accepted, because an action may be posited which is of itself apt to give scandal without the effect following. And conversely, scandal may be accepted without being given; but then the accepted scandal is not properly to be attributed to any action of one's neighbor, but rather to the ignorance, imagination, or even malice of him who suffers the scandal—or rather admits it without foundation. This is called the scandal of the little ones if it is taken from the weakness or ignorance of one's neighbor; but it is called pharisaical if it proceeds from the mere malice of the subject."

|⁴⁶| READINGS.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 43 (Rickaby, *Aquinas Ethicus*, II, 413 sqq.).—St. Alphonsus, *Theol. Mor.*, l. II, n. 43–80 (ed. Gaudé, I, 336).—J. P. Gury, *Compend. Theol. Mor.*, Vol. I, n. 214–247.—F. A. Göpfert, *Moraltheologie*, Vol. II, 7th ed., pp. 62 sqq.—Aug. Lehmkuhl, S. J., *Casus Conscientiae*, Vol. I, 3rd ed., n. 419–445.—A. Sleumer, *Die Mitwirkung zur Sünde*, Bonn 1907.—H. Noldin, S. J., *Summa Theol. Mor.*, Vol. II, pp. 131 sqq., 102 sqq., 116 sqq.—Villada, *Casus Consc.*, Vol. I, 2nd ed., pp. 95 sqq.—Chas. S. Devas, *The Key to the World's Progress*, London 1906, pp. 161 sqq.—J. E. Ross, C.S.P., *Christian Ethics*, pp. 226 sqq., 232 sqq.

SECTION 3: DUTIES WITH REGARD TO THE GIVING AND TAKING OF SCANDAL

|⁴⁷| The duties that arise in connection with the giving and taking of scandal may be briefly defined as follows:

1. It is a sin to give scandal (*scandalum activum*) knowingly and wilfully, because by so doing a man violates charity; it is a mortal sin if one knows that by committing the act in question he will become the occasion of mortal sin to another.

The guilt incurred by giving active scandal is measured by the position, reputation, and influence of the person who gives it. The larger the number of those who are injured, and the more grievous the sin they are induced to commit, the greater is the guilt of him who gives scandal. Nor is it necessary that the sin of one's fellowman be directly intended or directly caused by the scandalous act (seduction), but it suffices that his spiritual ruin was foreseen and so at least indirectly willed.

The gravity of this sin can be inferred from our Lord's solemn utterance recorded in the Gospel of St. Matthew: "He that shall scandalize one of these little ones that believe in me, it were better for him that a millstone should be hanged about his neck, and that he should be drowned in the depth of

the sea. Woe to the world because of scandals! For it must needs be that scandals come: but nevertheless woe to that man by whom the scandal cometh. And if thy hand or thy foot scandalize thee, cut it off, and cast it from thee. It is better for thee to go into life maimed or lame, than having two hands or feet, to be cast into everlasting fire. And if thy eye scandalize thee, pluck it out, and cast it from thee. It is better for thee having one eye to enter life, than having two eyes to be cast into hell fire. See that you despise not one of these little ones: for I say to you, that their angels in heaven always see the face of my Father who is in heaven."¹

¹ Matth. XVIII, 6 sqq.: "But whoever shall scandalize one of these little ones who believe in me, it is expedient for him that an ass's millstone be hung about his neck and that he be drowned in the depth of the sea. Woe to the world because of scandals. For scandals must needs come; nevertheless, woe to that man through whom scandal comes. And if thy hand or thy foot scandalizes thee, cut it off and cast it from thee: it is better for thee to enter into life maimed or lame than, having two hands or two feet, to be cast into everlasting fire. And if thy eye scandalizes thee, pluck it out and cast it from thee: it is better for thee to enter into life with one eye than, having two eyes, to be cast into the hell of fire. See that you despise not one of these little ones: for I say to you that their angels in heaven always see the face of my Father who is in heaven."

|⁴⁸| 2. In regard to taking scandal (*scandalum passivum*) it is necessary to make a distinction. No attention need be paid to the *scandalum pharisaicum*, that is, one need not omit any act dictated by duty or necessity on account of the offence it may give to persons of a hypocritical turn of mind. This rule can be inferred from the conduct of Christ Himself and that of St. Paul.

|⁴⁹| When Our Lord declared: "Not that which goeth into the mouth defileth a man, but what cometh out of the mouth, this defileth a man,"² and His disciples told Him that the Pharisees were scandalized by what He had said,³ He replied: "Let them alone, they are blind, and leaders of the blind."⁴ St. Paul informed the Galatians that he would not yield to the false brethren who pretended to be shocked because the converts from paganism were not circumcised.⁵

² Matth. XV, 11: "Not that which enters into the mouth defiles a man, but that which proceeds out of the mouth, this defiles a man."

³ Matth. XV, 12.

⁴ Matth. XV, 14: "Let them alone: they are blind, and leaders of the blind."

⁵ Gal. II, 3 sq.

As for the *scandalum pusillorum*, even the semblance of injustice should be avoided unless the act to which it attaches is dictated by strict duty.⁶ Whatever is necessary and a matter of duty may and should be done, but Christian prudence and charity will avoid giving needless offence to the weak and ignorant.

⁶ Rom. XIV, 13 sqq.; 1 Cor. VIII, 9 sqq.; X, 22 sqq.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 43, art. 7 sq.

Regard for the pusilli should not, however, be carried so far as to give scandal to the mature and educated.⁷ The maxim, "*In omnibus caritas*," is correct only when taken in conjunction with, "*Ante omnia veritas*."

⁷ John VIII, 32, 36.—St. Gregory the Great, *Hom. in Ezech.*, l. I, 7, n. 5: "Insofar as we can without sin, we ought to avoid scandalizing our neighbors. But if scandal is taken from the truth, it is more useful to allow scandal to arise than for the truth to be abandoned." (Migne, P. L., LXXVI, 842).—Cfr. St. Bernard, *Epist.*, 34, n. 2: "It is better that scandal should arise than that the truth should be abandoned." (P. L., CLXXXII, 140).—IDEM, *Epist.*, 78, n. 10 (P. L., CLXXXII, 197); *Apol. ad Guilielm.*, c. 7, n. 15 (CLXXXII, 908).

| 50 | 3. We are never allowed to seduce our neighbor to commit a lesser in order to keep him from a greater sin, but we may permit a lesser sin in order to prevent a more grievous one,⁸ or advise one who is firmly determined to perpetrate a major crime, to commit a minor one.

⁸ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 78, art. 4: "It is in no way lawful to induce a man to sin; it is lawful, however, to make use of another's sin for a good, because even God makes use of all sins for some good."—*Ibid.*, 3a, Suppl., qu. 62, art. 3, ad 4: "Sometimes a man who has a wife suspected of adultery lies in wait for her, so that he may be able to catch her in the crime of fornication with witnesses, and thus may proceed to an accusation."

The reason is that, in the words of St. Alphonsus, by so acting we do not seek something that is evil, but something that is good, namely, the preference of a lesser to a greater evil,⁹ which is an *actio bona ex obiecto*.¹⁰

⁹ St. Alphonsus, *Theol. Mor.*, l. II, n. 57: "The second, more probable opinion holds that it is lawful to counsel a lesser evil if the other has already been determined to carry out a greater one. The reason is that then the counselor does not seek evil but good, namely, the choice of the lesser evil." (Ed. Gaudé, I, 353).—St. Augustine, *De Coniug. Adult.*, l. II, c. 15, n. 15: "If he is going to do what is not lawful, let him now commit adultery and not commit homicide, so that while his wife is alive he may marry another and not shed human blood." (Migne, P. L., XL, 482).—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 78, art. 4: "It is lawful for him who falls among robbers to disclose the goods which he has, which the robbers sin by plundering, in order that he may not be killed."

¹⁰ The contrary opinion (*non licet suadere minus malum ad evitandum maius*) is defended, e. g., by V. Patuzzi, *Ethica Christiana*, III, 156 sq.—Cfr. this *Handbook*, Vol. I, p. 213, note 3.

| 51 | 4. Damage or loss caused by active scandal entails the duty of restitution, to be made either in the form of admonition, or instruction, or good example, or prayer, according to the nature of the case. If the damage done was material, material restitution is a duty, provided the damage was, or could have been, foreseen.

St. Paul's admonition: "*Ab omni specie mala abstinete vos*"¹¹ means, not that we should avoid the semblance of evil, but that we should abstain from evil in every shape.

¹¹ 1 Thess. V, 22: ἀπὸ παντὸς εἴδους πονηροῦ ἀπέχεσθε.

Women in our licentious days have a special duty to avoid giving scandal by an immodest and seductive attire.

The ethics of clothing have been explained in a previous volume of this *Handbook*.¹²

¹² Vol. III, pp. 27 sqq. On giving scandal by immodest dress see Noldin, *Summa Theol. Mor.*, l. II, pp. 123 sqq.

READINGS.—H. Noldin, S. J., *Summa Theol. Mor.*, Vol. II, 13th ed., pp. 118–126.—F. A. Göpfert, *Moraltheologie*, Vol. II, 7th ed., pp. 53–61.—Aug. Lehmkuhl, S. J., *Theol. Mor.*, Vol. I, pp. 433–439.—T. Slater, S. J., *A Manual of Moral Theology*, Vol. I, pp. 198 sqq.

SECTION 4: THE DUTY AND VIRTUE OF VERACITY

| 52 | 1. DEFINITION.—Veracity or truthfulness (*veritas sive veracitas*) means habitual regard for the truth, and may be defined for our present purpose as the duty of adhering to the truth in our intercourse with others.

St. James teaches: "If any man offend not in word, the same is a perfect man; he is able also with a bridle to lead about the whole body."¹

¹ Jas. III, 2: "If anyone does not offend in word, he is a perfect man. For he can lead the whole body about with a bridle."

Commenting on this passage, Dr. Belser says:

"What does it mean not to offend in word, and to be perfect in speech? It means to tell the truth always, to speak exactly as one thinks, to say neither too much nor too little, to speak in the right place and at the proper time, without anger, bitterness, or exaggeration. It is not enough to be cautious in speech for prudence sake or to observe a diplomatic reticence, but we should habitually control our tongue and employ it exclusively for the honor of God and the edification and salvation of our fellowmen."²

² J. E. Belser, *Die Epistel des hl. Jakobus*, Freiburg i. B. 1909, pp. 140 sq.

|⁵³| 2. VERACITY A SOCIAL NECESSITY.—Man is an ethical and a social being. He is made for intercourse with his fellowmen and cannot live without their assistance. Now, community life depends upon mutual fidelity and veracity.³

³ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 109, art. 2: "Truth is a certain special virtue by which a man arranges his outward things—whether words, deeds, or signs—in due order."—*Ibid.*, qu. 129, art. 3, ad 1: "Every man needs first divine assistance, and secondly also human assistance, because man is naturally a social animal, since he is not sufficient unto himself for life."

"Men could not associate with one another," says St. Thomas, "if they did not believe each other."⁴ This is but another way of saying that the virtue of veracity is one of the fundamental conditions of a well-ordered community life and, therefore, a duty resting upon each individual member of society. "Putting away lying," says St. Paul, "speak ye the truth every man with his neighbor; for we are all members one of another."⁵

⁴ *Summa Theol.*, 2a 2ae, qu. 109, art. 3, ad 1: "Because man is a social animal, one man naturally owes another that without which human society could not be preserved. Men, however, could not live together unless they believed one another as persons manifesting truth to one another. And therefore the virtue of truth in some way bears the character of a debt."—Cfr. Hirscher, *Die christliche Moral*, Vol. III, pp. 274 sqq.

⁵ Eph. IV, 25: "Putting away lying, speak ye the truth every man with his neighbor; for we are all members one of another."—Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 114, art. 2, ad 1: "Because man is naturally a social animal, he owes to other men, from a certain honorableness, the manifestation of truth, without which human society could not endure.... Man could not live in society without truth."

3. VERACITY A DUTY.—Faith and mutual confidence, without which human society could not exist, are essentially conditioned upon veracity, which consequently is a postulate of the moral order or, in other words, a natural duty. But it is more than that: it is also a supernatural duty, enforced by Revelation.⁶

⁶ Ex. XX, 16; Lev. XIX, 11; Ps. XIV, 3; XXX, 24; Zach. VIII, 16, 19; Prov. VI, 16 sq.; XII, 22; Eccclus. IV, 30; Matth. V, 37; 2 Cor. VI, 7; Eph. IV, 25; VI, 14.

|⁵⁴| Veracity as a duty has a positive as well as a negative side. Positively, it obliges a man to tell the truth; negatively, it obliges him not to lie. a) As a positive duty veracity obliges not absolutely, but merely in a conditional way; that is to say, we are not bound to tell our fellowmen all we know, but to reveal our thoughts to them only when obliged to do so by strict justice (as when questioned by legitimate authority) or by charity (as when it becomes necessary to uncover a harmful error or to aid an innocent man in obtaining his release from prison).

We are allowed to withhold the truth when we are not under positive obligation to reveal it and when to speak out would cause harm and inconvenience to ourselves. It is permitted to feign sleep or death in order to escape being murdered, to disguise oneself to avoid danger, and to dress poorly in order to conceal one's wealth or to avoid inconvenience or annoyance. By such acts one merely withholds facts or conditions which one is not obliged to reveal and allows others rather to deceive themselves. Even when asked by legitimate authority, one who is accused of a crime may refuse to confess if he can do so without being guilty of positive or negative untruth and without violating commutative justice, *i. e.*, without seriously injuring his fellowmen, for instance, by causing an innocent person to be condemned.

¹⁵⁵ Finally, there is the duty of not revealing to others what has been entrusted to us as a secret, or which we have bound ourselves by a promise or by the assumption of an office to keep to ourselves. Thus priests, physicians, counsellors-at-law, and editors are not allowed to divulge secrets they have learned in the exercise of their profession.

Besides this there is the general duty binding every Christian to guard his tongue at all times and to avoid useless or frivolous gossip, mindful of the fact that on the day of judgment he shall have to give an account of every word he has uttered.⁷

⁷ Matth. XII, 36; Jas. I, 19; III, 5 sqq.

A higher degree of veracity is *frankness* or *simplicity of heart* (*simplicitas*), which consists in habitually saying what one thinks, without reserve, exaggeration, or ulterior motive.⁸ Simplicity differs from veracity only in concept (*in ratione*), as the former has reference to the agreement between a sign and that which it signifies, while the latter aims at harmonizing the internal intention with its external expression.⁹ It is simplicity that constitutes the childlike disposition so highly extolled by our Divine Lord in conjunction with prudence. Simplicity renders the soul receptive to the influence of grace, fills the heart with joy, and is a mark of supernatural perfection.¹⁰

⁸ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 109, art. 2, ad 4: "Simplicity is named by opposition to duplicity, namely, whereby someone has one thing in his heart and shows another outwardly; and thus simplicity pertains to this virtue [truth]. It makes the intention right, not indeed directly (because this pertains to every virtue), but by excluding duplicity, whereby a man pretends one thing and intends another."

⁹ *Ibid.*, qu. 111, art. 3, ad 2: "The virtue of simplicity is the same as the virtue of truth, but differs only in concept, because truth is said according as signs agree with the things signified, whereas simplicity is said according as it does not tend to diverse things, namely, that one should intend one thing inwardly and pretend another outwardly."

¹⁰ Prov. XI, 20; XXVIII, 18; Matth. X, 16; XVIII, 3.

¹⁵⁶ The vice opposed to simplicity is *duplicity*, *i. e.*, deceitfulness in character, speech, or conduct, more commonly called double-dealing. b) On the *negative* side the duty of veracity or truthfulness binds absolutely,—that is to say, we are not permitted, under any circumstances and for any reason, to lie, *i. e.*, knowingly to tell an untruth in order to deceive others. Ecclus. VII, 14: "Be not willing to make any manner of lie: for the custom thereof is not good."¹¹

¹¹ Ecclus. VII, 14. Cfr. Ex. XXIII, 7; Eph. IV, 25; Col. III, 9.

READINGS.—Hugh of St. Victor, *Summa Sent.*, tr. 4, c. 5 (Migne, P. L., CLXXVI, 122 sqq.).—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 109 (Rickaby, *Aquinas Ethicus*, II, 212 sqq.).—St.

[57] Bonaventure, *Comment. in Sent.*, III, dist. 38 (*Opera Omnia*, III, 836 sqq.).—Kössing, *Über die Wahrheitsliebe*, pp. 1 sqq., 55 sqq.—J. Schwane, *Die Gerechtigkeit*, pp. 124 sqq.—H. Noldin, *Summa Theol. Mor.*, Vol. II, p. 647.—Jos. Mausbach, *Catholic Moral Teaching and Its Antagonists* (tr. by A. M. Buchanan; N. Y. 1914, pp. 113 sqq.).—Jos. Rickaby, S.J., “The Catholic Doctrine of Lying and Equivocation,” in *Political and Moral Essays*, N. Y. 1902, pp. 215–233.—Th. Meyer, S.J., *Inst. Iuris Nat.*, Vol. II, pp. 60 sqq.

SECTION 5: THE SIN OF LYING

[58] 1. DEFINITION.—To lie is knowingly to tell an untruth in order to deceive others.¹

¹ St. Augustine, *De Mendacio*, c. 4, n. 5: “Whether one who has no will to deceive lies . . . and whether anyone who wishes to state what is true for the sake of deceiving lies can be doubted. But no one doubts that he lies who willingly states what is false for the sake of deceiving; therefore it is manifest that a false statement uttered with the will to deceive is a lie.” (Migne, P. L., XL, 491).—IDEM, *Contra Mendac.*, c. 12, n. 26 (P. L., XL, 537).—IDEM, *Enchirid.*, c. 22: “Everyone who lies speaks contrary to what he feels in his mind, with the will to deceive.” (P. L., XL, 243).—Cfr. Gury, *Comp. Theol. Mor.*, I, n. 453: “A lie is speech contrary to the mind, with the will to deceive.”—Cfr. P. Ch. Kierkegaard, *De Notione atque Turpitudine Mendacii*, Göttingen 1829.

To constitute a lie, the false declaration, whether made in word or deed, must be opposed to the interior conviction or belief of him who makes it (*enuntiatio contra mentem*), and further, it must be inspired by the intention (*voluntas fallendi*) of deceiving and misleading others, especially those who have a right to know the truth.

The matter of a lie (*materia*), therefore, is the untruth uttered,—not objectively, however, but subjectively, i.e., as opposed to that which one knows or believes to be true.

Consequently, an objectively false statement which one believes to be true is no lie, and, vice versa, an objectively true statement which one believes to be false, is a lie. It is the intention that constitutes a lie (*ream linguam non facit nisi mens rea*).² One who makes a false statement which he believes to be true, does not wish to deceive others, but is himself deceived.³

² J. Mausbach, *Catholic Moral Teaching*, pp. 108 sqq.—St. Augustine, *Serm.*, 180 (al. 28 *De Verbis Apost.*), c. 2, n. 2 (Migne, P. L., XXXVIII, 973); *De Mendacio*, c. 3, n. 3: “He lies who has one thing in his mind and states another in words or by any other signs. Hence the liar is also said to have a double heart, that is, a double thought: one concerning the thing which he knows or thinks to be true and does not state, and another concerning the thing which he states in its place, knowing or thinking it to be false. Thus one may state what is false without lying, if he thinks it is as he says although it is not; and one may state what is true while lying, if he thinks it false and states it as true although in fact it is as he states. For a man must be judged a liar or not a liar according to the judgment of his own mind, not according to the truth or falsity of the things themselves. Therefore one who states as true what is false, yet believes it to be true, may be called mistaken and rash, but he is not rightly called a liar, because when he states it he does not have a double heart and does not wish to deceive, but is himself deceived. The liar’s fault, however, is his mind’s desire to deceive in making a statement, whether he does deceive when his false statement is believed, or does not deceive, either when he is not believed or when he states what is true with the will to deceive, not believing it true. When such a statement is believed, he certainly does not deceive, although he wished to deceive—except insofar as he deceives by being thought to know or believe as he states.” *Ibid.*, n. 4: “Although it is most subtly asked whether, when the will to deceive is absent, there is no lie at all.” (Migne, P. L., XL, 488).—IDEM, *Enchir.*, c. 22: “Every lie is therefore to be called a sin, because a man ought to state what he bears in mind not only when he himself knows what is true, but also if he sometimes errs and is deceived, as a man may be, whether that thing be true or only thought true and is not so.” (P. L., XL, 243).

³ *Ibid.*, c. 18: “No one is to be judged a liar who says what is false while thinking it true, because, so far as he is concerned, he does not deceive but is deceived.” (P. L., XL, 240).

|⁵⁹| Substantially false statements which are not inspired by the intention of deceiving others (e.g., symbolic or figurative locutions, fables, fairy tales, novels, dramas, riddles, etc., in fact poetry in general) do not partake of the formal character of lies because they are designed merely to veil, sugar-coat or elucidate, not to misrepresent, the truth.

|⁶⁰| Materially untrue phrases and expressions of which everybody knows that they are not to be taken literally, or the true sense of which is sufficiently revealed by the context or the accompanying circumstances, are not properly lies. To this category belong the complimentary phrases customary in polite society, figurative or metaphorical locutions, such as hyperboles, irony, etc., as well as stratagems and deception in war, at games, and on the theatrical stage.

St. Thomas teaches that the intention to deceive does not belong to the essence of a lie, but rather to its perfection.⁴ Others hold a different view.⁵ According to the Angelic Doctor all that is required to constitute a lie is the intention of telling an untruth. A common example adduced by the defenders of this theory is that of the convicted criminal who denies his guilt. But what is it that inspires his persistent lying if not the intention of deceiving others? Purposely telling an untruth always includes, at least indirectly, the intention to deceive. If the object is not achieved, this is not owing to the liar or his false statement, but solely to the will of the hearer. A lie, therefore, is more correctly defined as telling an untruth with the intention of deceiving others. It must be admitted, at any rate, that the indirect or interpretative intention to deceive is practically always present in the mind when a man lies, because deception is the natural result of lying, though the actual accomplishment of this purpose is not required for the essence of lying, so that he who knowingly tells an untruth is guilty of lying even though he accidentally finds no credence among his hearers.⁶

⁴ *Summa Theol.*, 2a 2ae, qu. 110, art. 1: “It does not belong to the species of a lie, but to a certain perfection of it.” On the controverted question whether the purpose to deceive belongs to the essence of lying, the student may consult J. Schwane, *Die Gerechtigkeit*, pp. 133 sq., and Jos. Rickaby, S.J., *Political and Moral Essays*, N. Y. 1902, pp. 215 sqq.

⁵ “A statement of the false (a false statement) uttered with the will to deceive.”—Cfr. Kössing, *Ueber die Wahrheitsliebe*, p. 166.—St. Augustine, *De Mendac.*, c. 3, n. 3: “He certainly does not deceive, although he wished to deceive.” (P. L., XL, 489).

⁶ M. Cronin, *The Science of Ethics*, Vol. II, pp. 67 sqq.—Lehmen, S. J., *Lehrbuch der Philosophie*, Vol. IV, 2nd ed., p. 170.

|⁶¹| The notion of a lie, therefore, in contradistinction to that of error, includes (a) the conscious telling of an untruth and (b) the intention to deceive. In popular parlance even objective untruths which are not intended to deceive, are often called lies, e. g., historical lies. But such phrases are misleading. A statement may be an untruth without being a lie. The so-called lies of history are for the most part merely errors and blunders.

2. DIVISION.—a) A lie may either be uttered in words or indicated by signs. A verbal lie consists either in the denial of a truth (*falsiloquium*) or the assertion of an untruth with the will to deceive (*mendacium*).

Other species of lying are simulation (*simulatio*) and hypocrisy (*hypocrisis*),⁷ which may be defined as the act of assuming a false form, appearance, character, or condition in order to deceive others as to one’s real thoughts or intentions, and especially in regard to one’s true character. Simulation

frequently takes the form of sanctimony, an assumed or outward show of probity,⁸ exemplified by the kiss with which Judas betrayed Christ.⁹

⁷ St. Augustine, *Enarr. in Ps.*, 63, n. 11: “Simulated innocence is not innocence; simulated equity is not equity, but twofold iniquity, because it is both iniquity and simulation.” (Migne, P. L., XXXVI, 765).—IDEM, *Serm.*, 355 (al. 49 *de Divers.*), c. 3, n. 6: “It is evil to fall away from a purpose of holiness, but it is worse to feign such a purpose.” (Migne, P. L., XXXIX, 1575).—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 111, art. 1: “Just as it is opposed to truth for someone by outward words to signify something other than what he has within himself, which pertains to lying, so it is also opposed to truth for someone by certain signs of deeds or things to signify something contrary to what is in him, which is properly called simulation. Hence simulation is properly a kind of lie consisting in outward signs of deeds.”

⁸ Matth. VI, 1–6, 16; cfr. 2 Cor. XI, 13–15.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 111.

⁹ Matth. XXVI, 48–50; Luke XXII, 47 sq.

|⁶²| A subspecies of hypocrisy is flattery, which consists in giving insincere, false, or exaggerated praise to others with a view to influencing their future conduct. As a rule flattery is inspired by purely egotistic motives, and partakes of the malice of such motives.¹⁰ b) According to the purpose for which they are uttered, or the effect which they produce, lies are divided into several categories. There is, for instance, the jocose lie (*mendacium iocosum*); the officious or courtesy lie (*mendacium officiosum*), inspired by a desire to ward off injury or inconvenience, and the damaging or pernicious lie (*mendacium damnosum sive perniciosum*), dictated by a desire to injure others in life, property, or good name, perhaps even to prevent them from attaining eternal salvation.¹¹ In lies of this kind the predominant note is not the intention to deceive, but the will to injure others, spiritually or materially.

¹⁰ Prov. XXIX, 5; Acts XXIV, 1 sqq.

¹¹ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 110, art. 2.

|⁶³| 3. THE SINFULNESS OF LYING.—a) No statement or act that deserves the name of a “lie” in the formal and proper sense, can be justified by the end for which it is uttered or performed, be that end ever so noble or innocent. Consequently, all kinds of lies, including those told in jest, are strictly forbidden. This is the plain teaching of both the Old and the New Testament. Even if the eighth commandment: “Thou shalt not bear false witness against thy neighbor,” referred only to false testimony in the narrower sense of the word, it is more widely applied in Lev. XIX, 11: “You shall not lie, neither shall any man deceive his neighbor.”¹² Again and again Holy Scripture warns men not to lie¹³ and threatens divine vengeance upon those who commit this sin.¹⁴ Among the “six things which the Lord hateth,” the Book of Proverbs mentions “a lying tongue.”¹⁵ The same book declares that “lying lips are an abomination to the Lord.”¹⁶

¹² St. Augustine, *Enchir.*, c. 22: “Nor is any lie therefore to be thought not a sin, because we can sometimes benefit someone by lying.” (Migne, P. L., XL, 242).—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 110, art. 3: “Every lie is a sin.”—*Ibid.*, ad 4: “A lie has the character of sin not only from the harm inflicted upon one’s neighbor, but from its own disorder. It is not lawful, however, to use any illicit disorder to prevent the harms and deficiencies of others. . . . And therefore it is not lawful to tell a lie in order that someone may free another from any danger whatsoever.”

¹³ Ex. XX, 16; cfr. Matth. XXVI, 59 sqq.

¹⁴ Ps. V, 7.

¹⁵ Prov. VI, 17 sq.

¹⁶ Prov. XII, 22; cfr. Ecclus. VII, 14; XX, 26–28; XXV, 3 sq.

|⁶⁴| Jesus Christ condemns lying, attributes it to the devil as the “father of lies,”¹⁷ and challenges His enemies to convict Him of any sin against the truth.¹⁸ St. Paul admonishes the Ephesians to “put away lying and to speak the truth.”¹⁹ St. James says: “Be not liars against the truth.”²⁰ St. John says that liars shall have their portion with whoremongers, sorcerers, and idolaters “in the pool burning with fire and brimstone, which is the second death.”²¹ The story of Ananias and Saphira, who brazenly lied to St. Peter and were struck dead on the spot, is too well known to require repetition.²² b) The sinfulness (*malitia*) of lying arises principally from the fact that a lie, being a contradiction between thought and speech, constitutes an abuse of language, which is the principal means of intellectual intercourse and was divinely bestowed upon men to enable them to communicate their thoughts to one another.

¹⁷ John VIII, 44; cfr. J. E. Belser, *Das Evangelium des hl. Johannes*, pp. 291 sqq.

¹⁸ John VIII, 46.

¹⁹ Eph. IV, 25; cfr. Col. III, 9.

²⁰ Jas. III, 14.

²¹ Apoc. XXI, 8; cfr. XXII, 15.

²² Acts V, 1 sqq.

|⁶⁵| Untruthfulness counterfeits this spiritual medium of exchange and, by making it impossible for men to live together in mutual trust and confidence, violates the divinely established order of things and the law of nature. Therefore the Apostle exhorts the Ephesians to “put away lying and to speak the truth,” because “we are members one of another.”²³

²³ Eph. IV, 25. Cfr. St. Augustine, *Enchir.*, c. 22: “And indeed words were instituted for this purpose, not that through them men might deceive one another, but that through them each might convey his thoughts to the knowledge of another. Therefore to use words for deception, not for that for which they were instituted, is a sin.” (Migne, P. L., XL, 243).—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 110, art. 3: “A lie is evil by its kind; for it is an act falling upon undue matter. For since words are naturally signs of thoughts, it is unnatural and undue for someone to signify that which he does not have in mind.”

Lying is sinful also for the reason that it violates or destroys the true dignity of man, which consists in his being an image of God. God is “the God of truth,”²⁴ and if we lie, we become dissimilar to Him, or rather like to the devil, who is a liar from the beginning and has not the truth.²⁵

²⁴ Ps. XXX, 6.

²⁵ John VIII, 44; cfr. John XIV, 6; XVII, 17; Apoc. III, 7, 14.

Finally, lying is sinful because it is opposed to charity or love of neighbor. It robs men of a good to which they have a just claim,—viz.: the truth,—and substitutes for that good an evil, i. e., error. Even if in some cases the truth is not esteemed as a real good, and error is not regarded as an evil, but rather as a service rendered to another, this does not change the nature of truth or of its contrary. Lying always embodies a violation of charity and involves contempt of others.

|⁶⁶| “You ask what costs you more dearly, falsehood or the truth? I answer: falsehood, because falsehood costs you your very ego, whereas the truth can at most rob you of happiness,” says the poet Hebbel. The well-known anecdote told of St. Thomas is purely legendary, but it conveys an important lesson. “Do you see that ox flying up there?” cried one of his fellow students. When St. Thomas strained his eyes to espy the strange phenomenon, his companion scoffed at his simplicity. The Saint

censured him and said: "I would rather believe that an ox could fly, than that a Catholic would tell a lie."²⁶ But St. Thomas might have known that it was a hoax. To test another's wit is not deception. c) Though every lie is a sin, not every lie is a mortal sin.²⁷ The gravity or guilt of a lie is to be gauged by the general criteria of mortal and venial sin, by its subject-matter, by the objective and subjective importance of the truth involved, by the end or object aimed at, and by the circumstances of the case.

²⁶ A. Scherer and J. B. Lampert, *Exempellerikon*, Vol. III, 2nd ed., Freiburg i. B. 1908, p. 191.

²⁷ St. Thomas, *Summa Theologica*, 2a 2ae, qu. 110, art. 4. Cfr. Kössing, *Ueber die Wahrheitsliebe*, pp. 167 sqq.

As regards the subject-matter, the denial of a revealed truth of great importance for the eternal or temporal welfare of man is always a mortal sin because it involves serious dishonor to God and a grave violation of charity and justice.

[⁶⁷] The end or purpose for which a lie is told may be serious or trivial. A jocose lie, or one told to get out of a scrape, may generally be classed as a venial sin.²⁸ But there are cases in which the objective and particularly the subjective momenta weigh heavily in the scale. A lie may be inspired by a totally corrupt motive and, aside from the scandal given, may have incalculable consequences. There are jocose lies that hurt keenly and others which partake of blasphemy, and though not every joking prevarication is a lie, yet every jocose lie, no matter how harmless it appears to be, is incompatible with the dignity of a Christian and the respect he owes the truth. It must also be taken into consideration that many of the "little white lies" of social intercourse are apt to cause grave temporal and spiritual damage to others. The motive of charity by which these lies are often inspired, may diminish their guilt, yet pious frauds can never promote the cause of truth or justice, the welfare of Church or State, or the true ends of scholarship or science.²⁹

²⁸ St. Augustine, *Enarr. in Ps.*, V, n. 7: "There are altogether two kinds of lies in which the fault is not great, but which nevertheless are not without fault: when we either joke or lie in order to benefit someone. The former, in joking, is therefore not most harmful, because it does not deceive. For the one to whom it is said knows that it was said for the sake of a joke. The latter, however, is milder because it retains some benevolence." (Migne, P. L., XXXVI, 86).

²⁹ Cicero, *De Orat.*, II, 15: "Who does not know that the first law of history is that it dare say nothing false, and then that it not dare leave anything true unsaid? that there be no suspicion of favor in writing, no simulation?" These words were quoted by Leo XIII in his letter of Aug. 18, 1883, to Cardinal Hergenröther et al., as a norm for all Catholic writers of history.

Luther excused "fat lies" if the cause of the Gospel could be promoted thereby. Who invented the maxim: The end justifies the means?

Let us always remember the query of St. Paul: "Shall we do evil that there may come good?"³⁰ and the pious exclamation of holy Job: "Hath God any need of your lie, that you should speak deceitfully for him."³¹ A Catholic must ever be firmly convinced that no lie can be of real advantage and that God will turn the damage which one fears from the truth into an advantage. "We know that to them that love God, all things work together unto good."³²

³⁰ Rom. III, 8.

³¹ Job XIII, 7.

³² Cfr. Rom. VIII, 28.

[⁶⁸] When a conflict arises between duty and truth on the one side and various other interests on the other, the injury done to the soul by a lie cannot be compared to any temporary disadvantage. In a

conflict between truth and charity, e. g., in the case of a sick person or a lunatic, a conscientious man will always, if necessary, find a way to disguise the truth so that it will not bear the character of a lie. In such cases it should be considered that, on the one hand, by lying to the sick we are apt to undermine their confidence in the physician and those who have them in charge, hinder a correct treatment, and run the danger that the patient may die unprepared, while, on the other hand, persons who have not the full use of reason are rendered suspicious and distrustful if those in whom they have confidence lie to them, and are thus often impeded in their progress towards recovery.

There is a well-known story told by the younger Pliny of the Roman matron Arria, who, having lost her son by sickness, and all but lost her husband, used to tell the latter in his convalescence, when he enquired about the boy: “Oh, he has slept well; he has had quite an appetite.” Then she would rush out of the room to hide her tears. Father Rickaby, commenting on this story, says: “I will not vouch for the objective morality of these replies: they may or may not be justified as broad mental reservations. But they are much more easily justified, if the whole harm of lying consists in the hearer’s unwillingness to suffer a deception rendered necessary by the state of his health. The same doctrine would justify other speeches of a much more objectionable character. It would, in fact, contain the reaffirmation of the old Greek position, that deceit is a medicine and a drug, and may be administered *ἐν φαρμάκῳ εἶδει*, especially by persons in authority, wherever they judge that it will work a wholesome effect, and wherever the person deceived is not unwilling, or at least ought not to be surprised or complain, considering the circumstances. But this would be to throw the door open wide to the whole crowd of official, officious, and jocose lies. Untruths told for a purpose to enemies, to children, to subjects, to servants; pleasant fictions to gratify a friend; hoaxes unlimited, where we think the victim ought not much to mind,—these will be withdrawn from the category of lying, or will be registered as white lies and lawful. Worst of all, if the whole harm of lying is in the unpleasant effect wrought upon the deceived hearer, or in the scandal and bad consequences to society at large, it is not clear that lying is impossible to God; and our faith, based on the divine veracity, is shaken to the foundation. God, as Master, might bid the deceived listener bear the mortification and shame of being duped. He might by His providence prevent any scandal or general bad consequences to society; or, as Sovereign, He might impose or permit such consequences, as He sends or permits a pestilence. The Lord of life and death, who commanded Isaac to be slain, and who daily ‘taketh away the spirit of princes,’ is not to be restrained from being a deceiver by the mere reluctance of His creatures, unless there be some element in the divine nature itself which makes it utterly impossible for God to deceive and speak false. Undoubtedly there is such an element. It lies even at the root of the sanctity of God. God is holy in that, being by essence the fullness of all Being and all Goodness, He is ever true to Himself in every act of His understanding, of His will, and of His power. By His understanding He abidingly covers, grasps, and comprehends His whole Being. With His will He loves Himself supremely. His power is exercised entirely for His glory—entirely, but not exclusively, for God’s last and best external glory is in the consummated happiness of His creatures. Whatever God makes, He makes in His own likeness, more or less so according to the degree of being which He imparts to the creature. And as whatever God does is like Him, and whatever God makes is like Him, so whatever God says is like Him. His spoken word answers to His inward word and thought. It holds of God, as of every being who has a thought to think and a word to utter:— “‘To thine own self be true, And it must follow, as the night the day, Thou canst not then be false to any man.’”³³

³³ Rickaby, *Political and Moral Essays*, pp. 227 sqq.

[70] Lies told for the purpose of injuring others are, as a rule, grievous sins, though subject to *parvitas materiae*. The guilt in such cases is not to be measured by the damage calculated or foreseen, but primarily and above all by the malice or lack of charity which inspired them. Even a slight injury may be done with great malice.

The principal circumstances to be considered in weighing the guilt of a lie are the scandal given and the importance of veracity as a pillar of social intercourse.

[71] d) By frequent lying a man forms the habit of mendacity, which consists in the inclination and a certain aptitude to tell lies. This vice gradually entails not only absolute indifference to truth, but a real love of lying for its own sake, which sometimes results in a sort of obsession of the soul by the evil spirit. “Why dost thou glory in malice, thou that art mighty in iniquity? All the day long thy tongue hath devised injustice, as a sharp razor thou hast wrought deceit. Thou hast loved malice more than goodness, and iniquity rather than to speak righteousness. Thou hast loved all the words of ruin, O deceitful tongue.”³⁴

³⁴ Ps. LI, 3–6.

St. Augustine calls the controversy that was waged in his time concerning the ethics of lying “*magna quaestio, latebrosa nimis*,” and treats it as a problem for the solution of which the most learned men have labored in vain.³⁵ It follows that at the time when the Saint wrote, this part of Catholic moral teaching had not yet been fully developed. In practice, however, lying had been condemned absolutely and unreservedly by Clement of Rome, the Shepherd of Hermas, Justin Martyr, Lactantius, and St. Basil.³⁶

³⁵ *De Mendac.*, c. I, n. 1; c. XVIII, n. 38.—IDEM, *Contra Mendac.*, c. XV, n. 33 (Migne, P. L., XL, 487, 513, 541).—V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 82 sqq.—Kössing, *Ueber die Wahrheitsliebe*, pp. 174 sqq.

³⁶ On the veracity of God, cfr. Pohle-Preuss, *God: His Knowability, Essence, and Attributes*, pp. 236 sqq.; Kössing, *Ueber die Wahrheitsliebe*, pp. 186 sqq.

[72] READINGS.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 110–111, 115 (Rickaby, *Aquinas Ethicus*, Vol. II, pp. 13 sqq.).—Th. Meyer, S.J., *Inst. Iuris Nat.*, Vol. II, pp. 55 sqq.—F. X. Linsenmann, *Lehrbuch der Moraltheologie*, pp. 433 sqq.—Kössing, *Ueber die Wahrheitsliebe*, pp. 161 sqq.—V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 82 sqq.—G. Sodeur, *Luther und die Lüge*, Leipsic 1904, pp. 5 sqq.—H. Grisar, *Luther* (tr. by Lamond, London 1913 sqq.), Vol. I, pp. 335 sq.; II, 15 sqq., 49, 385 sqq., 392; IV, 28 sq., 41, 80–178; V, 537 sqq.; VI, 513 sqq.—H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 649 sqq.—Jos. Rickaby, S.J., *Political and Moral Essays*, N. Y. 1902, pp. 215 sqq.—IDEM, *Moral Philosophy*, 4th ed., London 1918, pp. 224 sqq.—J. E. Ross, C.S.P., *Christian Ethics*, N. Y. 1919, pp. 141 sqq.—A. Vermeersch, S.J., in the *Gregorianum*, Rome, Jan., 1920.—J. Brodie-Brosnan, “Father Vermeersch on the Malice of Lying,” in the *Irish Ecclesiastical Record*, Sept., 1921, No. 645, pp. 266–274.

SECTION 6: THE DUTY OF KEEPING SECRETS

[73] Neither the duty of telling the truth nor the virtue of veracity, demand that we disclose everything that we know always or to all men. On the contrary, we are sometimes bound to withhold knowledge or information from others.¹ This brings us to the consideration of secrets.

¹ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 40, art. 3: “A will would be disordered if someone wished nothing to be concealed from him by others.”—Gury, *Comp. Theol. Mor.*, Vol. I, n. 484: “A secret is knowledge of some matter which by

its own nature or by a special contract must be kept hidden.”

1. A secret (*secretum*) is something hidden or concealed, or, more properly, knowledge or information which we are in duty bound to keep from others.

There are various kinds of secrets. a) A secret is called *natural* (*secretum naturale*) if a man has accidentally or inadvertently or purposely through his own efforts (*secretum extortum*) obtained a knowledge of something which he may not reveal to others without violating justice or charity, or which the one concerned has a right to hide. The latter category includes everything that cannot be revealed without injury to the honor, reputation, or property of others. If a crime can be prevented, or an injustice righted by the revelation of a secret, it may be revealed, but only to those who are in a position to act effectively, for instance, parents and superiors. b) The duty of keeping a secret sometimes rests upon positive grounds, as when a secret has been communicated or entrusted to one in an official capacity, or for safe-keeping under promise of silence. To the former class (*secreta commissa*) belong the so-called official or professional secrets, i. e., communications made to a man solely because of his official station or office, or communications made because of knowledge he has obtained by means of official functions or by participation in debates or trials. c) The *promised secret* (*secretum promissum*) arises from the fact that one has, through one’s own efforts, obtained a knowledge of a secret and then bound himself by a promise to keep it from others.

[74] If a man comes for professional advice to another, as to a lawyer or a doctor, or simply to a friend for moral counsel, and in order thereto imparts to him natural secrets, those secrets, as they are received and held by the person consulted, are called secrets of trust or privileged secrets, because, in contradistinction to natural secrets and secrets of promise, they need not be delivered up at the demand of an authority empowered to inquire in the department in which the secret lies.

[75] The highest kind of privileged secret is that called *sacramental*. It is protected by the seal of confession (*secretum sacramentale, sigillum confessionis*) and arises from the Sacrament of Penance.²

² Cfr. this *Handbook*, Vol. II, pp. 167 sqq.—J. P. Gury, *Comp. Theol. Mor.*, Vol. I, n. 485, 488; *Irish Theol. Quarterly*, Vol. V (1910), No. 17; Vol. VIII (1913), No. 29, No. 31.

2. The duty of keeping secrets needs to be more accurately circumscribed. a) Broadly speaking, a man is bound to keep every secret of which he has knowledge. To divulge a secret of any kind without urgent reason is a sin against both charity and justice, the guilt of which is measured, first, by the malice involved in the act, and, secondly, by the importance of the secret divulged and the injury inflicted by its revelation.

It is sinful to induce others to violate the duty of secrecy, especially if it is done maliciously or by force.

More particularly, the obligation of secrecy is gauged by the nature of the secret. The seal of confession by its very nature binds absolutely and always. So-called natural secrets are based upon the obligation of justice, which man owes his fellowmen, and which admits of exceptions for just reasons, and does not exclude silent reservation.

[76] *Silent reservation* is admissible also in regard to committed or entrusted secrets, nay, even in regard to secrets promised under oath.³

³ J. P. Gury, *op. cit.*, I, n. 486: "Question I: What are the just causes for disclosing a secret? Answer: (1) The rightly presumed consent of the person whose interest it is to conceal the secret; (2) disclosure of the matter made from another source; (3) harm that would follow from the secret to the commonwealth or to private persons; indeed, a grave obligation to reveal the secret sometimes presses, especially by reason of the public good. Question II: Can you reveal a secret if you have promised to keep it even at the cost of your life? Answer: (1) Affirmatively, if the common good demands it, because a promise made against the common good is null; (2) negatively, if it concerns your own merely grave harm, because it is better to keep the secret promised by this special contract. More probably negatively even if it concerns your own extreme harm, because you expressly renounced your right, and it is not unlawful to omit the preservation of life in order to keep your promise. Nevertheless St. Alphonsus [l. III, n. 971, ed. Gaudé, II, 361] rightly says that the contrary is sufficiently probable."—*Reg. Iuris in VI^o Decr. Bonifacii VIII*, n. 69: "In evil promises it is not expedient to keep faith."—Cfr. this *Handbook*, Vol. IV, p. 260, n. 16.

The obligation of keeping professional or official secrets rests upon fidelity, without which the social order could not exist, and can therefore be modified only by the exigencies of public welfare. b) Apart from the seal of confession, which, as we have said, binds absolutely and at all times, the obligation of keeping a secret ceases whenever there is a just cause or excuse for disclosing the same, that is to say, when the secret has become publicly known without the co-operation of him who knows of it, and the welfare of any of the parties concerned in it or the public interest require that it be revealed. This would be the case, for instance, if an innocent man were to suffer serious injury unless a secret were disclosed or if a criminal could be reformed by divulging it.

[⁷⁷] Generally speaking, the obligation of keeping a secret does not hold before the law if the secret involves matters which may not be legitimately concealed, e. g., unjust plots against others or against the commonwealth, abuses and faults which cannot be corrected without publicity, etc.

In such cases it makes no difference whether an oath is involved or not.

Parents, guardians, teachers, and other legitimate superiors are allowed, by opening letters or by other means, to procure a knowledge of things which their children or subjects illegitimately wish to conceal from them.⁴ The public authorities may, for reasons strong enough to justify the use of force, examine the correspondence of suspected persons.

⁴ Gury, *Comp. Theol. Mor.*, I, n. 487: "The question is whether one sins gravely by opening or reading another's letters. Answer: Affirmatively in itself. The reason is that by natural law and the law of nations there is an obligation to leave the secrets of letters inviolate; otherwise human intercourse would be ruined. Except the following cases: 1. If there is the tacit or presumed consent of the one who writes or of the one to whom the letters are sent; 2. if it is known or presumed that the letters contain matters of lesser importance; 3. if it is done for a just cause, e. g., to avert public or private harm; 4. if the letters are opened from levity or mere curiosity."—Cfr. St. Alphonsus, *Theol. Mor.*, l. V, n. 70 (ed. Gaudé, II, 755).

Much has been said of late against "secret diplomacy," and justly so: but the fact remains that every government is allowed, nay obliged, to keep secret certain things which cannot be divulged without danger to the common weal. But those in authority may not employ such secrets to cover dishonest transactions, or to create false opinions, or to spread lying reports, or to engage in mendacious propaganda either at home or abroad, nor, in general, use any means apt to injure or undermine the public confidence.

[⁷⁸] For the individual it is not only a command of natural, and especially of Christian, prudence, but it may even be a grave duty to refuse to be made the repository of secrets which do not concern him, or to pry into the secrets of others.

“The main art of keeping a secret is not to talk about it. If a man is asked an awkward question, and sees no alternative but to let out or lie, it is usually his own fault for having encouraged the questioner up to that point. A wise man lets drop in time topics of conversation which he is unwilling to have pressed. He is never the first to introduce such topics. It is said of the ploughman in Ecclesiasticus, that his story is of the sons of bulls—*enarratio eius in filiis taurorum*. After all, cattle have no secrets, but men and women have.”⁵

⁵ Joseph Rickaby, S. J., *Political and Moral Essays*, p. 221.

Without strict necessity, letters should not be opened, nor should family secrets be exposed, or if necessity demands that it be done, the duties enjoined by truth and fidelity should be strictly adhered to.

Parents, guardians, and superiors should be cautious in making use of their right to pry into the secrets of their subjects, for if this is done without a just cause, it will encourage rather than stop underhand dealing.⁶

⁶ Linsenmann, *Moraltheologie*, p. 440.

For the rest it is well to remember that, in the words of a famous German poet, “two things are a detriment to him who wishes to ascend the ladder of happiness: namely, keeping silence when it is time to speak, and speaking when it is time to be silent.”⁷

⁷ Fr. Bodenstedt.

3. THE MEANS OF KEEPING A SECRET.—

[79] A positively untrue statement or denial is illicit, and mere silence often creates unjustifiable suspicion. Consequently, as it is often necessary to keep a secret, both for the sake of individuals and of society at large, moralists have devised ways and means by which illegitimate or curious questions can be evaded without lying or dissimulation. Of these ways and means the principal ones are: a) *Amphiboly* (ἀμφιβολία, doubt) or *equivocation* (*aequivocatio*), i. e., the use of equivocal or ambiguous expressions with the intention of being misunderstood by others. Usually in an expression of this kind the words reflect the thoughts of the speaker in such a way as to admit of a meaning different from the one that lies on the surface. Hence the speaker is not really the author of the ensuing deception, but the deception is the fault of the hearer, who could have perceived the true meaning had he paid closer attention to the words employed. b) *Mental reservation* or *interior restriction* (*reservatio sive restrictio mentalis*) may be subdivided into two species, namely: a) *Pure mental reservation* (*restrictio sive reservatio pure seu stricte sive proprie mentalis*) is the restriction of one's meaning to the proposition as modified by some addition made to it within the mind of the speaker, the literal sense of which, therefore (*verbum oris*), is true only under the conditions retained in the mind (*verbum mentis*),—as if one, on being asked whether he did a certain thing, were to answer “No,” meaning, “Not in the way in which the questioner thinks, or at the time he means, or under the conditions he imagines, etc.,”—modifications which cannot be gathered either from the tenor of his words or the circumstances of the case.

[80] Such pure or strict mental reservations are downright lies, because they aim at deception and effectively undermine the mutual confidence without which society can not exist.⁸

⁸ Gury, *Comp. Theol. Mor.*, I, n. 457: “It is never lawful to use a purely or properly mental restriction, nor an amphibology not perceptible in a human manner; much less is it lawful to swear with them, because it is simply a lie.”—Cfr. the propositions condemned by Innocent XI, *supra*. Joseph Mausbach, *Catholic Moral Teaching*, pp. 79 sqq.; New York 1914; A. Meyenberg, *Die katholische Moral*, 2nd ed., pp. 180 sqq.; A. Adloff, *Katholische Moral und Sittlichkeit*, Strasbourg 1901, pp. 22 sqq.

β) *Mental reservation in a broader sense* (*reservatio non pure sive late seu improprie mentalis aut sensibilis*) is practiced if words are employed which are capable of being understood in different senses, either because they are in themselves ambiguous, or because they derive a special meaning from the circumstances of time, place, or person in which they are spoken, or, to put it somewhat differently, if the speaker really means what he says, but expresses himself so guardedly that the person addressed can gather his true intention only by taking his words in connection with the circumstances of the case. Thus when a servant says that his master is “not at home,” the words may mean either that he is absent or that he does not wish to receive visitors.⁹ With this kind of reservation, therefore, the true meaning of the speaker is not contained in the bare words, but may and must be gathered from the meaning which the words acquire from the circumstances in which they are spoken. Consequently, broad mental reservation is merely a species of equivocation, which, though by some authors called internal reservation, is in reality not such, because nothing is concealed.¹⁰

⁹ Slater, *Moral Theology*, I, 468.

¹⁰ Gury, *Comp. Theol. Mor.*, I, n. 456: “Equivocations or amphibologies are also referred to restriction; these are expressions having a twofold principal sense, but one more obvious and the other less so, or even one spiritual and the other literal.”

|⁸¹| In English, which is not the language of a Catholic people, and in which words mean, not what we would have them mean, but what they commonly mean in educated non-Catholic society, equivocation denotes a practice which is certainly wrong, and carries all the guilt of lying. “What ordinary Englishmen call equivocation,” says Fr. Rickaby, “corresponds to that which Catholic divines know as pure mental reservation, and that is a cowardly fashion of lying. Where *aequivocatio* is mentioned with approval in a page of Latin casuistry, the word ought to be translated, broad mental reservation. To render it equivocation is to create confusion, just as much as if one should render the canonical appeal, *peto apostolos*, “I ask for the Apostles,” or the old French, *entre chien et loup*, “between a dog and a wolf.”¹¹

¹¹ *Political and Moral Essays*, pp. 217 sq.

|⁸²| Examples of *aequivocatio* are pointed out in Holy Scripture. Thus Abraham and Isaac represented their wives as their sisters,¹² Jacob deceived his father to obtain the paternal blessing, and Judith gained admittance to Holofernes’ tent by means of a ruse.¹³ But the statements concerned, with the exception perhaps of those attributed to Abraham and Isaac, though literally *mendacia*, are to be regarded rather as *mysteria*,¹⁴ and therefore prove nothing either pro or con with regard to the question under discussion.

¹² Gen. XII, 11–19; XX, 2, 11 sqq.; XXVI, 7; XXVII, 1–35.

¹³ Judith X, 12 sqq.

¹⁴ St. Augustine, *Contra Mendac.*, c. XI, n. 24: “What Jacob did with his mother as instigator, so that he seemed to deceive his father, if it is considered diligently and faithfully, is not a lie but a mystery. If we call these things lies, all parables and figures signifying any things whatsoever, which are not to be taken literally but in which one thing is to be

understood from another, will also be called lies—which be altogether far from us.” (Migne, P. L., XL, 533).—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 110, art. 3, ad 3.

In the New Testament, Christ Himself repeatedly employed broad mental reservation, as when He called John the Baptist “Elias,”¹⁵ when He said that the daughter of Jairus was “not dead but sleeping,”¹⁶ and when He declared that if the Jews would destroy “this temple” (meaning His body), He would raise it up again in three days.¹⁷ It sounded like a mental reservation when He said that “the Father is greater than I”;¹⁸ that neither the angels nor the Son know the day or the hour of the Last Judgment;¹⁹ or when He declared that He would not go up to Jerusalem, and then went up anyhow.²⁰ It is obvious, however, that by employing such ambiguous language, our Lord did not wish to conceal the truth, or to mask His real intentions, but merely to indicate that His words bore a deeper meaning than that which lay on the surface. All that can be concluded from the passages in question is that ambiguous language is not *per se* forbidden. Broad mental reservation, therefore, must not be unreservedly condemned as illicit.²¹ However, it is not allowable under all circumstances, but only when (a) it does not embody a positive untruth, as is supposed; (b) when the true nature of the statement is recognizable, and (c) when there is a morally justifiable reason for keeping a secret.²² Whenever, on the other hand, there is a positive duty to tell the truth, *e. g.*, in taking an oath, testifying in court, making a contract, or instructing others, and when there is no obligation of keeping a secret, equivocation or mental reservation may not be employed.²³

¹⁵ Matth. XI, 14.

¹⁶ Matth. IX, 24.

¹⁷ John II, 19.

¹⁸ John XIV, 28.

¹⁹ Mark XIII, 32.

²⁰ John VII, 8–10.

²¹ St. Augustine, *Enarr. in Ps.*, V, n. 7: “Since it is one thing to lie and another to conceal the truth—indeed, one thing to speak falsehood and another to keep truth silent—if someone perhaps does not wish to betray a man even to this visible death, he ought to be prepared to conceal the truth, not to speak falsehood, so that he may neither betray nor lie, lest he kill his own soul for the body of another.” (Migne, P. L., XXXVI, 85).—St. Jerome, *In Ezech.*, l. IV, c. 14: “He who questions fraudulently does not deserve to hear the truth, but is to be caught by his own heart.” (P. L., XXV, 118).—St. Bernard, *Serm. in Ct.*, XLII, n. 6: “For the most part it is not expedient that everything we know about ourselves become known to everyone, and by the very charity of truth and truth of charity we are forbidden to wish that what would harm the one who learns it be made public.” (Migne, P. L., CLXXXIII, 900).

²² “‘What news, my Lord, from France?’ some one asked of a cabinet minister. ‘I don’t know,’ was the reply, ‘I have not read the papers.’ The story is Cardinal Newman’s. Here the sense of the *I don’t know* is restricted and reserved, internally in the mind of the speaker, and externally by the words added about the newspapers. It is a mental reservation of the broadest, such as no Pharisee could call a lie. Now suppose the reference to the papers omitted. It would still be very hard to call the *I don’t know* a lie. The reservation of official knowledge is still sufficiently apparent: no sensible man would expect that to be communicated by way of ordinary chitchat. Above all, when a topic has been forced upon one, and questions put that admit of no evasion, by an enquirer who has no right to ask, then surely any denial or disclaimer, however direct the form of words, must be qualified by the outward circumstances in which it is spoken. This qualification, unspoken, but not unsignified, will be, ‘secrets apart.’” (Jos. Rickaby, S.J., *Political and Moral Essays*, pp. 222 sq.)

²³ Gury, *Comp. Theol. Mor.*, I, n. 457: “It is sometimes lawful for a grave cause to use restriction in a broad sense, that is, improperly mental restriction, and equivocal words from which the sense intended by the speaker can easily be

understood. The reason is that this is not evil in itself, since one's neighbor is not properly deceived, but his deception is permitted for a just cause; moreover, the good of society requires that there be a means of lawfully concealing a secret of great importance; sometimes no other means is available except equivocation or restriction in the broad or improperly mental sense. I said, for a grave cause, because if such restrictions were used without a grave and proportionate cause, no one could or would be willing to believe another; and this would result in the greatest harm to human society."—Cfr. Kössing, *Ueber die Wahrheitsliebe*, pp. 112 sqq.

[84] READINGS.—St. Alphonsus, *Theol. Mor.*, l. III, n. 970–971 (ed. Gaudé, II, 360); l. III, n. 151–171 (ed. Gaudé I, 467 sqq.).—F. X. Linsenmann, *Lehrbuch der Moraltheologie*, pp. 438 sqq.—Aug. Lehmkuhl, S. J., *Casus Conscientiae*, Vol. I, 3rd ed., n. 972 sqq.—F. A. Göpfert, *Moraltheologie*, Vol. II, 7th ed., pp. 334 sqq.—Kössing, *Ueber die Wahrheitsliebe*, pp. 106 sqq.—V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 96 sqq.—P. Hötzel, *Jakob und Esau*, Munich 1881.—E. Recejac, *De Mendacio quid senserit Augustinus*, Paris 1897.—W. Protopopoff, *Biblische alttestamentliche Fakta nach Beleuchtungen der hl. Väter und Kirchenlehrer*, Kasan 1897.—J. Mausbach, *Catholic Moral Teaching and its Antagonists*, pp. 113 sqq.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 77 sqq.—Jos. Rickaby, S. J., "The Catholic Doctrine of Lying and Equivocation," in *Political and Moral Essays*, N. Y. 1902, pp. 215 sqq.—IDEM, *Moral Philosophy*, pp. 232–237.—J. E. Ross, C.S.P., *Christian Ethics*, pp. 264 sq., 140 sqq., N. Y. 1919.—J. H. Newman, *Apologia*, pp. 274 sqq., 349 sqq., 359 sqq.—J. Brodie-Brosnan, "Mental Restriction and Equivocation," in the *Irish Ecclesiastical Record*, Dec., 1920, No. 636, pp. 461–469.

SECTION 7: THE DUTY AND VIRTUE OF FIDELITY

[85] 1. DEFINITION.—Closely related to veracity is fidelity. Veracity consists in speaking the truth or expressing one's mind without deceit; fidelity (πίστις, *fides*, *fidelitas*), in keeping a promise or in performing that to which one is obliged.¹

¹ Cfr. Matth. XXIII, 23.

Fidelity is a most important virtue both morally and socially. Without mutual confidence there could be no social intercourse and society would fall to pieces. He who can be always trusted and relied upon to do his duty, is not only highly respected among men, but, as Holy Scripture says, worthy of entering into the joys of Heaven.²

² Prov. XXVIII, 20; Matth. XXV, 21.—Cfr. J. de Lugo, *De Iust. et Iure*, II, disp. 23, s. 1, n. 13: "Just as truthfulness inclines one to conform outward words to the mind, so fidelity inclines one to conform deeds to previous statements; fidelity obliges one to conform deeds to words signifying a promise."—Horace, *Carm.*, I, 24, 6: "*Iustitiae soror, incorrupta fides nudaque veritas.*"—*Ibid.*, III, 3, 1: "*Iustum et tenacem propositi virum non civium ardor prava iubentium,*" etc.

2. The duty of fidelity, which is based upon the same grounds as veracity, may originate:

a) In a promise, *i. e.*, a declaration of willingness to undertake a certain task or to live up to a certain obligation.³ A lawful and valid promise must be kept in the sense in which it was made by one and received by the other, that is, without equivocation or restriction, and it makes no difference whether he to whom it was given is an orthodox believer or a heretic (*fides haereticis habenda*).⁴

³ Gury, *Comp. Theol. Mor.*, I, n. 758: "A promise is a contract by which someone freely and spontaneously binds himself gratuitously to perform or omit something in another's favor. The conditions required for the obligation of a promise are: (1) That there be a will to bind oneself, at least virtual and implicit, which he is judged to have who seriously wishes to promise, even if he does not advert to the obligation. (2) That the promisor's consent be fully free and spontaneous, and therefore that all error and deceit concerning the substance and final cause, and all compulsion or unjust fear, be absent. (3) That the promise itself be manifested outwardly and accepted; for every agreement must

consist in the mutual consent of two or more persons upon the same object, and, moreover, no one is judged to wish to bind himself toward another unless the latter accepts.”

⁴ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 88, art. 3, ad 1: “According to moral rectitude [*i. e.*, in conscience and before God], a man is bound to another man by any promise whatsoever, and this is an obligation of natural law.”—St. Augustine, *De Doctr. Christ.*, l. IV, c. 18, n. 35: “What is least is least, but to be faithful in the least is great.” (Migne, P. L., XXXIV, 105).—IDEM, *Epist.*, 189 (al. 205), n. 6: “When faith is pledged, it must be kept even with an enemy against whom war is waged; how much more with a friend for whom one fights.” (P. L., XXXIII, 856).

|⁸⁶| If a promise forms the foundation of a legal relation (*e. g.*, a contract, as in a betrothal) it constitutes a serious obligation, the non-fulfilment of which entails the duty of restitution.⁵ The obligation ceases when its fulfilment becomes morally impossible or injurious to the person to whom the promise was given (not so, however, if it would merely injure him who made it), or if the one to whom it was made lifts the obligation or fails to keep his part of the agreement, or, finally, if the promise has become useless or futile, or the circumstances of the case have so completely changed that if they had been foreseen, the promise would never have been made.⁶

⁵ Cfr. Aug. Lehmkuhl, S.J., *Casus Conscientiae*, Vol. I, 3rd ed., n. 835: “A wholly gratuitous promise of itself binds from fidelity alone, and not under grave sin but only under venial sin, unless special circumstances are added.”—*Ibid.*, n. 837: “A promise can bind in justice, and this actually occurs: 1. If an obligation of justice is expressly undertaken; 2. if it is tacitly undertaken, namely by knowingly allowing the risk that the promisee may suffer harm from the promise’s nonfulfilment. In that case the obligation of justice is either to fulfil the promise or to repair the loss caused. Otherwise there would be a harmful deception.”

⁶ Gury, *Comp. Theol. Mor.*, I, n. 760: “It is asked, when does the force of an accepted promise cease? The answer is: 1. If the promisee voluntarily remits it or yields his right; 2. if the thing promised becomes unlawful or useless; 3. if the promisee does not stand by his own promises; 4. if the state of affairs or persons changes in such a way that the promise does not appear to have been intended to include that event; 5. if something was promised for a reason that does not exist.”—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 110, art. 3, ad 5: “If [someone] does not do what he promised, he then seems to act faithlessly by changing his mind. Yet he may be excused in two ways: first, if he promised something that is manifestly unlawful, because he sinned in promising it, but does well in changing his purpose; secondly, if the conditions of persons and affairs have changed.”—Seneca, *De Benefic.*, l. IV, c. 35: “All things must remain the same as they were when you promised, in order that you be held to the promisor’s pledge.”

|⁸⁷| The oft-quoted axiom, “*Haereticis fides non est servanda*,” says Dr. Linsenmann, could be justified only on the supposition of the medieval law that a heretic was an enemy of the public order and incapable of entering into legal relations with the faithful, in other words, that whoever espoused heresy knew that, as one denying an important truth of Christian Revelation, he would have no legal standing in the community and no right to expect fidelity from others. To-day, in civil society, we place the heretic on the same plane with the loyal Catholic, and therefore any promise made to him must be faithfully kept. It would not be permissible to break one’s word even to a robber or a murderer who had surrendered himself on the promise of immunity, provided, of course, no positive violation of the moral law were involved. A mere advantage to be gained for the commonwealth never justifies the breaking of a promise.⁷

⁷ Linsenmann, *Moraltheologie*, pp. 443 sq.

|⁸⁸| b) The duty of fidelity may originate, secondly, in the confidential relation existing between members of the same social group. Every social relation freely entered into, whether of superiority or inferiority, as between husband and wife, master and servant, etc., entails the obligation of mutual fidelity, which in some instances is solemnly vowed, in others silently assumed. Fidelity is a mutually

binding duty, which must be observed in the spirit and meaning of each relation. It is opposed, on the one hand, to compulsion and slavish servility and, on the other, to a mere desire for remuneration, and forms the one and only ethically effective bond of all relations resting on mutual confidence and of all contracts. Only he who is faithful to his vocation will live up to its duties and make the sacrifices demanded by it, even though they be unforeseen. The duty of fidelity has no limit except when it conflicts with the irreducible demands of the moral law.

Fidelity, says Linsenmann, does not demand slavish obedience, but presupposes a spiritual distinction. A servant will often be able to serve his master more faithfully by using his own judgment than by obeying orders literally. . . . Fidelity's closest ally is honor. Where fidelity is not esteemed, where conscientious compliance with duty is not gratefully acknowledged, where honest servants are not protected, where services rendered in confidential positions are rewarded with money only, there the spiritual bond which should connect master and servant is missing, and society is in danger of disruption.⁸

⁸ IDEM, *ibid.*, pp. 444 sq.

[⁸⁹] 3. Opposed to fidelity is *infidelity* or *perfidy*. If the promise was confirmed by an oath, infidelity becomes *perjury*. The guilt of perfidy is gauged by the subjective malice and the importance of the matter involved, and it may, therefore, be either a venial or a mortal sin according to circumstances. Perfidy dishonors a man, places him in opposition to God, who, as St. Paul says, is faithful,⁹ and destroys mutual confidence among men. The Apostle enumerates this sin among the vices on account of which God delivered the gentiles up to shameful affections.¹⁰

⁹ 2 Tim. II, 13; 1 Cor. X, 13.

¹⁰ Rom. I, 31; I, 26. On *perjury*, see this *Handbook*, Vol. IV, pp. 256, 264 sqq.

A particularly grievous sin of infidelity is that committed by a *soldier who deserts his flag*, especially when his conduct involves injury to the *bonum commune*, as it usually does in time of war. A deserter is bound to return to his allegiance, not only *ex titulo oboedientiae et iustitiae legalis*, but also, if he took an oath to uphold the flag, *ex titulo fidelitatis et religionis*, unless the punishment he would have to undergo were entirely too severe.¹¹

¹¹ Schwane, *Die Gerechtigkeit*, p. 148.

[⁹⁰] READINGS.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 80, art. 1, ad 3; qu. 88, art. 3.—Lessius, *De Iust. et Iure*, l. II, c. 47, n. 29 sqq.—Kössing, *Ueber die Wahrheitsliebe*, pp. 29 sqq.—F. X. Linsenmann, *Lehrbuch der Moralthologie*, pp. 443 sqq.—Aug. Lehmkuhl, S.J., *Casus Conscientiae*, Vol. I, 3rd ed., n. 835 sqq.—A. Vermeersch, S.J., *Quaestiones de Iustitia*, pp. 361 sq.

Chapter III: Duties with Regard to the Ideal Possessions of Others

SECTION I: THE DUTY OF RESPECTING THE HONOR AND GOOD NAME OF OTHERS

[91] The good name of a man, that is to say, the high opinion which others have of him (*fama bona*), and the external honor which they pay him (*honor, aestimatio*), are important possessions both from the individual and the social point of view. On the one hand, they afford internal satisfaction and, on the other, they exercise a considerable influence upon the position and activity of a man by giving him authority and influence among his fellows. Thus the good name and honor of men constitute an ethical possession of great social importance, which must be duly respected for the same reasons which oblige the Christian to protect his personal reputation and honor. The duties towards one's fellowmen with regard to good name and honor are twofold, positive and negative.¹

¹ St. Bernard, *Epist.*, 122, n. 1: "In this life a certain reward of virtue is conspicuous and immortal testimony. She obtains this for herself; this she herself preserves. Its splendor is not diminished by envy, nor assisted by external efforts. Indeed, just as the esteem of the good cannot be taken away by false accusations, so neither can it be acquired by flattering favors." (Migne, P. L., CLXXXII, 267).—See this *Handbook*, Vol. III, pp. 164 sqq.

[92] 1. *Positive Duties.* a) Above all, man must give to his fellowman the honor that is his due, readily acknowledge his excellencies or merits, promote their acknowledgement by others, and defend him against unjust attacks. In doing so the human heart conquers the radical vice of envy, for "charity envieth not, . . . seeketh not her own, . . . rejoiceth not in iniquity, but rejoiceth with the truth."²

² 1 Cor. XIII, 4–6; cfr. Rom. XII, 10; XIII, 7; 1 Pet. II, 17; 1 Tim. VI, 1.—On *envy*, see this *Handbook*, Vol. II, pp. 55, 65, 77 sqq., 94.

b) The duty of defending the honor of others against unjust attacks binds particularly towards those who have a special claim on a person, *e. g.*, parents, teachers, superiors, friends. Towards others than these it binds only when there is danger of serious injury, which might be wholly or in part prevented by a proper defence, but not when it is probable that any attempt at defence will prove ineffective or cause serious damage to the defender.

As regards the manner in which a man is bound to defend the honor of others, we may say that in most cases an expression of disapproval or dissatisfaction with the conduct of the offender, *e. g.*, by breaking off conversation with him, or leaving his company, or rendering exceptional honors to the person attacked, is apt to prove more effective than any attempt to defend him in a formal way.

[93] The duty of honoring a fellowman ceases when he has forfeited his claim to respect by his own conduct.

c) Opposed to this duty are: *undue praise, flattery, and toadyism*. These vices are mean and destructive because they are designed to create false notions of dignity, authority, and power, and in matter of fact but too often succeed in this nefarious attempt.³ True *politeness (urbanitas)*, which, without trenching upon modesty, gives honor to whom honor is due and, above all, never violates the truth, is a moral virtue, whereas intentional *rudeness* may be called a moral defect, because Sacred Scripture exhorts us: "Let every one of you please his neighbor unto good, to edification."⁴

³ Cfr. Horace, *Sat.*, I, 6, 15 sqq.: “[The people], who foolishly often give honors to the unworthy and, inept, are slaves to reputation, who stand amazed at titles and images.”—Tacitus, *Annal.*, I, I, c. 7: “At Rome the consuls, senators, and knights rushed into servitude.”—Seneca, *De Benefic.*, I, VI, c. 30: “Do you not see how extinguished liberty and fidelity submitted to servile compliance drive them headlong, while no one advises or dissuades from the judgment of his own mind, but there is a contest in flattering, and the one duty of all friends, the one rivalry, is who may deceive most flatteringly?”—Cfr. Cicero, *Laelius sive de Amicitia*, c. 25.

⁴ Rom. XV, 2; cfr. Phil. IV, 5.—On politeness, see this *Handbook*, Vol. III, p. 70.—St. Augustine, *De Civ. Dei*, I, XXII, c. 30, n. 1: “There true glory will be, where no one will be praised through the error or flattery of the one praising. True honor, which will be denied to no one worthy and bestowed on no one unworthy; nor will any unworthy person seek it, where no one will be permitted to be except the worthy.” (Migne, P. L., XLI, 801).—IDEM, *Epist.* CCXXXI (al. CCLXIV), n. 4: “When the good are praised, it benefits not those praised, but those praising. For the former, so far as concerns themselves, it is enough that they are good; but those for whom it is expedient to imitate the good are to be congratulated when the good are praised by them, since they thus indicate that those whom they praise truthfully are pleasing to them.” (P. L., XXXIII, 1024).

[⁹⁴] In everyday life politeness is often made to serve as a cloak for flattery and hypocrisy, and *conventional courtesy* is largely unreal. The consequence is that many unspoiled natures rebel against the hollowness of civilization. This rebellion is justified when it is directed against really immoral excrescences and so long as it does not go to the extreme of opposing boorishness to conventionality. It is always a gain if nature, which is selfish in its crudeness, is subdued to the yoke of good manners, even though they be but conventional. “*Suaviter in modo*” is a necessary complement to “*fortiter in re*.”⁵

⁵ Linsenmann, *Moraltheologie*, p. 456.

We can easily understand, says a recent writer, why biassed men, who see nothing but the abuse involved, protest against every form of superior culture and wish to substitute for politeness the frank, unveiled expression of personal opinion. These contemners of the finer forms of social intercourse forget that true charity and veneration must not be displaced by hypocrisy and that, on the other hand, even those who have no claim to respect, may and should be treated with charity. True charity, like the sun, shines upon good and bad alike and sheds its blessings upon the wicked as well as the just. It is patient and kind, not easily provoked to anger, thinketh no evil, but beareth all things and endureth all things.⁶ Charity does not inquire after merit and value, but lends value to that which it loves. It eschews hypocrisy and flattery and treats all men with benevolence and good will.

⁶ Cfr. 1 Cor. XIII, 4 sqq.

[⁹⁵] We do not, of course, mean to intimate that there are not cases in which regard for higher interests may compel us to express our innermost convictions openly and without reserve. Regard for the feelings of others must never be permitted to inspire a lie. Flattery is incompatible with truth and with charity. It dishonors him from whom it comes as well as him by whom it is accepted. We really show contempt for our neighbor when we flatter him.⁷

⁷ Rottmanner, O. S. B., *Predigten und Ansprachen*, Vol. II, 2nd ed., pp. 178 sqq.—Cfr. St. Jerome, *Epist.*, 148 (al. 14), n. 17: “Flee also the assent of flatterers and the harmful blandishments of deceit as certain plagues of the soul. Nothing corrupts the minds of men so easily; nothing strikes the soul with so sweet and gentle a wound. Among many, especially in this age, this vice reigns and—what is most grievous—is regarded in place of humility and benevolence. Hence it happens that one who does not know how to flatter is thought either envious or proud. It is indeed a great and sublime artifice to praise another to one’s own commendation and, by deceiving him, to bind the deceived person’s mind to oneself; and, what especially is commonly done through this vice, to sell feigned praises at a fixed price. What

is this great lightness of mind, what great vanity, to abandon one's own conscience and follow another's opinion, and that a fictitious and feigned one? To be carried away by the wind of false praise (flattery), to rejoice in one's own circumvention, and to accept mockery as a benefit? Therefore, if you truly desire to be praiseworthy, do not seek the praise of men." (Migne, P. L., XXII, 1212).

2. *Negative Duties.* For the negative duties which we have in regard to the honor and good name of our fellowmen see the next section of this treatise.

READINGS.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 73.—F. X. Linsenmann, *Lehrbuch der Moralthologie*, pp. 453 sqq.—H. Noldin, S. J., *Summa Theol. Mor.*, Vol. II, pp. 658 sq.—A. Tanquerey, S. S., *Synopsis Theol. Mor. et Pastor.*, Vol. III, pp. 17 sq.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 110 sqq.

SECTION 2: SINS AGAINST THE HONOR AND GOOD NAME OF OTHERS

[96] The sins against the honor we owe our fellowmen are partly internal and partly external. They differ in degree according to the nature of the attack and the relation existing between the offender and the offended.

The legal axiom that every man must be considered honorable until the contrary has been proved, embodies a truly Christian principle, for the essence of Christianity is charity, which "thinketh no evil."¹ Whoever disregards this maxim, has either lost charity, or is about to lose it. Merely to entertain unfounded suspicion internally is an injustice to others and an act of infidelity to God.²

¹ 1 Cor. XIII, 5.

² Matth. VII, 1; Luke VI, 37; John VII, 24; 1 Cor. IV, 5; Jas. IV, 13.—St. Thomas, *Summa Theologica*, 2a 2ae, qu. 60, art. 4: "By the very fact that someone holds a bad opinion of another without sufficient cause, he injures and despises him. But no one ought to despise another or inflict any harm whatever without compelling cause. And therefore, where manifest indications of someone's malice do not appear, we ought to regard him as good by interpreting what is doubtful in the better part."—*Ibid.*, ad 2: "It is one thing to judge things and another to judge men. For in a judgment in which we judge things, . . . each person ought to strive to judge things according as they are. But in the judgment in which we judge men, . . . we ought rather to tend toward judging a man good, unless a manifest reason to the contrary appears."—Hence the moral and legal axiom: "*Nemo praesumitur malus, nisi probetur.*"

[97] 1. The *internal* acts by which we violate the duty of honoring our neighbor, in so far as they influence our conduct towards him and thus cause him injury, are: groundless suspicion and rash judgment.

a) We are guilty of *groundless suspicion* against our fellowman if we doubt his virtue for altogether insufficient reasons (*levia indicia*). This sin usually begins with an unfounded doubt (*dubitatio temeraria*), which, if it is not promptly suppressed, engenders rash suspicion (*suspicio temeraria*).³

³ St. Thomas, *Summa Theologica*, 2a 2ae, qu. 60, art. 3: "There are three degrees of suspicion. The first degree is when a man begins to doubt another's goodness from slight indications; and this is a venial and slight sin, for it belongs to human temptation, without which this life is not lived. The second degree is when someone holds another's malice as certain from slight indications; and this, if it concerns some grave matter, is a mortal sin, inasmuch as it is not without contempt of one's neighbor. The third degree is when a judge proceeds from suspicion to condemn someone; and this pertains directly to injustice, whence it is a mortal sin."—St. Augustine, *Tract. in Ioa.*, 26, n. 2: "*Noli velle iudicare, si non vis errare.*" (Migne, P. L., XXXV, 1607).

Unfounded suspicion of others usually comes from corruption in one's own heart. If we were better men ourselves, says a modern writer, we should not consider others capable of so much evil. "He

who is himself wicked,” says St. Ignatius of Loyola, “easily suspects others, just as he who suffers from vertigo, imagines that everything about him is moving round and round.”

b) *Rash judgment (iudicium temerarium)* consists in thinking ill of others without sufficient warrant. It differs from groundless suspicion only in degree: the former implies hesitation, whereas the latter does not.⁴ Holy Scripture tells us, and experience confirms it, that unfounded suspicion and rash judgment both originate as a rule either in malice, which sees nothing but wickedness in others, or in envy or hatred, which inspire ill will towards others. In some men these vices result from the bitter disappointments of a life-time. When they spring from malice, envy, or hatred, unfounded suspicion and rash judgment are invariably sinful, because they involve a lack of charity. The gravity of this sin may be gauged by the importance of its object and the degree of pleasure which the sinner takes in his uncharitable act.

⁴ Gury, *Comp. Theol. Mor.*, I, n. 481: “1. A rash judgment is a true assent, conceived from slight indications, concerning some sin or defect of one’s neighbor; 2. rash suspicion is a weak assent concerning one’s neighbor’s evil, or an assent concerning another’s stain conceived with fear of the opposite; 3. doubt is a suspension of the mind determining itself toward neither side.”

[98] Merely to harbor a momentary and spontaneous (or involuntary) doubt regarding the virtue of another is, of course, no sin at all. Such judgments frequently flash through the mind—we are so quick and prone to judge ill of others without sufficient reason. All this is merely a temptation. But from the temptation we pass on to sin if, *knowing the insufficiency of our reasons*, we nevertheless *deliberately* form an unfavorable judgment regarding another’s virtue. “Suspicion,” says the Angelic Doctor, “denotes evil thinking based on slight indications, and this may arise from three causes. First, from a man’s being evil in himself, and from this very fact, as though conscious of his own wickedness, a wicked man is prone to think evil of others. . . . Secondly, it is owing to a man’s being ill-disposed towards another; for when a man hates or despises another, or is angry with or envious of him, he is led by slight indications to think evil of him, because everyone easily believes what he desires. Thirdly, it may arise from long experience, wherefore the Philosopher says (*Rhet.* ii) that old people are very suspicious, for they have often experienced the faults of others. The first two causes of suspicion evidently connote perversity of the affections, whilst the third diminishes the nature of suspicion, in as much as experience leads to certainty, which is contrary to the nature of suspicion. Consequently, suspicion denotes a certain amount of vice, and the further it goes, the more vicious it is.”⁵

⁵ St. Thomas, *Summa Theologica*, 2a 2ae, qu. 60, art. 3: “Suspicion denotes an opinion of evil when it proceeds from slight indications, and this happens in three ways: first, from the fact that someone is evil in himself and, from this very fact, as though conscious of his own malice, readily thinks evil of others. Secondly, it arises from the fact that someone is ill-disposed toward another; for when someone despises or hates another, or is angry with or envious of him, he thinks evil of him from slight signs, because everyone readily believes what he desires. Thirdly, it arises from long experience. The first two causes of suspicion manifestly pertain to perversity of affection; but the third cause diminishes the nature of suspicion, inasmuch as experience advances toward certainty, which is contrary to the nature of suspicion. And therefore suspicion denotes a certain vice, and the farther suspicion proceeds, the more vicious it is.” (*Vide supra*, n. 3).—Gury, *Comp. Theol. Moral.*, I, n. 482: “A rash judgment concerning a neighbor’s fault is by its kind a mortal sin against justice; for each person has a right to his good reputation in the judgment of individuals. . . . Often, however, it is venial because of the slowness of the matter or the imperfection of the act. Rash suspicion and doubt concerning a neighbor’s stain are only venial by their kind. The reason is that, because of their weak and readily changeable adherence, they ordinarily inflict only slight harm on one’s neighbor, since they do not destroy his reputation but only diminish it and render it doubtful.”

|⁹⁹| To entertain a sort of general *distrust* towards strangers or to reserve one's judgment regarding their honesty or disinterestedness, in consequence of having had one's goodness repeatedly imposed upon, is no sin, because there is some reason for such a general distrust. Still, we must always remember that Christian charity commands us to think good rather than evil of our neighbor.⁶ The Talmud lays down a prudent rule of conduct when it says: "Judge no one unless you have been in his place."

⁶ Cfr. Is. XI, 3; Luke VI, 37; John VIII, 15 sq.; 1 Cor. IV, 5.—St. Augustine, *De Agone Christ.*, c. 27, n. 29: "In that passage [Mt. vii, 1], where [the Lord] forbids judging, He admonishes us not to condemn anyone whose thought is not open to us, or of whom we do not know what sort of person he may afterwards become." (Migne, P. L., XL, 395).

|¹⁰⁰| "Frequently there is a greater sin involved in judging rashly of another than in the act that is so judged. The wise men of the world (*sapientes mundi*) warn us not to outdo the sins of others by passing rash judgment upon them; how much more carefully ought we to consider our own conduct, lest we condemn petty faults in others and at the same time incur grievous sins ourselves."⁷

⁷ Pseudo-Ambrose, *Apol. II David*, c. 2, n. 5 (Migne, P. L., XIV, 889).

"To have a low opinion of oneself and always to think well and commendably of others," says Thomas à Kempis, "is great wisdom and perfection. If thou shouldst see another openly sin, or commit heinous crimes, yet thou oughtest not to esteem thyself better, because thou knowest not how long thou mayest remain in a good state. We are all frail; but do thou think no one more frail than thyself."⁸

⁸ *De Imitatione Christi*, l. I, c. 2 (ed. Pohl, II, 8).

2. The chief external sins against the honor of our fellowman are contumely, calumny, and slander.

|¹⁰¹| a) Contumely (contumelia) means casting a man's faults in his face to detract from his dignity. This may be done either in his physical or in his moral presence. Moral presence is assumed when the insult is uttered before those who know the victim and to whose respect he attaches weight.⁹ This includes publication in the press.

⁹ Gury, *Comp. Theol. Mor.*, I, n. 478: "A person can be present either personally or physically, or morally through an image or through something else in which he is represented to some extent."

Contumely implies insult. An insult is any remark or expression by which another is denied the dignity of a human being, or accused of a moral defect, or charged with a crime or an offense. It is not necessary that the utterance in question actually contain an expression of contempt or disrespect, but the intention of injuring the other (*animus iniuriandi*) suffices.

The seriousness of the sin of contumely is measured by the intention of the offender, the importance of the matter involved, and the dignity of the person injured. No contumely is committed by parents and superiors when they censure the sins and faults of their children or subjects, even if this is done in a humiliating way, though they should, of course, always remember that even just reproaches must be kept within proper limits and that brutality and unnecessary harshness often produce a contrary effect.

|¹⁰²| The ancients took cognizance of real contumely, but not of verbal, and the Roman law did not punish the latter, probably for the reason that in former times men were less sensitive in regard to verbal insults than they are now, but especially because the spoken word did not then enjoy the

publicity now given to it through the press.¹⁰ St. John the Baptist and Jesus Christ Himself severely censured the Scribes, Pharisees, and Sadducees.¹¹ St. Polycarp, when asked by the heretic Marcion whether he knew him, answered: "Certainly I know the first-born of Satan!"¹²

¹⁰ Homer (*Ilias*, I, 210 sqq.) describes Athene as intervening between Achilles and Agamemnon with the words: "Do not engage in combat nor draw the sword, for you can insult him in words as much as you please."—Linsenmann, *Moraltheol.*, p. 457; W. S. Lilly, *On Right and Wrong*, London, 1892, Ch. VII, "The Ethics of Journalism," pp. 150–173.

¹¹ Matth. III, 7; XII, 34, 39; XVI, 4; XXIII, 13–33; Mark VIII, 38; Luke III, 7; XI, 42–45; cfr. Matth. XV, 26; XVI, 23; Mark VII, 27; Luke XIII, 32; Acts XIII, 10; XXIII, 3; Gal. III, 1, 3; Phil. III, 2; Tit. I, 12 sq.

¹² Irenaeus, *Adv. Haer.*, III, 3–4; cfr. Polycarp, *Epist. ad Philipp.*, c. 7; Funk, *Patres Apost.*, Vol. I, 2nd ed., p. 304; Kirsopp Lake, *The Apostolic Fathers* (Loeb Classical Library), Vol. I, p. 293.

Contumely, says Fr. Slater,¹³ is of itself a grave sin against justice and charity, for it injures a man in what he values more than wealth, and as a rule an insult wounds the reputation as well as the feelings of him who is insulted. Christ shows how grievous a sin is committed by contumely when He says: "Whosoever shall say to his brother, Raca, shall be in danger of the council. And whosoever shall say, Thou fool, shall be in danger of hell fire."¹⁴ Like most sins against justice and charity, contumely may be a venial sin only, if the matter involved is slight. Chaff or banter, which is not intended to wound or irritate others is, of course, harmless, so long as it keeps within due bounds.¹⁵

¹³ Slater, *Mor. Theol.*, I, 462.

¹⁴ Matth. V, 22.

¹⁵ Slater, *ibid.*

| 103 | We insult a neighbor not only in words, but also by sending him abusive, immoral, or frivolous cards, a custom which exists in some countries and constitutes a serious abuse of the practice, in itself unobjectionable, of sending tokens of congratulation or remembrance at certain seasons of the year. The exhibition and circulation of offensive cards seriously menaces the morals of the young and promotes the world-wide movement against sound ethics.

b) Calumny (calumnia) or slander is committed by falsely imputing to another something which injures or destroys his reputation. This usually consists in accusing him falsely or exaggerating his faults or denying his good qualities or wilfully misinterpreting his intentions,¹⁶ and may be done in speech or in writing; in the latter case is called libel or pasquill.

¹⁶ Deut. I, 27; Mark VII, 22. On Matth. XII, 36 ῥῆμα ἄργόν, verbum otiosum, cfr. E. Nestle, *Philologica Sacra*, Berlin, 1896, pp. 58 sq.

Calumny involves three distinct acts; namely, first, a wilful lie, which is aggravated by the fact that it is told in secret and the injured person cannot defend himself against it; secondly, a sin against charity, and thirdly, a violation of justice (*iustitia commutativa*), because the injured person frequently suffers damage in his social position or good name.

| 104 | If calumny is committed in general terms, i. e., if we declare our neighbor to be entirely bad without a redeeming trait, it is a mortal sin. If we impute to him only one fault, or several faults, the gravity of the sin committed varies according to the seriousness of the faults imputed, the consequences of the imputation, and the malice with which the calumniator strives to effect the moral or social ruin of his victim. The lighter the unjust accusation and the less intentional the imputation of evil, the smaller will be the guilt incurred.

In its worst form calumny is little less than spiritual murder and must be reckoned among the sins that cry to Heaven for vengeance.¹⁷

¹⁷ Cfr. Ps. C, 5; Jas. IV, 11; 1 Pet. II, 1.—St. Jerome, Epist. 54 (al. 10), n. 13: "It is impossible for anyone to pass through the course of this life without being bitten by men, and it is the consolation of the wicked to carp at the good, while they think the guilt of sins is diminished by the multitude of sinners. Yet the fire of stubble soon subsides, and the overflowing flame gradually dies when nourishment fails."—Epist., 108 (al. 27), n. 19: "A slanderous tongue is accustomed to carp at saints as a consolation for the offender."—Epist., 148 (al. 14), n. 16: "Never detract from anyone at all, nor wish to appear praiseworthy by censuring others; learn rather to adorn your own life than to carp at another's. There are very few who renounce this vice, and rarely will you find those who wish to present their own life as blameless without willingly censuring another's. So great a lust for this evil has invaded men's minds that even those who have withdrawn far from other vices nevertheless fall into this one as though into the devil's final snare. But do you so flee this evil that not only do you yourself not detract, but you do not even at any time believe another who detracts. Nor by agreeing give authority to detractors, lest by nodding assent you nourish their vice. . . . Indeed, this vice is such that it should be extinguished among the first, and should be wholly excluded by those who wish to train themselves in holiness. For nothing so disturbs the mind; there is nothing that makes the mind so changeable and frivolous as readily to believe everything and to follow the words of detractors with the mind's rash assent. Hence frequent dissensions arise, hence unjust hatreds. This it is that often makes enemies even of the closest friends, when a malicious tongue separates souls that are indeed harmonious but credulous. On the other hand, it is great tranquility of mind and great steadiness of character not rashly to hear anything adverse about anyone. Blessed is he who has so armed himself against this vice that no one dares detract in his presence. But if there were in us this diligence not to believe detractors indiscriminately, everyone would now fear to detract, lest in detracting they make not others so much as themselves contemptible. But this evil is notorious for this reason, and this vice flourishes in many for this reason: because it is willingly heard by almost everyone." (Migne, P. L., XXII, 557, 896, 1211).

| 105 | The varieties of this sin are described in the old memorial verse:

"Imponens, augens, manifestans, in mala vertens, Qui negat aut minuit, reticet laudatque remisse."

If one is calumniated, he should recall that it is not the worst fruit that is attacked by the wasps, as the German poet Bürger says, or, as an Arabian proverb puts it: "People do not throw stones at a tree unless it bears fruit."

Some men resemble bees, not by their diligence, but by their sting.

c) Detraction, or backbiting (*diffamatio*, *detractio*)¹⁸ is committed when one unjustly deprives another of his good name by revealing his real but secret faults in his absence. This is a sin against justice as well as charity, because every man has a strict right to his good name. The more uncharitable the disposition of the detractor or slanderer, the more unfavorable the light in which he places his neighbor, the more widely the detraction circulates, the more the victim's position or activity depends on his good name, and the worse the results of the detraction, the more serious is the sin committed. Another factor to be taken into consideration here, as in all sins of defamation, are the consequences resulting from detraction in the case of those who hear of it.

¹⁸ The older Scholastics designated both calumny and detraction with one word: *detractio*.—Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 73, art. 1.—Gury, *Comp. Theol. Mor.*, I, n. 459, says: "Detraction is a secret and unjust violation of another's reputation, or the unjust blackening of the reputation of an absent neighbor. Reputation is the good estimation that others have of someone's life and morals. Detraction is called simply such if the neighbor's reputation is violated by reporting a true crime; it is called calumny if the violation follows from imputing a false crime."

| 106 | Unsophisticated persons are apt to lose their good opinion of others generally (*odium generis humani*) and their reverence for virtue. Hence a sin of this kind, aside from the malice it involves, is

more grievous when committed by persons in whose veracity and judgment one has great confidence.¹⁹

¹⁹ Gury, *Comp. Theol. Mor.*, I, n. 460: "The gravity of detraction is to be taken chiefly from the gravity of the harm that one's neighbor is foreseen to suffer from it, and not precisely from the gravity of the defect or crime related about him. Hence, to determine the gravity of detraction in a particular case, attention must be paid to the character: 1. of the detractor—whether he is serious and discreet, or talkative and frivolous; 2. of the injured person—whether he enjoys a good or bad reputation, etc. The reason is that greater or lesser credence will be given according as the speaker is worthy of greater or lesser trust; likewise, greater or lesser injury to reputation will follow in proportion to the greater or lesser esteem enjoyed by the injured person."

Like calumny, detraction can be committed against an entire community or class, and not only by word of mouth, but also in writing. To defame others in writing is a more grievous sin than to do so by word of mouth. Writings enjoy a certain permanency and therefore are able to exercise their influence not merely in the present, but likewise in the future.²⁰

²⁰ Cfr. St. Paul's judgment of the Cretans (Tit. I, 12), and the sayings: "*Litera scripta manet*" and "*Literae non erubescunt*"; i. e., one writes more boldly than one speaks.

| 107 | Mendacity and detraction are the primary vices of the modern newspaper press. "Journalism is conducted under conditions which tend to nourish this vice. The newspaper is, by its very nature, an ephemeral production, read for an hour and then cast aside, and probably never looked at again. Its assertions have done their work before an opportunity of correcting them is presented. Besides, it rests with editors whether contradictions of false and misleading allegations, which their journals may contain, shall appear in them or not. And it is manifest to all men that the considerations by which this question is determined are, in a vast majority of instances, wholly unethical. Again, the conditions under which the newspaper publicist works are extremely unfavorable to the cultivation of the virtue of veracity. He is called upon suddenly to expound views which shall strike his readers as profound, well-considered, or original, about subjects of which, very likely, he knows nothing truly or exactly. Or he is summoned to essay the defense of 'principles' to which he is wholly indifferent. Or he is bidden to attack some institution, some interest, some work, which whatever there may be of good left to him confesses to be worthy of respect and support. A very few years' practice in a calling of this kind is apt to render him as indifferent to the goal whither his pen conducts him, as is a cab-horse to the destination whither the driver's 'fare' is conveyed. And the worst of it is that, in time, he comes to glory in his shame. Aristotle, in the *Nicomachean Ethics*, distinguishes between two kinds of liars; there is 'the liar who loves a lie for its own sake,' and 'the liar who lies to win reputation or to make money.' But many a journalist who, at first, belongs to the latter of these classes, and is perhaps a little ashamed, for a while, at finding himself there, passes pretty swiftly into the former. Thus does he anticipate in this life, the doom which Dante ascribed to the damned; he is in the miserable estate of those '*genti dolorose*' who have lost '*il ben del intelletto*.' And then, by a fatal and necessary law, his chief object, next to the provision of the means of 'agreeable feeling' for himself, is to bring down as many as possible to his own level. Nor does he find any surer way of effecting this, than by the persistent denial of those moral excellences which he has ceased to strive after, or even to venerate. Is a man the object of reverence and admiration, for patriotism, philanthropy, piety? Your newspaper censors, with due protestations of hatred of hypocrisy, will strip off the veneer which imposes on the unsuspecting; will show their readers that these pretended virtues are a mere cloak for some base or sordid end; will demonstrate conclusively that 'old Cato is as great a rogue as you.' And their efforts

are only too successful. I think I may truly say that the newspaper press, during the last quarter of a century, has done more than anything else to de-ethicize public life; to lay the axe to the root of duty, self-devotion, self-sacrifice, the elements of the moral greatness of a nation, which is its true greatness."²¹

²¹ W. S. Lilly, *On Right and Wrong*, pp. 171 sqq.

| 108 | Formal detraction differs from material in that it is intentional. Formal detraction, or, a fortiori, slander, being contrary to justice and charity, which bind under a grave obligation, is of itself a grievous sin, though frequently only venial on account of the smallness of the matter involved. Material detraction usually proceeds from carelessness, lack of caution, love of gossip, or a desire to be entertaining and, therefore, as a rule, is a venial sin only, unless indeed it seriously injures the good name of others.²²

²² St. Thomas, *Summa Theol.*, 2a 2ae, qu. 73, art. 2: "Verbal sins are to be judged chiefly from the intention of the speaker. Detraction by its nature is ordered to blackening someone's reputation. Hence, strictly speaking, he detracts who speaks ill of someone in his absence for the purpose of blackening his reputation. Now, to take away someone's reputation is very serious, because among temporal goods reputation seems to be more precious, through the loss of which a man is hindered from doing many good things (Eccli. 41, 15). And therefore detraction, strictly speaking, is a mortal sin. Yet it sometimes happens that someone says certain words by which another's reputation is diminished, intending not this but something else. This, however, is not detraction strictly and formally speaking, but only materially and, as it were, accidentally. And if someone utters words by which another's reputation is diminished for the sake of some necessary good, with the due circumstances observed, it is not a sin and cannot be called detraction. But if he utters them from levity of mind or for some unnecessary cause, it is not a mortal sin, unless perhaps the word spoken is so grave that it notably injures someone's reputation, especially in matters pertaining to uprightness of life, because from the very kind of words it has the character of a mortal sin."

| 109 | Note that the guilt of detraction, aside from the underlying intention, is measured by the amount of injury done (*gravitas damni*), and that, consequently, attacks upon the good name of others are grievously sinful in proportion to the dignity or social position of the persons attacked. To attack the good name of a priest or superior, therefore, is more grievous than to attack the reputation of an ordinary citizen.

While it is never permissible falsely to impute a crime to another,²³ it may be licit, nay a strict duty, to reveal his true faults for a higher purpose. This is the case, for instance, when it becomes necessary to inform legitimate superiors, to warn inferiors, children, etc., or to protect oneself or others against serious injury, or if the faults revealed are already known in consequence of a public trial or the culprit's own admission (*notorietate iuris*) through the confession of confederates (*notorietate facti*) or through rumor (*notorietate famae*). Whenever the revelation of the sins or faults of another seems necessary as a means of reforming him or of averting a greater evil, it is morally licit, nay a duty, for the reason that the sinner has lost the right to his good name because he can not preserve it except to the detriment of others and to his own injury.²⁴ But even though his faults and crimes are notorious, charity commands us not to reveal them to persons to whom they would otherwise probably remain unknown. Besides rumors must never be represented as facts.

²³ Prop. damn. sub Innoc. XI, n. 44: "It is probable that one who imputes a false crime to someone in order to defend his own justice and honor does not sin mortally. And if this is not probable, scarcely any opinion in theology will be probable." (Denzinger-Bannwart, n. 1194).

²⁴ Gury, *Comp. Theol. Mor.*, I, n. 461: "It is never permissible to impute a false crime to another. . . . It is permissible, however, for a just cause to reveal a hidden crime even with the loss of his reputation, because sometimes the public or a private good requires this, and then the neighbor's right to the preservation of his reputation ceases. The causes for which another's crime may lawfully be revealed are the following: 1. A notable advantage to the revealer himself, e. g., to seek advice or assistance in a grave matter, provided, however, that every disposition to detraction is excluded; 2. The advantage of the offender, namely, for his instruction or correction, etc.; 3. The public advantage, as for preventing evils threatening the state, religion, or some community; 4. A grave private advantage, either of the hearers or of others, e. g., that they may guard against evils, losses, or inconveniences that otherwise will certainly or probably befall them. The reason for these cases is that one who then reveals another's sin injures neither justice nor charity. 1. He does not injure justice, because the neighbor does not have so strict a right to his reputation that others are bound to conceal the truth when its disclosure is necessary to avoid grave harm, whether to oneself or to others. 2. He does not injure charity, because charity does not bind at so great a loss. For if you are not bound to prevent harm to your neighbor, even greater harm, at grave loss to yourself, neither are you bound in that case to conceal your neighbor's hidden crime." Cfr. *ibid.*, n. 465–466.

[111] Detraction comprises all evil speaking and criticizing of others through the spreading of tales to the disadvantage of their good name. This applies especially to suspicions cast upon the internal motives of our fellowmen.

A special kind of detraction is known as tale-bearing (*susurratio*), and consists in mischief-making between friends by telling tales to the disadvantage of one of them, with the object of sowing or promoting discord.²⁵ This sin is particularly detestable if it is directed to the destruction of mutual confidence between husband and wife.

²⁵ Prov. VI, 16 sqq.; XXVI, 20, 22; Ecclus. V, 16 sq.; XXVIII, 15.—Cfr. St. Thomas, *Summa Theologica*, 2a 2ae, qu. 74, art. 2: "A sin against one's neighbor is graver in proportion as greater harm is inflicted on the neighbor through it. Harm, however, is greater in proportion as the good taken away is greater. Among the remaining external goods, however, a friend is preeminent (Ecclus. vi, 15). Reputation itself, which is taken away by detraction, is especially necessary for this, that a man be held fit for friendship. Therefore tale-bearing is a greater sin than detraction and even than contumely, because a friend is better than honor and to be loved than to be honored."

By listening wilfully or with pleasure to a detractor, or encouraging him by asking questions or applauding his tales, or not hindering them if we are able, we formally coöperate in his sin.²⁶

²⁶ Prov. XXV, 23.—Cfr. St. Bernard, *De Consid.*, I, II, c. 13: "Whether to detract or to listen to a detractor—which of these is more damnable I would not easily say." (Migne, P. L., CLXXXII, 756).

Mockery or derision (*derisio*, *irrisio*, *illusio*, *subsannatio*) makes sport of another's honor. It sometimes runs counter to charity also by employing the faults or infirmities of others in order to make them a butt of laughter or contempt. The most grievous sin of this kind is the mockery of God and sacred things; next in order come mockery of parents, superiors, and virtuous persons.²⁷

²⁷ Is. XXXVII, 23; Prov. XXX, 17; Job XII, 4.—Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 75, art. 2.—Possidius, *Vita Sti. Augustini*, c. 22 (Migne, P. L., XXXII, 52): "Whoever loves to gnaw at the life of the absent with words, let him know that this table is unworthy of him."

[112] READINGS.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 60, art. 3–4; qu. 73 (Rickaby, *Aquinas Ethicus*, II, 18 sqq., 82 sqq.).—St. Alphonsus, *Theol. Mor.*, I, III, n. 962–977 (ed. Gaudé, II, 355 sqq.).—Jocham, *Moraltheologie*, Vol. III, pp. 400 sqq.—Schwane, *Die Gerechtigkeit*, pp. 77 sqq.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 110 sqq.—A. Tanquerey, *Synopsis Theol. Mor. et Pastor.*, Vol. III, pp. 156 sqq.—J. E. Ross, *Christian Ethics*, pp. 259 sqq.—H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 659 sqq., 678 sq.

SECTION 3: THE DUTY OF RESTITUTION ARISING FROM CALUMNY AND DETRACTION

|¹¹³| Detraction, calumny, and other like sins violate justice, and therefore involve the duty of making restitution, as far as possible, for the damage inflicted, and of seeking reconciliation with the person injured.

1. An insult or contumely wilfully committed against a fellowman calls for an apology (*deprecatio*). However, a formal apology is, as a rule, demanded only of subjects; among equals an act of extraordinary benevolence will serve the same purpose; on the part of superiors in their relation to inferiors, a special sign of good will or amiability will suffice.¹

¹ St. Alphonsus, *Theol. Mor.*, l. III, n. 986–987 (ed. Gaudé, II, 373).—St. Augustine, *Epist.*, 211 (al. 109), n. 14: "Whichever nun has injured another by abuse or cursing or even by charging her with a crime, let her remember to take care as quickly as possible, by making satisfaction, of what she has done, and let the one who was injured forgive without dispute. But if they have injured each other, they ought mutually to forgive the debts owed to each other, on account of your prayers, which you certainly ought to have holier in proportion as you have them more frequently. Better is she who, although often tempted by anger, nevertheless hastens to obtain forgiveness from the one whom she acknowledges that she has wronged, than she who is slower to become angry and is more reluctantly inclined to ask forgiveness. She who does not wish to forgive her sister should not hope to receive the effect of prayer; but she who never wishes to ask forgiveness, or does not ask it from the heart, is in the monastery without cause, even if she is not cast out from it. Therefore, for your part, refrain from harsher words; but if they have issued from your mouth, do not be ashamed to bring forth remedies from the same mouth from which the wounds were made. When, however, the necessity of discipline compels you to speak harsh words in restraining those younger than you, even if you feel that in those very words you have exceeded due measure, it is not required of you that you ask forgiveness from them, lest, while excessive humility is observed toward those who ought to be subject, the authority to govern be broken; nevertheless, forgiveness must be sought from the Lord of all, who knows with how much benevolence you love even those whom perhaps you rebuke more than is just." (Migne, P. L., XXXII, 964).

|¹¹⁴| If the insult was committed in actions, it should not merely be apologized for, but restitution must be made for the material damage inflicted.

The duty of making restitution ceases when the victim has obtained satisfaction either by a judicial sentence or by self-help, e. g., by returning the insult.

2. A calumny can be repaired by an unconditional retraction of the falsehood uttered (*retractatio*). This must be made orally or in writing in a way which men of good judgment deem sufficient. Public calumnies,—such as have appeared in newspapers, for instance,—must be publicly retracted by him who started them and in the same manner (*verbo vel scripto*) in which they were circulated. This obligation admits of no exception, and the claim of inability does not avail against it. The calumniator must ascribe all injurious consequences of his act to himself and, consequently, is bound to make restitution even when his own honor is at stake, for "*melior est conditio innocentis quam nocentis*," that is to say, the right of the innocent goes before that of the guilty. Besides, to retract a calumny, is not only a confession of the wrong committed, but likewise a proof that the sinner recognizes his fault and is willing to correct it.

|¹¹⁵| The duty of retracting a calumny rests also upon those who have helped to spread it. In the event of their failure the obligation devolves upon the originator of the calumny. The latter is bound also to make good all the temporal or material damage arising from his sin, even that which results

from the fact that the calumniated person can regain the confidence of his fellowmen only for a considerable time after the retraction of the calumny.

A person guilty of calumny may be excused from the duty of retraction for one or other of several reasons: (a) the unimportance of the matter involved; (b) the voluntary renouncement on the part of the victim of his right to a retraction;—this reason will hold, if the victim is in a position freely to dispose of his honor and good name, as, for example, members of a religious community are not;—(c) if the victim has in the meantime regained his good name by other means, as, for example, by a judicial sentence; (d) if, in consequence of the length of time that has elapsed, the matter has fallen into oblivion or those influenced by the evil report can no longer be reached.

| 116 | 3. In case of detraction restitution may be made indirectly by excusing the faults of the victim as much as possible and emphasizing his good qualities, in order to enable him to regain the good reputation necessary for his social position, and by accusing oneself of having made unwarranted or unconsidered statements. In regard to the material damage done, the same rules apply as in the case of calumny. Though a retraction cannot always be strictly demanded, it will as a rule go far towards effecting a reconciliation.

The duty of restoring the good name of an injured neighbor is personal; that of making restitution for material damage caused by calumny or detraction falls also upon the heirs.² To protect one's good name, as has been explained in a previous volume, is a duty, especially when a whole class of persons is involved. When this is not the case, a man may go far in humbling himself for Christ's sake,³ whose noble example encourages us not only to forgive our enemies, but also to suffer detraction and calumny in silence.⁴

² Gury, *Comp. Theol. Mor.*, I, n. 473.

³ 1 Cor. VI, 7; IX, 13–15; 1 Pet. IV, 14–16.

⁴ Matth. XVIII, 21–35; XXVI, 62 sq.; XXVII, 12; John XVIII, 19–21; cfr. Ps. CVIII, 14; Prov. XII, 16; Matth. V, 44; XXIII, 34.—Seneca, *Epist.*, 94, 28: "Iniuriarum remedium est oblivio."

"There are those who deem it weakness to forgive insults," says a modern writer; "if this view were correct, God would be the weakest Being in Heaven and on earth, for no one forgives as much as He."

| 117 | The saintly Bishop Sailer said: "I would rather allow myself to be innocently calumniated for ten years, than spend one day in defending my honor."

READINGS.—St. Alphonsus, *Theol. Mor.*, l. III, n. 986 sq. (ed. Gaudé, II, 373 sqq.).—J. Kutschker, *Die Lehre vom Schadenersatz*, Olmütz 1851, pp. 521 sqq.—H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 672 sqq., 680.—A. Tanqueray, *Synopsis Theol. Mor. et Past.*, Vol. III, pp. 245 sqq.

Chapter IV: Duties with Regard to the Material Possessions of Others

SECTION I: THE RIGHT TO LIFE

| 118 | As every man is strictly bound to provide for his bodily welfare, that is, his life, health, and liberty, so he is also obliged, both in justice and charity, to respect the bodily welfare of his fellowmen by protecting and promoting their life, health, and liberty, and abstaining from whatever might unjustly endanger or injure these possessions.¹

¹ See this Handbook, Vol. III, 11 sqq., 21 sq., 24 sqq., 29, 33, 36, 57, 97.—Cfr. St. Augustine, *De Moribus Eccl. Cath.*, l. I, c. 28, n. 56 (Migne, P. L., XXXII, 1334).

This general obligation assumes special form in the duties known as proper to one's state of life, e. g., those which bind parents in relation to their children, superiors in relation to their subjects, employers in relation to their employees, and so forth.

But life, health, and liberty are not supreme blessings, and may consequently be sacrificed whenever higher interests require or permit it. In other words, it is morally permissible, for the sake of some higher good,—for example, the public welfare,—to employ compulsion toward one's neighbor, to deprive him of minor goods, to subject him to bodily suffering, or to take away his liberty. Such higher goods are, for instance, education, life, health, and the public order.²

² St. Thomas, *Summa Theol.*, 2a 2ae, qu. 65.—IDEM, *Contra Gent.*, III, 146, n. 3: "That which is necessary for the preservation of good cannot be evil in itself. But for the preservation of concord among men it is necessary that punishments be inflicted on the wicked. Therefore to punish the wicked is not evil in itself"; n. 4: "Likewise, the common good is better than the particular good of one person. Therefore the particular good must be taken away so that the common good may be preserved"; n. 5: "Furthermore, just as a physician in his operation intends health, which consists in the ordered harmony of the humors, so the ruler of a city in his operation intends peace, which consists in the ordered concord of the citizens. But a physician cuts off a putrid member well and usefully if corruption of the body threatens through it. Therefore the ruler of a city justly and without sin kills pestilential men, lest the peace of the city be disturbed."—Cfr. Linsenmann, *Moraltheologie*, pp. 462 sqq.

| 119 | 1. A father in raising his child may apply bodily force by inflicting pain or curtailing liberty, provided he does not endanger the child's life, health, or morals. But the application of such means must always proceed from morally good motives (*causae correptionis et disciplinae*) and not exceed reasonable bounds (*correptio moderata*).³

³ St. Augustine, *Serm.*, 13 (al. 94 *De Tempore*), n. 8: "Let punishments be applied—I do not refuse them, I do not forbid them—but with the mind of one who loves, the mind of one who cherishes, the mind of one who corrects."—*Ibid.*, n. 9: "For you do not fail to instruct your son. And first you act so that, if it can be done, he may be instructed by generosity, and may blush to offend his father, and not fear him as a severe judge. You rejoice in such a son. But if perhaps he despises those measures, you also apply blows, inflict punishment, bring pain upon him, but you seek his salvation. Many have been corrected by love, many by fear, but through the trembling of fear they have arrived at love." (Migne, P. L., XXXVIII, 111).—Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 65, art. 2.—Gury, *Comp. Theol. Mor.*, I, n. 405.

| 120 | 2. With the consent of the patient a competent physician may perform operations on his bodily organs, mutilate him or amputate a limb for the purpose of preserving his life and health, and, providing no danger arises therefrom to health or good morals, employ narcotics (opium or

chloroform) in order to deaden or ease pain. In the case of children or mental defectives the necessary consent may be given by the parents or guardians; in the case of unconscious or seriously injured patients consent may be reasonably presumed.⁴

⁴ A. v. Gschmeidler, *Der ärztliche Versuch am lebenden Menschen*, Vienna 1906.

3. In the interest of the public welfare, the civil authorities have the right and the duty to employ compulsory measures in order to curb immorality and prevent the spread of opinions or views dangerous to society, for instance, to forbid the sale of obscene books and pictures. But this duty binds only when there is a political or moral necessity of taking such measures, i. e., when they are demanded by the common welfare and it is likely that they will produce the desired results. Since spiritual actions cannot be imposed or prevented by physical force, it is advisable at first to employ moral rather than physical means. The truth is strong enough to hold its own against any error.

| 121 | “Take unto you the helmet of salvation and the sword of the spirit, which is the word of God,” says St. Paul.⁵ On the other hand, whatever does not come from God must die for want of vitality, for “if a council or a work be of men, it will come to nought”; but if it be of God, no human agency can overthrow it.⁶

⁵ Eph. VI, 17.—Cfr. The profession of faith prescribed for the Waldensians by Innocent III: “We believe that by disputing and exhorting in every way according to God we ought to confound them and oppose them with the word of the Lord . . . with unfettered brow even unto death.” (See Denzinger-Bannwart, n. 426).—H. Roeren, *Die öffentliche Unsittlichkeit und ihre Bekämpfung*, Cologne 1906.—Marx, *Der Kampf gegen die öffentliche Unsittlichkeit*, Freiburg i. B. 1907.

⁶ Acts V, 38.

It must be admitted that physical force used against a man ill accords with his dignity as a human being, and is apt to dull his sense of honor. Nevertheless there may be circumstances in which corporal punishment appears as the only adequate means of retribution, for instance, for brutal crimes. Corporal punishment cannot abolish these crimes, but it usually acts as a deterrent on the criminals, for experience shows that even the most brutal criminals can be accustomed to some sort of order and discipline by whipping or imprisonment. The right of those in authority to inflict corporal punishment, nay, if necessary, even death, corresponds to their duty of protecting and defending the community against criminals, as well as to the right of self-defense.

| 122 | In regard to punishment it is well not to lose sight of the fact, which modern humanitarianism endeavors to obscure, that punishment is primarily and essentially retributive in character, and corrective or deterrent only in a secondary way. Its effect is retrospective rather than prospective, and whatever other function may belong to punishment depends upon and presupposes the retributive or retrospective function. M. Guyau and others, therefore, err in maintaining that if punishment were not corrective, it would be as blameworthy as the crime for which it is inflicted.⁷

⁷ For a discussion of this question see M. Cronin, *The Science of Ethics*, Vol. I, pp. 555 sqq.

The milder discipline prevailing in our prisons is undoubtedly a credit to modern civilization, because in inflicting punishment for crime, even though that punishment be primarily retributive and administered in social self-defense, the reformation of the criminal should likewise be kept in view. Besides, it is being recognized that many persons who would formerly have been considered as criminals, are in reality mental defectives and should be treated in special institutions. However, Dr. Ross is undoubtedly right in warning against excessive sentimentality in dealing with criminals.

“While humane standards are gratifying,” he says, “there is a danger of sentimentality. There are some vicious criminals who will not respond to kindness, and there are also some men who need to be deterred from committing crimes by fear of condign punishment. Such criminals, whatever their intellectual status, are moral defectives, and if found incorrigible and not amenable to teaching or helping, should be made life prisoners.”⁸

⁸ *Christian Ethics*, p. 409.—Cfr. Stade, *Gefängnisbilder*, pp. 205 sqq.; F. Berolzheimer, *Die Entgeltung im Strafrecht*, Munich 1903, pp. 449 sq., 460.—F. Auer, *Zur Psychologie der Gefangenschaft*, Munich 1905, pp. 11, 50.—R. Wrede, *Die Körperstrafen bei allen Völkern von den ältesten Zeiten bis auf die Gegenwart*, Dresden 1899.

| 123 | READINGS.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 108, art. 1, 4; 1a 2ae, qu. 87.—H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 353 sqq.—J. E. Ross, C.S.P., *Christian Ethics*, pp. 266 sqq., 409 sqq.—J. Rickaby, S.J., *Moral Philosophy*, pp. 202 sqq., 359 sqq.—M. Cronin, *The Science of Ethics*, Vol. I, pp. 554 sqq.; Vol. II, pp. 109 sq.

SECTION 2: THE RIGHT OF SELF-DEFENSE

| 124 | 1. DEFINITION.—By self-defense (*defensio naturalis sive necessaria*) we mean protecting one's person or property against unjust aggression. It implies the application of physical force to the extent of slaying the aggressor, if necessary, for necessity knows no law.¹

¹ *Regula Iuris in VIto Decr. Gregorii IX*, n. 4: “Quod non est licitum in lege, necessitas facit licitum.”—C. 11 *de Consecr.*: “Necessitas non habet legem.”—Cicero, *Pro Milone*, c. 4: “Silent leges inter arma.”

2. The conditions under which this right may be exercised can easily be deduced from the definition given above.

a) We are allowed to employ physical force in self-defense only when we are actually attacked and have no other means (such as flight, calling for help, etc.) to protect our person or property from serious harm.² It is not necessary, however, to wait until the damage begins to be inflicted, but one may forestall a threatened attack.

² Among the Propositions condemned by Alexander VII are these:—No. 17: “It is permissible for a religious or cleric to kill a calumniator who threatens to spread accusations of crimes about himself or his religious order, when no other means of defense is available: as none seems to be available if the calumniator is prepared to cast the aforesaid charges publicly and before very grave men against the religious himself or his religious order, unless he is killed.”—No. 18: “It is permissible to kill a false accuser, false witnesses, and even a judge from whom an unjust sentence certainly threatens, if the innocent person cannot avoid the harm by another way.” (Denzinger-Bannwart, n. 1117 sq.)

| 125 | b) The attack must be wrongful and unjust, that is to say, the aggressor must not be justified in his conduct by his office or some real obligation. For there is no right of self-defense against a merited punishment.

c) The right of applying physical force in self-defense extends no farther than is necessary to repel an immediate and unjust attack upon oneself or another (*moderamen inculpatae tutelae*). Accordingly, manslaughter is not justified if inflicting a wound is sufficient to repel the aggressor; nor is wounding justified if disarming will do. In thus qualifying the right of self-defense it is, of course, supposed that one has the time and opportunity to choose the milder in preference to the severer method. Exceeding the *moderamen inculpatae tutelae* is a grievous sin only when done with full knowledge and of set purpose.

d) The use of physical force is permitted not only in defending one's life against direct attacks, but also in defending or safeguarding one's possessions, e. g., health, integrity of the body, chastity, property. If this were not the case, the right of self-defense would be illusory. Note, however, that killing or wounding another in an attack upon one's honor or good name is not allowed because reparation is possible in other ways, e. g., by court proceedings, etc. Nor is a husband allowed to kill his wife if he catches her in the act of adultery.³

³ *Prop. damn. ab Innoc. XI*, n. 30: "It is lawful for a man of honor to kill an assailant who attempts to inflict a calumny, if this disgrace cannot otherwise be avoided; the same must also be said if someone strikes him with a slap or beats him with a stick and, after inflicting the slap or blow of the stick, flees." *Ibid.*, n. 31: "As a rule I may kill a thief to preserve a single gold coin." *Ibid.*, n. 32: "It is permissible to defend by lethal defense not only those things which we actually possess, but also those to which we have an inchoate right and which we hope to possess." *Ibid.*, n. 33: "It is permissible both for an heir and for a legatee to defend himself in this way against one who unjustly prevents either an inheritance from being entered upon or legacies from being paid, just as it is for one having a right to a chair or benefice against one who unjustly prevents possession of them." (Denzinger-Bannwart, n. 1180 sqq.)

| 126 | e) The use of physical force is permitted not only in defending one's own person or property, but also in defending the person or property of one's neighbors. But we are under no strict obligation to defend others at the risk of life, unless they happen to be very near and dear to us, as parents, children, husband or wife, brother or sister.

f) In exercising the right of self-defense one must be guided by no other intention than that of warding off harm and injustice. It would be wrong, therefore, to harbor a feeling of hatred or revenge against the aggressor.⁴

⁴ Gury, *Comp. Theol. Mor.*, I, n. 411: "It is not permissible to kill an aggressor after the deed, because that would be vengeance, not defense. An exception is the case in which the aggression effectively, as they say, continues in the flight of the aggressor carrying away the stolen thing. It is not permissible for a girl to kill the assailant of her honor after the violation. She may, however, strike him, provided she does not gravely injure him, because unless she shows her steadfastness and displeasure in this way, the wicked man will not readily leave or may readily be able to return to solicitation."

The civil law in some countries does not punish excesses in the exercise of the right of self-defense if they are committed under the influence of fear or fright; but from the moral point of view such excesses are not always blameless.

| 127 | 3. The right of self-defense is based on social ethics. Man, as a member of society, has a claim to be protected in the exercise of his rights against illegitimate interference by others, and since public authority cannot always be promptly invoked, this right in such cases passes to the individual, who, representing as it were, the whole community in his person, acts in its name. Thus he at the same time safeguards an important social interest, namely, public safety and the protection of life and property against unjust aggression and violence. In this consideration lies the reason why the use of physical force in self-defense may be carried to the extreme of manslaughter, if necessary, even in the protection of goods which are in themselves inferior to human life, because these goods in case of necessity have attached to them the *bonum commune*, i. e., the great and general boon of public security and the protection of law and order. To forbid the use of force in such cases would endanger the safety of all and encourage criminals to rob and murder their fellowmen. The right of self-defense is confirmed by an instinct, deeply implanted in human nature, which moves every man to resist attacks upon himself and his own.⁵

⁵ Cicero, *Pro Milone*, c. 4: "This law is not written but born with us; we have not learned, received, or read it, but have seized, drawn, and expressed it from nature itself; for it we have not been taught but made, not instructed but imbued: so that if our life should fall into any ambush, into violence, or into the weapons of robbers or enemies, every honorable means of securing safety would be available."—Cfr. J. E. Ross, C.S.P., *Christian Ethics*, pp. 267 sq.

| 128 | Against the doctrine here set forth the opponents of Catholic moral teaching raise many objections. Space permits us to consider only a few of them.

a) The first is based on Matt. V, 38, where our Lord says: "You have heard that it hath been said, an eye for an eye, and a tooth for a tooth; but I say to you not to resist evil [i. e., evil men who would injure you]; but if one strike thee on thy right cheek, turn to him also the other, and if a man will contend with thee in judgment, and take away thy coat, let go thy cloak also unto him."

But this command does not refer to the right of self-defense, but to retribution inspired by hatred and revenge. The most that can be concluded from our Lord's utterance is that men should refrain from exercising the right of self-defense when the good imperilled is merely an individual and not a social good. Christ Himself, who gave us the most beautiful example of patient suffering, keenly resented injustice on the part of those who were commissioned to dispense justice,⁶ and St. Paul censured the magistrates who had thrust him into prison.

⁶ John XVIII, 23; Acts XVI, 37; XXIII, 3.

b) From the standpoint of ethics and jurisprudence it is asserted that homicide committed in self-defense is a grievous wrong for two reasons. First, because none of the things one means to defend ranks as high as the life of the aggressor, and, secondly, because by killing a man we rob him not only of his physical, but likewise of eternal life, because we send him to the tribunal of the heavenly Judge in a state of mortal sin. Hence, it is argued further, it is a duty of justice as well as of charity, at least for him who is in the state of sanctifying grace, to sacrifice his own life rather than to endanger or destroy the life of an unjust aggressor. To this argument we reply: It is true that the things threatened or endangered by an unjust aggressor are of less worth than the life of the aggressor. But higher even than the life of the aggressor stand the social order and public security, and, secondly, if the aggressor loses his life and forfeits eternal salvation, this is not the fault of him who makes use of the right of self-defense when attacked, but the effect of the aggressor's own sin, as he has it entirely in his power to save himself by omitting the attack or desisting from it. Finally, the one who thus defends himself can cite in his behalf the juridical axiom: "Scienti et volenti non fit iniuria." He who simply makes use of his rights injures nobody. It would not even be advisable to sacrifice one's own life for that of an unjust aggressor, because a man's duty of preserving his life for his own sake and that of his dependents may be more binding than any consideration for the life of a scoundrel, who probably would commit other crimes if he were spared.

| 129 | Some writers have carried the principles underlying the doctrine just explained so far as to justify the assassination of tyrants. They argue that it is possible for a whole nation to be in a similar predicament towards an unjust usurper (*tyrannus tituli s. usurpationis*) or towards a legitimate ruler who shamefully abuses his power (*tyrannus regiminis s. potestatis abusu*), as an individual citizen is towards an unjust aggressor and that, as the individual in time of need represents the right of the entire community and is entitled to exercise that right in the name of all, so, too, an individual may be allowed to kill an unjust ruler in order to safeguard the life and property of the whole people. But the assumptions underlying this contention are untenable. In the first place, the right of using

physical force in self-defense embraces only those cases in which the personal and private right of the individual is threatened, though that right may, of course, coincide with the interests of society; secondly, no individual citizen is allowed to pose as the delegate or mandatory of the people against the ruler when the latter acts in his official and public capacity. The case would be different if the ruler privately assaulted the life or property of a citizen; then the latter could claim and exercise the right of self-defense. Thus a woman criminally assaulted by a ruler would be allowed to kill him in order to preserve her chastity.

[130] The doctrine of the lawfulness of killing tyrants is often ascribed to the Jesuits, but unjustly. "The Jesuit moralists, even in the 16th century, before the assassination of the French King, Henri III, and the work of Mariana evoked a deluge of pamphlets on the subject, never did teach the doctrine of the lawfulness of tyrannicide, permitting, that is, the assassination by a private individual of a monarch who, though a usurper and a tyrant, was actually in possession of the throne. As Duhr and others have shown by copious citations, Salmeron, Lessius, Gregory de Valentia, Becan, Gretser, Sat, Azor, Escobar, etc., in a word all the great Jesuit casuists of that period, maintained precisely the contrary."⁷

⁷ Herbert Thurston, S.J., in the *Catholic Times*, London and Liverpool, Sept. 16, 1922, p. 8: "A single exception there was, the Spanish Father Mariana, who in his book, *De Rege et Regis Institutione*, owing to strong political sympathies which also brought him into conflict with the General of the Society, expressed enthusiastic approval of the murder of Henri III by Jacques Clément. The censor who gave his *nihil obstat* to the book admitted he had not read it, the General of the Jesuits, when it was brought to his notice, condemned it in the strongest terms, and the non-Catholic historian, von Ranke, fully allows that 'Mariana's doctrine cannot be regarded as the teaching of his Order or of the Catholic Church.'" (*Werke*, xxiv, 236). No Jesuit writer in subsequent times has ever identified himself with the views of Mariana, though in the following century such great names in the world of Protestant thought as Hugo Grotius, John Milton, and Leibnitz went quite as far as he did.

[131] READINGS.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 64 (Rickaby, *Aquinas Ethicus*, II, 39 sqq.).—St. Alphonsus, *Theol. Mor.*, l. III, n. 380–391 (ed. Gaudé, I, 631).—Gury, *Comp. Theol. Mor.*, Vol. I, n. 407–411.—F. X. Linsenmann, *Lehrbuch der Moralthologie*, pp. 465 sqq.—V. Cathrein, *Moralphilosophie*, Vol. II, 4th ed., pp. 99 sqq.—O. von Alberti, *Das Notwehrrecht*, Stuttgart 1901.—M. Lossen, *Die Lehre vom Tyrannenmord*, Munich 1894.—R. Böhme, *Der Tyrannenmord*, Munich 1905.—F. Heiner, *Die Jesuiten und ihre Gegner*, Munich 1906, pp. 79 sqq.—H. G. Schmidt, *Die Lehre vom Tyrannenmord*, Tübingen 1901.—V. Cathrein, S.J., *Moralphilosophie*, Vol. II, 5th ed., pp. 694 sqq.—B. Duhr, S.J., *Jesuitenfabeln*, 4th ed., pp. 694 sqq.—T. Parkinson in *The Month*, March 1873.

SECTION 3: THE MORAL PRINCIPLES INVOLVED IN WAR

[132] 1. LAWFULNESS OF WAR.—What self-defense is for the individual, that war (*bellum*) is for society or the State, namely, the act of warding off unjust attacks or of asserting important rights by force of arms.¹

¹ J. P. Gury, *Comp. Theol. Mor.*, Vol. I, n. 418: "War is the struggle of a multitude against an external multitude for the purpose of defending or vindicating the commonwealth. Hence it differs: 1. From a brawl, which is a fight of a few against a few; 2. From sedition, which is a disturbance or conflict of a multitude against political society."

The purpose of war, therefore, is to protect the material, moral, and spiritual possessions of a nation, such as religion, liberty, independence, honor, good name, its right and power to conclude treaties, etc. When war is waged within the limits of a just self-defense, that is, after all other means to

preserve the peace² (such as diplomatic negotiations, arbitration, reprisals, blockade, etc.) have proved ineffective, and the sword has become the final and inevitable arbiter, and if the *moderamen inculpatae tutelae* is duly observed, war is not only morally lawful, but may be a social duty, and participation therein may become a highly meritorious act.³

² Cfr. Deut. XX, 10.—Cfr. J. P. Gury, *Comp. Theol. Mor.*, Vol. I, n. 419: “For a just and lawful war the following are required: 1. Public authority, that is, supreme authority acknowledging no other superior in civil matters. The reason is that where a higher authority exists, it must judge the dispute; 2. A just and grave cause which outweighs the disadvantages that will follow from the war, e. g., a kingdom or province to be recovered, or a grave injury done to the commonwealth to be repelled, or a rebellion of subjects to be suppressed, etc.; 3. The proper manner of waging war, namely, that before war adequate satisfaction be demanded from the opposing party, and if it is offered, it must be accepted as a matter of justice; for where war ceases to be necessary, it also ceases to be just.” N. 424: “A prince, once the justice of a war has been recognized, must present it to the opposing party and cannot begin the war, if adequate satisfaction is offered to him; indeed, even a war already begun he is bound to abandon when adequate satisfaction is offered, if not from the rigor of justice, at least generally from charity, provided the other party is willing to compensate all expenses already incurred and it is not necessary for the public good that it be repelled.”

³ Cfr. Judg. XI, 27.—Gury, *op. cit.*, Vol. I, n. 419: “War is of itself permissible either to repel an injury or to vindicate one's right. The reason is that every society independent of another society must have a means of protecting itself against injury and vindicating its right. Sometimes, however, no other means is available for obtaining this end except war. For since higher authorities to whom nations or princes might have recourse are lacking, they may wage war to obtain satisfaction from another society.”

| 133 | God repeatedly commanded His Chosen People to wage war against their enemies and lent them His special assistance and co-operation.⁴ St. John baptized soldiers, but neither he nor Christ Himself required of them that they renounce their profession;⁵ all they asked of them was, to “do violence to no man,” i. e. abstain from injustice.⁶ St. Paul says that the civil authority, as the representative of God, has the right of wielding the sword in order to protect law and order against domestic evil-doers and foreign enemies.⁷

⁴ Ex. XIV, 13 sq.; Deut. I, 29 sq.; III, 21 sqq.—Cfr. F. Schwally, *Semitische Kriegsaltertümer*, Leipzig 1901, 1. Heft, pp. 3 sqq.

⁵ Cfr. St. Augustine, *Contra Faustum Manich.*, l. XXII, c. 74: “Otherwise John, when soldiers came to him to be baptized, saying, ‘And what shall we do?’ would have answered them: ‘Cast away your arms, abandon this military service, strike no one, wound no one, lay no one low.’ But because he knew that when they did these things as soldiers they were not murderers but ministers of the law, and not avengers of their own injuries but defenders of the public safety, he answered them: ‘Do violence to no one,’” etc. (Migne, P. L., XLII, 447.) *IDEM*, *Epist.* 189 (al. 205), n. 4: “Do not think that no one who serves under arms in war can please God. Holy David was among them, to whom the Lord bore such great testimony; among them also were very many righteous men of that time. . . . John certainly did not forbid those soldiers to serve under arms whom he instructed that their own pay ought to suffice.” (P. L., XXXIII, 855).

⁶ Luke III, 14; Acts X, 1 sqq.

⁷ Rom. XIII, 1–5; cfr. John XIX, 10 sqq.

| 134 | If some of the Church Fathers objected to Christians serving as soldiers, they did so for the reason that the life of a soldier in their days was full of danger to faith and morals, and that the ancient State, with its emperor-worship, was essentially pagan. There is sufficient evidence to show that the early Christians acknowledged legitimate warfare as morally licit.⁸ The canonical law exempting clerics from military service was based upon the supernatural and pacific character of their office.⁹ The Church not only admits that war may be just, but she admonishes her children to fight for their highest and most sacred possessions.¹⁰

⁸ Cfr. Ch. Lupus, *De Antiqua Disciplina Christianae Militiae*, XI (*Opera Omnia*, Venice ed., 1729), pp. 94 sqq.—Hefele, *Beiträge zur Kirchengeschichte*, Vol. I, pp. 20 sqq.—K. Künstle, *Zwei Dokumente zur altchristlichen Militärseelsorge*, Mayence 1900, pp. 3 sqq.—A. Bigelmair, *Die Beteiligung der Christen am öffentlichen Leben*, Munich, 1902.—A. Harnack, *Militia Christi*, Tübingen 1905, pp. 46 sqq.

⁹ *Syllabus Errorum*, n. 32 (Denzinger-Bannwart, n. 1732).—C. Richert, *Die Anfänge der Irregularitäten*, Freiburg 1901, pp. 114 sqq.

¹⁰ *Errores M. Lutheri damn. a Leone X*, n. 34 (Denzinger-Bannwart, n. 774).

2. GUIDING PRINCIPLES.—a) Every just war is by its very definition defensive (*bellum defensivum*), because war is permitted only as an extreme means of self-help or to protect a nation's legitimate rights or interests. It does not, however, follow that when a State is unjustly menaced in its vital interests,—be they material, moral, or spiritual,—it is not permitted to make use of its right *per modum praeventionis*, i. e., to forestall a threatening attack, for instance, by occupying foreign territory, compelling enemy troops to lay down their arms, cutting off their supplies, destroying fortifications, and so forth. Such a war, though seemingly offensive, would in reality be defensive, for the justice of a war depends not upon its physical, but upon its moral authorship. It is also licit and therefore just, nay, it may even be a duty for a nation to assist another, especially an allied nation, in warding off an unjust attack.

[135] The so-called principle of non-intervention, that is, non-interference of a State in hostilities between other States, unless its own territory or rights are attacked, may be justifiable from a purely political point of view, but not morally,¹¹ because if a nation unjustly attacks another, all others are threatened in their very existence, and under the law of nations every State is in duty bound to protect right and justice. Intervention, if exercised in accordance with the principles of morality, constitutes an effective support of international law and order. For the rest, its exercise in most cases will not entail war, but merely lead to diplomatic negotiations.

¹¹ *Syllabus Errorum*, n. 62: "The principle which they call that of non-intervention must be proclaimed and observed." (Denzinger-Bannwart, n. 1762).—Cfr. M. Pachtler, S. J., "Das Prinzip der Nichtintervention," in the *Stimmen aus Maria-Laach*, Vol. I (1871), pp. 107 sqq., 196 sqq.—A. Stöckl, *Das Christentum*, Vol. II, pp. 353 sqq.; Vol. III, pp. 22 sqq.

[136] b) The *moderamen inculpatae tutelae* must be kept inviolate even in a just war. Consequently, war may not be continued longer than is necessary to accomplish its object, that is, until full satisfaction or reparation has been obtained and peace secured. Disregard of this principle would be a violation of the moral law of nature and involve the duty of restitution. To undertake or continue a war solely for the acquisition of territory or as a preventive of internal dissensions would be positively criminal.¹²

¹² Osee V, 13.—St. Augustine, *De Civ. Dei*, I. IV, c. 6: "To bring wars upon neighboring peoples and thence proceed against others, and from mere lust for dominion to crush and subjugate peoples who do not trouble one—what else should this be called but grand robbery?" (Migne, P. L., XLI, 116 sq.).—*Contra Faustum Manich.*, I. XXII, c. 74: "What is blamed in war? Is it that those who will die sometime die, so that those who will live in peace may be subdued? To censure this belongs to the timid, not to the religious. The desire to harm, the cruelty of vengeance, an unpacified and implacable spirit, the savagery of rebellion, the lust for domination, and anything similar—these are the things rightly blamed in wars." (P. L., XLII, 447).

Secondly, not all is fair in war. Absolutely damnable and illicit means of warfare are: lying, perjury, the intentional dissemination of false reports, e. g., of faked victories. Among the licit means are: espionage, stratagems, ambushes, etc.; these are allowed because they are not based on lies pure and simple, but merely furnish the enemy an occasion for drawing false conclusions.

Third, the means employed in warfare must not be more cruel than is necessary for the successful termination of the bloody struggle.

| 137 | It goes without saying that the direct slaying of innocent and unarmed persons, such as women, children, and old men, or the dishonoring of women can never be justified under any pretext.¹³

¹³ St. Thomas, *Summa Theologica*, 2a 2ae, qu. 40, art. 3: "It is permissible in war to prepare ambushes and employ stratagems, so that enemies may be deceived by ruses and cast into various dangers. For these things are not reckoned lies, because the adversaries are deceived by their own fault, since such means are customarily employed in war; thus it is permissible to feign flight, to use the enemy's standards, etc. But those deceptions are illicit which cannot be guarded against by any prudence, e. g., to poison wells and springs, etc. For these things, in common judgment, conflict with the laws of war."

Fourth, the right to kill the enemy or damage his property belongs to individual soldiers or single divisions of an army only in so far as they have been authorized to proceed by legitimate authority. Therefore, if an army, or any single division thereof, marches through enemy territory plundering and robbing the populace, without the express or at least implicit authorization of its commander, it is no better than a band of marauders and its members are bound to restitution. Officers bearing a *flag of truce* are inviolable.

c) In addition to these general principles, derived from the moral law of nature, the so-called international law has laid down others which deserve mention. One of these is that the laws of war apply only to active combatants, i. e., persons actually wielding or entitled to wield arms. Hence it is not allowed to kill a disarmed or captured soldier. Non-combatants engaged in the service of an army, such as chaplains, physicians, nurses, etc., may not be killed, but they may be made captives. *Prisoners of war* should be treated humanely, but not better than the soldiers of one's own army, lest cowardly members of the latter be tempted to surrender. Weapons which render war more cruel without hastening the decision are forbidden. To this class belong explosive hand guns, poisoned arrows, poison substances, the poisoning of wells, etc. Those living peaceably in enemy territory should not be treated harshly and their property should be spared unless it is needed to enable the invading army to live. The retention of hostages, the devastation of the country, the destruction of crops, the burning of dwelling houses and other necessities of life are permissible only in exceptional cases, when necessary for the carrying out of an important operation or to overcome the hostile attitude of the populace. Wounded soldiers who are no longer able to fight should be protected against attacks upon their person.¹⁴

¹⁴ Of the *barbarities of war* Fr. Ross justly says: "Once the dogs of war are let loose, it is difficult to keep them within the bounds of civilized Christian custom. The records of Sherman's march to the sea, of English conduct in the Sepoy rebellion, of our water cure and other tortures in the Philippines, of the international intervention in China during the Boxer rebellion, do not make us very proud of humanity. There is an old saying, 'Scratch an Englishman and you find a barbarian,' and this is equally true of the Germans, French, Italians, and Americans." (*Christian Ethics*, pp. 426 sq.).

| 139 | Under the *Geneva Convention*, of August 22, 1864, all military hospitals and ambulances with their attendants, physicians and nurses, when carrying the Red Cross, as well as all buildings containing wounded soldiers who display the Red Cross flag, are neutral and must not be attacked or molested. Citizens who receive wounded war victims into their houses shall be excused from quartering troops and also, partially, from paying war contributions.¹⁵

¹⁵ H. Dunant, *Un Souvenir de Solférino*, Geneva 1862; 2nd ed., Paris 1871; C. Lueder, *Die Genfer Konvention*, Erlangen 1876; H. Lammasch, *Die Fortbildung des Völkerrechts durch die Haager Konferenz*, Stuttgart and Vienna 1900; A. Zorn, *Das*

Kriegsrecht zu Lande in seiner neuesten Gestaltung, Berlin 1906; J. E. Ross, C.S.P., *Christian Ethics*, pp. 430 sq.; Lawrence, *Principles of International Law*, Boston 1909.

The use of *savages* or convicted *criminals* is morally objectionable, because they are apt to disregard the laws of war. Attempts to induce enemy soldiers to break their oath of loyalty or to rebel against their superiors are likewise inadmissible.

d) *Voluntary participation* in a war which one regards as unjust is sinful. Since, however, the individual citizen is rarely in a position to form a reliable judgment concerning the justice or injustice of a war, and since, moreover, a soldier employed or drafted by the government (*miles subditus*) has not the right to question the justice of an international quarrel, he must obey his superior officers even though he doubts the justice of the cause. But he is never permitted to co-operate in manifest injustice or criminal acts of violence, e. g., the maltreatment of peaceful non-combatants or the killing of soldiers who have unconditionally surrendered. *Mercenaries* (*milites conducti*), who have been hired before the outbreak of a war, may take part therein even if they doubt its justice. The case is different with those who volunteer their services after the war has started (*milites nondum conducti*); if they are in doubt as to the justice of the cause in which they intend to enlist, they are in duty bound to obtain certainty, for no man is permitted to co-operate in an unjust cause.¹⁶

¹⁶ Rom. XIII, 1 sqq.—St. Augustine, *Contra Faust. Manich.*, l. XXII, c. 74: "And for this purpose taxes are paid (Mt. 22, 21), so that, because of wars, pay may necessarily be furnished to the soldier." (Migne, P. L., XLII, 447).—*IDEM, ibid.*, c. 75: "When a just man happens to serve as a soldier under a king who is even a sacrilegious man, he can rightly wage war at that king's command while preserving the order of civic peace: either it is certain that what is commanded of him is not contrary to God's precept, or it is not certain whether it is; so that perhaps the injustice of commanding makes the king guilty, while the order of serving shows the soldier innocent." (P. L., XLII, 448).—J. P. Gury, *Comp. Theol. Mor.*, Vol. I, n. 421: "It is asked whether soldiers may wage war while in doubt about the justice of the war. The answer is: 1. If the question concerns a subject soldier, he is bound to obey where the war is not evidently unjust, because it does not belong to him to examine the reasons of his superiors. 2. If the question concerns a soldier hired before war was declared, he may obey; for he is hired for this, and therefore must conduct himself almost as if he were a subject. 3. If the question concerns a soldier not yet hired, he is bound to inquire into the justice of the war and cannot place himself in doubt about its justice. The reason is that no one can co-operate in despoiling another of a thing which he possesses unless he is certain that it is possessed by him unjustly."

[140] The causes of war are as a rule hidden to the ordinary citizen, nay oftentimes even to the better informed and more sensitive organs of public opinion. Ordinarily, the private citizen may and should presume that his country is right. The question how far his duty of obedience goes, and for what acts of violence he may allow himself to be used, are answered by the *ius belli*, but its provisions are of little practical importance, because in case of doubt every citizen will naturally submit his subjective opinion to the supposedly more enlightened judgment of the authorities.¹⁷

¹⁷ Cfr. F. X. Linsenmann, *Lehrbuch der Moraltheologie*, pp. 469 sqq.; Ross, *Christian Ethics*, p. 440.

[141] 3. MORAL ESTIMATE OF WAR.—a) Just war is not only permissible as an act of self-defense, but it may be useful for the punishment of injustice, the restoration of law and order, and as an instrument of correction in the hands of God.¹⁸

¹⁸ Judg. II, 20 sqq.; III, 1 sqq.; Is. X, 5 sqq.; 2 Macch. V, 17 sq.

Nor can it be denied that a number of noble virtues, e. g., loyalty, courage, self-sacrifice, fidelity to duty, are developed by and in war, and that bloody conflicts with other nations often strengthen the

moral and religious fibre of a nation and promote patriotism. A war waged against savage tribes, may, moreover, serve the purpose of genuine culture and the legitimate needs of colonization.¹⁹

¹⁹ Cfr. Horace, *Epist.*, l. II, 1, 156 sq.: “Graecia capta ferum victorem cepit et artes intulit agresti Latio.”

b) On the other hand, though a just war may prove a moral blessing for a nation or for humanity at large, even the justest war is invariably accompanied by so many horrors and barbarities, and entails so much material and moral destruction that it must be regarded as an evil and a terrible scourge. Though the Bible acknowledges the legitimacy of war and of the military profession, there are many passages in both Testaments which point to lasting peace as the final goal for the human race to strive after.²⁰ War does not fit into the ideal picture of international intercourse. Its existence and relative necessity is merely a sad proof how little even Christian nations are actuated by the spirit of charity, peace, and justice. The highest good of the State, the ideal political condition of a people, is that “rest from all enemies round about” described in Deuteronomy,²¹ and permanent peace must be the first and foremost aim of every real statesman. Kant's idea of a universal peace²² has no prospect of realization because it is based for the most part upon purely worldly interests or upon so-called humanitarian or philanthropic considerations and motives, which are at bottom utopian, instead of seeking the peace of Christ which the world cannot give.²³ Nevertheless every attempt to settle international difficulties and quarrels by means of arbitration should be hailed with joy. An international tribunal of arbitration might not prevent war entirely, but it would postpone the outbreak of hostilities and thus give reason instead of passion an opportunity to speak the last word. Even though war were abolished, it would still be “sweet and meet to die for one's fatherland,”²⁴ and every citizen would have sufficient opportunities to prove his patriotism by faithfully performing his duties towards God and the legitimate civil authorities.

²⁰ Ps. 67, 31; Is. II, 4; Mich. IV, 1 sqq.; Matt. XXIV, 6; Mark XIII, 7; Luke XXI, 9 sq.

²¹ Deut. XII, 9 sq.; XXV, 19. St. Augustine, *Epist.*, 189 (al. 205), n. 6: “The will ought to have peace, necessity war, so that God may free us from necessity and preserve us in peace. For peace is not sought so that war may be stirred up, but war is waged so that peace may be acquired.” (Migne, P. L., XXXIII, 856).—IDEM, *Epist.*, 229 (al. 262), n. 2: “Great indeed are not only the bravest warriors, and they have their own glory, but also—and this is a truer kind of praise—the most faithful warriors, by whose labors and dangers, with the aid of God who protects and helps, the untamed enemy is conquered and tranquility is procured for the commonwealth and the pacified provinces. But it is of greater glory to kill wars themselves with a word than men with the sword, and to acquire or obtain peace by peace, not by war. For even those who fight, if they are good, undoubtedly seek peace, but nevertheless through blood.” (P. L., XXXIII, 1020).

²² I. Kant, *Zum ewigen Frieden*, Königsberg 1795 (edited by K. Kehrbach, Leipsic 1881).—Cfr. F. von Holtzendorff, *Die Idee des ewigen Völkerfriedens*, Berlin 1882.—L. Stein, *Das Ideal des ewigen Friedens*, Berlin 1896.—Ch. Richet, *Les Guerres et la Paix*, Paris 1901. K. F. Küster, *De Treuga et Pace Dei*, Cologne, 1902.—P. Meyer, *Die Idee des ewigen Friedens bei Kants Zeitgenossen*, Berlin 1903.—K. Geissler, *Der Krieg und die sozialen Sünden*, Jena 1905.

²³ John XIV, 27; cfr. Judith XVI, 3: “The Lord putteth an end to wars.”—St. Leo the Great, *Serm.*, 82 (al. 80), c. 1: “Although [the city of Rome], enlarged by many victories, extended the jurisdiction of your empire by land and sea, nevertheless what military toil subjected to you is less than what Christian peace subjected to you.” (Migne, P. L., LIV, 423).

²⁴ Horace, *Carm.*, III, 2, 18: “Dulce et decorum est pro patria mori.”—Cfr. Homer, *Ilias*, XII, 243.

[143] In striving for international peace it is well for us to realize that there are many strong “interests” that must be vigorously opposed. First of all come the war traders. “Those who engage in the sale of materials of war know that it is to their advantage to foster the military spirit. The more

one nation spends on preparation, the more the others are forced to spend. It is an endless chain. A few individuals are enriched, but the vast majority suffer from such enormous expenditure in unproductive ways. Perhaps the problem could be partly solved by the various governments taking over the munition factories. But the solution is problematical and at best would be merely partial. For only a completely socialized State could take over all the industries directly and indirectly depending upon war. A hardly less important expression of commercialism versus peace is found in yellow journalism. Newspapers recognize that in order to sell large editions they must exaggerate. As a consequence they are absolutely conscienceless in dressing up reports of differences between nations. Again, there arises in the popular mind induced by this irresponsible journalism a certain spread-eagleism, an attitude that sees no fault in one's own nation, but faults innumerable in others—a loud-mouthed patriotism [*rectius*: jingoism] that is ready to call every man a traitor who happens to advocate peaceful methods. . . . This evil of yellow journalism tends to grow worse and worse. New forms of exaggeration, new appeals to this false patriotism must be constantly devised; for as one form grows stale, it becomes useless from a journalistic standpoint. And so one fosters the other. The public, weary of the drab dullness of everyday life, demands of the newspapers a certain amount of sensationalism and grows more rampant the more it gets.”²⁵

²⁵ J. E. Ross, *Christian Ethics*, pp. 436 sqq.

[145] READINGS.—St. Augustine, *Contra Faust. Manich.*, l. XXII, c. 74–78.—IDEM, *Epist.*, 189 (al. 205), n. 4 to 6.—St. Thomas, *Summa Theologica*, 2a 2ae, qu. 40 (Rickaby, *Aquinas Ethicus*, I, 407 sqq.).—St. Alphonsus, *Theol. Mor.*, l. III, n. 402–411 (ed. Gaudé, I, 659 sqq.).—H. Grotius, *De Iure Belli et Pacis*, Amsterdam 1712.—J. Walter, *Naturrecht und Politik*, pp. 462 sqq.—A. Stöckl, *Das Christentum*, Vol. III, pp. 417 sqq.—F. X. Linsenmann, *Lehrbuch der Moraltheologie*, pp. 468 sqq.—V. Cathrein, S.J., *Moralphilosophie*, Vol. II, 5th ed., pp. 741 sqq.—F. Kattenbusch, *Das sittliche Recht des Krieges*, Giessen 1906.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 663 sqq.—Jos. Rickaby, S.J., *Moral Philosophy*, pp. 191 sqq.—Chs. Macksey, S.J., art. “War” in the *Catholic Encyclopedia*, Vol. XV, pp. 546–550.

SECTION 4: CAPITAL PUNISHMENT

[146] 1. DEFINITION.—Capital punishment (*poena mortis, occisio malefactoris*) is the violent destruction of a human life by legitimate authority as an atonement for a grievous crime and a means for the preservation of the public order and security. The right to inflict this penalty is known as “the right of the sword” (cfr. Rom. XIII, 4). We call it the power of life and death.

2. MORAL ASPECTS OF CAPITAL PUNISHMENT.—Capital punishment can be justified from reason, Sacred Scripture, tradition, and from the common conviction and practice of men in all ages.¹

¹ J. P. Gury, *Comp. Theol. Mor.*, Vol. I, n. 404: “It is permissible to kill malefactors by public authority. The reason is that God necessarily gave this power to public authority as a means necessary for defending and procuring the existence and common good of civil society, which generally cannot be obtained except by the death of wicked men. This is also established by the practice of every system of legislation, by Sacred Scripture, and by the universal consent of all nations.”

a) The Old Testament not only carried capital punishment in its penal code, but expressly prescribed it for certain crimes, according to the divine command to Noë: “Whosoever shall shed man's blood, his blood shall be shed.”²

² Gen. IX, 6; cfr. Ex. XXI, 12, 14, 23; Lev. XX, 1 sqq.; XXIV, 17, 21; Deut. XVII, 6; XIX, 11.

|¹⁴⁷| Although the judiciary laws of the Old Testament are abolished under the New, capital punishment has not been done away with. On the contrary, Christ Himself expressly admits the right of public authority to put criminals to death³ and St. Paul not only declared that he would not refuse to die if he had “committed anything worthy of death,”⁴ but that the evil-doer has every reason to fear public authority, because it is “God’s minister, an avenger to execute wrath upon him that doth evil.”⁵ The public authority, therefore, has power over life and death, i. e., the right to inflict the death penalty (*gladii ius et potestas*). This right, of course, entails a corresponding duty. The context of Rom. XIII, 4, which we have just quoted, shows that the Apostle not merely had in view some definite or concrete State or political system, but that he wished to describe the ideal Christian regimen. Consequently, the power of life and death flows from the very nature of public authority. Had Christ wished to forbid capital punishment in opposition to the Mosaic law, He would no doubt have formulated this prohibition in express terms. In reality the New Testament presupposes the death penalty as an integral constituent of the penal law.⁶

³ John XIX, 10 sq.

⁴ Acts XXV, 11.

⁵ Rom. XIII, 4.

⁶ Matt. XXVII, 22 sq., 26, 35; Luke XIX, 27.

|¹⁴⁸| From the undeniable fact that Divine Revelation teaches the lawfulness of capital punishment, it does not, however, follow, as the Calvinists and Puritans contend, that the public authority is strictly bound to inflict this penalty as the morally necessary and solely admissible atonement for certain heinous crimes, e. g., murder. For, in the first place, the Old Testament palliated the severity of the law by admitting the right of asylum, and substituted exile for death in the case of the first murderer (Cain), merely demanding that he be expelled from the society of men.⁷ Secondly, the idea that an angry God is pacified by the execution of a criminal is not Biblical, but pagan, and incompatible with the Christian dogma that through the blood of “the one mediator of God and men, the man Christ Jesus, who gave himself a redemption for all,”⁸ the sins of the whole human race have been wiped out and all men have been redeemed. Divine Revelation, therefore, and in particular the religion of Jesus, while it acknowledges the right of the State to inflict capital punishment, does not demand its infliction. For this reason the Church used to recommend condemned criminals to the mercy of the king; for the same reason she inflicts canonical irregularity upon those who co-operate in the infliction of the death sentence. As the old saying is: “*Ecclesia non sitit sanguinem*,” that is, the Church does not represent the principle of strict justice, but rather of charity and mercy.

⁷ Gen. IV, 16 sqq.

⁸ 1 Tim. II, 2, 5 sq.; cfr. Rom. III, 24 sq.; Eph. I, 7.

|¹⁴⁹| b) Ecclesiastical tradition definitely teaches that neither the infliction nor the execution of the death penalty violates the fifth commandment of the Decalogue. The contrary view of the Waldensians and the Anabaptists, that capital punishment is forbidden by divine law, is rejected by Catholic theologians as contrary to the spirit of the Church.⁹

⁹ *Professio Fidei praescripta Waldensibus ab Innocentio III*: “Of the secular power we assert that it can exercise the judgment of blood without mortal sin, provided that in inflicting punishment it proceeds not from hatred but from judgment, not rashly but advisedly.” (Denzinger-Bannwart, n. 425).—Cfr. St. Augustine, *Serm.*, 13 (al. 94, *De Temp.*), n. 8: “If you hear

your neighbor in the same way as you hear yourself, you persecute sins, not the sinner; and if perhaps anyone, turned away from the fear of God, is hardened against the correction of his sins, you persecute this very thing in him, this very thing you will try to correct, this you will labor to destroy and remove, so that the man may be preserved when the sin has been condemned. For there are two names, man and sinner: God made the man; the man made himself a sinner. Let what man made perish; let what God made be set free. Do not, therefore, go as far as death, lest, while you persecute the sin, you destroy the man. Do not go as far as death, so that there may be someone to repent: let the man not be killed, so that there may be someone who can be amended. Keeping this love of man for men in your heart, be a judge of the earth, and love to terrify, but cherish. If you are proud, be proud against sins, not against the man. Rage against that which displeases you in yourself, not against him who was made as you were. You came from one workshop, you had one craftsman, one clay is your material. What do you destroy by not loving the one whom you judge? Because you destroy justice, [you destroy it] by not loving the one whom you judge. Let punishments be applied—I do not refuse, I do not forbid—but with the mind of one who loves, the mind of one who cherishes, the mind of one who corrects.” (Migne, *Patr. Lat.*, XXXVIII, 110).

The strict canonical precept forbidding clerics to co-operate in the application of the death penalty and inflicting irregularity upon all who co-operate in the administration of capital punishment, does not prove that the Church denies the right of the State to inflict this punishment, but is merely a logical deduction from her exalted conception of the clerical profession.¹⁰

¹⁰ C. I. C., Can. 138; P. Augustine, O. S. B., *Commentary on the New Code*, Vol. II, p. 87.

| 150 | c) The teaching of the Church on this head is confirmed by the *consensus gentium*. Surely men would not have so willingly admitted the right of their rulers to deprive them of their most precious possession, i. e., life, for certain grievous crimes committed against the public order, had not this right been universally regarded as a corollary of the natural law and a postulate of right reason. In matter of fact all nations have always admitted the right of the State to inflict capital punishment, and wherever rulers or public opinion were by specious arguments induced to restrict it, the people soon demanded its restoration. The fact that certain classes of persons (e. g., soldiers) and certain conditions (for instance, a state of war) have always been excepted when laws were passed to abolish capital punishment, proves that the public authorities wished to reserve to themselves the right of inflicting the death penalty in circumstances under which it appeared to them necessary.

d) Philosophically, the right of the State to inflict capital punishment can be demonstrated by both juridical and sociological arguments. Not everything, however, that has been brought forward by writers on the subject is entirely convincing. To prove the intrinsic justifiability or the necessity of capital punishment from the notion and purpose of punishment in general, or to base it upon reasons of social utility, is beside the point. For, in the first place, all the essential objects of punishment can be attained just as well by other methods; nay, the infliction of the death penalty may frustrate the true purpose of punishment without in the least repairing the injury done. The arguments taken from sociology, namely, that, on the one hand, a murderer has forfeited his human dignity and rights by his crime and must consequently be cast out as a worthless member of society, and that, on the other hand, society must be protected against dangerous or injurious members, really presuppose capital punishment as the sole means for obtaining the ends in question, and therefore involve a *petitio principii*.

| 151 | The right of the State to inflict capital punishment can be convincingly proved only from its right of self-defense. As a State or community may be threatened in its material and ideal existence by enemies from without, so also by enemies from within,—those who attack discipline or, worse still, commit violence or crime and thereby undermine the very foundations of the social order.

Against these,—radical Socialists, anarchists, Bolsheviki, or whatever else they may be called,—the authorities frequently have no other effective means of preserving or restoring law and order and securing peace, than capital punishment.

“Another kind of slaying,” says the Catechism of the Council of Trent, “is permitted, which belongs to those magistrates to whom is given the power of condemning to death, by the legal and judicial use of which they punish guilty and protect innocent men [Rom. xiii, 4]; in which function, provided they act justly, they are not only not guilty of murder, but eminently obey this law which prohibits murder; for as the proposed end of this law is to provide for the life and safety of men, to the same end also tend the punishments inflicted by magistrates, who are the legitimate avengers of crimes, giving security to life by punishing and thus repressing audacity and outrage. Wherefore David says: ‘In the morning I put to death all the wicked of the land, that I might cut off all the workers of iniquity from the city of the Lord.’”¹¹

¹¹ *Cat. Rom.*, P. III, c. 6, qu. 4.

| 152 | “Every part [of an organism],” says St. Thomas, “is directed to the whole, as imperfect to perfect, and therefore every part is naturally for the sake of the whole. For this reason we observe that if the health of the whole body demands the excision of a member, on account of its being decayed or infectious to the other members, it is both praiseworthy and advantageous to have it cut away. Now every individual person is to the whole community as a part to the whole. Therefore, if a man be dangerous and infectious to the community, on account of some sin, it is praiseworthy and advantageous that he be killed, in order to safeguard the common good. . . .”¹²

¹² St. Thomas, *Summa Theol.*, 2a 2ae, qu. 64, art. 2: “Every part is ordered to the whole as the imperfect to the perfect, and therefore every part is naturally for the sake of the whole. And for this reason we see that if the health of the whole human body requires the cutting off of some member, for example when it is putrid or corruptive of the other members, it is praiseworthy and beneficially cut off. But each individual person is related to the whole community as a part to the whole. And therefore, if any man is dangerous to the community and corruptive of it because of some sin, he is praiseworthy and beneficially killed, so that the common good may be preserved.”—*Ibid.*, ad 1: “When no danger threatens the good from the killing of the wicked, but rather protection and safety result, then the wicked may lawfully be killed.”

| 153 | Capital punishment, therefore, like war, is the exercise of a nation's right of self-defense against the danger arising to its very life from putrid or infectious members, which threaten to infect and corrupt others and thereby imperil the very existence of the State.¹³ Whenever there is need of exercising this right of self-defense, when capital punishment has been established by law for certain grievous crimes, the magistrates exercising the proper authority are permitted, nay, obliged to put malefactors to death.¹⁴ If society is not in a state of necessary self-defense against internal enemies and the dangerous elements can be rendered innocuous by other means, such as incarceration, banishment, or deportation, or if certain crimes do not imperil law and order and public peace, the death penalty should not be inflicted. A temporary abolition of capital punishment may be morally justified. Even where capital punishment is legal, it need not be inflicted in every case; for it is but a relative law, and as such involves no absolute obligation. In matter of fact the supreme representative or bearer of civil authority has at all times in the world's history exercised the *right to* pardon condemned criminals. It goes without saying that this prerogative must be exercised prudently, lest the non-infliction of capital punishment in flagrant cases create contempt for authority.¹⁵

¹³ *Ibid.*, art. 3: “It is lawful to kill a malefactor insofar as this is ordered to the welfare of the whole community.”

¹⁴ *Ibid.*, art. 7: “It is not lawful to kill a man except by public authority for the common good.” Cfr. *Contra Gent.*, l. III, c. 146, n. 3–5.

¹⁵ Cfr. F. X. Linsenmann, *Moraltheol.*, p. 473; V. Cathrein, *Moralphilosophie*, Vol. II, 5th ed., pp. 675 sq.

[154] Some hold that capital punishment is a violation of the Fifth Commandment,¹⁶ contradicts a certain dictum of the prophet Ezechiel,¹⁷ and is incompatible with Our Lord's teaching in the parable of the wheat and the cockle.¹⁸ But, as St. Thomas explains, “the slaying of a man is forbidden in the Decalogue [only] in so far as it bears the character of something undue, for in this sense the precept contains the very essence of justice. Human law cannot make it lawful for a man to be slain unduly. But it is not undue for evil-doers or foes of the common weal to be slain, and hence this is not contrary to the precept of the Decalogue, and such killing is no murder as forbidden by that precept.”¹⁹

¹⁶ See Ex. XX, 13.

¹⁷ Ez. XXXIII, 11.

¹⁸ Matt. XIII, 24–30.

¹⁹ St. Thomas, *Summa Theol.*, 1a 2ae, qu. 100, art. 8, ad 3: “Killing a man is forbidden in the Decalogue insofar as it has the character of what is undue, for thus the precept contains the very principle of justice. But human law cannot grant that a man may lawfully be killed unduly. But for malefactors or enemies of the commonwealth to be killed is not undue. Hence this is not contrary to the precept of the Decalogue, nor is such a killing homicide, which is forbidden by the precept of the Decalogue.”

It is correct, however, to say that Christianity aims at establishing an ideal condition of society in which capital punishment could be safely dispensed with.

From the juridical standpoint the chief argument advanced against capital punishment is the possibility of its infliction upon innocent persons,—an injustice which can never be repaired. It is vain to deny that cases of “judicial murder,” as the execution of an innocent man is called, have occurred and still occur, and that the injustice thus inflicted is in a sense irreparable.²⁰ But this does not disprove the lawfulness of capital punishment. For in a certain sense every punishment is “irreparable.” If a man is innocently condemned to a term in the penitentiary, and later found to be innocent, the wrong cannot be undone. The argument, therefore, proves too much, because if it were valid, all punishment would have to be abolished, which is absurd. Secondly, it should be considered that if, in spite of all the safeguards with which capital punishment is surrounded by an orderly and conscientious jurisprudence, it does occasionally happen that an innocent man is put to death, there is a higher justice in the next world, and the victim of earthly injustice may, by the exercise of patience and resignation, convert the evil into good, nay, make it the means of meriting an imperishable crown.

²⁰ John XIX, 6. Cfr. J. Schaber, *Mord oder Justizmord?* Zurich 1896; N. Paulus, *Ein Justizmord an vier Dominikanern*, Frankfurt 1897; R. Steck, *Der Berner Jetzerprozess (1507–1509)*, Bern 1902; Id., *Die Akten des Jetzerprozesses nebst dem Defensorium*, Basle 1904.

[155] 3. The following conditions are essential for the lawful infliction of capital punishment:

a) Capital punishment may be inflicted only upon those who are a peril and a detriment to the community in which they live, and who have actually committed a grave crime with complete freedom and deliberation.

Hence society is not allowed to kill an innocent member to preserve its own existence, for example, to placate a tyrant threatening city or country with destruction unless an innocent person is put to death.²¹

²¹ Ex. XXIII, 7.—Saint Thomas, *Summa Theol.*, 2a 2ae, qu. 64, art. 6; St. Alphonsus de' Liguori, *Theologia Moralis*, l. III, n. 393, 398 (ed. Gaudé, I, 643, 654); J. P. Gury, *Comp. Theol. Mor.*, Vol. I, n. 412: "Never is it lawful directly to kill an innocent person, whether by private or public authority, even to procure the public good; for it is an action intrinsically evil and forbidden by divine law. It is lawful for a grave cause to posit an action good in itself, from which the death of an innocent person follows apart from the intention."—*Ibid.*, n. 413: "It is not lawful to kill an innocent person to satisfy a tyrant demanding his head, even under penalty of the city's overthrow—indeed, even if he consented to his own death, since he has no dominion over his own life. More probably, however, he could be compelled to hand himself over to the tyrant for the public good."

| 156 | b) The accused must, in accordance with the axiom, "*Audiat et altera pars*," be given an opportunity to defend himself in court, and the judge, "with an upright heart,"²² free alike from sympathy and antipathy, should pronounce sentence in conformity with the facts of the case and the law. The Lord is no respecter of persons, neither should earthly judges allow themselves to be unduly influenced.²³

²² Wisd. IX, 3.

²³ Prov. XVIII, 5; Eccclus. XX, 24; John VII, 50 sq.; Rom. II, 11; Eph. VI, 9; Col. III, 25; Jas. II, 1; 1 Pet. I, 17.

"Judgment," says St. Thomas, "is an act of justice, in as much as the judge restores to the equality of justice those things which may cause an opposite inequality. Now respect of persons involves a certain inequality, in so far as something is allotted to a person out of that proportion to him in which the equality of justice consists. Therefore, it is evident that judgment is rendered corrupt by respect of persons."²⁴

²⁴ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 63, art. 4: "Judgment is an act of justice, insofar as the judge reduces to the equality of justice those things which can produce the opposite inequality. But respect of persons has a certain inequality, insofar as something is attributed to some person beyond his proportion, in which the equality of justice consists. And therefore it is manifest that judgment is corrupted by respect of persons."

| 157 | An important legal maxim says that the escape of a guilty criminal is preferable to the unjust execution of an innocent man.²⁵

²⁵ "*Maius malum est, quod innocens pereat, quam quod reus impunitus evadat.*"

c) A criminal condemned to death should be given ample time to make a sincere act of contrition and to employ the means of grace held out to him by the Church, particularly the sacraments of Penance and the Holy Eucharist, and this respite should be granted even when there is danger that he may be freed by force. If he obstinately refuses to receive the Sacraments within a reasonable period, this is no reason for not inflicting the punishment at the appointed time.²⁶

²⁶ St. Thomas, *Summa contra Gentiles*, l. III, c. 146, n. 5: "The fact that the wicked can be amended as long as they live does not prevent their being justly put to death, because the danger that threatens from their life is greater and more certain than the good that is expected from their amendment. They also have, at the very moment of death, the opportunity to be converted to God through repentance. But if they are so obstinate that even at the moment of death their heart does not withdraw from malice, it can be judged with sufficient probability that they will never recover from malice."

d) The legitimate authority,—in our country the legislature,—may and shall determine which crimes are punishable by death. Positive laws on this subject, should be kept within the bounds set by the moral law for the infliction of this supreme penalty. No government can renounce the right of inflicting capital punishment. Its abolition by law only makes the power of inflicting it latent in the State, but does not and cannot wholly eradicate it.²⁷

²⁷ Rickaby, *Moral Philosophy*, pp. 323, 347.

[158] Some have held that only such crimes are subject to capital punishment as were expressly punishable by death under the Mosaic law.²⁸ But this is a mistake. Christ completely abolished the Old Law. The view just stated is opposed to the common teaching of Catholic theologians.

²⁸ D. Scotus, *Comment. in Sent.*, IV, dist. 15, qu. 3, a. 2.

The question is sometimes asked: Is there no hope that, if humanity goes on improving as it has done, capital punishment will become wholly unnecessary? Fr. Rickaby answers that, “waiving the question of the prospect of improvement,—in a State mainly consisting of God-fearing, conscientious men, the infliction of capital punishment would rarely be necessary, but the power to inflict it could never be dispensed with. If men ever become so ideally virtuous, the right of the State to visit gross crimes with death cannot hurt them, and it will strengthen their virtue, as all human social virtue will ever need strengthening. The abiding necessity of this right of the sword is argued from the strength and frequency of the provocations to deeds of bloodshed and violence that must ever be encountered in human society. What these provocations are, how many and how strong, may be left to the reflection of the student who reads his newspaper, or even his novel. Not the least appalling thing about crime, atrocious crime especially, is the example that it gives and the imitators whom it begets. It is not merely that it sets the perpetrator himself on the downward path, so that, unless detected and punished, a man's first deed of blood is rarely his last: it draws others after him by a fatal fascination. Like the images which the Epicureans supposed all visible objects to slough off and shed into the air around them, such phantoms and images of guilt float about a great crime, enter into the mind of the spectator and of the hearer, and there, upon slight occasion, turn to actual repetitions of the original deed. The one preventive is to append to that deed a punishment, the image of which shall also enter into the mind, strike horror, and disenchant the recipient. This is not to be done by mere banishment of the criminal, nor by his perpetual incarceration. Exile and prison—particularly in view of the humanity of a modern penitentiary—do not sufficiently strike the imagination. One sweet hour of re-venge will often appear cheap at the price of ten years' penal servitude. There is nothing goes to the heart like death. Death is the most striking of terrors; it is also the penalty that most exactly counterpoises in the scales of justice the commission of a murderous crime. All States need this dread figure of the sword-bearer standing at the elbow of the sovereign.”²⁹

²⁹ Rickaby, *Moral Philosophy*, pp. 347 sqq.

[160] e) A criminal condemned to death should not be compelled to execute himself. No one is allowed to commit suicide, and no one should be compelled to do so, though, according to a more common opinion, if a criminal were by law condemned to execute capital punishment on himself, he would be allowed to do so.³⁰ Although the dignity of manhood is inviolable only as long as the individual respects it in himself and does not, in the words of St. Thomas, “fall, as it were, into the

slavish state of beasts,”³¹ it nevertheless remains true that human nature must be respected even in the worst criminal, because by and through it he is still superior to the brute.³²

³⁰ See Vol. III of this *Handbook*, p. 99.

³¹ *Summa Theol.*, 2a 2ae, qu. 64, art. 2, ad 3: “By sinning, man withdraws from the order of reason and therefore falls from human dignity, insofar as man is naturally free and existing for his own sake, and falls, as it were, into the servitude of beasts. . . . And therefore, although to kill a man remaining in his dignity is evil in itself, nevertheless to kill a sinful man can be good, just as to kill a beast. For a bad man is worse than a beast and does more harm.”

³² St. Augustine, *Tract. in Ioa.*, I, 8, n. 8: “God gave you to be above the beasts, that is, to be better than the beasts. This you have by nature; you will always be better than a beast.” (Migne, P. L., XXXV, 2040).—*IDEM*, *Serm.*, 255 (al. 1 *De Diversis*), n. 3: “Both [good and evil] are men. Even a bad man is better than every beast.” (P. L., XXXVIII, 1187).

[161] Here it may not be amiss to add a few words about lynching. Fr. Rickaby, in the work from which we have so copiously quoted in this Section, says: “There is in every human breast a strong sense of what the learned call *lex talionis*, and children tit for tat. ‘If a man has done to him what he has done to others, that is the straight course of justice’; so says the canon of Rhadamanthus, quoted by Aristotle.³³ We have argued the fundamental correctness of this rule.³⁴ It appears in the divine direction given to Noë: ‘Whoso sheddeth a man’s blood, his blood shall be shed.’³⁵ It appears in that popular sentiment, which in some parts of America displays itself in the lynching of murderers, who have unduly escaped the hands of the law; and which, under a similar paralysis of law in Corsica, broke out in blood-feuds, whereby the nearest relative of the deceased went about to slay the murderer. Such taking of justice into private hands is morally unlawful. . . . It is a violent outburst of natural and reasonable sentiment deprived of its legitimate vent.”³⁶

³³ *Eth.*, V, v, 3.

³⁴ Rickaby, *Moral Phil.*, p. 169.

³⁵ Gen. IX, 6.

³⁶ Rickaby, *Moral Philosophy*, pp. 346 sq.

Fr. Ross, who lives and teaches in the South, thinks that if the regular procedure of the law is so slow that its deterrent effect is lost, and the whole community, including the sober-minded and conservative, feel that swift punishment is necessary to protect society against indefinite repetition of such acts, then the community may act directly, for the reason that the law derives its authority from the community. But he admits that this theory “is open to such grave abuses, there is so much danger of acting through passion without sufficient evidence, and the multiplication of lynching in itself constitutes such a serious menace to the peace of the community, that it should be used only as a last resort.” Hence “whatever may be the theory by which it can be allowed abstractly, the moralist will be very slow to sanction lynching in the concrete.”³⁷

³⁷ *Christian Ethics*, pp. 409 sq.

[162] READINGS.—St. Thomas, *Summa Theologica*, 2a 2ae, qu. 64, art. 2.—Sporer-Bierbaum, *Theologia Moralis*, Vol. II, 2nd ed., pp. 243–255.—V. Cathrein, S.J., *Moralphilosophie*, Vol. II, 5th ed., pp. 677 sqq.—H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 353 sqq.—J. Rickaby, S.J., *Moral Philosophy*, pp. 343–350.—J. W. Willis, art. “Punishment, Capital” in the *Catholic Encyclopedia*, Vol. XII, pp. 365–369 (with bibliography).—E. Bowen-Rowlands, *Judgment of Death*, London 1924 (traces the history of capital

punishment from 2000 B. C. until the present time and affords reliable premises on which to base arguments either for its retention or its abolition).

SECTION 5: MAN'S RIGHT TO THE NECESSITIES OF LIFE

| 163 | 1. THE RIGHT TO EXISTENCE.—The goods of the earth are destined for the support and maintenance of the whole human race, and hence every man has a right, based upon the law of nature, to lead an existence worthy of a human being. But since in matter of fact some members of society are deprived of the necessities of life by misfortune, by unjust social conditions, by insufficient earnings, by unemployment, by disease, by weakness, or by old age, Moral Theology teaches that these persons possess a right or claim to receive from others the necessary means of sustenance.

This undeniable right is circumscribed by certain definite limits, which shall now be briefly explained.

a) The right to be aided by others belongs only to those who are poor and needy because unable to make a living, not to those who are in want simply because they will not work, for St. Paul says, “if any man will not work, neither let him eat.”¹ Consequently only he who is unable to make a living has a claim to the aid of his fellowmen, individually as well as collectively.

¹ 2 Thess. III, 10 sqq.—On the duty of labor see Vol. III of this *Handbook*, pp. 124 sqq.

| 164 | b) This right extends only to what is absolutely necessary for a man to live like a human being, and does not entitle him to an equal share in the goods and luxuries of this world.²

² Acts IV, 35; 2 Cor. VIII, 14.

c) The duty of supplying the necessities of life to the needy does not directly bind every individual, but society as a whole, in particular those of its organs designated for this purpose. Only in case of extreme necessity may the claim be enforced against individuals, under two conditions, viz.: (1) That only so much is taken as is necessary to preserve life, etc., (2) that the one from whom it is taken be not reduced to the same extreme necessity. The proposition: “It is allowable to steal not only in extreme, but likewise in grave necessity,” has been condemned by Innocent XI.³

³ Gury, *Comp. Theol. Mor.*, Vol. I, n. 204: “1. In extreme necessity one’s neighbor must be assisted even from goods simply necessary for one’s state. For thus the right order of charity requires, since the life of one’s neighbor must prevail over our far inferior good; 2. In grave necessity one’s neighbor must be assisted from goods in some way necessary for one’s state, or with a slight detriment to one’s state, for the same reason; 3. In common necessity one’s neighbor must be assisted from goods superfluous to one’s state, even with some deprivation of pleasures, because if the obligation of the rich were removed, the poor would no longer be able to live.”—*Ibid.*, n. 600: “1. A man may in extreme necessity use another’s goods, as much as is sufficient to free himself from such necessity. The reason is that the division of goods, however it was made, cannot derogate from the natural right belonging to each person to provide for himself while he labors under extreme necessity; 2. For someone to be able to take another’s goods, grave necessity, and *a fortiori* common necessity, is not sufficient, because otherwise owners would reasonably be unwilling and an easy avenue to plunder would lie open. Hence the following proposition was condemned by Innocent XI under n. 36: It is permissible to steal not only in extreme necessity but also in grave necessity.” (Denzinger-Bannwart, n. 1186).

| 165 | d) The right of which we are speaking is lost by him who grievously violates his duties to society, be it in a negative way by extravagance, criminal carelessness, habitual drunkenness, sloth,

etc., or positively by the commission of some gross crime. Of course, the absolute necessities of life may not be denied even to the evil-doer, so long as he has not forfeited life itself.

For the rest, it is incredible on how little a man can support himself and how happy he can be if he seeks contentment within himself, or, better still, in God.

2. THE RIGHT TO WORK.—Lately it has been contended that all men have a claim to an equal share in the goods of this world. This demand has been clothed in the formula: Every man has a right to work. Experience teaches that there are always unemployed persons who would gladly work if they were given an opportunity and who could answer the question: “Why stand you here idle?” by truthfully saying: “Because no man hired us.”⁴ Unemployment, which has been particularly widespread and serious since the World War, is a frequently recurring social symptom and has its principal causes in the multiplication of machinery, the drift of population from country to city, the undue increase of female laborers, and certain defects inherent in the capitalistic system under which we live. The “right to labor” was acknowledged in the Catholic Middle Ages when the guilds limited the number of manufacturers and merchants and protected them against competition.

⁴ Matt. XX, 1–7.—Cfr. F. Meffert, *Arbeiterfrage und Sozialismus*, Mayence 1901, pp. 11 sqq.

| 166 | “Every man,” says a recent Catholic writer, “has a right as well as a duty to some sort of useful employment: it is a condition of an honorable human existence. But in the case of the worker whose only honorable means of subsistence depends upon marketable labor, the rightful claim to employment and security against unemployment has a specific significance. But his ethical right in this matter of security is further derived from the fact that without a reasonable certainty of being able to maintain himself and those dependent on him, the anxiety about merely material things must take away his due liberty in the cultivation of his mental and spiritual interests. A normal healthy cultivation of mind and soul can with difficulty be achieved without a reasonable security against material want.

“Indeed, there can be hardly any question as to the moral right underlying the worker’s claim to security against unemployment. Less clear, perhaps, is the determination as to the incidence of the obligation to provide such security. There are those who would put the entire obligation upon the State; others would share the obligation between the State and the employer. But to put the entire obligation on the State is to assume a sphere of activity and responsibility on the part of the State towards the individual, which logically leads to Paternalism. The wider the responsibility taken over by the State in the ordering of the individual’s life, the less individual liberty there will be. In a free community ethical responsibilities must fall in the first place upon the individuals concerned, and only secondarily upon the State as the protector of the rights of the community and of the freedom of individuals. Doubtless in a matter which affects the general well-being of the community so vitally as does the labor problem, the State must necessarily intervene very largely, especially during a transitional period. That necessity of State intervention, however, will be less in proportion as employers of labor regard security against unemployment not merely as a matter of national expediency, but as a principle of inherent justice in the status of the worker which directly enters into the moral character of the contract between employer and worker.

| 167 | “The worker, dependent as he is upon his work, has a moral claim to security against unemployment, and that claim must enter into the contract between himself and his employer. . . .

Arbitrary dismissal, which takes into consideration merely the convenience or advantage of the employer without consideration for the well-being of the worker, is thus a real injustice. We are, of course, assuming that the worker is fulfilling his part of the 'national bargain' by honestly discharging the duties he has undertaken; as otherwise he himself has broken his contract and has forfeited his claim upon the employer. Cases may indeed arise in which, through no fault of his own, the worker may be incapable of continuing in the service of the employer through a change of conditions which are of general advantage, as well as to the employer's interest: as, for instance, when new machinery or methods of higher scientific value are introduced into a manufactory. Yet in such cases there can be no doubt that the employer is under an obligation to do what he can to secure new employment to the honest worker; he cannot, without a violation of justice, dismiss him with no regard for the future: just because in the worker he is dealing with a human life and not with a mere tool.

[168] "But if this is true, then the worker has surely a right to take due measures that his just claim shall be safeguarded against the employer's arbitrary decision and, if need be, to invoke the intervention of the State. . . . At the same time the duty of safeguarding the worker against unemployment does not rest with the employer alone. The worker himself has his coördinate share in the responsibility. Everyone will admit that no employer is obliged to keep in employment an idle or dishonest worker: nor can any individual employer be justly forced to employ or to retain in employment the inefficient who is incapable of earning his wage, at least when the incapability is not brought about by the employer's own act. These limitations of the employer's responsibility point to a corresponding duty on the part of the worker and of those upon whom the worker is naturally dependent. It is at once clear that if the worker has an ethical right to employment, he has a duty to fit himself for employment and to do what in him lies to justify his claim to be employed. Not only must he be honest and willing to work: he must also do his part in fitting himself for the work demanded of him by the needs of the community. This is a duty he owes at once to himself and to the community at large: he owes it to himself since work is an essential necessity in his life; he owes it to the community, since otherwise he runs the risk of becoming a mere burden upon his fellow-men, and of fulfilling no useful part in the life of the community upon which he must ultimately fall back for his maintenance."⁵

⁵ Fr. Cuthbert, O.S.F.C., *The Ethics of Labor*, N. Y. 1922, pp. 11-14.

[169] The right to work is not treated by St. Thomas and the older moralists, because it was purely hypothetical in their time. Even for St. Alphonsus de' Liguori it was not a practical question. Father Noldin deals with the subject in his usual clear and trenchant fashion.

"Every man," he says, "has a right to work, that is, he has a right by just means to seek labor which is lawful for him and to perform that labor, and hence he has a right to demand that others shall not hinder him in the exercise of this right. This right is founded in another right, namely, that of preserving and perfecting life, to which economic labor is ordinarily necessary."⁶ His qualification: "No one has a right to work, that is, to demand that some one else (whether a private individual or the State) should offer or procure him work, even though he be in need of the necessities of life," really means nothing more, as Fr. Ross shows, than that the laborer has not a strict right in commutative justice.

⁶ *Summa Theol. Mor.*, Vol. II, 13th ed., pp. 83 sq.

“In the same way,” says the last-mentioned author, “the right of property is opposed to the obligation of actually giving one’s possessions to another; yet all theologians agree that a person in extremest need has a right to take what he needs, and that the possessor has a duty in charity to give. To prevent the disorders that would result from asserting these rights, however, there is a duty of legal justice incumbent upon the State to furnish work to such as cannot otherwise find it.⁷ When a government allows such a private appropriation of property as to close all opportunity of employment to any large class, it becomes responsible for affording to each man some reasonable return for the opportunities that would otherwise be his.”⁸

⁷ Noldin admits this when the number of unemployed is so great as to endanger the good of the community. (*Ibid.*, p. 84).

⁸ J. E. Ross, C.S.P., *The Right to Work*, N. Y. 1917, pp. 32 sqq.

[170] The State’s duties with regard to the employable, according to Fr. Ross, are briefly these: (a) It should aim at co-ordinating industries so that the workers can move from one to another without unnecessary loss of time; (b) It should establish employment bureaus and co-ordinate them; (c) It should provide vocational education and vocational guidance and co-ordinate seasonal occupations; (d) It should provide unemployment insurance.⁹

⁹ On vocational training see J. A. Ryan, *Social Reconstruction*, N. Y. 1920, pp. 111 sqq.

The unemployable Fr. Ross divides into two classes: the capable and the incapable. For the self-respecting, capable unemployed, work should be created. Just what that work should be—constructing roads, draining swamps, dredging rivers—is a question of detail. The municipality, the State, and the national government should each share in the responsibility. The incapable, i. e., mentally or morally defective, who cannot be employed in the industrial world, should be taken care of in public institutions that make for character building. The State should provide special institutions where such persons can be employed up to their full capacity, whatever that may be. Most of them could be made at least partially self-supporting. The others will be a charge on public charity. Here the aid of religion and religious should be enlisted, for the problem is one that requires all the forces available for its solution.

[171] So much for the duties of the State. The individual has no direct duty to furnish work for the unemployed. But is he therefore entirely absolved from all obligation?

Fr. Ross thinks not. “Perhaps in a rigid autocracy,” he says, “the individual citizen may salve his conscience by throwing all the odium upon the government. But in a republic matters are different. No such Pilate-washing of the hands will absolve the voters. For the State will act as the voters dictate, and each one can say, ‘I am the State.’ He is not the whole State, but he is a part of it, and to that extent becomes responsible for the State’s action. Of course, each citizen is not the equal of every other. While no one has more than one direct vote, some have more influence and power than others. In proportion to this power will he be judged. In private conversation, with tongue or pen, or in any other way possible to him, he must endeavor to bring about the fulfilment of this duty to the unemployed. A perpetual passing of the duty will get us nowhere. Each man is his brother’s keeper, and the duty of the keeping cannot be shifted to the world at large. Unemployment is sapping the strength and undermining the efficiency of several millions of our citizens. Mere individual efforts at finding employment or dispensing charity are futile. . . . Even State activity in the form of insurance

and employment bureaus will never really get down to the root of the matter. There must be national provision of the opportunity to work. And in this action of the nation we must share. Each in his own measure must help on the formation of the public opinion necessary for such action, so that some day there will be no men standing here all the day idle because no man hath hired them.”¹⁰

¹⁰ Ross, *The Right to Work*, 103 sqq.—On different systems of insurance against unemployment, see J. A. Ryan, *Social Reconstruction*, pp. 99 sqq.

| 172 | READINGS.—H. Pesch, S.J., *Lehrbuch der Nationalökonomie*, Vol. I, 2nd ed., Freiburg i. B. 1914, pp. 9 sqq., 313 sqq.—G. von Hertling, *Kleine Schriften*, pp. 313 sqq., 328 sqq.—F. X. Linsenmann, *Lehrbuch der Moralthologie*, pp. 482 sqq.—Fr. Cuthbert, O.S.F.C., *The Ethics of Labor*, N. Y. 1922.—J. E. Ross, C.S.P., *The Right to Work*, N. Y. 1917.—H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 83 sq.—J. E. Ross, C.S.P., *Christian Ethics*, pp. 328 sqq.—H. Parkinson, *A Primer of Social Science*, pp. 92, 250 sqq. London 1913.

SECTION 6: THE DUTY OF GIVING ALMS

| 173 | 1. In speaking of alms in this Section we mean corporal almsdeeds. St. Thomas enumerates seven of these, namely: (1) to feed the hungry, (2) to give drink to the thirsty, (3) to clothe the naked, (4) to harbor the homeless, (5) to visit the sick, (6) to ransom the captive, and (7) to bury the dead. This division is based upon the various needs of men.¹

¹ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 32, art. 2: “There are set down seven corporal works of mercy, namely: to feed the hungry, to give drink to the thirsty, to clothe the naked, to harbor the stranger, to visit the sick, to ransom the captive, and to bury the dead, which are contained in this verse: I visit, I give drink, I feed, I ransom, I cover, I gather in, I bury.”—Cfr. Franz, *Drei deutsche Minoritenprediger*, p. 30: “I gather in, I give drink, I feed, I ransom, I cover, I visit, I bury.”

That almsgiving is of precept the Angelic Doctor proves as follows: “As love of our neighbor is a matter of precept, whatever is a necessary condition to the love of our neighbor is a matter of precept also. Now the love of our neighbor requires that not only should we be our neighbor’s well-wishers, but also his well-doers, according to 1 John III, 18: ‘Let us not love in word, nor in tongue, but in deed, and in truth.’ Now in order to be a person’s well-wisher and well-doer, we ought to succor his needs, and this is done by almsgiving. Therefore almsgiving is a matter of precept.”²

² St. Thomas, *Summa Theol.*, 2a 2ae, qu. 32, art. 5: “Since love of one’s neighbor is under precept, all those things without which love of one’s neighbor is not preserved must fall under precept. But it pertains to love of one’s neighbor that we not only wish good to our neighbor, but also do good (1 John iii, 18). Now, in order that we wish and do good to someone, it is required that we come to his aid in his necessity, which is done through the giving of alms; and therefore the giving of alms is under precept.”

| 174 | Holy Scripture not only recommends almsgiving as “an acceptable sacrifice pleasing to God,”³ as a “religion clean and undefiled,”⁴ but emphatically stresses the duty of the rich to succor the poor.⁵ St. Paul traces this obligation to the teaching of Christ,⁶ who declared that all men will be judged according to the way in which they have performed the corporal works of mercy and that neglect of these works will entail eternal damnation.⁷

³ Phil. IV, 18; Heb. XIII, 16.

⁴ Jas. I, 27.

⁵ 2 Cor. VIII, 14 sq.; 1 Tim. VI, 17–19.

⁶ 2 Cor. IX, 13; cfr. Jas. II, 13; 1 Tim. V, 10; Tob. I, 20 sq.; IV, 17; XII, 12; 2 Kings II, 5.

⁷ Matt. XXV, 34–46.

To succor the needy is a duty of justice which man owes to God because He is the Father of all men and the proprietor of all temporal goods, whereas man is merely His steward. It is furthermore a duty of charity, because all men are brothers and children of God.⁸ “If you give to a poor man,” says St. Ambrose, “you do not share with him what belongs to you, but return to him what is his. For you have usurped what was given for the common use of all.”⁹ And St. Gregory the Great: “When we minister some necessary things to the needy, we do not give them what is ours, but we give them back what is theirs, thus complying with an obligation of justice rather than performing a work of mercy.”¹⁰

⁸ Mal. II, 10; John XV, 12; 1 John III, 17 sq.

⁹ *De Nabuthe Iezrael*, c. 12, n. 53: “You do not give to the poor from what is yours, but return to him what is his. For what was given for the common use of all you alone usurp. The earth belongs to all, not to the rich; but those who do not use their own are fewer than those who do. Therefore you return a debt; you do not bestow what is not owed.” (Migne, P. L., XIV, 747).

¹⁰ S. Greg. M., *De Cura Past.*, c. 21: “When we minister any necessary things to the needy, we return to them what is theirs, not bestow what is ours; we discharge a debt of justice rather than perform works of mercy.” (P. L., LXXVII, 87).

|175| The enumeration of seven temporal works of mercy given above goes farther back than the Middle Ages. It occurs in the writings of Lactantius¹¹ and St. Augustine,¹² though the latter omits visiting the sick.

¹¹ *Epitome Div. Inst.*, c. 60 (65): “If anyone lacks food, let us impart it; if anyone naked comes upon us, let us clothe him; if anyone suffers injury from one more powerful, let us rescue him. Let our home be open either to strangers or to those in need of shelter. Let our defense not fail orphans, nor our protection widows. To ransom captives from the enemy is a great work of mercy, as is likewise to visit and refresh the sick [and] the poor. If needy persons or strangers die, let us not suffer them to lie unburied. These are the works, these the duties of mercy; if anyone performs them, he will offer a true and acceptable sacrifice to God.” (*Corpus Script. Eccles. Lat.*, XIX, 746).

¹² *De Moribus Ecclesiae Catholicae*, l. I, c. 27, n. 53 (Migne, P. L., XXXII, 1333).

a) Whoever has an abundance of material possessions (*bona superflua statui*), that is, more than he requires to live according to his station in life and to support those who depend upon him, is strictly bound to give alms according to his means.¹³ The exact amount which each one is obliged to give cannot be determined with mathematical accuracy. We may say, broadly, that every Christian is bound to administer his temporal possessions in such a way that his abundant wealth be employed for the benefit of his needy fellowmen, and actual want thus reduced to a minimum.¹⁴ If any man is in extreme necessity, *i. e.*, in danger of perishing for want of the necessities of life, every one who can is bound to give him food, drink, and shelter. This duty binds not only the well-to-do, but likewise the poor, even though its fulfilment may entail actual privation.¹⁵ The things required for one’s own immediate necessities, however, need not be given up to succor others.¹⁶

¹³ 2 Cor. VIII, 3, 14; IX, 8, 11; cfr. Acts XI, 29.—St. Augustine, *Enarrat. in Ps.*, 147, n. 12: “We have many superfluous things if we keep only what is necessary, for if we seek empty things, nothing suffices. Brethren, seek what suffices for the work of God, not what suffices for your desire. Your desire is not the work of God. Your form, your body, your soul—this whole is the work of God. Seek the things that suffice, and you will see how few they are (Mk 12, 42). . . . Seek how much [God] has given you, and from it take what suffices; the remaining things that lie superfluous are necessary

to others. The superfluous things of the rich are the necessary things of the poor. The property of others is possessed when superfluous things are possessed.” (Migne, P. L., XXXVII, 1922).

¹⁴ 2 Cor. VIII, 14.—*Prop. damn. sub Innocentio XI*, n. 12: “You will scarcely find among secular persons, even among kings, anything superfluous to their state. And thus scarcely anyone is bound to almsgiving when he is bound to give from what is superfluous to his state.” (Denzinger-Bannwart, n. 1162).

¹⁵ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 32, art. 5 and 7.—V. *supra*, p. 164, note 3.

¹⁶ 2 Cor. VIII, 13.—Gury, *Comp. Theol. Mor.*, Vol. I, n. 206: “In grave or extreme necessity, enough must be given here and now to relieve this necessity, unless there are others who are willing to come to their aid. No one, however, is bound to expend a large sum of money to free a poor person from danger of death or to procure costly remedies for him.”

|¹⁷⁷| He who refuses or neglects to give alms according to his means, when appealed to by persons in dire need, commits a grievous sin. The duty of almsgiving binds particularly the *clergy*, because their income is derived from the possessions of the Church, which, ideally, belong to the poor.¹⁷

¹⁷ 1 Tim. III, 2; Tit. I, 8 (*φιλόξενος, hospitalis*). Cfr. St. Jerome, *Epist.*, 52 (al. 2), n. 6: “It is the glory of a bishop to provide [with resources] for the need of the poor. It is the disgrace of all priests to devote themselves to their own riches.” (Migne, P. L., XXII, 533).

The question how large a percentage of one’s income should be devoted to alms, is decided by most theologians thus: We are not obliged to give to the poor more than the fiftieth portion, or two per cent., of what we have left over after defraying the requirements of life according to our particular station in life. Göpfert justly observes that, in view of the constantly increasing inequality of fortunes and the concentration of wealth in the hands of a few, under the capitalistic system, the traditional two per cent. can hardly be regarded as sufficient to-day.¹⁸ Moreover, as Linsenmann has pointed out, such mathematical calculations are unsatisfactory because the notion of *superfluum*, i. e., that portion of a man’s income which he does not need to support himself and his dependents according to his station in life, is extremely variable and therefore difficult to determine.¹⁹ “The amount of alms which each must give out of his superfluous means for the benefit of the poor,” says Schindler, “cannot be determined by any rigid formula. Attempts to fix the measure of assistance a man owes to the poor either by the total amount of his income or that which he has left over after defraying his living expenses, are unsatisfactory because they disregard the object of almsgiving, which is to help make the sufferings of the poor bearable. The poor we shall always have with us, but their number and the extent of their needs differ according to time and place. The larger their number and the greater their necessities, the greater will be the assistance required on the part of the wealthy. Hence it is impossible to lay down any more specific rule than: ‘The greater the need, the more alms we must give.’ Note that one is bound to give liberally only in case of extreme bodily necessity. In all other cases moderate almsgiving is sufficient. To oblige men to give liberally whenever and as often as they are appealed to by the poor, would be too onerous and impossible. For the same reason an individual, no matter how wealthy, is not bound to give to all the poor whom he has an opportunity to succor, but may, with due regard to the dictates of charity, help those whom he chooses, or contribute his share to public or private agencies that make it their business to alleviate want.”²⁰

¹⁸ Göpfert, *Moraltheol.*, Vol. II, 7th ed., p. 40.—On the principle of “station in life” Fr. Ross says (*Christian Ethics*, pp. 212 sq.): “According to Noldin (II, p. 104), one is not obliged to lose one’s station in life in order to prolong the life of another. At first sight, this seems like a heartless doctrine. Why should not a rich banker whose station in life demands an expenditure of \$10,000 a year, be obliged to help a poor laborer, even though the assistance does reduce him to the

way of living of prosperous but small merchants? An analysis of the situation will show us why. If he would be obliged to, then logically those in a class below would be similarly bound, and the lowest class of self-respecting and self-supporting workmen would be so bound. This would mean, really, that no one had a right (in the face of a neighbor's need) to more than what was necessary for his own life. But if that were so, there could be no progress among the working classes, their standard of living would always remain at the minimum. For only the recognition that, when a class has for a reasonable length of time actually attained a standard, that class has a right to this standard, makes us fix a minimum wage for an American laborer as greater than for a Chinese coolie. As far as bare existence goes, the American could probably get along on rice and fish if obliged to do so, but no minimum wage commission would ever say he had a right only to rice and fish. Yet we must admit that this principle can be abused. Extremely fashionable women, for instance, will think it necessary to spend \$25,000 a year on dress in order to maintain their station. It is hard to fix a limit logically, yet limit there should be. I do not know of any better way of fixing it than by an application of the principle of *social utility*. As long as it is socially useful that there should be a station in life requiring a certain expenditure, so long is it justified. Thus a physician whose profession necessitates an office, a conveyance, a certain outlay for books, instruments, and so on; or a gentleman of leisure whose culture adds an invaluable element to a community, though at the same time it represents a certain outlay in money; these should feel no qualms of conscience because they do not give up this expenditure and with it their position in society in order to feed the hungry. In our nation, at least, the need of such sacrifices on their part indicates a social maladjustment for which they are not responsible, and which would not be remedied by these heroic methods. Mere social butterflies, however, have no justification, and they should be ruthlessly reduced—or elevated.”

¹⁹ F. X. Linsenmann, *Moraltheologie*, p. 485.

²⁰ Schindler, *Lehrbuch der Moraltheol.*, Vol. II, 2 (1910), p. 449; cfr. St. Alphonsus, *Theol. Mor.*, l. II, n. 32 (ed. Gaudé, I, 328); *Homo Apost.*, tr. IV, n. 19; Gury, *Comp. Theol. Mor.*, Vol. I, n. 206.

[179] b) Society, more particularly the State organized in conformity with the principles of the Christian religion, is in duty bound to make reasonable provision for the poor and needy of every class, the helpless sick, orphans, the mentally defective, the insane, etc., and has the right to impose taxes for public charity. Well-organized co-operation between Church and State would have these important advantages: (1) The means appropriated for charitable purposes could be more efficiently distributed and employed to better purpose; (2) It would be possible to exercise upon the poor and needy a wholesome moral influence by segregating the notoriously unworthy from the worthy and giving the slothful work instead of alms, thereby preventing idleness and vagabondage.

[180] However, since the worthy poor often hide their needs, even a well-organized system of public charity must be supplemented by private charity, and each individual citizen is bound, with due regard to the public charity administered by Church and State, to participate in “ministering unto the saints,” as St. Paul puts it, by succoring the needy to the best of his ability. We must always remember that charity is not cabined within the limits of strict justice. Add to this the consideration that, in view of the existing class hatred between rich and poor, and in view also of the immense envy, indignation, wrath, and dissatisfaction that have accumulated among the so-called “disinherited,” it is, so to speak, a duty of self-preservation for the wealthy to pacify the needy by kindness and generosity, so that they do not join the radical proletariat.

2. Right reason demands that we give alms only from that which legitimately belongs to us. Hence a wife may, with her husband's consent, give alms from their common property, and she should do so if the husband does not give in accordance with his means; but she may not give away anything that belongs exclusively to her husband.²¹ “A wife,” says St. Thomas, “who has other property besides her dowry which is for the support of the burdens of marriage, whether that property be gained by her own industry or by any other lawful means, can give alms out of that property without asking her

husband's permission; yet such alms should be moderate, lest through giving too much, she impoverish her husband. Otherwise she ought not to give alms without the express or presumed consent of her husband, except in cases of necessity. . . . For though the wife be her husband's equal in the marriage act, yet in matters of housekeeping the head of the woman is the man, as the Apostle says."²²

²¹ Cfr. Tob. IV, 7.—St. Augustine, *Epist.*, 262 (al. 199), n. 7: "A married woman is not permitted to say: I do what I wish with what is mine, since she herself is not her own, but belongs to her head (Eph. 5, 23), that is, to her husband." (Migne, P. L., XXXIII, 1080).

²² St. Thomas, *Summa Theologica*, 2a 2ae, q. 32, art. 8, ad 2: "If a wife has other property besides her dowry that is directed to sustaining the burdens of marriage, whether from her own earnings or from any other lawful source, she may give alms even without having asked her husband's consent, but moderate alms, lest by their excess her husband be impoverished. Otherwise she ought not to give alms without her husband's express or presumed consent, except in a case of necessity. For although a woman is equal to a man in the marriage act, nevertheless in matters pertaining to the ordering of the household, the man is the head of the woman."—Cfr. Gury, *Comp. Theol. Mor.*, Vol. I, n. 207.—On State philanthropy see Ross, *Christian Ethics*, pp. 216 sqq.

|¹⁸¹| Servants may not give away the property of their masters, nor religious the property of the institute to which they belong, without the consent of their superiors. Guardians or administrators of property belonging to others may give alms out of that property, but only to the extent to which the owner himself would or should do so.

With regard to the manner of giving alms note the following points:

|¹⁸²| a) Almsgiving, like every other act of charity, must be inspired by a pure motive, *i. e.*, love of God and of one's fellowmen,²³ not by ambition, vanity, or love of ostentation, nor yet by purely natural sympathy or commiseration, and least of all by the sole desire to rid oneself of beggars and their importunities. Purity of motive does not, however, forbid publicity, for Christ Himself performed charitable works in public, and demanded of His disciples that they follow His example. What He condemned was Pharisaic ostentation, inspired by the desire of gaining applause and praise. The motive of the giver should be so pure that, if it were possible, the heart would remain ignorant of what the hand was doing. "When thou dost an almsdeed, sound not a trumpet before thee, as the hypocrites do in the synagogues and in the streets, that they may be honored by men. Amen I say to you, they have received their reward; but when thou dost alms, let not thy left hand know what thy right hand doth, that thy alms may be in secret, and thy Father who seeth in secret will repay thee."²⁴

²³ Matt. IX, 36; XIV, 14; XV, 32; XVIII, 27; Luke VI, 36; 1 Cor. XIII, 3; Jas. II, 13.

²⁴ Matt. VI, 2 sq.; V, 16; 2 Cor. IX, 11, 13; cfr. 1 Pet. IV, 11.—St. Ambrose, *De Offic.*, l. I, c. 30, n. 147: "Nor is that liberality perfect if you give more for boasting's sake than from mercy. Your disposition gives its name to your work; as it proceeds from you, so it is judged. You see what a moral judge you have. He considers how to receive your work; first he questions your mind. 'Let your left hand not know,' he says, 'what your right hand does' (Mt. 6, 3). He is not speaking about the body, but that even your kindred spirit, your brother may not know what you do, lest while you seek here the reward of boasting, there you lose the fruit of recompense. But liberality is perfect when one covers one's work in silence and secretly relieves the needs of individuals: the mouth of the poor, and not one's own lips, praises him." (Migne, P. L., XVI, 66).

|¹⁸³| The social conditions of our day render it particularly advisable that we do not hide our good works under a bushel. Our opponents proudly parade figures, and we must meet their attacks with

statistics showing the good we do, thus confuting the enemy and at the same time encouraging our own in their charitable work.

b) We must give alms voluntarily and gladly, not reluctantly and because we are commanded to do so. We must furthermore give them in a spirit of genuine charity and not so as to make the poor ashamed of themselves or hurt their feelings. No act of mercy is pleasing to God and worthy of His blessing unless it is performed for His sake, freely, lovingly, and gladly, for it is the good will of the giver and not the size of the gift that merits celestial reward. A gift exacted by force is not an alms, but a tax or tribute.²⁵

²⁵ Ecclus. XVIII, 15–18; 2 Cor. VIII, 2, 8, 11 sq.; IX, 7; cfr. Mark XII, 42 sqq.—St. Augustine, *De Offic.*, I, I, c. 30, n. 143: “It is not enough to will well, but one must also do well; nor again is it enough to do well unless it proceeds from a good source, that is, a good will: For God loves a cheerful giver (2 Cor. ix, 7). For if you act unwillingly, what reward is yours?” (Migne, P. L., XVI, 65).

The only thing by which the free will of man can be influenced without the loss of liberty, is good example. Our Lord Jesus Christ became poor for our sake, in order that we might become rich. By giving alms to the poor we honor Him who commanded us to be charitable for His sake.²⁶

²⁶ Matt. X, 42; XXV, 40; 2 Cor. VIII, 8 sq.; cfr. Ps. XL, 2.

| 184 | c) Private as well as public almsgiving should be guided by a prudent economy, so that it may accomplish its object as effectively as possible. This is but another way of saying that alms should not be given haphazard, but with due regard to the needs of the poor and the fitness of the gifts distributed.²⁷

²⁷ St. Ambrose, *De Offic.*, I, I, c. 30, n. 144: “It is noble to will well and to give with this intention, that you benefit, not harm. For if you think you should give to a luxurious man for the outpouring of luxury, or to an adulterer as the price of adultery, this is not beneficence, where there is no benevolence. For that is to harm another, not benefit him, if you give to one who conspires against the fatherland, who desires at your expense to gather ruined men to attack the Church. This liberality is not commendable if you aid one who prosecutes a grave lawsuit against a widow and orphans or tries by some force to wrest away their possession.” (P. L., XVI, 65).—*Ibid.*, n. 149: “Disposition makes a contribution rich or poor and puts a price upon things. Moreover, God does not wish resources to be poured out all at once, but administered.” (P. L., XVI, 67).—St. Jerome, *Epist.*, 58 (al. 13), n. 7: “What you possess is no longer yours, but an administration has been entrusted to you. Remember Ananias and Sapphira. They timidly kept their own goods; consider lest you imprudently pour out the substance of Christ, that is, lest by immoderate judgment you give the property of the poor to those who are not poor.” (P. L., XXII, 584).—Seneca, *De Benefic.*, I, II, c. 16: “Let proportion be observed with regard to persons and ranks; and since virtue everywhere has a measure, that which exceeds sins just as much as that which falls short.”

The first rule is to give promptly, when the needy person can still be benefitted, for “he gives twice who gives quickly.”

The second rule is to give to the poor according to their actual wants,—much to him who needs much, little to him who needs but little,—food, clothing, or money according to what is most urgently required, and always with a view to relieve the spiritual wants of the poor together with their material necessities.²⁸ Quite often the most effective method of relief consists in procuring work for the unemployed, either directly or through public or private bureaus or agencies.

²⁸ Prov. III, 28; Ecclus. IV, 3; Jas. II, 13 sqq.—St. Ambrose, *De Offic.*, I, I, c. 30, n. 149: “God indeed is no respecter of persons, because He knows all things. But we owe mercy to all; yet because many seek it by fraud and feign distress, therefore, where the cause is manifest, the person is known, and time presses, mercy ought to pour itself out more

abundantly.” (Migne, P. L., XVI, 66).—*Ibid.*, l., n. 158: “Age and debility must also be considered in giving, sometimes also modesty, which reveals noble birth, so that you give more to the aged, who can no longer seek sustenance for themselves by labor. Likewise bodily debility is to be helped, and that more promptly. Then if anyone has fallen from riches into want, and especially if he has lost what he had not by his own fault, but by robberies or proscription or calumnies.” (Migne, P. L., XVI, 69).

[185] Christian charity, be it further noted, comprises all men without exception, as God has mercy on all and “maketh his sun to rise upon the good and bad, and raineth upon the just and the unjust.”²⁹ Yet it is not only licit, but advisable, to observe some sort of order in giving alms. Those who are most in need have the first claim upon our charity, and among them parents, children, relatives, friends, and those “who are of the household of the faith should be given preference.”³⁰ We may also make a distinction between those who are in need without their own fault, and those who suffer the penalty of sloth or negligence, so that the latter may be reminded of their guilt and thus benefitted, not only materially, but also spiritually and morally.³¹

²⁹ Matt. V, 45.

³⁰ Gal. VI, 10.

³¹ Gal. VI, 1–10; 2 Thess. III, 10–12.—St. Ambrose, *De Offic.*, l. I, c. 30, n. 148: “Perfect liberality is commended by faith, cause, place, and time, so that you work first among the household of the faith. It is a grave fault if, with your knowledge, a believer is in need; if you know that he is without resources, endures hunger and suffers distress, especially one who is ashamed to be in need; if he has fallen into a case involving the captivity of his family or calumny, and you do not help; if a just man is in prison and tormented by punishments and tortures because of some debt (for although mercy is owed to all, yet more to the just); if in the time of his affliction he obtains nothing from you; if at a time of danger, when he is being dragged to death, your money counts for more with you than the life of the dying man.”—*Id.*, *ibid.*, n. 150: “This liberality also is to be approved: that you do not disregard those close to you by kinship if you know them to be in need. For it is better that you yourself assist your own, who are ashamed to ask sustenance from others or to request aid from anyone for their need; not, however, so that they may wish to become richer by what you can bestow upon the needy, for the cause, not favor, takes precedence. Nor indeed have you dedicated yourself to the Lord for this reason, that you may make your own relatives rich, but that you may acquire everlasting life for yourself by the fruit of good work and redeem your sins by the price of mercy. Do they think they ask little? They seek your price, they strive to take away the fruit of your life, and they think they act justly. And he complains that you have not made him rich, although he wishes to defraud you of the reward of eternal life.” (Migne, P. L., XVI, 66, 67).—*Ibid.*, l. II, c. 16, n. 76: “It is clear that liberality ought to have a measure, lest largess become useless. Sobriety must be maintained, especially by priests, so that they dispense not for display but for justice. Nowhere is there greater greed in petitioning. The able-bodied come, those who have no reason save wandering come, and they wish to drain the resources of the poor, exhaust the fund, and, not content with little, seek greater things, catching the support of a request by the attractiveness of clothing and bidding up increases of gain by pretending noble birth. If anyone readily gives credence to these, he quickly exhausts the resources destined to benefit the nourishment of the poor. Let there be a measure of giving, so that they do not go away empty and yet the livelihood of the poor is not transferred into the spoils of frauds. Therefore let the measure be such that humanity is neither abandoned nor necessity left destitute.”—*Ibid.*, n. 77: “Many pretend debts. Let there be an examination of the truth. They lament that they have been stripped by robberies: let either the injury establish credibility or knowledge of the person, so that they may be helped more readily. Support must be given to those banished from the Church if they lack the means of nourishment. Thus one who observes measure is miserly toward no one but generous toward all. For we ought to offer not only our ears to hear the voices of petitioners, but also our eyes to consider needs. Debility cries louder to a good benefactor than the voice of a poor person. Yet it cannot be that the importunity of those who cry aloud does not extort more; but there should not always be room for shamelessness [imprudence?]. He who does not see you must be seen; he who is ashamed to be seen must be sought out. Let him who is shut in prison also come before you; let him who is afflicted by sickness sound within your mind, though he cannot reach your ears.” (P. L., XVI, 123).

| 187 | It is never permitted to give alms in such a way as to encourage idleness and beggary, for sloth is the beginning of all vice, and to support the vicious would be to foment crime and work injury to those really in need.³² Give to the innocent before you give to the guilty, but do not forget that the misery a man brings upon himself through his own fault is also a misfortune.³³

³² St. Basil, *Hom. in Ps.*, I, XIV, n. 6 (Migne, P. G., XXIX, 264).

³³ Cfr. St. Ambrose, *De Offic.*, I, I, c. 30, n. 159: "But perhaps someone may say: A blind man sits in one place and is passed by, while an able-bodied young man frequently receives. And it is true, because he steals in through importunity. That is not a matter of judgment but of weariness. For the Lord too says in the Gospel (Lk. xi, 8), concerning one who had already closed his door, that if anyone should knock at his door too insistently, he rises and gives to him because of his importunity." (Migne, P. L., XVI, 69).—Cfr. Weber, *Armenwesen und Armenfürsorge*, pp. 49 sqq.

That charity is often abused is undeniable; but this deplorable fact does not and cannot change the rule that wherever there is real need, we should hasten to give relief, regardless of whether the needy are suffering with or without their own fault. The frequently heard complaint that the poor are unworthy of assistance and ungrateful, quite often has its origin in a wrong method of almsgiving.³⁴ "If you wish those to whom you show favors to be thankful," says Seneca, "you must not only give, but love."³⁵ In our day charity has become a sport. Concerts, balls, bazaars, dances and theatrical entertainments are arranged for the ostensible purpose of helping the poor, but mainly for the sake of amusement. This sort of charity, as Ratzinger points out, does not reconcile the poor to their dour lot, but, on the contrary, embitters their minds and thus exercises a ruinous effect, instead of building up.³⁶ Christian charity is a sacred thing and should sanctify those on whose behalf it is exercised.³⁷

³⁴ Seneca, *De Benefic.*, I, I, c. 1: "Nor is it surprising that among very many and very great vices none is more frequent than an ungrateful mind. I see that this happens from several causes. . . . We find many ungrateful people; we make more."—*Ibid.*, I, II, c. 17: "We generally make people ungrateful, and encourage them to be so." (*Opera Omnia*, I, ed. I. Lipsius, Amsterdam, 1672, pp. 585, 586, 633.)

³⁵ Seneca, *op. cit.*, I, II, c. 11: "If you wish to have those whom you oblige grateful, you must not only give, but love. Above all, as I have said, let us spare their ears: admonition causes weariness, reproach causes hatred. Nothing is so much to be avoided in giving a benefit as pride. What need is there of arrogance in one's countenance? What need of swelling words? The thing itself exalts you. Empty boasting must be removed let the deeds speak while we are silent. A benefit given proudly is not only thankless but hateful." (*Ibid.*, 626).

³⁶ Ratzinger, *Die Volkswirtschaft*, 2nd ed., pp. 477 sq.

³⁷ Cfr. 2 Cor. IX, 5; Jas. I, 27.

| 188 | Entertainments and amusements held for charitable purposes, however, may serve a good end and, therefore, should not be unreservedly condemned as anti-social, much less as immoral. Amusements are not *per se* sinful, but may be ennobled by a good motive and the spirit of sacrifice. By arranging such entertainments for charitable purposes (provided they contain nothing objectionable on other grounds,) the rich show that they have a heart for the poor,³⁸ though it would be a mistake to think that they can acquit themselves of their duty towards the poor solely by attending "charity balls" and similar affairs.

³⁸ Cfr. Gal. II, 1.

It has been asserted³⁹ that the early Church encouraged, nay demanded, indiscriminate and uncritical almsgiving. This is not so. The Didache says: “Let thine alms sweat in thine hands until thou knowest to whom thou art giving,”⁴⁰ and this saying is quoted approvingly by St. Augustine, St. Gregory the Great, Cassiodorius, St. Bernard of Clairvaux, Abélard, Cardinal Hugh a S.

³⁹ Harnack, *Die Mission und Ausbreitung des Christentums*, Vol. I, 2nd ed., p. 130; E. Grimm, *Die Ethik Jesu*, Hamburg 1903, p. 104.

⁴⁰ *Doctr. XII Apost.*, c. 1, 6: “Let your alms sweat into your hands until you know to whom you give.” (F. X. Funk, *Patr. Apost.*, I, 2nd ed., 6, 7).

[189] Chiara, and other theologians.⁴¹ Not a few ecclesiastical writers expressly warn the faithful against indiscriminate and thoughtless almsgiving and admonish them to exercise prudence and pay due attention to the necessity and worthiness of those whom they succor, and to the circumstances of each case. St. Basil, for example, says that it requires considerable experience to distinguish between greedy and worthy beggars, and that while a good Christian should lend a ready ear to requests for assistance, he should, on the other hand, prudently investigate whether those who ask for help really need it.⁴² St. Ambrose lays down definite rules for almsgiving, paying due consideration to age, capacity for work, position, guilt or innocence on the part of applicants.⁴³ St. Jerome seems to favor indiscriminate giving,⁴⁴ yet he expressly warns against foolish extravagance and praises St. Paula for prudently measuring her gifts and distributing her alms according to actual needs.⁴⁵

⁴¹ See the quotations in Funk, *Patr. Apost.*, Vol. I, 2nd ed., p. 6.—Cfr. Foerstl, *Das Almosen*, pp. 39 sqq.; F. Schaub, *Die kath. Charitas und ihre Gegner*, M. Gladbach 1909, pp. 142 sqq.

⁴² *Epist.*, 150, n. 3: “For he said that discernment between the person truly in need and the one asking out of greed requires experience. And he who gives to the afflicted gives to the Lord and will receive the reward from Him; but he who provides for everyone who goes about begging has thrown his gift to every dog—burdensomely because of shamelessness, not pitifully because of need.” (Migne, P. G. XXXII, 605); *Homil. in Ps.*, 14, n. 6: “He wishes you, because of love, to be open in simplicity toward those who ask, but again by reason to distinguish the need of each of those who approach.” (P. G., XXIX, 263 sq.).

⁴³ *V. supra*, p. 185, n. 27; p. 186, notes 28 and 31.

⁴⁴ *In Eccle.*, c. 11: “He exhorts to almsgiving, because one must give to everyone who asks and do good without discrimination.” (Migne, P. L., XXIII, 1101).

⁴⁵ *Epist.*, 58 (al. 13), n. 7 (*v. supra*, p. 184, note 27); *Epist.*, 108 (al. 27), n. 16: “Most matrons are accustomed to bestow gifts upon their trumpeters and, having poured out largess upon a few, to withdraw their hand from the rest: that fault was altogether absent from her [St. Paula]. For she divided her money among individuals according as it was necessary for each, not for luxury, but for necessity. No poor person returned from her empty-handed. She achieved this not by the magnitude of her riches, but by prudence in dispensing.” (Migne, P. L., XXII, 892).

[190] The first clearly developed theory of public poor relief was developed by the famous Spanish humanist and pedagogue Juan Luis Vives (+ 1540), author of a famous treatise, “De Subventionem Pauperum,” in which “he proscribes mendicancy, expels poor strangers from the city, obliges the natives to work, recommends apprenticeship for those who have no trade, advocates asylums for the insane, schools for foundlings from the age of six, and provides for the administration of all this by voluntary gifts, the sale of the products of the labor of the poor, the revenues of the hospitals, and taxes on rich ecclesiastical communities. Ypres put these ideas into practice. . . . Other cities followed this example.”⁴⁶

⁴⁶ *Catholic Encyclopedia*, Vol. XV, pp. 492 sq.

3. BLESSINGS AND FRUITS OF ALMSGIVING.—Regarding the matter from the purely economic point of view, it might be expected that almsgiving would diminish a man's wealth, nay, if indulged in on too large a scale, would even make him poor. But this is not the case. "Almsgiving never yet made a man poor," says an ancient proverb.⁴⁷ Holy Scripture in many passages both of the Old and the New Testament teaches that almsgiving brings down blessings upon the giver.⁴⁸ The true Catholic does not fear or or worry, for he knows from Divine Revelation that God rewards every act of mercy and kindness, and that almsgiving brings not only mediate but also immediate blessings. The poor pray for their benefactors.⁴⁹ Almsgiving, moreover, belongs to the good works *par excellence* and is an *opus satisfactorium et meritorium*, by which a man can make satisfaction to God for his sins,⁵⁰ and through which he can obtain remission of temporal penalties, innumerable graces, and, finally, a merciful judgment and eternal salvation.⁵¹ Nor does it make any difference how large or how small the alms are, for God rewards the cup of cold water given in His name, the mite of the poor widow, nay, even the good will that remains inoperative for lack of means. Thus even the poor can give alms if they but have a good will.⁵² "If thou have much, give abundantly; if thou have little, take care even so to bestow willingly a little."⁵³ Since, therefore, it is good and meritorious to give alms out of one's superfluous wealth,⁵⁴ it is still more meritorious to give away all one's possessions and become absolutely poor for Christ's sake, that is, to practice the voluntary poverty recommended in the Gospel.⁵⁵

⁴⁷ C. F. O'Leary, *Proverbs and Proverbial Phrases*, St. Louis 1907, p. 45.

⁴⁸ Ps. XL, 2; Prov. XI, 24; XIX, 17; Eccles. XI, 1; Matt. V, 7; Luke VI, 35; Acts XX, 35.—St. Cyprian, *De Opere et Eleemosyn.*, c. 9: "But you fear and are afraid that, if you begin to perform many works, when your patrimony has been exhausted by abundant working you may perhaps be reduced to want. In this matter be fearless; be secure. That from which expenditure is made for the uses of Christ, from which a heavenly work is celebrated, cannot be exhausted." (*Corp. Script. Eccl. Lat.*, III, Vienna 1868, P. 1, p. 380).—*Ibid.*, c. 10: "You fear lest perhaps your patrimony fail if you begin—to work generously from it, and you do not know, wretched man, that while you fear lest your household property fail, life itself and salvation fail; and while you attend to the possibility that anything of your property might be diminished, you do not consider that you yourself are diminished, being a lover of mammon more than of your soul; and while you fear lest you lose your patrimony for your own sake, you yourself perish for the sake of your patrimony." (C. S. E. L., III, 381).—*Ibid.*, c. 11: "You fear lest perhaps your patrimony fail if you begin to work generously from it? For when has it happened that resources could fail a just man? Elias is fed in solitude by ministering ravens, and for Daniel, shut by the king's command in the lions' pit [as prey], a meal divinely appears; and do you fear lest nourishment be lacking to one who works and merits the Lord? . . . God feeds birds and daily nourishment is furnished to sparrows (Mt. vi, 26), and those who have no perception of a divine thing lack neither drink nor food: do you think that anything will be lacking to a Christian, to a servant of God, to one devoted to good works, to one dear to his Lord? Unless you think that one who feeds Christ is not himself fed by Christ, or that earthly things will be lacking to those to whom heavenly and divine things are given?" (C. S. E. L., III, 282).—Lactantius, *Divin. Instit.*, I, VI, c. 12: "He who is rich before God can never be poor." (P. L., XIX, 531).—St. Ambrose, *De Offic.*, I, I, c. 30, n. 151: "No one ought to be ashamed if he becomes poor from having been rich while he gives to a poor person, because Christ became poor when He was rich, that by His poverty He might make all rich." (Migne, P. L., XVI, 67).—St. Augustine, *Enarr. in Ps.*, XLVIII, s. 1, n. 12: "Do not fear: children place things in a treasury and are secure; you place something in the hand of Christ and are afraid? Be prudent and provide for yourself hereafter in heaven." (P. L., XXXVI, 552).

⁴⁹ Eccles. XXIX, 15; 2 Cor. IX, 6–14.—St. Cyprian, *De Opere et Eleemosyn.*, c. 9: "When thanksgiving is directed to God for our alms and works through the prayer of the poor, the wealth of the one who works is increased by God's recompense." (C. S. E. L., III, 1, 380 sq.).

⁵⁰ Dan. IV, 24; Tob. IV, 11; XII, 8 sq.; Eccles. III, 33.—Lactantius, *Divin. Instit.*, c. 13: "Whenever you are asked, believe that you are being tested by God as to whether you are worthy to be heard. Examine your conscience and, as much as

you can, heal its wounds. Yet do not suppose that because sins are removed by largess, license to sin is given to you. For they are abolished if you give generously to God because you have sinned; but if you sin in reliance upon giving generously, they are not abolished.” (Migne, P. L., VI, 684 B).—St. Augustine, *Enchir.*, c. 75: “Certainly those who live most wickedly and do not care to correct such a life and habits, and who do not cease to give frequent alms amid their very crimes and outrages, flatter themselves in vain for that reason.”—*Ibid.*, c. 76: “He who wishes to give alms in an orderly manner ought to begin with himself and give it first to himself. For almsgiving is a work of mercy, and it has most truly been said: Have mercy on your soul by pleasing God (Eccli. XXX, 24). For this reason we are reborn, that we may please God, to whom that which we contracted by being born is deservedly displeasing. This is the first alms that we gave ourselves, because we sought ourselves in our misery through the mercy of the merciful God, confessing His just judgment by which we were made miserable.”—*Ibid.*, c. 77: “Therefore let those not deceive themselves who think that through alms, however abundant, from their produce or from any money, they buy for themselves impunity to remain in the enormity of crimes and the wickedness of outrages. For they not only do these things, but love them so that they always desire to continue in them, if only they can do so with impunity. But he who loves iniquity hates his own soul (Ps. X, 6), and he who hates his own soul is not merciful to it, but cruel; for by loving it according to the world he hates it according to God. If, therefore, he wished to give it alms through which all things would be clean for it (Lk. XI, 41), he would hate it according to the world and love it according to God.” (P. L., XL, 267 sqq.). On Luke XI, 41 see P. Schanz, *Lukas-Evangelium*, p. 333.—Th. Sommerlad, *Wirtschaftslehre*, pp. 8 sq.

⁵¹ Matt. XXV, 34–46; Luke VI, 38; XII, 33; XVI, 9; Heb. XIII, 16; Matt. V, 7; Jas. II, 13; cfr. Ps. CXI, 5.

⁵² Matt. X, 42; Mark XII, 42 sqq.; Luke XXI, 1–4.—St. Augustine, *Enarrat. in Ps.*, 103, s. 1, n. 19: “Despise no suppliant, and do not despise the one to whom you cannot give what he asks; if you can give, give; if you cannot, show yourself affable. God crowns the inward will where He finds no means. Let no one say: I have nothing. Charity is not paid out from a purse.” (Migne, P. L., XXXVII, 1351).—*Ibid.*, 36, s. 2, n. 13: “Behold want, behold riches. That man receives and will not repay; this man has mercy and lends: abundance belongs to him. What if he is poor? Even so he is rich—Only direct devout eyes to his riches. For you see an empty money-box; you do not see a conscience full of God. He has no means outwardly, but he has charity inwardly. How much he pays out from charity, and it is not exhausted. For if he has outward means, charity itself gives, but from what he has; if, however, he finds nothing outwardly to give, he gives goodwill, offers counsel if he can, offers help if he can; finally, if he can help neither by counsel nor assistance, he helps at least by his desire or prays for the afflicted person, and perhaps he himself is heard more than the one who holds out bread. He whose breast is full of charity always has something from which to give. It is charity itself that is also called good will. God requires no more from you than what He has given you within. For good will cannot be idle. For if you do not have a good will, though you have a coin to spare, you do not hold it out to the poor; the poor themselves furnish one another from good will; they are not unfruitful among themselves.” (P. L., XXXVI, 371).—IDEM, *Enarr. in Ps.*, 125 n. 11: “Sow as much as you can. But you have little—whence will you do so? You have the will? Just as what you have would be nothing if good will were not present, so, because you have nothing, do not be sad if you have good will. For what do you sow? Mercy. And what will you reap? Peace. Did the angels say: Peace on earth to rich men? But ‘peace on earth to men of good will’ (Lk. ii, 14). In Zacchaeus there was great will, in Zacchaeus great charity (Lk. xix, 6–9). . . . Great will; he gave much, he sowed much. Therefore did that widow who put in two mites (Lk. xxi, 1–4) sow little? Rather, as much as Zacchaeus. For she bore fewer means, but had an equal will. She put in two mites from as great a will as that from which Zacchaeus gave half his patrimony. If you attend to what they gave, you find different things; if you attend to that from which they gave, you find equal things: she gave whatever she had, and he gave what he had.” (P. L., XXXVII, 1664).

⁵³ Tob. IV, 9.

⁵⁴ St. Alphonsus, *Theol. Mor.*, l. III, n. 31.—IDEM, *Homo Apost.*, tr. IV, n. 19: “In our neighbor’s grave necessity we are bound to aid him from goods superfluous to our station, but in extreme necessity even from goods superfluous to life; indeed, in extreme necessity we may assist a poor person even from another’s goods, when we lack our own.”

⁵⁵ Matt. XIX, 21 sqq.—On the evangelical counsels see Vol. I of this *Handbook*, pp. 236 sqq.—On organised charity and professional charity workers see Ross, *Christian Ethics*, pp. 215 sqq.

[194] READINGS.—St. Cyprian, *De Opere et Eleemosynis* (*Corpus Script. Eccles. Lat.*, Vol. III, 1, 373 sqq.).—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 30–32 (Rickaby, *Aquinas Ethicus*, I, 381 sqq.).—St. Alphonsus, *Theol. Mor.*, l. II, n. 31–33 (ed. Gaudé, I, 326 sqq.).—F. X. Linsenmann, *Lehrbuch der Moraltheologie*, pp. 483 sqq.—W. Roscher and Ch. J. Klumker, *System der Armenpflege und Armenpolitik*, 3rd ed., Stuttgart 1906.—J. G. Uhlhorn, *Die christliche Liebestätigkeit*, 3 vols., Stuttgart 1882 sqq., Vol. I, 2nd ed., 1895.—IDEM, *Die kirchliche Armenpflege*, Göttingen 1892, pp. 10 sqq.—G. Ratzinger, *Geschichte der kirchlichen Armenpflege*, 2nd ed., Freiburg i. B., 1884.—F. Schaub, *Die Eigentumslehre nach Thomas von Aquin*, pp. 382 sqq.—J. Lachaud, *La Civilisation ou les Bienfaits de l'Eglise*, Paris 1890.—L. Lallemand, *Histoire de la Charité*, 4 vols., Paris 1902 sqq.—J. N., Foerstl, *Das Almosen*, Paderborn 1909.—H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 104 sqq.—H. Parkinson, *A Primer of Social Science*, pp. 231 sqq.—Leo XIII, Encyclical “*Rerum Novarum*” (*The Pope and the People*, pp. 192 sq.)

SECTION 7: DUTIES WITH REGARD TO THE MORTAL REMAINS OF THE DEAD

[195] 1. GENERAL REMARKS.—The belief that we owe reverence and respect to the bodies of our departed fellowmen is deeply ingrained in human nature.

a) All nations agree that it is the duty of a dead man's relatives to provide for the decent burial of his body and that his friends and those indebted to him for favors should join in paying him the “last honors,” *i. e.*, accompany his corpse to its final resting-place.¹ From this conviction arose certain burial forms or rites, which differed according to the stage of culture. Equally general is the belief that the denial of the customary burial rites is an act of dishonor towards the dead, his relatives and friends. An honest burial may be denied only to those who at the time of their death had notoriously forfeited every claim to honor and consideration.

¹ Cfr. Gen. XLVII, 29; L, 1–13; 1 Kings XXXI, 11–13; 2 Kings II, 5.—Cfr. P. Lex, *Das kirchliche Begräbnisrecht*, pp. 3 sqq.

b) The Catholic Church has approved and sanctified these general notions and customs regarding burial. In the light of Christian belief the mortal remains of the dead are invested with a higher significance. We owe them honor and reverence because they were organs of the spirit, and likewise on account of their participation in the supernatural life of grace and virtue led by the Christian believer, and because they are destined to rise again and become reunited with their souls.² The Church, therefore, did not abolish the civil funeral ceremonies, but transformed them into a religious and liturgical rite, the essential elements of which are the solemn blessing of the corpse, usually in church, and burial in consecrated soil and the offering up of prayers and sacrifices for the repose of the soul.

² St. Augustine, *De Civ. Dei*, l. I, c. 13: “Nevertheless the bodies of the dead, and especially of the just and faithful, are not therefore to be despised and cast away; the Holy Spirit used them as organs and vessels for all good works.” (Migne, P. L., XLI, 27). Cfr. also the same author's treatise, *De Cura pro Mortuis Gerenda*, c. 7, n. 9 (*Ibid.*, XL, 598).

[196] The Church denies the “last honors” of Christian burial only to those who, by some definite sinful act, have deprived themselves of honor among their fellowmen. She permits the erection of beautiful monuments to the dead for the reason that exhibition of honors does not cease with death,³ and honors shown to a dead person reflect glory upon his family. But she condemns mere pomp or hypocritical ostentation as unbecoming.

³ Apoc. XIV, 13.

| 197 | 2. BURIAL OR CREMATION?—The interment of the dead, commonly known as burial (*inhumatio*), dates back to the beginnings of the human race. The divine sentence: “In the sweat of thy face shalt thou eat bread till thou return to the earth, out of which thou wast taken: for dust thou art, and into dust thou shalt return,”⁴ was verified among all the nations of antiquity, and even to-day burial is looked upon by all highly civilized peoples as the most becoming method of disposing of the mortal remains of man.

⁴ Gen. III, 19; cfr. Ecclus. XL, 1.

The custom of burying corpses in the earth, or in sealed coffins in mausoleums above the earth, has entered into the practice and ritual of the Catholic Church. She devotes a special religious cult to the bodies of the dead and surrounds the ceremony of burial (*ordo exequiarum*), the place of burial, and the monument erected upon the grave with a profound and beautiful religious symbolism.⁵

⁵ *Rit. Rom.*, tit. VI, c. 1 and 3; cfr. F. Probst, *Die Exequien*, Tübingen 1856; C. Krieg, *Die Wissenschaft der Seelenleitung*, Vol. I, pp. 232 sqq.

a) The custom of burning the bodies of the dead (*crematio*) is of pagan origin and anciently was practiced mostly in connection with fire worship. The Jews never burned, but always buried, their dead.⁶ Only in exceptional cases, to aggravate capital punishment, in times of war or epidemics, or to prevent dishonoring by pagan enemies,⁷ were corpses consigned to the flames. Cremation in the Old Testament was regarded either as a disgrace inflicted on the body, or as a sign of extreme necessity. Certain passages which have been quoted to prove that cremation was customary among the Chosen People, refer to the burning of aromatic spices at burials.⁸

⁶ Cfr. Gen. XXIII, 19; XXV, 9 sq.; XLVII, 29; XLIX, 30 sq.; L, 2, 25.

⁷ Gen. XXXVIII, 24; Lev. XXI, 9; Am. VI, 10; 1 Kings XXXI, 12.

⁸ Jer. XXXIV, 5; 2 Chr. XVI, 14; cfr. J. Benzinger, *Hebräische Archäologie*, 2nd ed., Tübingen 1907, pp. 127 sqq.

| 198 | Christianity followed the Jewish practice of burying the dead, and ever since the earliest days of the Church, inhumation was looked upon as a specifically Christian and cremation as a specifically pagan custom,⁹ though the New Testament contains no express prohibition of the latter.¹⁰

⁹ Minucius Felix, *Octavius*, c. 11: “[Christians] both execrate pyres and condemn burials by fire.” (Migne, P. L., III, 267).

¹⁰ John XII, 7; cfr. D. A. Petrakakos, *Die Toten im Recht*, Leipsic 1905.

It is recorded that, in times of persecution, the early Christians risked their lives to recover the bodies of their martyrs, that they might be buried with the sacred rites of the Church. The pagans, to destroy faith in the resurrection of the body, often cast the corpses of martyred Christians into the flames. Minucius Felix thus adverts to their belief that cremation makes resurrection impossible: “Nor do we fear, as you suppose, any harm from [this mode of disposing of the body], but we adhere to the old and better custom of inhumation.”¹¹

¹¹ *Octavius*, c. 34: “Nor, as you believe, do we fear any harm from burial, but we follow the ancient and better custom of interment.” (Migne, P. L., III, 347).—A council held at Paderborn (Germany), in 785, decreed (can. 7): “Whoever cremates a corpse according to pagan custom, shall be punished with death.” And again (can. 22): “The dead bodies of the Christian Saxons should be brought into the cemeteries of the Church and not buried in the mounds of the heathen.” (Hefele, *Konziliengeschichte*, Vol. III, 2nd ed., pp. 636 sq.). The Order of the “Teutonic Knights” forbade the Prussians in the peace treaty of 1249 to burn the corpses of their dead. (Voigt, *Geschichte Preussens*, Vol. II, p. 626).

|¹⁹⁹| It is only of late years that in some countries cremation has been substituted for burial, and crematories with rooms for the storage of urns containing the ashes of the dead have begun to take the place of Christian cemeteries.

b) The reasons given for cremation are partly esthetic, partly psychological, partly economic, and partly hygienic.

a) From the standpoint of esthetics,¹² the cremationists contend, it is more becoming to the beauty of the human body to be dissolved by fire, which is a pure and cleansing element, than to rot in the earth, which is unclean and soiled. Cremation furthermore makes it possible to realize the poetic idea of preserving a genuine memorial of the departed in the form of their own ashes, kept in an urn, which serves as a decorative object.

¹² Cfr. J. Grimm, "Ueber das Verbrennen," in *Kleinere Schriften*, Vol. II, Berlin 1865, pp. 211–313; K. Th. Schulz, *Eine neue Bestattungsart*, Berlin 1897, pp. 61 sqq.

In answer to this argument we may say that the process of cremation, while it is more rapid than that of natural decomposition, is by no means more attractive or more esthetic. The poetic idea referred to is merely a sentimental apotheosis of human nature, and its object can be more effectively realized by honoring the grave in which the mortal remains of the departed rest.

|²⁰⁰| β) From the point of view of psychology this argument is advanced: It is repugnant to natural sentiment, and therefore inhuman, to commit the body of a departed relative or friend to a process of decay which cannot be visualized without a shudder. Cremation excludes the horrors of inhumation and is therefore to be preferred.

We answer: Aside from the fact that in a properly constructed grave the corpse does not become the prey of worms, human sentiment is repelled even more by the brutal destruction of the bodily remains of a relative or friend by fire, whereas, on the other hand, it is consoling to be able to visit the grave where a departed relative or friend has found his last resting-place after the labors and trials of life.

γ) In the interest of agriculture it is asserted that inhumation injures the public good by withdrawing a vast amount of soil from cultivation and confining a number of chemical elements indispensable to vegetation in a place where they cannot be utilized, thus gradually bringing about a lack of food, whereas cremation prevents this danger.

This argument is as unconvincing as the other two. The ground devoted to the burial of the dead in any given country is extremely small in proportion to the total area of arable land. Moreover, the chemical elements into which the body is dissolved in the grave are not lost, but for the most part absorbed by the ground water, which redistributes them in every direction.

δ) The principal argument adduced in favor of cremation is that derived from hygiene. It is claimed that cemeteries are a constant menace to the public health because of the poisonous gases they exhale into the atmosphere and the decayed substances with which they infect the ground water, which feeds the wells and springs of the vicinity.

|²⁰¹| This specious argument is refuted by the testimony of competent experts, who declare that there is no danger whatever to the public health from properly kept cemeteries. No poisonous gases arise, and if any should arise, they would be instantly dissipated by the fresh air. Poisonous

infiltration of the ground water is improbable, and we know of no case where it was ever proved that a well was poisoned by infiltration from a burial ground. Neither has it ever been demonstrated that an epidemic started from a cemetery, or that cemeteries, of which there are so many in or near our cities and towns, are a menace to health.¹³ If such a danger were ever shown to exist, it could easily be obviated by the proper construction of coffins and tombs and the rational treatment of corpses. The danger of burying apparently dead persons can be avoided by legally enforced autopsy.

¹³ J. Rochard, "La Crémation," in the *Revue des Deux Mondes*, Vol. XCVIII (1890), pp. 916–944; G. Cornet, *Die Tuberkulose*, Vienna, 1899, pp. 29 sq., 40.

So much for the negative side of the question. Positively, it can be shown that inhumation is the best and simplest means of disposing of the mortal remains of the dead. It has been practiced from most ancient times and appeals to human sentiment as eminently decent and proper. Cremation, on the contrary, runs counter to that sentiment, and is, moreover, impractical. In the first place, crematories and columbaria would withdraw nearly as much soil from agriculture as burial grounds. Second, they are costly to erect and to operate. Third, cremation makes the post-mortem examination of corpses for medical and judicial purposes impossible, or at least extremely difficult, as some crimes cannot be detected by an analysis of the ashes after the corpse is burnt.¹⁴ Inhumation has this further advantage over cremation that it makes possible the disinterment of a corpse long after death in case a suspicion of foul play arises where no one thought of it at the time.

¹⁴ Cfr. F. Goppelsröder, *Ueber Feuerbestattung*, Mühlhausen 1890.

[202] It is asserted that cremation can at least be justified in exceptional cases, for instance, during dangerous epidemics or on the battlefield in time of war. But even this is doubtful. When an epidemic rages, the corpses of the victims can be more rapidly buried than burned, and to compel an army to drag along crematories would be an undue burden.

3. The Catholic Church forbids her children to enrol in societies established for the purpose of promoting cremation, or to direct that their own bodies or those of fellow-Catholics be burned after death. She has issued this prohibition for the reason that she looks upon cremation as a detestable abuse.¹⁵ This opinion is based, not upon any dogmatic teaching concerning the human body and its resurrection,—for God can collect and revitalize ashes as easily as dust,—¹⁶ nor on the impossibility of performing the burial rite over the remains of a burnt corpse, which is quite often done for victims of conflagrations, but mainly on the anti-Christian, anti-ecclesiastical, materialistic, and pagan tendency of the cremation movement, and on the human, and particularly the Christian sentiment towards the mortal remains of man. It is repugnant to human nature to interfere arbitrarily and violently with the natural process of decay which the body undergoes after death, and in the second place the faithful Catholic, who regards Christ's death and grave as the pattern of his own demise and burial, can ask nothing better than that his mortal remains be buried as the sacred body of the Redeemer was buried, like "a seed sowed in God's acre, to mature in glory on the day of the resurrection."¹⁷

¹⁵ "Detestabilis abusus;" S. C. Offic., d. d. 19 May, 1886; d. d. 15 Dec., 1886; d. d. 27 July, 1892 (Denzinger-Bannwart, n. 1863 sq.).

¹⁶ Matth. XXII, 29.—Minucius Felix says (*Octavius*, c. 34): "Every body, whether it dries into dust, or is dissolved into moisture, or is compressed into ashes, or is attenuated into vapor, is withdrawn from us, but is reserved for God in the custody of the elements." (Migne, P. L., III, 347). And again

¹⁷ “Saat gesäet von Gott, am Tage der Garben zu reifen,” as the poet Klopstock puts it beautifully.—Cfr. Matth. XXVII, 58 sqq.; John V, 28 sq.; XI, 23; XIX, 38 sqq.; 1 Cor. XV, 24 sqq.; 2 Cor. V, 10; Phil. III, 21.—St. Augustine, *De Civ. Dei*, I, c. 13: “These authorities (Matth. XXVI, 10–13; John XIX, 38–42) do not teach that any sensation inheres in corpses, but signify that the bodies of the dead also pertain to God’s providence, to which even such offices of piety are pleasing, in order to build up faith in the resurrection.” (Migne, P. L., XLI, 27).—St. Gregory the Great says (*Moral.*, I, IV, c. 27, n. 52): “For what else is it to bury than to conceal?” (P. L., LXXV, 633).

|203| “What principally determined the Church to forbid cremation,” says Msgr. Meyenberg, “was the observation that the advocates of this practice everywhere employed it as a means to undermine belief in the resurrection of the dead and to de-Christianize public life.”¹⁸

¹⁶ (op. cit., c. 11): “As though every body, even if it is withheld from the flames, is not nevertheless resolved into earth by years and ages, and as though it mattered whether wild beasts tear it apart, seas consume it, earth covers it, or flame carries it off, since for corpses every burial is good if they feel, and if they do not feel, it is a remedy by the very speed of destruction.” (P. L., III, 267 sq.).

¹⁸ *Schweizerische Kirchenzeitung*, Lucerne, 1909, p. 53.

|204| The question of cremation does not involve an ecclesiastical dogma, nor is it a purely denominational question, but one in which all Christian churches should be equally interested for the sake of the preservation of an ancient Christian custom which cannot be abolished without grave scandal to the faithful.

It will not do to say that cremation is purely voluntary and must be conceded as a part of that religious freedom of which our age is so proud, for the advocates of cremation aim at making it compulsory, and they are not a religious sect. nor is cremation a religious rite. What they demand is not tolerance, but the enforcement of their impious and un-christian ideas.

The Holy Office has decided¹⁹ that if a corpse has been cremated, not by order of the deceased, but at the command of others,²⁰ it may be buried with religious honors, provided the exsequies do not take place at the crematory and no scandal is given. Scandal need not be feared if it is publicly known that the deceased did not wish his body to be cremated. The new Code re-inforces the law that if a Catholic, while living, commands his body to be cremated, he is to be denied ecclesiastical burial.²¹ If any one compelled a priest to give such a person ecclesiastical burial, he would be *ipso facto* excommunicated.²² Formal co-operation in the act of cremation, be it by command or counsel, is unconditionally forbidden, though material co-operation may be tolerated under certain conditions.²³

¹⁹ Dec. 15, 1886.

²⁰ “Alienâ voluntate.”

²¹ C. I. C., can. 1240, 1, 5.

²² Ibid., can. 2339.

²³ Decree of the Holy Office, July 27, 1892.

|205| Lehmkuhl lays down the following rules for the guidance of Catholics:

a) It is not permitted actively to promote cremation, or to render it lawful, even for non-Catholics, by a positive concession, because it is objectively bad, *saltem ex adiunctis*. It is a rite pertaining to religion and consequently subject to the judgment of the Church, who has declared it illicit.

b) It is, however, permissible, for an adequate cause (*ex causa proportionate gravi*) to permit cremation negatively, i. e., not to prevent others from performing it.²⁴

²⁴ Lehmkuhl, *Theol. Mor.*, Vol. II, 11th ed., p. 676, 6.

4. The section of corpses for juridical or scientific purposes is permissible because of its importance for the study of medicine and for the benefit of suffering humanity.²⁵ It goes without saying, however, that corpses used for this purpose must be properly interred and must not be abused. To treat human remains (whole corpses or portions thereof, bones, skeletons, etc.) irreverently is a sin, nay, under certain conditions, it may even be a sacrilege. The violation and desecration of graves and the scattering of human remains has always been regarded as a crime and severely punished.

²⁵ Cfr. K. Gegenbaur, *Lehrbuch der Anatomie*, 6th ed., Leipsic 1895; F. X. Linsenmann, *Lehrbuch der Moralthéol.*, pp. 490 sqq.; J. Donat, S. J., *Die Freiheit der Wissenschaft*, Innsbruck 1910, pp. 214 sq. (English edition, *The Freedom of Science*, New York 1913).

[206] Pope Boniface VIII, in his oft-quoted decretal,²⁶ did not forbid the anatomic section of corpses, but only the abuse, which had originated during the crusades, of separating the flesh from the bones in order to make possible the transfer of the latter to the home of the deceased.²⁷

²⁶ *Extrav. Com.*, Cap. I l. 3, tit. 6: "Those who disembowel the bodies of the dead and inhumanly boil them so that, the bones having been separated from the flesh, they may carry them to be buried in their own land, are excommunicated by the fact itself."

²⁷ Cfr. E. Michael, S. J., *Geschichte des deutschen Volkes*, Vol. III, p. 433 sq.; Lex, *Das kirchliche Begräbnisrecht*, pp. 229 sqq.

It has been decided that the hearts of dead persons may be preserved in jars or urns.²⁸ For the honor of humanity let us assume that the horrible crime of the sexual violation of corpses is committed only by insane persons.²⁹

²⁸ S. R. C., d. d. 11 Feb., 1898: "The preservation is carried out in this way: the heart is enclosed in a glass vessel, ordinarily placed in a visible place and among flowers. May this practice be continued? Resp.: Affirmatively, provided that the preservation described does not take place in a sacred place."

²⁹ Maschka, *Handbuch der gerichtlichen Medizin*, Vol. III, 192.

READINGS.—J. P. Gury, *Comp. Theol. Mor.*, Vol. II, n. 790–796.—F. X. Linsenmann, *Lehrbuch der Moralthéologie*, pp. 487 sqq.—L. Ruland, *Die Geschichte der kirchlichen Leichenfeier*, Ratisbon 1901, pp. 2 sqq.—L. Henry, *L'Inhumation et la Crémation*, Louvain 1876.—A. Besi and E. Holzinger von Weidich, *Die Beerdigung und Verbrennung der Leichen*, Ratisbon 1889.—G. Hassl, *Gottesacker oder Leichenofen?* Augsburg 1898.—P. Winkler, *Verbrennen oder Begraben?* Innsbruck 1902.—F. Probst, *Die Exequien*, Tübingen 1856.—E. Berardi, *De Crematione Cadaverum*, Bruges 1904.—Wm. Devlin, S.J., art. "Cremation" in the *Catholic Encyclopedia*, Vol. IV, pp. 481–483.—H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 742 sqq.—A. Lehmkuhl, S.J., *Theol. Mor.*, Vol. II, pp. 673 sqq.—B. L. Conway, C.S.P., *The Ethics and History of Cremation*, N. Y. 1923.

SECTION 8: DUTIES WITH REGARD TO THE BODILY LIFE OF OTHERS

[208] We owe a twofold duty to our fellowmen with regard to their bodily life. The first of these is purely negative, namely, to omit whatever might destroy or injure their life or health, be it directly or indirectly, totally or partially, suddenly or gradually. Hence the prohibition of murder, manslaughter, mutilation, crimes against the life of unborn children, and duelling.

1. MURDER or voluntary homicide (*homicidium voluntarium sive praemeditatum*), is the unjust, intentional, and premeditated killing of an innocent man.¹ Sacred Scripture numbers this crime amongst those that cry to Heaven for vengeance.²

¹ Ex. XX, 13; XXI, 12; cfr. Matth. V, 21; XIX, 18.—St. Augustine, *Epist.*, 204 (al. 61), n. 5: “That it is not lawful to kill another when no laws or legitimate authorities command it, even one willing and asking for it and now unable to live, is sufficiently shown by the Book of Kings, where King David ordered the killer of King Saul to be killed, although he had said that Saul, already wounded and half alive, had asked him to do this and to release the soul struggling against the bonds of the body and desiring to be set free from those torments by a single stroke of the weapon (2 Kings i, 1–16). Therefore, because everyone who kills a man without any authority of legitimate power is a murderer.” (Migne, P. L., XXXIII, 940).—Cfr. *Cat. Rom.*, P. III, c. 6, qu. 9: “As regards those who commit killing, plainly no one is excepted—not the rich, not powerful men, not masters, not parents—but, with every distinction and discrimination removed, killing is forbidden to all.”

² Gen. IV, 10; IX, 5 sq.; cfr. *Cat. Rom.*, P. III, c. 6, qu. 14.

[209] Murder, like conscious and voluntary suicide, is an act of criminal interference with the supreme prerogatives of Almighty God (*crimen laesae maiestatis divinae*), a most grievous sin against justice and charity, and a crime against society.³

³ St. Thomas, *Summa Theol.*, 1a 2ae, qu. 100, art. 5, ad 5; cf. 2a 2ae, qu. 73, a. 3; qu. 122, a. 6, ad 4: “Homicide in itself is not something desirable, but rather something horrible, because it does not of itself have the character of any good.”—*Ibid.*, qu. 47, a. 6, ad 3: “He who kills a man does injury not only to the man killed, but also to God and the commonwealth.”—Cfr. *Cat. Rom.*, P. III, c. 6, qu. 15: “For murderers are the bitterest enemies of the human race, and therefore of nature; insofar as lies in them, they overthrow the whole work of God when they take away man, for whose sake He testifies that He made all things whatsoever that were created; indeed, in Genesis (v, 9), when it is forbidden that a man be killed because God created him in His image and likeness, he who removes His image from the midst does an extraordinary injury to God and seems as though to lay violent hands upon Him.”

Murder may be either simple or qualified.

Simple murder (*homicidium simplex*) is the killing of a person towards whom one has merely the general obligations of justice and charity. *Qualified murder* (*homicidium qualificatum*) is voluntary homicide aggravated by circumstances which alter the nature or degree of the crime.

Such circumstances are: (a) the position or rank of the victim; (b) the latter’s relation towards the murderer, for instance, of husband to wife, father to child or child to father (*parricidium*), priest to layman (*sacrilegium*), ruler to subject (*regicidium*); (c) the conditions under which the crime is committed, for example, its object and purpose (robbery; *latrocinium*) or the means used in committing the crime, *e. g.*, poison (*veneficium*), treachery (*homicidium proditorium*). All these circumstances increase the guilt of the crime, make it more atrocious and deserving of severer punishment.⁴

⁴ 2 Kings III, 27; 1 Mach. VII, 14–18.

[210] a) The *involuntary* killing of a human being (*homicidium involuntarium*), commonly called *manslaughter*, is usually committed in a moment of passion and is imputable and punishable in proportion to the measure in which the use of free will was not hindered. *Infanticide*, *i. e.*, the killing of an illegitimate child by its own mother during or soon after birth, is classed as manslaughter by the criminal law of some countries. But as passion does not always diminish imputability, the moralist must judge each case on its own merits. Morally equal to infanticide is the *exposure of an*

infant, i. e., the intentional abandonment of the same in a helpless condition, unless there is the greatest probability that it will be picked up and cared for.

In regard to the killing of babies by their own mothers it should be remembered that this crime is quite often committed under compulsion, rather than voluntarily, for which reason the civil law usually deals with it leniently. Great excitement, a delirious condition, bodily weakness, loss of blood, pains, the feeling of being deserted, worry about the future, fear of disgrace,—all these and other circumstances may conspire to create an exceptional state of mind in which the responsibility for the crime is realized either not at all, or but dimly.⁵

⁵ Huber, *Hemmnisse der Willensfreiheit*, 2nd ed., p. 234, note 1.

[211] b) *Accidental killing (homicidium casuale)* i. e., homicide not by direct intention, but as a consequence of some dangerous act (*voluntarium in causa*), is imputable to the agent if he is aware of the danger of killing some one at the time he performs the act, e. g., driving at great speed in a crowded street, handling a gun carelessly, letting dangerous animals run amuck, and so forth. When no such probable danger exists, or when it is not adverted to, casual homicide is not imputable in conscience, although if the act is legally forbidden, even on other grounds than the chance of causing another's death, and some one is killed by it, the secular law in many countries punishes it as manslaughter.

Accidental killing is committed by physicians, surgeons, and midwives who cause the death of their patients by culpable incompetency or lack of attention; by druggists who through ignorance or carelessness compound deadly medicines; by nurses and attendants who do not give proper care to their patients; by factory owners and mine operators who omit to take reasonable precautions for the protection of their employees and thus become responsible for serious accidents,—in short by all who cause the death of others by acts which, in virtue of their position, profession, or office, they know or ought to know are dangerous to life.⁶

⁶ Ex. XXI, 28 sq.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 64, art. 8.—P. G. Antoine, *Theol. Mor. Universa*, t. III, tr. *De Iust. et Iure*, P. III, c. 2, qu. 12: "Wholly accidental homicide, namely, that which is voluntary neither in itself nor in its cause, is not a sin, indeed not properly homicide, but a simple killing. Because sin is essentially voluntary, therefore that which is voluntary in no way is in no respect a sin. Hence one who kills another in inculpable drunkenness is not guilty of homicide, nor is he bound to restitution, because that killing is not voluntary, either in itself, since the use of reason is absent, or in its cause, namely drunkenness, since this was in no way willed or culpable. It is otherwise if the drunkenness was culpable and the drunk man foresaw or could have foreseen this event, for then the killing is voluntary in its cause and therefore imputable as guilt and damage."—M. Cronin, *The Science of Ethics*, Vol. II, pp. 103 sqq.—For an interesting case at law see Pollock, *Law of Torts*, 8th ed. pp. 48 sqq.

[212] Midwives or nurses who receive children with the silent understanding that they dispose of them, and then let them starve to death, are guilty of premeditated murder, unless their conduct is attributable to carelessness.

2. *Mutilating* another or *injuring* his health is sinful if done against his reasonable will. To this class of forbidden acts belong *corporeal maltreatment*, the infliction of unnecessary pain by *beating* or *wounding*, *overburdening with work*, *cruel treatment*, handing out insufficient or adulterated and consequently *injurious food*, etc. Strong emotions, too, such as, for instance, fear, anger, and even excessive joy, can injure the human organism and imperil its existence, nay, destroy it, by causing paralysis of the heart,

or psychoses and serious derangements of the nervous system, such as epileptiform or hysterical convulsions, and so forth.⁷

⁷ Cfr. Maschka, *Handbuch der gerichtlichen Medizin*, Vol. I, pp. 809 sqq.

[213] Any injury unjustly done to the *health* or members of another against his reasonable will is a violation of justice and a mortal sin, unless passion, previously suffered injury or smallness of matter (*parvitas materiae*) diminish the guilt. Mutilations which entail the loss of the procreative faculty (*castratio, emasculatio*) are inspired by greater malice and are therefore more severely punished by the civil law.

3. CRIMES AGAINST THE UNBORN.—Every morally forbidden act or omission which results in the death of an embryo or a fetus in the mother's womb, from the time of conception until or during delivery, is morally equivalent to manslaughter.⁸ The Catholic Church has always regarded the value and dignity of human life so highly that she never permitted it to be destroyed or injured even in its incipient stages.⁹ Acts or omissions tending in that direction are imputable in proportion to the guilt involved, and it is owing to the influence of the Church that they are punished also by the civil law. In our neo-pagan age a movement has been started to make *feticide* legal.

⁸ St. Augustine, *Enchiridion*, c. 86: "From the moment a man begins to live, from that moment he is certainly already able to die." (Migne, P. L., XL, 272).—Cfr. the propositions condemned by Pope Innocent XI, n. 35: "It seems probable that every fetus (as long as it is in the womb) lacks a rational soul and first begins to have one when it is born; and consequently it must be said that no homicide is committed in any abortion." (Denzinger-Bannwart, n. 1185).

⁹ *Doctr. XII Apost.*, c. II, n. 3: "[You shall not kill] a child by abortion, nor destroy one after it is born." Funk, *Patres Apost.*, Vol. I, 2nd ed., VIII, 1; Kirsopp Lake, *The Apostolic Fathers*, Vol. I, pp. 312 sq.); *Epist. Barnab.*, c. 19, n. 5: "You shall not kill a child by abortion, nor again destroy it after it is born" (Funk, *op. cit.*, p. 90, 22; K. Lake, *op. cit.*, p. 404); *Epist. ad Diognet.*, c. 5 n. 6: "They marry like everyone; they beget children, but they do not cast away those born" (Funk, *op. cit.*, p. 398, 10; Lake, *op. cit.*, Vol. I, p. 360); Tertullian, *Apol.*, c. 9: "But for us, murder having once been forbidden, it is not permitted even to dissolve what has been conceived in the womb, while blood is still being drawn into a human being. To prevent birth is the hastening of homicide; nor does it matter whether one snatches away a soul already born or disrupts one being born. He too is a man who is going to be one; every fruit is already present in the seed." (Ed. Leopold, Vol. I, p. 68).—Minucius Felix, *Octavius*, c. 30 (Migne, P. L., III, 333 sq.).

[214] a) Women who through their own fault, *e. g.*, by an inordinate mode of life, by voluntarily produced or sustained excitement of the passions, or incautious physical exertion, bring about a *miscarriage* (*abortus, i. e.*, a delivery before the twenty-eighth week of pregnancy) commit a mortal sin. Pregnant women, especially if they are disposed to miscarriage, are bound in conscience to avoid such occasions as hiking, dancing, driving over rough roads, long railroad or automobile rides, lifting or carrying heavy burdens, the abuse of alcoholic liquors, and the use of power machinery.

It is sinful to maltreat a pregnant woman or to overburden her with work, etc., thereby causing a miscarriage or creating a disposition for it.¹⁰

¹⁰ Ex. XXI, 22 sq.—Gury, *Comp. Theol. Mor.*, Vol. I, n. 380: "Parents are bound to exercise diligent care for their offspring from conception itself, to avert everything that can be harmful to it, and to keep watch lest it be exposed to any danger to life. Hence the following sin gravely of themselves: 1. women who do not take care lest the fetus be destroyed in the womb through disorderly sensuality, dancing, heavier burdens, running or a long journey, excessive anger, or more vehement grief; 2. men who treat their pregnant wives harshly, inflict serious wounds upon them, or impose greater labors upon them."—*Ibid.*, n. 415, 5: "Those who strike or terrify a pregnant woman so that abortion follows are murderers. Likewise pregnant women who through grave imprudence in various ways posit the proximate cause of

abortion, v. g., by devoting themselves to excessive labors, carrying greater burdens, or washing their feet in cold water.”

|215| b) To procure *abortion* directly and intentionally, by the ejection of the fertilized ovum or the fetus from the uterus before it is viable, is a grievous crime, whether committed by the mother or by another person. Morally such an act must always be regarded as an intentional destruction of human life, since the distinction formerly made between *foetus animatus* and *foetus inanimatus* is physiologically untenable.¹¹

¹¹ Cfr. Prop. 34 among those condemned under Innocent XI: “It is permissible to procure an abortion before the animation of the fetus, lest a girl discovered pregnant be killed or disgraced.” (Denzinger-Bannwart, n. 1184).—Cfr. Gury, *Comp. Theol. Mor.*, Vol. I, n. 414: “Direct abortion is never permitted, even if the fetus were supposed still unanimated, under any pretext of avoiding death, etc. The reason is that if the fetus is animated, it is homicide properly so called. But if it is not animated, it is anticipated homicide. For the fetus, even unanimated, is ordered toward the formation of a man; therefore its ejection is anticipated homicide.”—Ibid., n. 415, 1: “A pregnant girl may not take a drug to expel the fetus, lest she lose her reputation or be killed by an enraged father, because abortion would be directly procured.”—Cfr. Antonelli, *Medicina Pastoralis*, Vol. I, 3rd ed., pp. 190 sqq.; L. Knapp, *Theologie und Geburtshilfe*, Prague 1908, pp. 50 sqq.

|216| Intentional co-operation in bringing about abortion (*procuratio abortus*) is likewise strictly forbidden. What renders this sin all the more grievous is the fact that the fetus which is thus destroyed is robbed not only of life, but of the grace of Baptism, and that the crime, when committed by the mother or near relatives, partakes of the nature of *parricidium*.

The assertion that every child “has the right not to be born” is contrary to Catholic teaching and therefore untenable.

c) Medical science has devised certain artificial means for saving the life of both mother and child, or at least that of the mother, in cases where, on account of some physical obstruction, normal delivery is impossible. Such means are: medical abortion, artificially produced premature delivery, perforation, the Cæsarian section, laparotomy, and symphyseotomy.¹²

¹² On these operations, see A. O’Malley, *The Ethics of Medical Homicide*, passim, N. Y. 1919.

The S. Congregation of the Penitentiary, on Nov. 28, 1872, replied evasively to the question whether “the operation called craniotomy, or a similar operation aiming directly at the killing of the child in its mother’s womb were ever permissible,”¹³ but the Holy Office declared on May 28, 1884, that the permissibility of craniotomy “*tuto doceri non posse*,” i. e., cannot be safely taught in Catholic schools or practiced without danger of sin. This decision was followed by two others of the same S. Congregation, dated respectively, Aug. 13, 1889, and July 29, 1895, by which this prohibition was extended so as to include “all surgical operations aiming directly at the killing of the fetus or the mother.”¹⁴ The S. Congregation in making this decision had before it a case in which craniotomy (perforation) was the sole means of saving the mother.¹⁵ Hence the following principles must guide us in the moral appraisal of this obstetrical operation:¹⁶

¹³ S. Poenitentiario, decree of 28 Nov., 1872: “Having maturely considered the propositions, he answered: let approved authors, whether old or more recent, be consulted, and let it be done prudently.”

¹⁴ Denzinger-Bannwart, n. 1889 sq.; Cfr. Chas. Coppens, S. J., *Moral Law and Medical Practice*, ed. Spalding, N. Y. 1922, pp. 58 sqq.

¹⁵ “When, namely, if it [craniotomy] is omitted, mother and child are going to perish, but if it is admitted, the mother is to be saved while the infant perishes.”

¹⁶ Capellmann, *Medicina Past.*, 5th ed., Aix-la-Chapelle 1893; B. M. Bergervoort, *Direkter Abortus und Kraniotomie und deren Erlaubtheit*, Munich 1896; F. Guérmonprez, *L’Assassinat Médical et le Respect de la Vie Humaine*, Paris 1904; Chas. Coppens, S. J., *Moral Law and Medical Practice*, ed. Spalding, New York 1922; Stöhr-Kannamüller, *Handbuch der Pastoralmedizin*, 5th ed., pp. 461 sqq.; Antonelli, *Medicina Past.*, Vol. II, 3rd ed., pp. 55 sqq.; A. Klarmann, *The Crux of Pastoral Medicine*, New York 1920.

[²¹⁷] a) *Artificial or medical abortion (abortus medicinalis)*, i. e., the ejection from the womb of an immature fetus or a fertilized but not yet viable embryo,¹⁷ is direct homicide and, therefore, a grievous crime against the fifth commandment. Abortion is, moreover, a more or less dangerous attack upon the life of the mother, and therefore an attempt upon two lives at once. Modern gynecology knows of but two diseases in which abortion may be indicated as a last resort.¹⁸ The causes of the first may be removed by the administration of chloroform, while the second (*hyperemesis gravidarum*), usually the result of hysteria, is of rare occurrence and as a rule not only ceases about the middle of the gestation period, but can be cured by rational therapy. Hence the first duty of the physician in such cases is to endeavor to remove the underlying causes. Abortion should be avoided for the additional reason that it is a very doubtful means, to say the least, of saving the life of the mother.

¹⁷ O’Malley, *The Ethics of Medical Homicide*, pp. 91 sqq.

¹⁸ J. P. Gury, *Comp. Theol. Mor.*, Vol. I, n. 414: “Sometimes it is permitted indirectly to procure or permit abortion, namely, by administering to a mother suffering from a serious disease remedies harmful to the fetus, if the following conditions occur: 1. That it be a matter of a fatal disease; 2. That the remedies harmful to the fetus be directly and immediately efficacious of themselves for curing the disease; 3. That there be no hope of procuring eternal life for that fetus through Baptism. . . . It is permitted for physicians to give a pregnant woman suffering from most remedies customarily used for various diseases, although abortion can sometimes follow. The reason is that experience shows that abortion very rarely follows from most properly directed remedies.”—*Ibid.*, n. 415: “It is not permitted for a pregnant mother, even in certain danger of death, to take, or even to give her, a medicine which by its own force is directed to the ejection of the fetus, although the death of both would certainly occur if it were not administered, and on the contrary she would certainly or probably be saved if it were administered. The reason is that abortion would be directly procured. . . . It is permitted for a physician to administer a remedy directed of itself to curing the mother’s disease, if it is certain that, if the remedy is not given, both the mother otherwise destined to die and the fetus will perish without Baptism, because thus both mother and fetus are assisted in the best way possible; but very rarely will there be certainty about both. But if the danger of abortion is equal whether the remedy is taken or not, it is lawful to take it, because the mother’s life is cared for without greater danger to the fetus.”

[²¹⁸] *Indirect abortion*, on the other hand, is permissible in certain cases, i. e., if it results accidentally from the application of remedies which are *per se* intended and apt to cure the mother. It is permissible, therefore, in the treatment of pregnant women who are suffering from a disease, even if there is no immediate danger of death, to employ internal or external remedies which, in the common experience of the medical profession, are necessary or apt to cure the disease from which the mother is suffering, even though they may accidentally cause abortion.¹⁹

¹⁹ Gury, *Comp. Theol. Mor.*, Vol. I, n. 415, 2: “It is not permitted for physicians or midwives, when a woman is pregnant, to kill the fetus in order to free the mother from death.”

When there is immediate danger of death, such means may be used as will be necessary to cure the mother, even though it were certain or highly probable that abortion would follow, provided there is

no other effective remedy to save the mother and all possible precautions are taken to prevent abortion.

|²¹⁹| β) It is lawful to induce premature delivery by artificial means as soon as the fetus is viable, *i. e.*, so far developed that it can live outside the womb. However, this operation may endanger the lives of both mother and child, and should, therefore, be resorted to only in urgent cases. Such an emergency would arise if the birth of the child at the end of the full period would necessitate a still more dangerous operation, or if the mother were suffering from a serious illness that could probably be cured by inducing a premature delivery. Though the latter process may not entirely comply with the final object of delivery, *i. e.*, to bring into the world a fully developed and healthy child, it at least involves no direct destruction of life and makes possible the administration of Baptism in case the child should die.

γ) *Obstetrical operations* that result in the destruction of the life of the child (craniotomy, cranioclasty, cephalotripsy, embryotomy [decapitation or exenteration]) are directly homicidal and therefore absolutely forbidden. Though the resultant death of the mother is not attributed to the operation, but to the disease which the operation was designed to cure, there is always involved a certain danger to the mother from the careless use of instruments or some other accident. If the fetus is dead, there is no objection to craniotomy. In case of doubt whether the fetus is dead or alive, the physician may operate if the mother's life is in danger. In this extremely delicate question the principle of self-defense in the strict sense cannot be invoked in favor of the mother. However, the physician may consider himself in a state of perplexity from which he can extricate himself only by choosing the safer side, *i. e.*, by saving the *certain* life of the mother. Besides he would make himself liable to prosecution if he omitted to use the means prescribed for such cases in the current text-books on obstetrics.²⁰

²⁰ P. A. Finney, C. M., *Moral Principles in Hospital Practice*, St. Louis, Mo., 1922; O'Malley, *The Ethics of Medical Homicide*, pp. 92 sqq.; Coppens, *Moral Principles and Medical Practice*, pp. 62 sqq.

|²²⁰| δ) The so-called *Cesarian section* (*sectio caesarea*), which consists in cutting open the womb (*incisio ventris*) to extract a fetus that cannot be delivered in the natural way, is in itself an immediate attack upon the life of both mother and child but its technique has been so perfected that it is no longer as hazardous as it used to be and may, therefore, be permitted, provided the danger to the mother is not so immediate that the operation would mean almost certain death. All possible precautions must moreover be taken to safeguard the lives of both mother and child.²¹ Note, however, that the favorable results referred to have for the most part been achieved in a comparatively small number of hospitals and clinics and that the percentage of mortality still remains rather high. The ordinary practitioner, according to Dr. O'Malley, is utterly unfitted to do a Cesarian section of any kind.²²

²¹ S. C. Offic., d. d. 4 May 1898: "1. Is acceleration of delivery permitted whenever, because of the narrowness of the woman, the exit of the fetus at its natural time would become impossible? 2. And if the woman's narrowness is such that even premature delivery is judged impossible, will it be permitted to provoke abortion or to perform a Caesarean operation at the proper time? 3. Is laparotomy permitted when the case concerns extrauterine pregnancy or ectopic conceptions? Reply to 1: Acceleration of delivery is not in itself unlawful, provided that it is performed for just causes and at the time and in the ways by which, according to ordinary contingencies, provision is made for the life of the mother and fetus; to 2: As regards the first part, negatively, according to the decree of Wednesday, July 24, 1895, concerning the unlawfulness of abortion. As regards the second, nothing stands in the way, since the woman in question may be subjected to a Caesarean operation at the proper time; to 3: Under compelling necessity laparotomy is

permitted for extracting ectopic conceptions from the mother's womb, provided that, so far as possible, serious and timely provision is made for the life of both fetus and mother."—Cfr. Knapp, *Theologie und Geburtshilfe*, pp. 70 sqq.

²² *The Ethics of Medical Homicide*, p. 138.

| 221 | Porro's operation, so-called, consists in the removal of the uterus after a Caesarian section to prevent further conceptions, and is altogether unjustifiable.²³

²³ O'Malley, *Essays in Pastoral Medicine*, p. 59.

As regards the Caesarian section, a mother is, broadly speaking, not obliged to submit to it and should be counseled to do so only in view of the eternal salvation of her child. This consideration must not, however, always be urged *in praxi*, because it might lead to the commission of a mortal sin and consequently bring about the eternal loss of the mother.

If a mother dies in the state of pregnancy, the Caesarian section should, if possible, be performed on the corpse, to save the eternal and perhaps also the temporal life of the child.²⁴

²⁴ *Rit. Rom.*, tit. II, c. 1, n. 17: "If a pregnant mother has died, the fetus should be carefully extracted as soon as possible and, if it is alive, baptized."—S. C. Offic., d. d. 13 Dec., 1899.—Cfr. Stöhr-Kannamüller, *Handbuch der Pastoralmedizin*, 5th ed., pp. 473 sqq.; Antonelli, *Medicina Past.*, Vol. II, 3rd ed., pp. 71 sqq.

ε) Symphyseotomy (*sectio symphyseos*) is a cutting of the maternal pelvic girdle through the symphysis pubis, the rigid joint at the front middle part of the pelvis, thus letting the bony girdle dilate. It has latterly been replaced by hebosteotomy or pubiotomy (a sawing through that joint to effect the dilation) because the rate of mortality is somewhat lessened by the latter method.²⁵ Both operations are to be judged in the same light as the Caesarian section, that is to say, they are licit only when they do not involve direct homicide.

²⁵ O'Malley, *The Ethics of Medical Homicide*, p. 135.

4. DUELLING.—A duel is defined as a premeditated and pre-arranged combat with deadly weapons, between two persons, usually in the presence of witnesses, called seconds, for the purpose of deciding a quarrel, avenging an insult, or clearing the honor of one of the combatants, or of some third party, whose cause he has espoused.²⁶

²⁶ Slater, *A Manual of Moral Theology*, Vol. I, p. 316.

| 222 | A duel, therefore, differs from an ordinary fight, from single combat (by which the fate of a battle is sometimes determined), and from the so-called *mensuren* of European students. The latter as a rule exclude the motive of revenge and serious danger to life, and are mere sports, though they sometimes degenerate into real duels and must be judged as such.

Duelling is in itself immoral because it is an illegitimate interference with God's property right in human life.²⁷ It is a usurpation of justice, for which there is no legitimate excuse in a well-ordered State. As a means for deciding a quarrel or vindicating the honor of the combatants, it is totally inappropriate, because there is no intrinsic proportion between the means used and the end sought for.

²⁷ Ex. XX, 13; Deut. XXXII, 29; Wisd. XVI, 13 sq.; Rom. XIV, 7 sq.

A duel would be an appropriate means for the preservation of honor if, as the ancient pagans and not a few medieval Christians believed, it represented a sort of divine ordeal in which truth and justice always triumph. But this is not the case. In a duel the victory does not depend on the justice of one's

cause, or the probity of one's character, but on such extrinsic factors as greater strength or superior skill in the handling of deadly weapons.

[223] Duelling has been condemned as a detestable practice by the Council of Trent and the excommunication pronounced against the guilty parties, their seconds and abettors is renewed in the new Code of Canon Law. The latter also denies ecclesiastical burial to those who die as the result of a duel, unless they give signs of repentance before death, and refuses them public funeral services, exequial and anniversary masses.²⁸

²⁸ C. I. C., can. 2351, 1; 1240, 1, 4; 1241.

As duelling is not a common practice in English-speaking countries (for which this Moral Theology is intended) we need not enter into details. Under English and American law duelling is illegal, and if it results in death, it is regarded as murder, and the seconds are liable to punishment as accessories.²⁹

²⁹ Slater, *Moral Theology*, Vol. I, p. 318.

READINGS.—On HOMICIDE: St. Thomas, *Summa Th.*, 2a, 2ae, qu. 64, art. 8; qu. 65, art. 1 (Rickaby, *Aquinas Ethicus*, II, 48 sqq.).—St. Alphonsus, *Theol. Mor.*, I, III, n. 363 (ed. Gaudé, I, 621).—Pruner, *Die Lehre vom Recht*, Vol. II, pp. 106 sqq.—F. X. Linsenmann, *Lehrbuch der Moralthologie*, pp. 491 sqq.—F. v. Holtzendorf, *Die Psychologie des Mordes*, Stuttgart 1875.—H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 360 sqq.—A. O'Malley, *The Ethics of Medical Homicide and Mutilation*, New York 1919, pp. 1 sqq.—J. E. Ross, C.S.P., *Christian Ethics*, pp. 266 sqq.—H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 360 sqq.

On MUTILATION: Th. Meyer, S.J., *Inst. Iuris Nat.*, Vol. II, pp. 65 sqq.—A. O'Malley, *The Ethics of Medical Homicide and Mutilation*, New York 1909, pp. 23 sqq.

On CRIMES AGAINST THE UNBORN: H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 364 sqq.—A. O'Malley, *The Ethics of Medical Homicide and Mutilation*, N. Y. 1919, pp. 92 sqq.—A. O'Malley and J. J. Walsh, *Essays in Pastoral Medicine*, N. Y. 1906, pp. 48 sqq.—Chas. Coppens, S.J., *Moral Principles and Medical Practice*, new ed. by Spalding, S. J., N. Y. 1921, 37 sqq.—J. Antonelli, *Medicina Pastoralis*, Vol. II, 4th ed., Rome 1920.—J. M. Harty, "The Church and the Unborn Child," *Irish Theol. Quarterly*, Vol. I (1906), No. 2.

[224] On DUELLING: H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 374 sqq.—Ferraris, *Bibliotheca Canonica*, s. v. "Duellum."—A. Wiesinger, *Das Duell vor dem Richterstuhl der Religion, der Moral, des Rechtes und der Geschichte*, Graz 1896.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 105 sqq.—J. Rickaby, S.J., *Moral Philosophy*, pp. 222 sqq.—Th. Meyer, S.J., *Inst. Iuris Nat.*, Vol. II, pp. 76 sqq.

Chapter V: Man's Duties with Regard to the Temporal Possessions of his Fellowmen

SECTION I: THE ORIGINAL TITLES OF PRIVATE OWNERSHIP

| 225 | 1. The right of ownership (*dominium*) is defined as “the permanent and exclusive right of retaining, controlling, and disposing of an object in one’s own interest and according to one’s own wishes.”¹ It is derived from nature itself and protected by the natural law.²

¹ Cfr. M. Cronin, *The Science of Ethics*, Vol. II, p. 113.—J. P. Gury, *Comp. Theol. Mor.*, Vol. I, n. 533: “Ownership is the legitimate faculty of disposing of some thing as one’s own. Ownership is chiefly divided into perfect and imperfect, according as there is a right to dispose both of the thing itself and of its utility, or only of one of the two. Imperfect ownership, however, is subdivided into direct and indirect, that is, useful, according as it regards solely the ownership of the thing or solely its utility. They also commonly distinguish high and low ownership. The former is ownership improperly so called and is termed the right which the supreme authority has, for the gravest cause and for the good of the community, sometimes to dispose of the goods of private persons with due compensation, insofar as this can be done. The latter is the ownership of private persons, to which the definition properly applies.” Cfr. Pruner, *Lehre vom Recht*, Vol. I, pp. 248 sqq.

² Leo XIII, Encycl. “Quod apostolici,” Dec. 28, 1878: “The right of property and ownership, proceeding from nature itself, is sanctioned by natural law.”—IDEM, Encycl. “Rerum novarum,” May 15, 1891: “The right to possess things privately as one’s own has been given to man by nature. . . . The right of ownership which we have shown to have been bestowed by nature upon individuals must be transferred to man insofar as he is the head of a family. . . . Therefore, when relief for the people is sought, this must be held above all as a fundamental principle: private possessions must be preserved inviolate.”—IDEM, Encycl. “Graves de communi,” Jan. 18, 1901: “Therefore let nothing be more sacred to it [Christian democracy] than justice; let it command that the right of acquiring and possessing be kept intact.”

| 226 | All ownership is based on some ground, usually called title. A title is a factor or an event by which a particular owner comes to have a right to his property. There is a variety of such titles, partly original or primary, partly derivative or secondary. An original title of ownership is one by which objects that belong to no one are appropriated, or by which existing private property is increased or improved. A secondary title is one based upon donation or legitimate purchase from a previous owner.

2. The chief original titles of ownership are: occupancy, accretion, and labor.

a) Occupancy (*occupatio*), the first and most primitive title of private ownership, is defined as the actual appropriation of ownerless objects with the intention to keep them as one’s own. This title of ownership (*ius primi occupantis*) presupposes that the object in question is by nature fit to become private property (*res capax dominii privati*). Hence it must not belong either to State or Church, nor be of such a nature that it cannot be occupied, *e. g.*, the sea or air. Secondly, it must be actually ownerless, that is to say, it must never have belonged to anybody (*res nullius*), or, if it did, have been relinquished by the former owner (*res relictæ*); third, the occupant must have the intention of acquiring the object as his own and of exercising the right of ownership in future. Fourth, the act of occupancy must be such as to convey to others some intimation that proprietary possession has been taken.³ This is usually done by some external act, *e. g.*, in the case of a movable object, keeping it and turning it into something else; in the case of soil or real estate, by the act of cultivating it, fencing it in, setting out plants on it, and so forth.

³ M. Cronin, *The Science of Ethics*, Vol. II, pp. 139 sq.—Gury, *op. cit.*, I, n. 558: “Occupancy is the actual taking possession of things which belong to no one. It is a legitimate mode of acquiring ownership, provided that the required conditions are present, namely: 1. That the thing be capable of private ownership and belong to no one; 2. That the occupant wish to make it his own and take possession of it; 3. That no law stand in the way of occupancy. The more frequent practical cases concerning this matter relate to the occupancy of animals.”

| 227 | The principle that ownerless land in uncivilized countries may be occupied and thereby become private property is recognized by the law of nations.

The most common kinds of occupancy are: hunting (*venatio*), fishing (*piscatio*), and discovery (*inventio*). In civilized countries the right of hunting and fishing is regulated by positive laws and hence may not be exercised *ad libitum*, or if it is so exercised, entails the duty of making restitution for damage done. Hence the right of occupancy may be exercised:

| 228 | α) In regard to ownerless objects (*res nullius*), e. g., wild animals (*animalia fera*) which have not yet become private property by the laws regulating the chase, or by being enclosed in parks or ponds; in regard to tamed animals (*animalia mansuefacta*) that have freed themselves from control; in regard to bees and pigeons which have lost their home, but not in regard to domestic animals (*animalia domestica*). The latter never become ownerless, even when they escape from their masters, except if they go astray, in which case they are to be treated as lost objects.

β) Abandoned objects (*res derelictae*) are objects which once had an owner, but were given up by him because he no longer cared for them. This category does not include property that has been abandoned because of impending danger, or from which the owner has been separated against his will, e. g., on the occasion of a conflagration or a flood; nor does it include tame animals that have gone astray. Occupation based upon the so-called *right of salvage*, therefore, is morally inadmissible.

Occupancy is “not of much practical account in modern civilized States, since all the land of the earth is now practically ‘occupied.’ And even such unoccupied territories as still remain, like Central Africa, have been divided in such a way that the right of extension allowed to each competing government is fixed by special treaties or understandings. The only cases in which occupancy is still to be regarded as an operative title are those of finder, fisherman, and hunter. Their rights are . . . decided by special civil enactments in each country.”⁴

⁴ Cronin, *The Science of Ethics*, Vol. II, pp. 142 sq.—Cfr. Gury, l. c., n. 559–563.—Pruner, *Lehre vom Recht*, Vol. I, pp. 283 sqq.

| 229 | γ) Lost treasures (*thesauri*) are movable objects of value, such as coins, gold or silver vessels, etc., which have lain hidden so long that their legitimate owners can no longer be ascertained. The finder of such treasures has a right to keep them if he is the owner of the soil.

If the treasures are found by a third party, one-half belongs to the owner and the other half to the finder if the discovery was accidental, and the whole to the owner if the discovery was the result of an intentional search.⁵

⁵ St. Alphonsus, *Theol. Mor.*, l. III, n. 602 (ed. Gaudé, II, 85).—Gury, *Comp. Theol. Mor.*, Vol. I, n. 564: “According to Roman law, treasure is a sum of money hidden in the earth, of which no memory remains. According to French law, it is any thing hidden or buried which no one can prove to be his own and which is found by chance.” Cfr. *ibid.*, n. 565–566.

If valuables are found concealed in a movable article, and the ownership cannot be established, the same principles apply. Thus if a man finds money in a piece of furniture belonging to him, it becomes his property; if the furniture belongs to another, the find should be divided half and half; if it has been purchased, the money belongs entirely to the purchaser. If the owner of a house destroyed by fire sells the remaining logs, and valuables are found therein, they belong to the purchaser; if a treasure is uncovered in removing the débris, it is to be divided equally between the finder and the owner of the property.⁶

⁶ Göpfert, *Moraltheologie*, Vol. II, 6th ed., pp. 116 sq.

[230] δ) Finding a lost article (*res amissa*) out of the possession of its owner *per se* confers no title of ownership, but rather imposes the duty of returning the article to its rightful owner. If the owner is unknown, efforts should be made to find him, and meanwhile the lost article should be properly taken care of. If careful enquiry fails to locate the owner, the finder may, after a reasonable time, keep the lost article⁷ and is not obliged to reimburse the rightful owner who appears on the scene later, provided he has not become richer by his find. A finder who does not take pains to ascertain the owner of a lost article, is as bad as a possessor *malae fidei* and bound to make restitution.

⁷ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 66, art. 5, ad 5.—St. Alphonsus, *Theol. Mor.*, l. III, n. 603 (ed. Gaudé, II, 86): “It is asked whether the finder of a lost thing, when the owner has not been found, may keep it for himself. There are three opinions. . . . The third opinion, which is truer and is to be followed, distinguishes and says: When, after diligence has been exercised, it is still possible to find the owner, then the thing or its value must be preserved. But if neither can be preserved, the thing or its value must be spent entirely on pious uses according to the presumed will of the owner, who still retains ownership of that thing whenever the thing can return into his hands. Conversely, when, in view of the circumstances of length of time or distance of place, or because the thing can no longer be recognized by the owner as his own, as happens with ordinary coins, it does not seem possible that it should return to the owner, then it becomes ownerless and is therefore acquired by the first occupant, who is not bound to dispose of it according to the will of the former owner, since through the impossibility of recovering it the latter has completely lost the right of ownership. . . . The reason *a priori* is that the law of nations grants private persons ownership of things for no other purpose than that they may use them. Hence, when it is impossible for the thing to come to their use, it becomes ownerless as though abandoned and returns to the primordial law of nature, and therefore belongs to the first occupant without any obligation.”

[231] The American law on the subject is briefly stated as follows by Bolles: “The finder does not take title to every article found and out of the possession of its true owner. To have even a qualified ownership the thing must be lost, and this does not happen unless possession has been lost casually and involuntarily so that the mind has no recourse to the event. A thing voluntarily laid down and forgotten is not lost within the meaning of the rule giving the finder title to lost property; and the owner of a shop, bank, or other place where the thing has been left is the proper custodian rather than the person who was the discoverer. If a lost article is found on the surface of the ground, or the floor of a shop, in the public parlor of a hotel, or near a table at an open-air place of amusement, or in the car of a railroad, it becomes, as against the loser, the property of the finder, who appropriates it regardless of the place where it was found. . . . The law regards the possession of an article which is lost as being that of the legal owner who was previously in possession, until the article is taken into the actual possession of the finder. If the finder does not know who the owner is, and there is no clue to the ownership, there is no larceny although the finder takes the goods for himself and converts them to his own use. If the finder knows who the owner is, or has a reasonable clue to the ownership, which he disregards, he is guilty of larceny.”⁸

⁸ Putnam's *Handy Law Book*, pp. 27 sq.—Gury, *Comp. Theol. Mor.*, Vol. I, n. 566: “Question 4: What is to be done if at length the owner appears, when the thing has been expended or consumed in pious uses? Answer: (1) If the thing still exists, it must be returned to the owner, because wherever it is, it cries out for its owner. The finder, however, is bound, at least with slight inconvenience, to see that it can be restored, *e. g.*, by warning the possessor or the owner of the thing himself; (2) If the thing has been consumed after sufficient diligence had previously been employed to find the owner, nothing is to be restored except that by which the consumer has become richer; (3) If it has been consumed without the finder having employed the necessary diligence, he is bound to repair the whole damage arising from its destruction.”—Cfr. A. Lehmkuhl, S. J., *Theol. Mor.*, Vol. I, 11th ed., n. 1089 sqq.

|²³²| b) *Accretion or production (accessio sive productio)* is that mode of acquiring ownership whereby something is gradually added to what is already one's own,—either by some process of nature (*accessio naturalis*), as when animals give birth to young, or real estate grows by alluvial deposits; or, secondly, by human labor (*accessio industrialis*), for instance, planting, sowing, cultivating, and so forth, or, lastly, in both ways together (*accessio mixta*). Where no law or contract provides otherwise, the rule is that “*accessorium sequitur principale*.”

Whatever is sowed, planted, or raised on ground belonging to another, belongs to the owner of the soil, but he who did the sowing, planting, etc., if he acted in good faith, has a claim to indemnification. He who employs materials belonging to another for the manufacture, *e. g.*, of a piece of furniture or a picture, is the owner of what he has made, but must indemnify the owner of the material used.⁹

⁹ Gury, *op. cit.*, Vol. I, n. 580 sq.: “Accretion is a mode of acquiring ownership in some thing from the fact that that thing is added to ours and united with it. Accretion usually occurs in various ways, namely: 1. By birth, or when an animal conceived by a male belonging to another is born to us. He who has the mother has the right to all the animals born from her. Hence the maxim: The offspring follows the womb; 2. By alluvion, or when an increase by the force of waters is gradually added to someone's estate. Ownership cannot, however, be acquired by sudden alluvion; 3. By adjunction, or when two things belonging to different owners coalesce in such a way that they cannot be separated; then the whole composite belongs to him whose material is superior in size or in value within the composite, but he must indemnify the other; 4. By specification, or when a new bodily form is fashioned by art from another's material. Then, by Roman law, if the form cannot be returned to the former material, the thing belongs to the artisan, who is bound to pay the price of the material or compensate any damages; 5. By commixture or conjunction of two equally principal things belonging to different owners. Then, if the mixed things can be distinguished and separated, let them be separated; but if they cannot be distinguished, the thing will be common and must be divided in proportion to each one's own quantity. Nevertheless, the owner of the superior material can keep the whole mass, due compensation having been made; but if the mixed things are altogether inseparable and approximately equal, the composite belongs to both owners in common and must be sold so that the price may be divided; 6. By building, or when a building is constructed from another's material on one's own land, or from one's own material on another's land. In general, ownership of the land draws with it whatever is placed above or below it. The building therefore belongs to him whose is the soil, upon due compensation. Almost the same must be said about planting and sowing. Hence the common verses: ‘Whatever is planted, sown, or built upon, all yields to the soil, provided, however, that it puts forth roots.’” Cfr. Pruner, *Lehre vom Recht*, Vol. I, pp. 293 sqq.

|²³³| From what we have said it is plain that *labor*, too, is an *original title of ownership*. By labor is meant human industry, spiritual or corporal, suitable for producing goods. As the effect follows its cause, so does the fruit of labor belong to the laborer.¹⁰ Some writers, taking their cue from the so-called classics of political economy, have exaggerated the importance of labor by declaring it to be the only just title of ownership and reducing the occupation of ownerless property to labor as a title of ownership. This is a manifest exaggeration, for all labor deals ultimately with some pre-existing raw material. The work which a man does, gives him a right to the fruits of his labor, but the ownerless

property that a man occupies is plainly not the fruit of his labor nor of his activity in taking possession of it.¹¹

¹⁰ Leo XIII, Encyclical “Rerum novarum,” May 15, 1891; English in *The Pope and the People*, London 1912, pp. 178–219.—J. A. Ryan, *Social Reconstruction*, pp. 68 sq.

¹¹ J. E. Ross, *Christian Ethics*, pp. 28 sqq.—Cfr. M. Cronin, *The Science of Ethics*, Vol. II, pp. 143 sq.; Jos. Biederlack, S. J., *Die soziale Frage*, 7th ed., p. 112, n. 1. Cfr. V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 313 sqq.

|²³⁴| *Authorship*, too, entails a property right in the true sense of the term. The real object of this right is not the spiritual content, but the concrete and therefore palpable form into which that content has been cast and in which it is capable of mechanical multiplication. The usual rules governing property may therefore be applied to the products of authorship. The civil laws on the subject of copyright and patents bind in conscience.¹²

¹² J. E. Ross, *Christian Ethics*, p. 287.—Cathrein, *op. cit.*, II, 323.—L. Geller, *Das Gesetz betr. das Urheberrecht an Werken der Literatur, Kunst und Photographie*, Vienna 1896.—J. Kohler, *Urheberrecht an Schriftwerken und Verlagsrecht*, Stuttgart 1906.—Drone, *The Law of Property in Intellectual Productions*, N. Y. 1910.—IDEM, art. “Copyright” in the *Encyclopedia Americana*, Vol. V.—A. Tanqueray, *Synopsis Theol. Mor. et Past.*, Vol. III, pp. 18 sq., 1*–6*.

READINGS.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 66, art. 2 (Rickaby, *Aquinas Ethicus*, II, pp. 53 sqq.).—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., pp. 582 sqq., 620 sqq.—St. Alphonsus, *Theol. Mor.*, I, III, n. 493–502 (ed. Gaudé, Vol. II, pp. 17 sqq.).—V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 4th ed., pp. 301 sqq.—Schaub, *Die Eigentumslehre nach Thomas von Aquin*, pp. 343 sqq.—A. Vermeersch, S. J., *Quaestiones de Iustitia*, 2nd ed., pp. 240 sqq.—H. Pesch, S. J., *Lehrbuch der Nationalökonomie*, Vol. I, 2nd ed., pp. 189 sqq.—F. Hitze, *Kapital und Arbeit und die Reorganisation der Gesellschaft*, Freiburg 1880, pp. 99–145.—Th. Meyer, S. J., *Institutiones Iuris Naturalis*, Vol. II, pp. 126–201.—Castelein, S. J., *Le Socialisme et le Droit de Propriété*, Paris 1896.—J. Kelleher, *Private Ownership*, Dublin 1911.—D. Merino, *Natural Justice and Private Property*, Eindhoven (Holland) 1922.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 113 sqq.—H. Parkinson, *A Primer of Social Science*, ed. by T. J. Shealy, S. J., N. Y. 1913, pp. 135 sqq.—V. Cathrein, S. J., s. v. “Property” in the *Catholic Encyclopedia*, Vol. XII.

SECTION 2: THE DERIVATIVE TITLES OF OWNERSHIP

|²³⁵| The derivative titles of ownership or secondary modes of acquiring property are: prescription, hereditary succession, and cession by means of various kinds of contracts.

1. PRESCRIPTION (*praescriptio*) or acquisition by means of prescription (*usucapio*) is the legal provision by which a man in course of time acquires an object or a right (*praescriptio acquisitiva*) or is freed from an obligation (*praescriptio liberativa sive extinctiva*). Though it has its origin in the civil law, prescription binds in the internal forum (*in foro conscientiae*) because it is necessary for the common welfare. Every man must devote proper care to the conservation of his property, and there would be no end to quarrels and lawsuits if the time for arguing and deciding them were unlimited.¹ The legal and Moral conditions of prescription are contained in the following memorial verses:

¹ Gury, *Comp. Theol. Mor.*, Vol. I, n. 568: “Human law can, by the force of prescription, transfer ownership of things from one person to another even without the owner’s consent. For such a transfer is very useful, indeed morally necessary for the common good of society, since it is required to prevent or settle disputes which otherwise would arise rather often from an uncertain right of possession. Moreover, it is not contrary to natural equity, since the law was established before any event and by that very fact offers to all and each an equal chance of gain or loss.”—M. Cronin, *The Science of Ethics*, Vol. II, p. 148; C. S. Devas, *Political Economy*, pp. 490 sq.

|²³⁶| You will not acquire by prescription unless these five things are present for you: Let the thing be suitable, good faith, title, possession, time.

Or:

Equitable good faith, a just title, a thing not defective, That you possess the thing, and time also be continued.

Prescription, therefore, presupposes:

a) A *res praescriptibilis*, *i. e.*, an object which, either by its nature or by common law, is fit to be possessed by this particular person. Hence no right of prescription can be invoked in the case of sacred things (*res sacrae*) and stolen goods (*res vitiosae*), nor can public property (*res publicae*) pass by such right into private ownership.

b) Good faith (*fides bona sive aequa*), *i. e.*, an erroneous judgment by which one prudently holds that an article in his possession is really his. Without good faith one cannot legitimately begin prescription, and if bad faith destroys good faith before the expiration of the time set by law, the prescription is interrupted. Should the civil law require prescription in the beginning only, such a provision would not avail in conscience.

c) A just title (*iustus titulus*), *i. e.*, a legal provision or external fact creating a conviction of the legitimacy of his ownership in the possessor. A legal title (*titulus verus*) is in the nature of things not necessary, for such a one actually confers the right of ownership; all that is required is an apparent title (*titulus coloratus sive existimatus*), which can reasonably be held to be a true one, but a merely presumptive title (*vitiosus sive tantum praesumptus*) is not sufficient.²

² Gury, *op. cit.*, n. 572: "Title is said to be a cause sufficient of itself to transfer ownership, *e. g.*, purchase, donation, etc. A true title is not indeed required, as is evident, for otherwise the possessor would not need prescription to acquire the thing; but a colorable title is required, that is, one which bears the appearance of a true title, although it is false in itself.—For prescription of thirty years no title is required, but possession alone suffices even in conscience, provided there is good faith; or rather, a presumptive title is then had in the very fact of peaceful possession over so long an interval of time." Cfr. J. E. Ross, *Christian Ethics*, p. 291.

|²³⁷| d) Possession,³ *i. e.*, the actual and continuous holding of an object, accompanied by the intention of retaining it as one's own.

³ *Reg. Iuris in VI^o Decr. Bonif. VIII*, n. 3: "Without possession prescription does not proceed."—J. P. Gury, *op. cit.*, n. 571: "Possession is said to be the holding of a thing or the exercise of some right. This possession is required for prescription. . . . Possession, however, must enjoy various conditions. For it must be: 1. Dominative, or held with the intention of an owner, not of a depositary, etc.; 2. Public, that is, not clandestine, so that it could have become known to him against whom prescription is made; 3. Peaceful, that is, excluding every act of violence; 4. Certain, that is, not equivocal; 5. Continuous or uninterrupted, until the required time is completed."

e) The time required for prescription (*tempus requisitum*) is not determined by natural, but left to human law. This differs according to the objects in question. Moralists distinguish: *tempus breve*, a period of from three to ten years; *tempus longum*, a period of ten or twenty years; *tempus longissimum*, a period of twenty or thirty years; *tempus immemoriale*, a period the beginning of which no living person can remember, usually one hundred years, more or less. A distinction is also made between movable and immovable objects. Rights inherent in objects, movable or immovable, or the young whilst yet

unborn, become subject to prescription. Once fruits are detached from their objects, they change ownership by prescription just like movable objects.⁴

⁴ Göpfert, *Moraltheologie*, Vol. II, 7th ed., p. 125.—Cfr. Gury, *Comp. Theol. Mor.*, Vol. I, n. 573 sq.

It is the common teaching of moralists that prescription of less than three years does not bind in conscience, because the legislators do not intend that it shall.⁵

⁵ Ross, *Christian Ethics*, p. 292.

| 238 | 2. *Bequest* is the right to take possession of the whole or part of an estate left by a deceased person (*successio hereditaria*). It is a natural right, contained in the very idea of ownership and conferred by a legally executed “last will and testament,” or by an ante-mortem agreement made in conformity with the law, or by the law itself. The conditions of validity for a last will and testament are laid down by positive law.⁶ If a man dies intestate, *i. e.*, without leaving a will, the State takes charge of his estate and distributes it according to the statutes, which is called intestate succession (*successio ab intestato*).⁷ The *law of inheritance*, as it has been developed through many centuries, is attacked by the Communists. Catholic moralists uphold it because of its high importance for the individual citizen, for the institution of the family, and for the entire social order.

⁶ Cathrein, *op. cit.*, II, 346 sqq.

⁷ Th. Meyer, S. J., *Inst. Iuris Nat.*, Vol. II, pp. 196 sqq.—St. Ambrose, *De Officiis*, l. III, c. 9, n. 58: “[Without] those placed at the end of life having their own judgment, so that they may freely testify to what they think.” (Migne, P. L., XVI, 192). Cfr. Périn, *Christliche Politik*, pp. 200 sqq.; Schaub, *Die Eigentumslehre nach Thomas von Aquin*, pp. 374 sqq.

A man may dispose of his property in a twofold way, either by means of a declaration as to who shall be his heirs, called *last will* or *testament*, or by an ante-mortem agreement with his heirs, called *testamentary contract*. If this contract involves only part of an estate, it is called *donatio mortis causa*. This must be distinguished from *donatio inter vivos*, by which a man gives away part of his property during his life-time, either unconditionally or on condition that he receive an income from it till death.⁸

⁸ Cathrein, *Moralphilosophie*, Vol. II, 5th ed., p. 340.

| 239 | *Per se* no one is obliged to make a will because the law provides sufficiently for the distribution of the property of those who die intestate; but circumstances may make it a duty. This is the case:

a) When there are debts to be paid which will probably not be settled unless mentioned in the last will or testament; b) If there is restitution to be made, which the heirs will presumably not make unless they are held to do so by the terms of the will; c) If the testator foresees serious quarrels in connection with the division of his property, and can easily obviate them by means of a will; d) If the merits of his children differ, so that one is in justice entitled to a larger share of the estate than the others, or if one of them is likely to squander or misuse the property left to him; e) If the guardianship of an immature child would be entrusted to an unreliable person, unless due provision against such a mistake is made by will.

It is proper, too, that the testator should provide for the repose of his soul by appropriate directions in his will. In this sense confessors may and should admonish the dying to attend to their temporal affairs and provide for the repose of their souls, without, however, exercising any undue influence or, what would be even worse, taking selfish advantage of the situation.⁹

⁹ Göpfert, *Moraltheol.*, Vol. II, p. 136.

|²⁴⁰| The Code expressly declares that “whoever is able, by natural and ecclesiastical law, to dispose freely of his property, can devote it to pious causes (*ad causas pias*), either by donation while he is still alive, or by last will and testament (*sive per actum inter vivos sive per actum mortis causa*).”¹⁰

¹⁰ C. I. C., can. 1513, § 1.

The Code also says that in the making of a will by which the Church is benefitted, all legal formalities should, if possible, be observed, and that, if these formalities have been omitted, the heirs should nevertheless carry out the wishes of the testator.¹¹

¹¹ Can. 1513, § 2.

The executors of all pious bequests, testamentary and otherwise, are the Ordinaries, who are exhorted to see to it that these bequests are faithfully carried out; clauses attached to a will contrary to this right of the Ordinaries are declared null and void.¹²

¹² Can. 1515.

Priests have full liberty of disposing of their belongings, but they should remember the Tridentine decree¹³ which admonishes them to will the *bona superflua* derived from ecclesiastical benefices either to the Church or to the poor. This obligation, however, is merely one of obedience (*ex lege ecclesiastica*), not of justice (*ex iustitia*).¹⁴

¹³ *Conc. Trid.*, Sess. XXV, c. 1, *De Ref.*

¹⁴ *Conc. Vienn.* a. 1858, t. 7, c. 5; *Conc. Prag.* a. 1860, t. 8, B, c. 4 (*Collectio Lacensis*, Vol. V, 217, 593).

Aside from the minimum established by law, parents may give a larger share of the property of which they have free disposal to one child than to another, but should do so only for a just cause, such as: special merits, poverty of one and unworthiness of the other, etc. Where no just reason for discrimination exists, charity and prudence counsel equal distribution, because an unequal division easily causes dissatisfaction and quarrelling.

|²⁴¹| Brothers and sisters who are in real need must (*sub gravi*) be preferred to other poor persons, and even to pious causes, at least to the extent that their immediate needs are satisfied. Towards other relatives there is indeed an obligation, but it is not grave. Where the law does not protect the interest of man or wife, there is a certain natural obligation of giving him or her at least a portion of the testator's property, or the usufruct thereof. Noldin,¹⁵ following De Lugo, holds that this obligation indirectly touches the property itself, and therefore binds the heirs.¹⁶

¹⁵ *Summa Theol. Mor.*, Vol. II, p. 574; cfr. Th. Meyer, S. J., *Inst. Iuris Nat.*, Vol. II, p. 194.

¹⁶ Cfr. Göpfert, *Moraltheol.*, Vol. I, p. 140.

The portion due to a deceased child may not be appropriated by the brothers and sisters, but, unless the civil law provides otherwise, should be given at least in part to the poor, for Christ, who, according to St. Augustine,¹⁷ is a member of every Catholic family, has destined His share for the poor. Some monasteries have the beautiful custom of leaving the place of a deceased member vacant for a while and giving his portion of food and clothing to beggars.

¹⁷ *Serm.*, 86 (al. 43 *De Diversis*), n. 11–13 (Migne, *P. L.*, XXXVIII, 528).

3. Cession (*traditio*) is the transfer to another by mutual agreement of ownership in an object. This brings us to the discussion of contracts.

READINGS.—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., pp. 609 sqq., 706 sqq.—St. Alphonsus, *Theol. Mor.*, l. III, n. 503–517.—F. X. Linsenmann, *Lehrbuch der Moralthologie*, pp. 531 sqq.—J. Schwane, *Die Gerechtigkeit*, pp. 30 sqq.—Th. Meyer, S. J., *Inst. Iuris Nat.*, Vol. II, pp. 192 sqq.

SECTION 3: NATURE AND DIVISION OF CONTRACTS

|242| 1. DEFINITION.—A contract (*contractus, pactum*) is a mutual agreement between two or more parties, recognized by law as creating an obligation to do or to omit a particular thing, and productive of a permanent claim in one or both parties.

2. CONDITIONS NECESSARY FOR VALIDITY.—To be morally valid and binding, a contract must comply with certain conditions, both on the part of the contracting parties and as to matter and form. With due regard to the properties which belong to a contract by natural law, positive legislation may and does regulate the details with regard to conditions as well as concerning different forms of contracts, in conformity with natural justice and the common welfare.

a) The parties to a contract (*subiectum contractus, contrahentes, paciscentes*) must be naturally and legally capable of entering into an agreement, and they must enjoy the use of reason and freedom of action, because a contract is a human act.

|243| b) The matter of a contract (*materia sive obiectum*) must be something morally and physically fit to form the object of an agreement.¹ Hence an agreement which violates an inalienable right of one of the contracting parties, or of a third party, or the laws of morality, or which demands something impossible, is immoral and therefore invalid. If, however, a man has performed an evil deed in conformity with a contract into which he has entered, he may, without committing an additional sin, receive and keep the reward due to him, though it would be better to devote it to some good purpose (*ad pias causas*).²

¹ J. P. Gury, S. J., *Comp. Theol. Mor.*, Vol. I, n. 726: “A contract is an agreement by which one or more persons bind themselves toward one or more others to give, do, or omit something.” Idem, *ibid.*, n. 727: “The matter of a contract generally consists of things and deeds, or all those things which can fall under human dominion and over which contracting parties have full ownership and free administration. The matter of a contract must possess various conditions; namely, it must be possible, existent, honorable, proper to the contracting party, and certain. 1. Possible, both physically and morally, because no one can be bound to the impossible; 2. Existent either in fact or at least in a certain hope, or probably going to exist, otherwise no right over it could be had; 3. Honorable and lawful, that is, prohibited by no law, because an obligation concerning a dishonorable and forbidden thing cannot be given, as is evident; 4. Proper to the contracting party, as is evident from the definition, for no one can transfer to another a right which he himself does not have; 5. Certain and determined, whether as an individual thing or in quantity and quality, for otherwise the contract would be illusory.” Cfr. Lehmkuhl, S. J., *Theol. Mor.*, Vol. I, 11th ed., n. 1240 sqq.

² St. Thomas, *Summa Theol.*, 2a 2ae, qu. 32, art. 7, ad 2; qu. 62, art. 5, ad 2; qu. 87, art. 2, ad 2.—St. Alphonsus, *Theol. Mor.*, l. III, n. 712 (ed. Gaudé, II, 176).—J. P. Gury, S. J., *Comp. Theol. Mor.*, Vol. I, n. 730.—S. Poenit., d. d. 23 Apr. 1822: “A penitent woman is not to be compelled, but is to be exhorted to expend the price of prostitution for pious uses, according to the judgment of a prudent confessor.”

An immoral contract is *per se* invalid and binds no one. But since the matter or object may be separated from the motive, one who has demanded and received an immoral act from another, may be obligated to perform his part of the bargain, provided the act demanded of him is possible and honorable. A man who hires another to set fire to the house of a third, enters into a contract which is *per se* invalid. If the hireling lives up to his part of the agreement, is the hirer obliged to pay him the

promised sum, and may the hireling keep the money? The answer is yes, regardless of what may be said of the disproportion existing between the sin and its reward. The reward is paid not on account of the sin involved in the undertaking, but on account of the material performance, which is not in itself sinful, since the malice lies not in the deed itself, but in its form and motive. The reward is given for the labor performed, for the care involved in the choice of the proper means, and for the risk assumed in the undertaking. That the hireling is thereby encouraged to commit other similar crimes aggravates the sinful character of the contract, but is not a sufficient reason for withholding the contractual reward, to which he has a right. He may retain the wage for his labor, even if that wage exceeds the one usually paid for similar material labors, because the risk involved is exceptional. From the moral point of view, money thus received is rated as ill-gotten gain, and whatever portion of it is not needed for the sustentation of life, is subject to restitution, though it need not be given back to the person from whom it was received, but may be donated to charity.³

³ F. X. Linsenmann, *Lehrbuch der Moraltheol.*, pp. 533 sq.

|244| If a man has made a present to a woman with the intention of seducing her, she may keep the gift, even though she did not commit the sin demanded of her. The reason is that there was no *pactum de peccato patrando*.⁴ But, as Göpfert observes, “the acceptance or retention of such a present may involve the sin of scandal, namely, in so far as the donor may thereby be encouraged in his evil purpose by the hope of fulfilment.”⁵

⁴ Gury, *op. cit.*, Vol. I, n. 731: “It is asked whether, if a man has given something to a woman in order to seduce her, she may retain the thing after refusing consent? The answer is affirmative, because no agreement concerning the commission of sin intervened, and therefore the donation is to be regarded as entirely gratuitous.” Cfr. Lehmkühl, *Theol. Mor.*, Vol. I, n. 1248–1251.

⁵ F. A. Göpfert, *Moraltheologie*, Vol. II, p. 152.—Cfr. J. Kelleher, “Immoral Contracts,” in the *Irish Theol. Quarterly*, Vol. IV, (1909), No. 15.

|245| c) Formally, a contract demands a mutual, serious, and perfectly free internal consent (*consensus internus*,) manifested by some external sign or signs (*consensus externus*). Extremely vague terms, a lack of express acceptance of the promise given, or any essential error with regard to the object or nature of a contract, render that contract invalid, because in such cases there can be no true agreement of the will between the parties concerned. A non-essential error, on the other hand (*e. g.*, concerning an accidental quality of the matter), does not affect the validity of the contract, unless the contract was caused by this very mistake. If this was the case, the contract, if it was a gratuitous one, is null and void because gratuitous contracts presuppose free consent. Grave fear, unjustly caused, so long as it does not deprive the subject of the power of clear thinking, does not, *ex iure naturali*, render a contract invalid, but gives the party who acted under the influence of fear the right to renege the obligations incurred.⁶ Force, which deprives one of the contracting parties of his liberty, renders a contract null. A signature obtained by force is, therefore, legally worthless and does not bind the signer in conscience.

⁶ J. P. Gury, S. J., *Comp. Theol. Mor.*, Vol. I, n. 737, 740–747; J. E. Ross, *Christian Ethics*, p. 297; M. Cronin, *The Science of Ethics*, Vol. II, pp. 305 sqq.

|246| The so-called gratuitous contracts (*vide* Sect. 4, *infra*) are not affected in their validity by a non-essential or an accidental error, for consent to its substance is sufficient to make a contract valid. Accidental errors easily occur in legal affairs, and it would give rise to numerous inconveniences if

contracts were invalid or could be declared void because of a non-essential error. If, however, the error was substantial and caused by intentional deceit on the part of one of the contracting parties, and the other party was induced by it to make the contract, the deceived party has the right, upon discovery of the error, to rescind the agreement. Some authorities regard the contract as invalid in such a case. Most others consider it valid as long as the deceived party does not demand its dissolution. The latter, consequently, has it within his power either to let the contract stand, if he wishes to do so after he has discovered the error, or to have it revoked, *i. e.*, to demand of the other party that it be regarded as null and void.⁷

⁷ V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 355 sq.

Slight fear⁸ does not by natural law invalidate a contract, for if it did, every contract would be doubtful, as there are people who seem to be in a constant state of dread and can be induced to make a promise or sign an agreement only if inspired by fear or placed under moral pressure. Slight fear, even if unjustly inspired, does not destroy freedom of decision. On the contrary, fear often makes a man cautious and teaches him to give special attention to the business in hand. Hence it would not be right to say that slight fear invalidates gratuitous, or even onerous contracts (the latter if fear was the principal reason for, or the occasion of, making the contract) *in foro conscientiae*, but such fear may be a reason for demanding the dissolution of an otherwise valid contract.

⁸ See this *Handbook*, Vol. I, p. 116.

| 247 | 3. DIVISION OF CONTRACTS.—Contracts are commonly divided as follows:

a) With regard to the *effects* or the *obligation* involved (α)—into unilateral (*unilaterales*) and bilateral (*bilaterales*), according as they give rise to an obligation of justice in one of the parties only or in both; (β) into gratuitous (*gratuiti*) and onerous contracts (*onerosi*), according as one of the contracting parties receives a utility without a corresponding burden, or the burden is distributed between both; (γ) insurance or social contracts, which aim not at profit, but at securing rights of property.⁹

⁹ F. X. Linsenmann, *Lehrbuch der Moraltheologie*, pp. 535 sq.

b) Distinguished according to *form*, contracts are divided into (α) solemn, (β) public, (γ) private, depending upon the legal formalities by which they are accompanied.

| 248 | c) With reference to their *object*, contracts may be ecclesiastical or civil, and they may or may not affect property rights.

d) Distinguished according to the law by which they bind, contracts are divided into natural contracts and contracts of civil obligation.

Other divisions are of minor importance.

The division of contracts evolved by the casuists, says Linsenmann, does not flow from their internal nature. Some of them are merely the product of a legal fiction, which cannot be carried to its logical conclusions in the ulterior development of the law. The distinction between unilateral and bilateral contracts, for instance, is opposed to the very nature of contracts. The distinction between gratuitous and onerous contracts is purely extrinsic and not quite accurate. In Moral Theology, at least, every contract is not only bilateral, but also onerous, though the consideration involved does not always consist in a definite, material *quid pro quo* enforceable under the law, but at times is purely ethical and ideal. But even in regard to the material *quid pro quo* jurists and casuists cannot determine sharply

which species of contracts naturally postulates it and which does not. It does not lie in the nature of a loan contract that it is sometimes (*commodatum* and *mutuum*) rated as gratuitous and sometimes (*locatio, conductio*, etc.) as onerous.¹⁰

¹⁰ Linsenmann, *op. cit.*, p. 536.

READINGS.—Th. Meyer, S.J., *Inst. Iuris Nat.*, Vol. II, pp. 210 sqq.—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., pp. 631 sqq.—St. Alphonsus, *Theol. Mor.*, l. III, n. 707 sqq. (ed. Gaudé, II, 174).—J. Schwane, *Die theologische Lehre über die Verträge*, Münster i. W., 1871, pp. 8 sqq.—J. E. Pruner, *Lehre vom Recht*, Vol. I, pp. 336 sqq.—F. X. Linsenmann, *Lehrbuch der Moraltheol.*, pp. 533 sqq.—V. Cathrein, S.J., *Moralphilosophie*, Vol. II, 5th ed., pp. 352 sqq.—A. Vermeersch, S.J., *Quaestiones de Iustitia*, 2nd ed., pp. 363 sqq.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 298 sqq.—J. E. Ross, C.S.P., *Christian Ethics*, pp. 294 sqq.—T. Slater, S.J., in the *Catholic Encyclopedia*, Vol. IV, pp. 332 sq.

SECTION 4: THE SO-CALLED GRATUITOUS CONTRACTS

[250] Gratuitous contracts, so called, are: promises, gifts, deposits, loans, and the agreements known in Latin as *mutua*, for which we have no precise equivalent in English.

1. A *promise* (*promissio*) is merely a free and sincere declaration of one's willingness to do something gratuitously for another. It is, therefore, not strictly a contract, but rather a preliminary to a contract. English law will not enforce a simple promise for which no valuable consideration was given and which was not entered into by deed,¹ but in the forum of conscience a promise imposes an obligation, either of fidelity or of justice, as the intention may be.

¹ T. Slater, S. J., *A Manual of Moral Theology*, Vol. I, p. 496.

"There is a dispute among theologians concerning the kind and quality of the obligation imposed by a simple promise. An onerous promise for which consideration is given by the other party, and mutual promises bind in justice, and consequently under pain of grievous sin in serious matter. Similarly, where the promisee has been led to rely on a promise, and would suffer serious loss unless the promise were fulfilled, the promisor will be under a grave obligation to fulfil it. Apart from these circumstances the obligation of a simple promise will depend on the intention of the promisor. If he intended to give the promisee a strict right to what was promised, he will be bound in justice; otherwise he will only be bound by the virtue of fidelity, which is a self-regarding virtue, and imposes an obligation to make the fact agree with one's word. The virtue of fidelity of itself only binds under pain of venial sin. A promise will cease to bind if some event takes place or becomes known subsequently which would have prevented the promisor from making the promise if it had happened or been known beforehand. For a simple promise is essentially conditional; the promisor binds himself to do something under certain suppositions and in certain circumstances; if those suppositions are not verified, or if the circumstances become changed, the promise no longer obliges. All the more will a promise cease to bind if what was promised becomes unlawful and wrong, or useless, or impossible."²

² *Op. cit.*, p. 497. Cfr. M. Cronin, *The Science of Ethics*, Vol. II, p. 313.

[251] 2. A *gift* (*donatio*) is a contract by which a man (*donator*) gratuitously transfers an object or a right to another (*donatarius*). For a gift to be valid, the donor must be free to give away the object or right in question, and the receiver (*donatarius*) must be free to accept it. A gift is called *inter vivos* if

the ownership in the property is transferred by the donor while he is still alive; it is called *mortis causa* if made in view of death, *i. e.*, with the intention that the *donatarius* shall receive the property only after the donor's demise.³ The difference between these two kinds of gifts lies in this, that a *donatio mortis causa* may be revoked at any time, and becomes void with or without a cause, if the *donatarius* dies before the donor, unless indeed the latter expressly ordained the contrary. A *donatio inter vivos*, on the contrary, can be voided only for definite reasons determined by law, *e. g.*, if an heir is born to the donor, if the beneficiary proves grossly ungrateful, or if the donor becomes poor and needy without any fault of his.⁴ Gifts of immovable objects or movable ones of considerable value must be legally approved to be valid. Catholic Moral Theology demands of the donor that he shall not injure his family or creditors nor give his property away to unworthy persons in order to gratify his own passion or that of another; and of the beneficiary, that he shall not obtain a gift by deception, intrigue, or other undue influence, that he shall refuse to accept a donation unjustly made, and that he shall show himself duly grateful for gifts, both in word and deed.⁵ The civil law may add other conditions, for instance, that there should be some public record of the transaction.

³ J. P. Gury, S. J., *Comp. Theol. Mor.*, Vol. I, n. 761: "A donation in general is the gratuitous grant of some thing. It can be made in two principal ways, namely, between the living and by testament." Ibid., n. 770: "A donation between the living is an act or contract by which the donor actually and irrevocably deprives himself of some thing in favor of the accepting donee." Ibid., n. 797: "A donation in contemplation of death is one which is made in view of death; it is necessarily revocable by its nature. This concerns the common law. A donation in contemplation of death is valid, provided it is clothed with the due conditions, namely: 1. It must be made in view of death, otherwise it would be considered a donation between the living; 2. It must be accepted before the donor's death by the donee himself; 3. If the donee predeceases the donor, it is revoked by that very fact and does not pass to his heirs."

⁴ Gury, *ibid.*, I, n. 773; Göpfert, *Moraltheol.*, Vol. I, pp. 162 sqq.

⁵ Col. III, 15; 1 Thess. V, 18; 1 Tim. II, 1; cfr. Prov. XVII, 13.—J. E. Ross, *Christian Ethics*, p. 300.

[253] In most countries gifts are hedged about with many legal provisions intended, first, to exclude undue influences and, second, to prevent donations to persons and institutions which the State does not wish to be so favored. When the lawmakers really have in view the common welfare, these limitations are wholesome. There may be undue weakness shown in giving and there are always persons ready to exploit such a defect of character for their own benefit. In view of this fact the public authorities have a right to protect the weak in their property and to limit extravagance in the form of immoderate and unjust giving. Take the case of a man who disinherits his wife and children and leaves his property to a concubine. Here surely the law ought to interfere. Christian moral teaching, therefore, obliges us to respect the civil laws in this regard. No gift should be made except for some adequate reason, and the beneficiary should realize that he assumes certain obligations with the gift.⁶

⁶ Linsenmann, *Moraltheol.*, pp. 548 sq.

3. A *deposit* is a contract by which a man (*deponens*) entrusts to another (*depositarius*) an object (*depositum*), to be guarded for him until he demands it back.⁷

⁷ Gury, *Comp. Theol. Mor.*, Vol. I, n. 806: "A contract by which a thing is entrusted and accepted for safekeeping, to be restored intact whenever the depositor wishes."

[254] a) The *depository* is bound in conscience to take reasonable care of the object entrusted to him. He is not allowed to make use of it or to appropriate its fruits; he must return the object to its lawful owner upon demand, and make restitution for any damage or injury it may have suffered *ex dolo et*

culpâ latâ seu levi while in his care. If the object entrusted has decreased in value by accident, the depositary is not responsible for the damage, for “*casum sentit dominus*.” If the damage was done through his fault, the question of indemnification must be decided by the terms of the contract. If there was no definite agreement, the depositary is responsible not only for grave neglect on his own part, but also for moderate neglect, provided he receives some compensation for the custody of the object or has freely offered his services. If he has used the entrusted object without the owner’s permission, he is responsible for all damage or depreciation, even though it may have occurred accidentally. If the deposit turns out to be ill-gotten, or the depositary has a just claim against the owner, or reason to fear that the owner will abuse the object, he is not bound to give it back.⁸

⁸ St. Ambrose, *De Offic.*, l. II, c. 29, n. 149: “Faith with respect to deposits must be kept; diligence must be employed.” (Migne, *P. L.*, XVI, 143).—Gury, *Comp. Theol. Mor.*, Vol. I, n. 806: “Obligations of the depositary: 1. He is bound to keep and guard the deposited thing with the care and diligence which diligent men are accustomed to employ in preserving a similar thing of their own; for he has undertaken custody of the thing handed over. If the deposited thing perishes through fraud or through his theologically culpable negligence, he is bound to restitution; 2. He may exact nothing for custody of the thing, unless the owner has expressly promised him compensation, because a pure deposit redounds to the advantage of the depositor alone. But if an agreement concerning compensation has intervened, the deposit then passes into a hiring of service, namely, for the safekeeping of the deposited thing; 3. He is forbidden to use the deposited thing without the owner’s express or tacit consent, or at least consent prudently presumed, for it is not lawful to use another’s thing without consulting the owner; 4. He is bound immediately to return the deposited thing to the person requesting it, for otherwise he would possess another’s thing against the reasonable will of its owner. Except when the depositor requests it to his own or another’s injury, or when the thing is stolen and its owner requests it, or also when the depositary has a just cause for compensation. The deposited thing must be returned in the state in which it is found at the time of restitution, together with the fruits received from it. If, however, it has deteriorated through the fault of the depositary, he is bound to repair the damage.”

[255] When a deposited object (*depositum*) must be restored to its owner, depends upon the will of the latter, even in those cases where a time limit is fixed in the contract, because the nature of this sort of contract makes it necessary to interpret its provisions in favor of the owner. If the place to which the object is to be returned is determined in the contract, this stipulation should be observed by the depositary, but the depositor must pay the costs of transportation. If the depositary changes his place of residence, he is not bound to take the deposit with him, but may leave it in custody of a court, if the depositor will not send for it after being duly notified, or he may, in this latter case, take the object along with him at the expense of the owner.

b) The duties of the *deponens* or lender flow from the nature of the contract. He is above all obligated to receive back the deposit when the depositary wishes to return it for some good reason, for instance, because he can no longer keep it without danger to himself. When a compensation has been agreed upon between the parties, the owner need not pay it in full if the object is returned before the term agreed upon in the contract, but may make reasonable deductions, and eventually charge the depositary with the cost of entrusting the object to another. But he must indemnify the depositary for all necessary expenses incurred and for whatever damage the latter may suffer through the keeping, preservation, or rescue of the deposit, and likewise for accidental damage. In case of danger the depositary may save his own property first.

[256] c) A special kind of deposit is *sequestration*, which is defined as the deposit of property made with a third person either by agreement (*sequestum conventionale*) or by judicial order (*s. iudicarium*), by parties having claims against such property, till the question of ownership can be decided. The

person with whom such property is deposited is called sequester, umpire, or referee. Sequestration is an act of public administration. If sequestration is the result of a mutual agreement between the parties concerned, it may be either gratuitous or not; in the last-mentioned case, the consideration to be paid the sequester should be determined by the terms of the contract. If it is gratuitous, it is subject to the same rules as a deposit and is not rescinded except by mutual consent of the parties or by a legal action. In judicial sequestration the referee or umpire is bound to take good care of the property entrusted to him and the claimants must pay him the fee fixed by law.⁹

⁹ Gury, *Comp. Theol. Mor.*, Vol. I, n. 807: "Sequestration is a species of deposit by which a disputed thing is deposited with a third party, so that after the judgment of a judge or arbitrator it may be handed over to the victor. A twofold sequestration is distinguished: conventional, which is made by the mutual agreement of the contending parties, and judicial, which is decreed by the judgment of a judge. It will suffice to indicate the following concerning both: 1. The object of both conventional and judicial sequestration can be movable or immovable property; 2. Conventional sequestration can be non-gratuitous, and then it is a hiring of service and is subject to the laws of that contract. But if it is gratuitous, it is subject to the same rules as a deposit. It is not dissolved, however, unless mutual consent of the parties or a legal cause supervenes; 3. In judicial sequestration the custodian must exercise the care of a good head of a household, while the person committing the thing to custody is bound to pay the depositary the compensation established by law. Thus concerning natural and positive law."

|257| Deposits now-a-days are mostly entrusted to *banks*. If a deposit consists of stocks or bonds or other valuable papers, the bank is *per se* not allowed to sell them or use them as collateral, particularly when there is danger that the owner may sustain losses through such action. Deposited money may, however, be loaned out or invested with due precautions, provided the owner is given adequate guarantees that he can withdraw his funds within a reasonable time after giving notice.

If a deposit is in danger, and the same danger threatens the depositary's own property, the latter may rescue his own property first. If the deposit is much more valuable than one's own property, it must be rescued first and indemnification can be claimed for one's own loss. If however, the terms of the contract favor the depositary, he must rescue the property of the owner without claim to indemnification.

|258| The same rule applies to loan contracts, with this modification that the terms of such contracts are always supposed to favor the borrower, who therefore has a greater responsibility.¹⁰

¹⁰ Göpfert, *Moraltheologie*, Vol. II, p. 166.—Cfr. St. Alphonsus, *Theol. Mor.*, l. III, n. 752 (ed. Gaudé, II, 200).

A somewhat different sort of contract is that entered into by a guest who entrusts his valuables to a *hotel* or *innkeeper*. In most countries the civil law obliges the hotel keeper to take good care of the valuables entrusted to him and compels him to make restitution even in some cases where the natural law does not impose this obligation.¹¹

¹¹ J. Schwane, *Die theol. Lehre über die Verträge*, p. 79; V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 4th ed., p. 348.

4. A *loan* (*commodatum*) is a contract by which something is granted to another for his temporary use, on condition that it be restored to the owner in its integrity after the term specified.

If the contract contains a clause stipulating that the object loaned may be demanded back by the owner at any time, it is called *precarium*.

In making a contract of this kind the lender (*commodans*) must reveal the defects of the object or commodity loaned; he is not allowed to shorten the term of the contract arbitrarily, and must defray

extraordinary expenses and losses caused by accidents.

[259] The person to whom a commodity is loaned for use only, not for consumption, is called *commodatarius*. He is in duty bound to take good care of the commodity; he may not use it in a manner opposed to the terms of the contract; he has no right to lend it to others, and is responsible for the loss occasioned by its use or preservation, for instance, the feed of a horse or cow; he must further repair all damage arising to the object entrusted to him through his own fault, even though his fault be of the slightest (*ex culpa levissima*).¹²

¹² Gury, *Comp. Theol. Mor.*, Vol. I, n. 803: "A loan for use is a contract by which a thing is granted gratuitously for use alone for a fixed time, with the obligation of restoring the same thing in its individual form. A *precarium*, which is akin to a loan for use, is defined as: A contract by which the use of some thing, revocable at the grantor's will, is granted to someone requesting it. A *precarium* differs, however, from a loan for use in that it is revocable at the grantor's discretion."—Cfr. Schwane, *op. cit.*, pp. 79 sqq.; Göpfert, Vol. II, p. 165.

Lending to others an object which we expect to have restored to us in kind, is a practice which gives rise to much dissatisfaction and quarrelling, and therefore it is undoubtedly an indication of economic progress that objects which used to be loaned gratuitously are now sold or rented at a reasonable price. In trying to abolish the loan in favor of the lease or sales contract, says Bishop Linsenmann, we no more mean to discourage acts of charity than when we advocate the practice of furnishing the poor with occasions for work rather than doling out alms to them. Lending in the sense of the Scholastic *commodatum* will perhaps never die out as a form of friendship and good nature among neighbors; as a social function in the strict sense it no longer has importance except in the form practiced by public institutions, *e. g.*, libraries, art collections, etc. Here, too, the original character of the contract as a kind of charity is almost completely obliterated. There is nothing in the nature of the loan contract which would prevent charging a fee for the use of books in a *public library*, nor is there anything unreasonable in the demand that the lender be held responsible for damage done by accident or by *force majeure*, to articles loaned to him, provided, of course, he is aware of his liability.¹³

¹³ Linsenmann, *Lehrbuch der Moraltheol.*, pp. 551 sq.

[260] 5. We now come to the contract that was called *mutuum* in Roman and Canon Law. It was a gratuitous loan of a fungible commodity made on condition that after a certain period of time the borrower (*mutuatarius, debitor*) should restore to the lender (*mutuans sive mutuator vel creditor*) an equal quantity of the commodity and of the same quality. A fungible commodity is one intended for immediate consumption, *e. g.*, food and drink. Such commodities are called fungible (*res fungibiles sive primo usu consumptibiles*) because any amount of them is interchangeable with the same quantity and quality of the same commodity (*mutuâ vice funguntur*). Since use and consumption cannot be separated in such commodities, that is to say, since the commodity loaned is a *res infructuosa* or sterile, no more can justly be exacted in return than was originally lent.¹⁴

¹⁴ T. Slater, S. J., *Manual of Moral Theology*, Vol. I, p. 512;—J. E. Ross, C. S. P., *Christian Ethics*, p. 303.—J. P. Gury, *op. cit.*, Vol. I, n. 810: "A loan for consumption is a contract by which a thing consumable by its first use is handed over to another under the obligation of returning at the appointed time a similar thing of the same kind and quality. Hence a loan for consumption differs from a loan for use, hire, and deposit: 1. Because in a loan for consumption the thing must be consumable by its first use, whereas not so in the others; 2. Because it must be returned not as the same individual thing, but only as the same in kind; 3. Because in a loan for consumption ownership of the thing is transferred, but not in the others; 4. Because in a loan for consumption the thing perishes to the receiver, in the others to the giver."

[261] "Money considered as a medium of exchange is a fungible; it is a commodity whose use is exhausted for the owner of it when he has paid it in exchange for value received. It is not, under this respect, a commodity which is susceptible of repeated use by the same owner. Money then may be the matter of a contract of loan for consumption, and if a sum of money be thus lent, justice requires that an equal sum be returned at the end of the term, and justice will not allow a greater sum to be exacted in return. For the whole value of the sum of money is the value it has for making exchanges, the value which it has in the first expenditure of it; and if, over and above the sum lent, a further sum were demanded for the use of the money, the same thing would be charged for twice over. An equal sum is due in return for the use of the money; a further sum would be a second payment for the same use. Thus when money is regarded merely as a medium of exchange, a sin against justice is committed if an additional sum is exacted for a loan; it is called usury, money unduly exacted for the use of money. This is the reasoning of Aquinas,¹⁵ and it seems as cogent to-day as it was in the thirteenth century." ¹⁶ By this argument St. Thomas defended the doctrine concerning usury which the Fathers and Doctors had drawn from Holy Scripture and tradition. Benedict XIV sums up the constant teaching of the Church on usury as follows: "The species of sin which is called usury, and which has its proper seat and place in the contract called *mutuum*, consists in this that, from a loan made for consumption (which of its own nature requires that only so much should be returned as was received), the lender desires more to be returned to him than was received, and therefore contends that some gain, over and above the principal, is due him merely on account of the loan. ... Every sort of gain of this kind, therefore, which exceeds the loan, is illicit and usurious."¹⁷ " 17 It can be shown, however, that money is no longer a mere means of exchange for articles of consumption and a measure of their value, but by its very nature has become a *res fructuosa*, i. e., a thing which, over and above its consumptive value has a use value which may be considered as its fruit (*fructus rei*), and hence a loan is no longer strictly a contract of the kind known as *mutuum*, and interest may be asked and taken for its use. Of this subject we shall treat more in detail in the next section, pp. 297 sqq.

¹⁵ *Summa Theol.*, 2a 2ae, qu. 78, art. 1; cfr. Lehmkuhl, *Theol. Mor.*, Vol. I, 11th ed., n. 1295 sqq.

¹⁶ Slater, *A Manual of Moral Theol.*, I, 514 sq.—Cfr. Conc. Vienn. a. 1311: "If anyone should fall into that error, so that he presumes obstinately to affirm that the practice of usury is not a sin, we decree that he is to be punished as a heretic." (Denzinger-Bannwart, n. 479). Conc. Lat. V: "That is the proper interpretation of usury when, namely, gain and profit are sought from the use of a thing which does not reproduce, with no labor, no expense, and no risk." (Ibid., n. 623).—Prop. damn. ab Alex. VII, n. 42: "It is lawful for the lender to exact something beyond the principal, if he binds himself not to demand repayment of the principal until a certain time." (Ibid., n. 1143).—Prop. damn. sub Innocentio XI, n. 41: "Since ready money is more valuable than money to be paid, and there is no one who does not value present money more highly than future money, a creditor may exact from a borrower something beyond the principal and on that title be excused from usury."—Ibid., n. 42: "There is no usury when something beyond the principal is exacted as being due by reason of benevolence and gratitude, but only if it is exacted as being due by reason of justice." (Denzinger-Bannwart, nn. 1191 sq.)

¹⁷ Benedict XIV, Encyclical *Vix pervenit* to the bishops of Italy concerning usury, dated 1 Nov. 1745, n. 1: "That kind of sin which is called usury and which has its proper seat and place in the contract of loan for consumption consists in this: that someone, from the loan itself (which by its own nature requires that only as much be returned as was received), wishes more to be returned to him than was received, and therefore contends that some gain beyond the principal is owed to him by reason of the loan itself. Consequently every gain of this kind which exceeds the principal is illicit and usurious." (Ibid., n. 1475; cfr. S. Alph., *Theol. Mor.*, I, IV, n. 758 sqq.)

[263] READINGS.—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., pp. 639 sqq.—St. Alphonsus, *Theol. Mor.*, I, III, n. 720 sqq. (ed. Gaudé, II, 185).—J. Schwane, *Die theol. Lehre über die Verträge*, Münster i.

W., 1871, pp. 56 sqq.—J. E. Pruner, *Lehre vom Recht*, Vol. I, pp. 420 sqq.—F. X. Linsenmann, *Lehrbuch der Moralthologie*, pp. 547 sqq.—V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 358 sqq.—A. Lehmkuhl, S. J., *Theol. Mor.*, Vol. I, 11th ed., n. 1285 sqq.—M. Cronin, *The Science of Ethics*, pp.

328 sqq.—J. E. Ross, C. S. P., *Christian Ethics*, pp. 302 sqq.

Literature on the problem of interest-taking, *infra*, p. 314.

SECTION 5: THE SO-CALLED ONEROUS CONTRACTS

| 264 | An onerous contract is one that confers advantages on both contracting parties.

The chief kinds of onerous contracts are: Exchange, lease, purchase and sale, pension (census), bill of exchange, and loaning money on interest.

1. The contract called exchange (*permutatio*) is the giving of one thing or right as an equivalent for another, or of interchanging two objects of equal value. Until the objects are surrendered, the contracting parties remain each the possessor of his own property and responsible for any loss that may affect it. In making this contract one party is not allowed to take undue advantage of the other, or maliciously exploit the other's ignorance, necessity or weakness of character, or conceal the defects of the object to be exchanged.

2. A lease (*locatio et conductio*) is a contract by which a right to the possession or enjoyment of real property is transferred for a definite period to another, in consideration of a periodical compensation called rent (*locarium*).¹ By *real property* in this connection is meant property that is not consumed in the first use, but continues to render repeated services. Such commodities have a value over and above that of first use. The value of a house, for instance, is greater than the value of the lease of it for a year, because the house will continue to render services and be valuable after the lease expires.² A lease may have for its object: houses, land, animals, labor or services. If it is for more than a year, it must be in writing.³ a) The *lessor* or landlord (*locator*) may not lease his property for immoral or unlawful purposes. A lease for such a purpose is void. He must see to it that the property is in good condition when it is handed over to the lessee, or reveal its defects, and he must not demand it back before the time agreed upon; he must not raise the rent arbitrarily ("rent profiteering"); he must not abuse the ignorance or need of the lessee, and in case of necessity (for instance, crop failure or hail storms) should remit the rent either entirely or in part. b) The *lessee* is bound to take proper care of the property in conformity with his contract, to keep it in good repair, to pay the rent promptly when it is due, return the property intact to the owner after the lease has expired, and make restitution if damage has been done to it through his fault.⁴ c) A lease is *terminated* by the destruction of its object, by the expiration of the contract, by mutual consent, or by the death of one of the contracting parties.

¹ J. P. Gury, S. J., *Comp. Theol. Mor.*, Vol. I, n. 863: "A lease is a contract by which the use or fruit of a thing or the labor of a person is received by one and granted by another for a certain price for a time. He who hands over a thing for the use or benefit of another is called the lessor; the other is called the lessee or hirer."

² Slater, *A Manual of Moral Theol.*, Vol. I, p. 513.

³ A. S. Bolles, *Putnam's Handy Law Book*, p. 152.—Gury, *l. c.*: "Hence various species of lease are enumerated: 1. lease of buildings; 2. of fields; 3. of animals; 4. of labor and service. To the contract of lease there are in some measure akin *emphyteusis* [Rom. law: A perpetual lease of lands and tenement in consideration of annual rent and improvement

thereon] or a fief [feud; land held of a superior on condition of rendering him service]. ... Yet *emphyteusis* and a fief differ from lease, because they can be established only in immovable property and for no less than ten years."

⁴ Note that, in America, if the lease is for a house or other building, and no specific agreement was made relieving the lessee, he is liable under the common law (which has, however, been changed in several States), for the rent of the building if it burns down, just the same as if he were still the occupier. (Cfr. A. S. Bolles, *Putnam's Handy Law Book for the Layman*, pp. 151 sq.).—Gury, *Comp. Theol. Mor.*, I, n. 864–869.

| 266 | A yearly tenant must give and is entitled to a reasonable notice to quit, which according to the common law should be given by one to the other party six calendar months before the expiration of the current period.

If a lease runs beyond the statutory period, it is not absolutely void, but continues during the joint wills of both parties, and may therefore cease at the will of either. If the landlord wishes to terminate it, he must give the tenant notice to quit. If he disregards the law and takes immediate possession, he is a trespasser.

| 267 | When the terms of a lease are in doubt, they are to be construed in favor of the tenant.

A lease must clearly describe the premises, and a defective description cannot be cured by outside evidence. Any language will suffice that shows the intention of the parties.

To make a valid lease, the parties must, of course, be competent. A lease by a minor is not per se void, but he may cancel it by some positive act.

If a blank form is used in making a lease, and the printed portions do not agree with the written insertions, the written matter is held to express the intention of the parties.

A lessee can assign or sublet his lease, unless this is forbidden, as it often is by the lessor, without his consent. If the lessee dies, his executor or administrator can assign the remainder of the term.

As the lessee may assign or sublet, so may the lessor part with his interest in the leased property.⁵

⁵ Bolles, *op. cit.*, pp. 152 sqq.

Fixtures or things attached to the freehold by the tenant at common law become the property of the landlord, according to the maxim, "quidquid plantatur solo, solo cedit." The common law rule, however, has been greatly mitigated and now, in general, fixtures erected for purposes of trade, ornament, or domestic use, and also agricultural fixtures, may be removed by the tenant. In certain cases, due notice must be given to the landlord before doing this. A tenant can make no permanent alteration without his landlord's consent; should he do so, and thereby injure the premises, the landlord may recover damages, or, if such an alteration is feared or threatened, he may prevent it by obtaining an injunction.

If the landlord has agreed to make repairs, he must keep the property in good condition. But if he fails to keep his agreement to repair, the tenant is not excused from paying his rent or justified in leaving the premises. His remedy is to sue the landlord for the damages or injury done to himself.⁶

⁶ *Ibid.*, pp. 158, 159.

| 268 | d) A sort of sub-species of lease is the contract by which a man hires the services of another for an appropriate consideration, commonly called *wage* or *salary* (*locatio sive conductio operae seu locatio personalis*).

The relation created by such a contract differs according to the nature of the work involved, which may be either predominantly corporal or chiefly intellectual.

Public officials, too, are bound to the commonwealth by a sort of contract.

Justice and charity demand that a due proportion should exist between labor and its wage. The employer must not abuse the necessity or temporary embarrassment of his workers by imposing oppressive conditions. He must not conceal onerous duties connected with an employment, and must pay his laborers promptly at the appointed time. He must not discharge them arbitrarily nor compel them by harsh treatment to give up their jobs. He should conform willingly to the laws regarding due provision for the life and health of his workers and treat them as helpers, not as slaves, ever mindful of the account he will have to give to the Lord, who judges rich and poor according to the same norms of justice.⁷

⁷ Col. IV, 1; Eph. VI, 9; 1 Tim. VI, 2; Philm. 16.

[269] A servant or employee must not undertake work for which he is not fit or in which his faith or morals are placed in jeopardy. He must faithfully comply with the duties he has assumed by the contract into which he has, explicitly or implicitly, entered with his master or employer,—“not serving to the eye, as it were pleasing men, but, as the servants of Christ doing the will of God from the heart, ... knowing that whatever good thing any man shall do, the same shall he receive from the Lord, whether he be bound or free.”⁸ Finally, he has a claim to a fair wage⁹ and the right to employ all licit means in order to improve his economic and social status. Among these means are *trade* and *labor unions* and *strikes*.¹⁰

⁸ Eph. VI, 5–8.—Cfr. Col. III, 22–25; 1 Tim. VI, 1 sq.; 1 Pet. II, 18 sq.

⁹ Matth. X, 10; Luke X, 7; 1 Tim. V, 18.—Cfr. St. Thomas, *Summa Theol.*, 1a 2ae, qu. 114, art. 1.—A. Vermeersch, S. J., *Quaestiones de Iustitia*, 2nd ed., pp. 527 sqq.—F. X. Godts, C.S.S.R., *Scopuli Vitandi*, 3rd ed., Bruges 1896, pp. 230 sqq.—J. Biederlack, S. J., *Die soziale Frage*, 7th ed., pp. 150 sqq., 233 sqq.—C. Gennari, *Consultazioni Morali-Canoniche-Liturgiche*, Vol. I, 2nd ed., Rome 1902, pp. 378 sqq.

¹⁰ A. Vermeersch, S. J., *Quaest. de Iustitia*, 2nd ed., pp. 624 sqq.; Göpfert, *Moraltheol.*, Vol. II, 6th ed., pp. 199 sqq.; Lehmkuhl, *Arbeitsvertrag und Streik*, 4th ed., Freiburg i. B. 1904, pp. 39 sqq.; IDEM, *Casus Conscientiae*, Vol. I, 3rd ed., pp. 895 sqq.; J. Treitz, *Der moderne Gewerkschaftsgedanke*, Treves 1909, pp. 73 sqq.; Broda, *La Fixation des Salaires*, Paris 1912; J. A. Ryan, *Distributive Justice*, pp. 400 sqq.; H. Parkinson, *A Primer of Social Science*, pp. 112 sqq.

[270] For deciding what a fair wage is the following general rule has been laid down by Pope Leo XIII: “To labor is to exert oneself for the sake of procuring what is necessary for the purposes of life, and chief of all, for self-preservation. ‘In the sweat of thy brow thou shalt eat thy bread.’”¹¹ Hence a man's labor bears two notes or characters. First of all, it is personal, inasmuch as the exertion of individual strength belongs to the individual who puts it forth, employing such strength to procure that personal advantage on account of which it was bestowed. Secondly, man's labor is necessary; for without the result of labor a man cannot live; and self-preservation is a law of nature, which it is wrong to disobey. Now, were we to consider labor so far as it is personal merely, doubtless it would be within the workman's right to accept any rate of wages whatsoever; for in the same way as he is free to work or not, so is he free to accept a small remuneration or even none at all. But this is a mere abstract supposition; the labor of the workingman is not only his personal attribute, but it is necessary; and this makes all the difference. The preservation of life is the bounden duty of one and all, and to be wanting therein is a crime. It follows that each one has a right to procure what is

required in order to live; and the poor can procure it in no other way than through work and wages. Let it then be taken for granted that workman and employer should, as a rule, make free agreements, and in particular, should agree freely as to the wages; nevertheless there underlies a dictate of natural justice more imperious and ancient than any bargain between man and man, namely, that remuneration ought to be sufficient to support a frugal and honorable wage-earner. If through necessity or fear of a worse evil the workman accepts harder conditions because an employer or contractor will afford him no better, he is made the victim of force and injustice. In these and similar questions, however, such as, for example, the hours of labor in different trades, the sanitary precautions to be observed in factories and workshops, etc.—in order to supersede undue interference on the part of the State, especially as circumstances, times, and localities differ so widely, it is advisable that recourse be had to societies or boards, ... or to some other mode of safeguarding the interests of the wage-earners; the State being appealed to, should circumstances require, for its sanction and protection."¹²

¹¹ Gen. III, 19.

¹² Leo XIII, Encyclical "Rerum Novarum," tr. in *The Pope and the People*, pp. 206 sqq.

|271| The workman, then, says Fr. Slater, "has a right to a living wage, and the employer who grows rich by sweating his work-people commits a sin against justice and is bound to make restitution of his ill-gotten wealth."¹³

¹³ Slater, *A Manual of Moral Theol.*, Vol. I, p. 293.

A living wage must be a living family wage (*merces familiaris*), that is, one which will enable the laborer to establish a family and to support that family decently according to his station in life.

A family wage is due to a man because he is by nature ordinarily destined to found a family and provide for it. The wage should be proportioned to the normal size of the family. Many leading Catholic writers hold that the normal family wage is due to every workman on the ground of strict justice. This opinion, though not confirmed by the Church, is highly probable.

|272| The principle of the living family wage, as Fr. Ross points out, has this important implication that it makes *child labor* unnecessary. If the head of a family receives a sufficient wage, his children will not be forced to work. They should not be robbed of their childhood for the sake of a few pennies a day. The State has a right and a duty to protect its future citizens by forbidding child labor.¹⁴

¹⁴ Reuter-Lehmkuhl, *Neo-Confessarius*, pp. 215 sq.; cfr. Göpfert, *Moraltheol.*, Vol. II, 6th ed., pp. 196 sqq.; Parkinson, *A Primer of Social Science*, pp. 170 sq.; J. A. Ryan, *Distributive Justice*, pp. 373 sqq.; J. E. Ross, *Christian Ethics*, pp. 342 sq.; M. Cronin, *The Science of Ethics*, Vol. II, pp. 347 sqq.

e) To stop work without regard to the stipulations of a written or oral contract constitutes a breach of contract and entails the duty of restitution. Whether such a breach of contract should be subject to criminal proceedings, is a question which in our time is political rather than judicial.

A man does not as a rule break a contract without justifying his action, at least before his own conscience. That a workingman has the right to withdraw from a wage contract one-sidedly for good reasons, such as the non-compliance of the employer with the stipulations agreed upon, or an essential change in the relation between labor and wage, cannot be denied. Though *strikes* are mostly based on false and short-sighted calculations, not every such act of combined self-help is *per se*

immoral, but each case must be decided on its own merits, with due regard to the interests of the weaker party when there is room for doubt.

|273| A strike, as our readers know, is the quitting of work by a body of laborers for the purpose of forcing their employer or employers to comply with some demand or condition, as for increase or against reduction of wages. As carried on at the present time, strikes are usually accompanied by active interference with the business of the employers, by the use of the boycott, intimidation of new employees (scabs), etc.¹⁵

¹⁵ W. McDonald, "The Ethical Aspect of Boycotting," *Irish Theol. Quarterly*, Vol. I (1906), No. 3; P. Marshall, *Ibid.*, Vol. I, No. 4; T. Slater, S.J., *Ibid.*, Vol. II (1907), No. 6.

Theoretically, a strike need not necessarily be condemned as illicit, though on account of the numerous evils by which it is usually accompanied it can scarcely ever be advisable in praxi. It is for this reason that Leo XIII so strongly insisted on the duty of the State to strive for the abolition of strikes.

"When work-people have recourse to a strike," he says, "it is frequently because the hours of labor are too long, or the work is too hard, or because they consider their wages insufficient. The grave inconvenience of this not uncommon occurrence should be obviated by public remedial measures; for such paralyzing of labor not only affects the masters and their work-people alike, but is extremely injurious to trade and to the general interests of the public; moreover, on such occasions violence and disorder are generally not far distant, and thus it frequently happens that the public peace is imperilled. The laws should forestall and prevent such troubles from arising; they should lend their influence and authority to the removal in good time of the causes which lead to conflicts between employers and employed."¹⁶

¹⁶ *Rerum novarum* (*The Pope and the People*, p. 203).

|274| Strikes, therefore, especially in their more threatening forms, should be prevented as much as possible for the sake of the common weal.

This is not tantamount to saying that they are never justified under any conditions. If the public authorities will not or cannot assure just treatment to the workingmen, and the latter abstain from violence, they must not be condemned for laying down work. The evils that often accompany strikes are not essential to the latter, and a strike quite often is a true act of legitimate self-defense. In such a case, the strike is justifiable, unless higher considerations demand a renunciation of just rights.

When the conditions of labor are not in accord with justice, workingmen may, without awaiting the expiration of their contract, threaten to quit work, and if the employer refuses to comply with their demands, lay down their tools. But if the employer is not guilty of injustice, the workers are obliged to live up to the terms of their contract until it expires. They may ask for more favorable conditions, but are not allowed to use force to obtain them.

|275| With due regard to the contractual term, or after its expiration, says Fr. Lehmkuhl, the workingmen may, individually or by common action, go much farther. They have the right to value their labor more highly, and even if they went to imprudent and unfair limits in so doing, one would not be allowed to accuse them of injustice in the strict sense. The value of labor need not be measured by the current exchange value of its product, but the laborer is within his rights if he holds

that the exchange value of the product might just as well be measured by the increased value of labor. We do not hesitate to allow the working people a larger scope in this respect for the increase of wages, than we would allow the employers for lowering the same. This lies in the nature of a free contract. The contracting parties may go to the limit of a just wage, the laboringmen in their demands, the employers in their offers. The upper limit, in the very nature of things, is naturally more indefinite than the lower, though in individual instances the determination of the lower limit, too, is not easy. What may be generally regarded as an unjustly low wage may be shorn of its injustice by circumstances. For this reason it will, as a rule, be difficult to permit laboringmen to quit work at once without regard to their contract because of unfair conditions.

In discussing just and unjust conditions of labor we have employed the amount of the wage as an example; not as if it were the only thing that can be enforced through strikes, but because it is the first and most important. The others are either subordinate to, or intimately connected with, wages; in fact, for the most part they are merely another form of wage regulation. Working hours, night work, limitation of child and female labor, all these questions are closely related to the wage problem; so too, the protection of good morals and compliance with religious duties on the part of the workingmen.¹⁷

¹⁷ Lehmkuhl, *Arbeitsvertrag und Streik*, 4th ed., pp. 59 sq.

[276] 3. *Buying and selling (emptio et venditio)* is a bilateral onerous contract by which one party (the seller—*venditor*) agrees to interchange with the other (the buyer—*emptor*) the ownership of an article or commodity for a consideration called price.

There is an important distinction between a contract to sell in the future and a present sale. The first is called an *executory*, the second an *executed* sale. If the goods are transferred, there is an executed sale, even though the price is not paid at the same time. But if the price is paid, and the goods do not pass, the transaction is an executory sale. Both kinds of sale may be by deed or sealed contract as well as by parol or orally.¹⁸

¹⁸ Gury, *Comp. Theol. Mor.*, Vol. I, n. 832: "A contract of sale and purchase is defined as: the exchange of a price for merchandise or vice versa, or an onerous contract of giving a determined and just price for merchandise or vice versa."—A. S. Bolles, *Putnam's Handy Law Book*, N. Y. 1921, p. 227.

The commodity sold may be either real property or "goods," which latter term includes all personal chattels other than things in action and money.

A sales contract may be absolute or conditional.

Under the moral law of nature buyer and seller may agree between themselves that the subject-matter of the contract with all its fruits and risks should be transferred at once from the one to the other. Under the existing civil laws the right of ownership is usually not transferred until the commodity in question has actually changed hands and the contract price has been paid or at least guaranteed.

[277] The capacity to buy and sell is regulated by civil law. Under American civil law a minor may disaffirm his contracts by any act clearly showing this intent.

The price may be fixed by the contract itself or in such other manner as the parties may agree. When it is not determined in the sales act, the buyer must pay a reasonable price (v. infra, p. 279).

After a contract of this kind has been duly made, neither party can withdraw from the obligations assumed therein without the consent of the other.

To be morally licit and valid a contract of sale or purchase must comply with the following conditions: a) The commodity which forms the subject-matter of the contract must be the property of the seller, because no one can dispose of what does not belong to him. Secondly, there must be no essential error in regard to the commodity sold and purchased, and hence the seller is bound in justice to inform the buyer, even if the latter makes no inquiry, of any hidden substantial defects and, upon inquiry, also of such non-essential defects as the buyer could himself discover.¹⁹

¹⁹ Cfr. St. Thomas, *Summa Theologica*, 2a 2ae, qu. 77, art. 3.—Under the American civil law, “when there is . . . a sale of goods by description, there is an implied warranty that they shall correspond with the description; and if the contract of sale is by sample, as well as by description, it is not sufficient that the bulk of the goods correspond with the sample, if these do not also correspond with the description. The Sales Act contains elaborate provisions relating to implied warranties of the quality of things sold. There is no implied warranty of the quality or fitness of goods for any particular purpose unless the buyer makes known to the seller the purpose for which they are required, and he also relies on the seller’s judgment of their fitness for the use he intends to make of them. Again, if the buyer has examined the goods, there is no implied warranty of the defects which such an examination ought to have revealed. An implied warranty as to the quality or fitness for a particular purpose may also be annexed by the usage of trade. There is an implied warranty that the bulk shall correspond with the sample in quality, and that the buyer shall have a reasonable opportunity of comparing the bulk with the sample.” (A. S. Bolles, *Putnam’s Handy Law Book for the Layman*, N. Y. 1921, 232 sq.)

| 278 | Essential defects are such as affect the substance of a thing in itself or in relation to the known object for which the buyer desires to purchase it, or, in other words, such as alter the nature of an object or render it noxious or useless. Accidental defects, if plainly apparent, need not be mentioned, provided they were taken into consideration when fixing the price. If, however, the buyer is exceptionally ignorant (*valde rudis*), manifest deficiencies, too, should be called to his attention.²⁰ Deception entails the duty of restitution on the part of the seller,²¹ and also on the part of the buyer if he takes advantage of the seller’s ignorance to acquire a commodity at a lower price than that which the seller could have obtained if he had not been in error. b) The price must be reasonable (*pretium iustum*), i. e., equivalent to the value of the thing sold. Therefore, the seller is bound not to go beyond what the law calls a reasonable price.

²⁰ Gury, *Comp. Theol. Mor.*, Vol. I, n. 833: “It is asked whether the seller is bound to reveal defects in the thing. Answer: (1) The seller, even if not questioned, is bound to disclose all substantial defects of the thing, both in itself and in relation to the buyer’s known purpose, or all those that make the thing different or render it harmful or notably useless; otherwise he is bound with respect to the price. (2) When questioned, the seller is bound to disclose all hidden defects, even if they would not render the thing harmful or useless; otherwise he would commit fraud. Consequently, if the fraud was truly the cause of the purchase, the contract can be rescinded. But if the fraud was merely incidental, so that the buyer, knowing the defect, would still have bought, though not for so much, the seller must restore only the amount by which the buyer would have paid less, because otherwise scarcely any sale could take place. But if the seller is not questioned and the hidden defect does not render the thing useless, he must reduce the price in proportion to the defect. The reason is that otherwise the thing would be sold for more than it is worth. (3) The seller, even if questioned, is not *per se* bound to point out accidental defects that are of themselves manifest, provided that he reduces the price proportionately to the defect. The reason is that then no injustice is done to the buyer, either on account of the price, which is reduced, or on account of the defect; for if the buyer did not see it, he must impute that to himself. Except, however, if the buyer is very ignorant, because with respect to him the defect is considered hidden.”

²¹ Gury, *l. c.*, n. 834: "It is asked whether a seller is bound for all losses following from a defect in the thing sold. Answer: He is bound only for foreseeable losses, because he could not assume an obligation regarding those which he did not foresee even in a general way."

[279] The price or value of an object is either legal (*pretium legale sive legitimum*), *i. e.*, fixed by law or public authority, or natural (*pretium naturale sive vulgare*), *i. e.*, market price or value, determined by the common judgment or the estimation of those who are best acquainted with all the factors that determine social value in that particular case, or a fancy price ("price of affection," as the theologians call it), which is often paid willingly for rare or single objects for which there is no market price, *e. g.*, a first folio of Shakespeare's dramas or a painting by a great master.

Since the judgments of men concerning the value of an object differ greatly, and the market price is subject to constant fluctuations, the so-called natural or just price of a commodity is distinguished into the highest (*pretium summum vel rigorosum*), the lowest (*pretium infimum seu pium*), and the mean or just price (*pretium medium sive moderatum*). The highest is that above which the commodity in question is not commonly sold; the lowest is that below which it is not usually sold; and the mean is between the two. Justice will be observed if the price at which a thing is sold is not above the highest nor below the lowest price at which the thing sells at the time and in the place in question.²² Hence the following rules: α) The legal price is to be regarded as just and to be observed by all; β) Where no legal price has been fixed, the common price may be considered just, at least for such objects as have a market price; γ) As a rule no commodity should be bought below the lowest or sold above the highest price.²³

²² Slater, *A Manual of Moral Theology*, I, 524.—Gury, *Comp. Theol. Mor.*, Vol. I, n. 840: "A just price is twofold: (1) legal, which is determined by law; (2) natural or common, which corresponds to the value of the thing according to the common estimation of men. The natural price, however, is: (1) the highest, above which a thing is not usually valued; (2) the lowest, below which a thing is not generally valued; (3) the mean, which lies between the two."—Cfr. J. Biederlack, S.J., *Die soziale Frage*, 7th ed., pp. 144 sqq.—Under the American civil law, a reasonable price is "generally the market price at the time and place fixed by the contract or by law for delivering the goods, but not always. Under unusual conditions the market price does not furnish the only test. Said the court in one of these cases: a reasonable price may or may not agree with the current price of the commodity at the precise time of making it. The current price of the day may be highly unreasonable from accidental circumstances, by the action of the seller himself in purposely keeping back the supply." (A. S. Bolles, *Putnam's Handy Law Book for the Layman*, p. 231).—J. Kelleher, "Market Prices," in the *Irish Theological Quarterly*, Vol. X (1916), nos. 38, 39, 40.

²³ Gury, *Comp. Theol. Mor.*, I, n. 841: "The legal price, or that established by civil authority, must be regarded as adequate to the value of the thing and therefore observed under obligation of restitution. The reason is that it belongs to civil authority to determine whatever pertains to public commerce, since it can make laws for the common good. In the absence of a legal price, only that price is to be regarded as just which is determined as such by common estimation, if the matter concerns merchandise that is valued among the people; for the adequate price of such things is derived from their usefulness for common uses. Moreover, the appraisal of such usefulness cannot be made better," than by common estimation. But if things do not have a common valuation, as in the case of gems, valuable paintings, and so forth, they are more probably to be valued according to the judgment of experts in this matter, with attention to the circumstances and regard for the thing's novelty, antiquity, rarity, and so forth. The reason is that they are regarded as competent judges in these matters, just as the general public is in ordinary matters. The contrary opinion nevertheless appears probable, because in that case the just price seems to be the one upon which the contracting parties agree. . . . In practice those are not to be disturbed who, in good faith and freely, agree at their own discretion in such matters. *A fortiori*, that price upon which both parties agree is to be regarded as just if the price is wholly unknown, because then each party is exposed to the risk.

|281| δ) Fancy prices may be foolish, but they are not unjust, unless the buyer exploits the necessity of the seller.²⁴

²⁴ Ibid., n. 842: "It is asked whether a seller may sell a thing at a higher price because of the special affection he feels for it, or because of the advantage he derives from it. Answer: To the first: affirmative; the reason is that the owner's affection for his thing is truly capable of valuation in money, since deprivation of the thing is a greater loss for him. To the second: affirmative, even more strongly, as is clear; for deprivation of a special advantage makes the thing much more valuable to the seller, and it is equitable that he increase the price in proportion to the greater loss he suffers."—Cfr. M. Cronin, *The Science of Ethics*, Vol. II, pp. 316 sqq.—D. Barry, "Special Knowledge and the Just Price," *Irish Theol. Quarterly*, Vol. X (1915), No. 37.

Special kinds of sale contracts are those known as resale (*retrovenditio*), sale by auction (*venditio sub hasta sive licitatio*), monopoly (*monopolium*), and brokerage (*venditio per proxenetas*).

(1) *Retrovenditio* is a contract in which the seller reserves to himself the right to purchase the commodity which he sells on condition that he refunds to the buyer all his expenses and pays him for any increase in value. This is permitted under the following conditions: (α) that the price be reduced in proportion to the burden which is imposed upon the buyer; (β) that the price of repurchase be the same; (γ) that the buyer assume all ordinary risks unless the price be made so as to cover them; (δ) that the subject-matter of the contract be resold in the same condition in which it was sold, either with or without the accruing fruits.²⁵

²⁵ Gury, *Comp. Theol. Mor.*, I, n. 849: "Resale is a contract by which the seller reserves for himself the right to redeem his property, on condition that he reimburse expenses, improvements, or similar outlays. The conditions required for this are: 1. That the price be reduced according to the estimated burden imposed upon the buyer; 2. That there be no agreement for resale at a higher or lower price; an agreement that it be resold at the same price is lawful, even if the thing increases in price; 3. That it not be imposed that the risk of the thing sold fall to the seller's loss, since that risk of itself belongs to the buyer, unless the price is increased according to the estimated risk; 4. That the thing be resold as it was delivered, unencumbered or with its fruits."

|282| The so-called *contractus mohatra*, by which the buyer was compelled to resell to the seller immediately at a lower cash price a commodity which he had purchased from him at a higher price or on credit, this higher sum to be considered the original loan or sum owed, was condemned as "veiled usury" by Innocent XI.²⁶

²⁶ For instance: You need money and ask me for a loan (*mutuum*), for which I should not (in those days) have been allowed to charge interest. To circumvent the law I sell you a horse for 100 dollars, on credit, with the understanding that you must *resell* it to me at once for 80 dollars cash. Thus you receive 80 dollars cash, but you owe me 100 dollars and I am 20 dollars to the good. Do not money-sharks practice similar tactics to-day in loan transaction?—*Prop. damn. sub Innoc. XI*, n. 40: "A *mohatra* contract is lawful, even with respect to the same person, and with a contract of resale previously entered into with the intention of profit." (Denzinger-Bannwart, n. 1190).—Cfr. Gury, *op. cit.*, I, n. 850; Göpfert, *Moraltheologie*, II, p. 181; P. Cleary, *The Church and Usury*, Dublin 1914, p. 13.

(2) An auction is a contract by which one party binds himself to transfer and the other to acquire the ownership of some property, whether real or personal, at the highest price to be got at a public sale. There are various methods by which such sales are conducted, and descriptions of the property to be sold and the conditions of sale are usually notified to the public by printed catalogues or circulars. The bidding proceeds in an orderly manner, each bid being in the nature of an offer, which may be revoked until the auctioneer signifies his acceptance by the fall of his hammer or in any other customary way. By this a contract is concluded with the last bidder and the property becomes his.²⁷

²⁷ Slater, *A Manual of Moral Theol.*, Vol. I, p. 533.

|283| Auctions may be forced or voluntary. A forced auction is one by which property is sold by public authority, as in the case of a bankrupt merchant to satisfy his creditors. A voluntary auction is one held by the owner of his own accord, either in person or through an authorized representative. The owner may request his friends to bid for the goods put up at auction in order that the latter be not sold too cheaply, to his own detriment or that of his creditors, but he is not permitted to run up the price by means of fictitious bidders (*licitatores ficti*) because this would involve an injustice to the *bona fide* bidders. Similarly, the bidders present at an auction may not conspire together to make inadequate bids, or to use illegitimate means (intimidation, fraud, or violence) to hinder others from bidding.²⁸

²⁸ Ibid.—Cfr. St. Alphonsus, *Theol. Mor.*, l. III, n. 808 (ed. Gaudé, I, nn. 851–854); Göpfert, *Moraltheol.*, Vol. II, 6th ed., pp. 192 sqq.—An auctioneer, under our civil law, is primarily the owner's agent only to the moment when he accepts the purchaser's bid and knocks down the property to him. Authority may be conferred on an auctioneer in the same way as on any other agent for the sale of similar property, verbally or in writing. Authority to sell property does not of itself imply authority to sell it at auction. If goods are sent to an auction room to be disposed of, this is deemed sufficient evidence of authority to sell them by auction and to protect whoever buys them. The seller is not bound by any terms stated by the auctioneer differing from those given to him by the owner. If the owner has imposed no terms on him, he has the implied authority usually existing in such cases. An auctioneer cannot, consistently with his duty, refuse to accept bids from anyone, unless the bidder is irresponsible, or unwilling to comply with the terms of the sale. He is justified in rejecting the bids of insane persons, minors, drunken persons, trustees of the property, and, perhaps, in some cases, of married women. It is impossible with good faith to combine the inconsistent capacities of seller and buyer, crier and bidder, in one and the same transaction. The auctioneer has no authority to warrant the property sold unless such authority has expressly been given to him. He must use ordinary and reasonable care in keeping the goods entrusted to him for sale, but is not responsible for their safety. (A. S. Bolles, *Putnam's Handy Law Book*, pp. 16 sqq.)

|284| The auction price of an article is not the same as the ordinary buying price, which latter is supposed to represent the real value of the article. The auction price may fall far below the *infimum pretium* or rise far above the *summum pretium*. The *just auction price* is determined by the highest bid, whatever that may be. The element of equality required for all just contracts is provided in the case of auction sales in the equal chances afforded to seller and buyer, of profit and of loss. On the side of the buyer, as Fr. Cronin says, there is the chance of his succeeding in knocking out all other bidders; in favor of the seller there is the equal chance of each bidder being knocked out by the rest.²⁹

²⁹ Cronin, *The Science of Ethics*, Vol. II, p. 320 sq.

(3) A monopoly (from the Greek μονοπωλία, single or sole selling), is the exclusive right or power secured to one or more persons, to sell some commodity or to carry on some branch of trade or manufacture. A monopoly is permissible if it is granted by law for the common good. Thus in some countries the government controls the sale of salt or tobacco. This is called a legal monopoly (*monopolium legale seu legitimum*). A legal monopoly may be private, namely, if it is granted by law to private persons, such as inventors or authors (*monopolium privatum*). This, too, is licit, provided it does not result in an undue raise of prices or in what has become known since the World War as "profiteering," namely, buying up the necessities of life with a view to reselling them at enormous profits.

|285| "A natural monopoly arises from one or a few who band together and who are the owners of the sole source of supply of some commodity. . . . A natural monopoly . . . is . . . lawful, but if the commodity or service which is thus monopolized is necessary or very useful for the common good, natural equity prescribes that the price demanded should be fair and reasonable, even if it be not

regulated by positive law. If the subject-matter of the monopoly belongs to the class of nonnecessaries and luxuries, as for example, a mine of diamonds or rubies, of special quality, it cannot be said that the price is fixed and determined by natural conditions, and the owner will be justified in taking any price that he can get without fraud or misrepresentation. Even capitalistic monopolies of commodities or services which are necessary or very useful to the community are not morally wrong if the prices charged are fair and reasonable, and if there is nothing reprehensible in the method of conducting business. The public may derive considerable advantages from these monopolies. They are capable of effecting great savings in the costs of production, advertising, distribution, and general management, and they may secure a large return on their capital and at the same time sell cheaply to consumers. They obviate, too, the wastes and the recurring depressions in trade which follow from unlimited competition. Monopolies, however, are morally wrong when the prices demanded for necessary or useful articles of consumption are excessive, or when the methods of business are unjust, uncharitable, or generally unlawful. The prices will be excessive when much more than a fair return for the capital employed is obtained, after all the costs of production and distribution have been defrayed, and when as a natural consequence they are higher than would rule if there were no monopoly. When means are used to crush rivals in order to secure a monopoly, when bribery of public officials is practiced to obtain from government specially favorable laws or treatment, when discriminating rates are obtained from railways and other companies, when workmen are tyrannically and unjustly treated, when prices of raw material are unduly depressed and producers are robbed of a fair compensation for their toil and trouble, and in general when fraud or force is used to accomplish the end in view [viz., excessive profits] the methods of business are immoral and monopolies which employ such methods are to be condemned. If prices demanded by a monopoly are in the estimation of prudent men higher than are fair and reasonable, injustice is committed, and there is consequently an obligation to make restitution to the buyers who have been robbed [or to the community]. If the prices charged are not altogether unfair and unreasonable, but high, and above what in the circumstances would be considered moderate, there will be a sin committed against charity, in that private advantage has been unduly pursued to the detriment of the people, who have been compelled to pay higher prices for the enrichment of the monopolists. "From what has been said it is clear that what are called 'rings' and 'corners' in wheat, cotton, and other such commodities are morally wrong, in that they cause the financial ruin of many people, and produce wide distress and instability of trade. Trusts, too, and combinations in trade are full of danger for the community. They wield immense power, and the temptations to abuse it, especially as a company has no conscience, as the saying is, are too great for the common run of business men. It is well that the government should have the right of examining and inspecting the affairs of such bodies and of applying the necessary remedies in case of abuse."³⁰

³⁰ Slater, *A Manual of Moral Theol.*, Vol. I, pp. 535 sqq.—In the United States the only monopolies that the laws look on with favor consist of the post office, which is a government monopoly, and the rights granted to individuals under the patent and copyright laws. Monopolies commonly known as trusts are regarded as odious, and various States and the Federal Congress have enacted laws making them illegal. (Cfr. *Cyclopedia Americana*, Vol. X, s. v. "Monopoly," and Vol. XV, s. v. "Trusts").—Cfr. J. A. Ryan, "The Moral Aspect of Monopoly," in the *Irish Theological Quarterly*, Vol. III (1908), No. 11.—St. Alphonsus, *Theol. Mor.*, l. III, nn. 815–817.—J. P. Gury, *Comp. Theol. Mor.*, I, nn. 855–857.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 325 sqq.

| 287 | (4) We come now to *brokerage*. A broker is a person who makes it his business to negotiate sales or contracts as an agent, or to make sales and purchases for a commission (*venditio per proxenetas*). A

broker is ordinarily a mere agent, and his sales are private.

[288] There are many kinds of brokers: bill and note brokers, stock brokers, shipping brokers, insurance brokers, real estate brokers, pawn brokers, merchandise brokers, etc. A broker may not appropriate to himself a larger sum than the commission agreed upon between him and his client, or fixed by law, unless indeed he has added considerably to the value of a commodity by extraordinary diligence or with the permission of the owner.³¹

³¹ A. S. Bolles, *Putnam's Handy Law Book*, pp. 45–47; Gury, *Comp. Theol. Mor.*, Vol. I, n. 858 sq.; Göpfert, *Moraltheol.*, Vol. II, 6th ed., pp. 191 sq.

Not a few brokers nowadays deal in stocks and bonds and other valuable papers, buying and selling these at a commission, either in the open market or to private customers. If no illicit means (such as the circulation of fictitious reports, the use of illegitimately discovered secrets, etc.) are employed in speculations of this kind, they cannot in themselves be condemned as immoral. Nay, it must even be admitted that, to a certain extent, speculation in stocks and bonds is useful, inasmuch, namely, as it facilitates the purchase of valuable papers for the investment of capital and their sale for the provision of ready cash. It also aids in the placing of government bonds. The great evil of the stock exchange is that it easily advances speculation and gambling beyond all due limits and favors fraudulent undertakings. In the nature of the case, lying and fraud are often applied as means in speculation. The so-called *financial crises* are for the most part artificial “bull and bear periods” in which the speculators by every imaginable and often dishonest means endeavor to raise or depress the price of certain stocks and bonds.

[289] (5) In this connection a word concerning dealings in “*options*” and “*futures*” may not be out of place. One is said to deal in “*futures*” when the goods contracted for are not in his possession, nay do not even belong to him at the time the sales contract is made. If the terms of the contract leave to the seller the choice either to deliver the stipulated goods at a fixed price or to pay the difference between the price agreed upon and the actual market price when the term of the contract arrives, the contract is called an “option.”

“From such an ‘option’ contract to mere ‘time bargains’ or ‘difference transactions’ or ‘margin’ is but a step. In these transactions real delivery of goods to the buyer is not contemplated by either party; they merely make use of the market price of wheat, or cotton, or stocks and shares, or bacon, or other commodity, as matter for wager. . . . It is a subject of hot debate whether such gambling has a good or bad effect on genuine trade. There is, of course, a great increase of business for commission houses, brokers, and agents generally resulting from fictitious bargains, and it is to be expected that such classes will be loud in defense of time bargains, or ‘options’ and ‘futures,’ as they are often indifferently and loosely called. On the other hand, producers of foodstuffs and manufacturers of raw material into cotton goods seem generally persuaded that their trade is seriously injured by gambling transactions on ‘change. Within the last few years several governments have given serious attention to the problem.”

[290] From the moral point of view dealings in futures must be judged as bets or wagers, for a speculative contract in “*futures*” is to all intents and purposes nothing but a wager or bet concerning a future and uncertain event. The question whether it is lawful or not depends on the broader question concerning the lawfulness of betting.

Applying the Catholic moral doctrine on betting to the question before us, Fr. Slater, whom we have just quoted, says: "We are compelled to admit that a deal in futures in itself is not wrong if it is accompanied by the conditions laid down [i. e., that the money risked belongs to him who risks it; that the transaction is free from fraud and deceit; and that, finally, the chances are fairly equal on both sides]; but that it is wrong if any of these conditions are wanting. However, even though the requisite conditions may be present, it is a dangerous pastime, and should be discouraged, like any other form of gambling, in the interests of public and private morality." Passing from the abstract to the concrete, namely, to the form in which betting is actually carried on in the exchanges of the great commercial centres of the world, the same eminent English moralist, after carefully weighing the arguments often adduced in favor of the practice, says: "On the other hand producers and consumers alike seem generally to have made up their minds that gambling in futures has a disastrous effect on trade. Competitors are almost indefinitely multiplied; the area of competition is vastly enlarged; and producers of wheat, for example, in countries where land and labor are dear, where taxes are burdensome and skies unpropitious, find themselves forced to compete with others who live under opposite conditions. Tariffs may remedy the evil to a certain extent, as far as effective contracts which contemplate actual delivery are concerned, but they cannot shut out the subtle influence of gambling transactions. In addition to this, gambling in futures falsifies prices. In a healthy condition of the market, the price of an article will depend on the costs of production and the law of supply and demand. As long as these factors dominate the situation, producer and consumer can satisfy themselves that they have full value for their goods or for their money. But when natural prices are interfered with from without by speculators who do not contemplate effective delivery of commodities, and who are only interested in differences, effective dealers can have no security that they get full value in their transactions. Prices are falsified and markets are reduced to an unnatural condition. . . . There are also some more general considerations which cannot be overlooked by the moralist. Betting, as we have seen, is not in itself unlawful, provided it is accompanied and safeguarded by certain conditions. When, however, it becomes a habit, and degenerates into gambling, our verdict in ordinary cases must be different. . . . If it becomes a passion, if the gambler seeks to make it a substitute for honest toil, and strives to make it support him or bring him wealth, serious harm has already been done. The gambler produces nothing; he adds nothing to the wealth of the community; he soon learns to shun honest work; he becomes a parasite who preys on society, and eventually brings ruin on others as well as on himself. So that dealing in differences, even if regarded merely as a form of gambling and speculation, must fall under the censure of the moralist. . . . But it would be a comparatively small matter if the evil connected with gambling in futures were confined to the parties immediately concerned in the transaction. Unfortunately, too often many good and innocent people, who never dream of speculating on 'change, suffer loss from the operations conducted there. A rise or fall in the price of wheat means for the operator the winning or losing of his bet, but for many a farmer a fall in the price means that he is robbed by the 'bears' of the fruit of his toil; it may mean the bankruptcy and ruin of many a respectable family. On the other hand, a rise in prices means an additional hardship on the poor, a greater difficulty in making ends meet, a robbing of many a poor family of the staff of life. On many grounds, therefore, the verdict of the moral theologian on the question of the lawfulness of dealing in futures must be that in practice the transaction is immoral and wrong."³²

³² T. Slater, S.J., *Questions of Moral Theology*, N.Y. 1915, Ch. IX, "Deals in Options and Futures," pp. 145–158.

[293] (6) *Advertising*, that is, the use of extraordinary means of publicity for the purpose of calling attention to certain goods or products, is not *per se illicit*, nay, to a certain extent at least, may be considered necessary for the ordinary conduct of business, industry, and commerce. Unfortunately the practice is only too often made a means of deceiving and cheating the public.

Göpfert lays down the following rules for keeping advertising within proper bounds: (α) The advertiser may praise the quality of his goods and call attention to their merits, provided the price he asks is not unfair; but it is a violation of charity to advertise so as to injure competing merchants. (β) It is immoral and forbidden to misrepresent the quality or value of the goods advertised, and if such misrepresentation actually results in loss to others, it entails the duty of restitution, not only to the defrauded buyers, but likewise to the competitors whose business has been damaged by such illicit means.³³

³³ Göpfert, *Moraltheol.*, Vol. II, 7th ed., p. 187; see the same eminent author's paper "Zur sittlichen Beurteilung des modernen Reklamewesens" in the *Theologisch-praktische Quartalschrift*, of Linz, 1900, pp. 593 sqq.

4. The contract known in Scholastic parlance as *census* (French, *rente*) is an agreement by which a person (*censuarius*) transfers the right of ownership and the usufruct of an object to another (*censualista*) in consideration of an annuity or pension.³⁴

³⁴ Gury, *op. cit.*, Vol. I, n. 874: "*Census* (French, *rente*) is the right to receive an annual pension from a thing or a person. *Census* can be manifold, namely: 1. Reservative (*rente foncière*), that is, an annual pension to be received from a thing whose ownership has been alienated; 2. Consignative (*rente constituée*), that is, an annual pension to be received from a thing or person by title of purchase; 3. Real or personal, according as the pension is constituted in a fruitful thing or in a person's labor and industry; 4. Temporary or perpetual or life-long (*rente viagère*), according as it is established for a time, e.g., for 20 years, or in perpetuity, or for the life of a man; 5. Redeemable by one or both parties, according as it can be redeemed at the option of one or both, or irredeemable, if by agreement the seller or *censuarius* cannot free himself by restoring the principal; then the buyer or *censualista* necessarily retains his right in the *census*." Cfr. nn. 875–878.

[294] The juridical distinction between this sort of contract and an investment of capital consists in this that the property transferred in consideration of an annuity cannot be demanded back like money simply loaned to another. Formal justice is safeguarded by the legal fiction that the investor merely receives back in small portions what he has entrusted to another. What he receives, therefore, in the form of interest, is his own property, whereas the other party to the contract gets for his trouble whatever gain he can make with the capital or property confided to him.

The question which has worried many a moralist, whether one may live on *rentes* without productive work, is theoretical rather than practical. "Nature itself," says Linsenmann, "compels children who are not yet old enough to support themselves, old men who are no longer able to work, and those disabled by illness, to live off the labor of others. Moreover, a considerable number of men and women are destined by natural law and the social order to devote themselves not to productive bodily labor, but to the higher intellectual and spiritual tasks of humanity. To this class belong most public officials, priests, nuns, authors, teachers, etc. . . . If their right to participate in the productive labor of their fellows is conceded, it is no longer a theological, but purely an economic question whether the fructification of capital had better take place in the limited form of *census*, *rentes*, or annuities, or in the freer form of modern investments. Catholic moralists, being conservative, admitted the justification of the contract called *census* more readily than the lawfulness of the more modern forms of investment, for the reason that it seemed to them more conducive to the stability of

property rights, though already in the Middle Ages it was perceived that the irrevocability of *census* contracts sometimes involved unnecessary and unfair harshness.”³⁵

³⁵ Linsenmann, *Lehrb. d. Moraltheol.*, pp. 554 sq.—Cfr. J. A. Ryan, *The Church and Interest-Taking*, St. Louis, 1910.—P. Cleary, *The Church and Usury*, pp. 121 sqq.

|295| 5. A *money-changer* is a person who exchanges money at a prescribed rate for gain. The underlying contract is called *cambium*. It is qualified as *cambium manuale* or *minutum* if the exchange takes place in cash; *locale seu per literas*,³⁶ if effected by means of a bill drawn in one place or country upon a drawee in another place or country. If the profit (*agio*, commission) which the money-changer (*campsor*, *argentarius*, *nummularius*, *trapezita*) makes, is moderate, *i. e.*, according to law or custom, the business is unobjectionable. It is wrong, however, to issue bills of exchange to a fictitious address (*cambium fictum vel sicum*) and to demand more than the regular fee or commission.³⁷

³⁶ Gury, *Comp. Theol. Mor.*, I, n. 870: “Exchange is an exchange of money with some profit for the money-changer. Exchange, however, in general means the same as exchange either in money or in other things. Exchange is distinguished in various ways, namely: 1. Real or true exchange and fictitious or dry exchange. The former is that by which money is actually exchanged for another thing. The latter is that in which an exchange is feigned, but it is nothing other than a disguised loan, as, e.g., when money is given as though to be received in another place, although it is received in this same place; 2. Manual or petty exchange and local exchange or exchange by letters. The former occurs when money of one form or material for money of another form or material. The latter, however, occurs when present money is exchanged for absent money to be paid in another place.”—Cfr. S. Alph., *Theol. Mor.*, I, IV, nn. 850–856; Schwane, *Die theologische Lehre über d. Verträge*, pp. 155 ff.

³⁷ Schwane (*op. cit.*, p. 156, n. 1) says: “Some derive the name *sicum* from the fact that this sort of business was unprofitable for the recipient of the bill; others think that the Venetians and the Genoese called it thus because it was drawn in appearance upon trans-oceanic trading places, but in reality was paid on dry ground in Venice or Genoa.”

|296| To exchange the money of one country for that of another requires a certain capital and personal service, which must be paid for out of the commission charged. All that can be demanded from the standpoint of Moral Theology is that the profits be not larger than they would be in any other legitimate business in which the same amount of capital is invested under similar conditions. The State should supervise the business of money-changing in order that it may be honestly conducted.³⁸

³⁸ Linsenmann, *Lehrb. d. Moraltheol.*, p. 576.—Of the *iusta merces* of money-changers Noldin says: “The common estimation of this service determines the just fee, which may be greater in proportion as greater expenses are required so that the money-changer may ordinarily satisfy his clients. Moreover, to avoid injustice in exchanges and bills of exchange scarcely anything else is required except that the statutes of the law and the practice of upright money-changers be observed.” (*Summa Theol. Mor.*, Vol. II, 13th ed., p. 630).

|297| 6. *Loaning money at interest* is generally done by means of a contract in which a definite sum (*census*, *interesse*) is agreed upon as a recompense for the temporary use of the amount loaned.³⁹ The permissibility of taking interest can be demonstrated from Holy Scripture and ecclesiastical tradition. a) In some passages of the Old Testament the taking of interest is strictly forbidden,⁴⁰ whereas in others it is forbidden only on loans made to brothers or the poor,⁴¹ and in still others it is expressly permitted when the lenders were foreigners, *i. e.*, non-Israelites.⁴² Since Holy Scripture, therefore, makes a distinction between Israelites and non-Israelites, and permits interest to be taken from the latter, it follows that interest cannot be *per se* forbidden by the moral law of nature, for if it were, God could no more have permitted the Jews to practice it than He could have permitted them to rob or murder foreigners.⁴³ Hence it is certain that the Old Testament prohibition of interest-taking was purely a matter of civil law. The economic system of the Jews under Moses was such as to limit loans

among themselves to cases of urgent necessity, whereas the gentiles borrowed Jewish capital for purposes of speculation and production. In view of this fact Moses allowed his people to take interest from strangers, but not from fellow-Hebrews. Thus we find the key for the correct solution of this much-debated problem in the Mosaic law.

³⁹ See the bibliography at the end of this Section, p. 314.

⁴⁰ Cfr. Ps. XIV, 5; LIV, 12. J. Hejel, *Das alttestamentliche Zinsverbot*, Freiburg i. B. 1907, pp. 62 sqq.; Benzinger, *Hebräische Archäologie*, 2nd ed., pp. 292 sq.

⁴¹ Cfr. Ex. XXII, 25; Lev. XXV, 35 sqq.; Ez. XVIII, 8, 13; Ps. LXXI, 14.

⁴² Deut. XXIII, 19 sq.: “Thou shalt not lend to thy brother money to usury [i. e., on interest], nor corn, nor any other thing: but to the stranger. To thy brother thou shalt lend that which he wanteth without usury [i. e., interest].”—Cfr. Lev. XXV, 36; 2 Esdr. V, 7; Ehrlich, *Randglossen zur hebr. Bibel*, II, 95.—Cfr. P. Cleary, *The Church and Usury*, Dublin 1914, Ch. I, “Usury among the Hebrews,” pp. 1–18.

⁴³ Cfr. K. J. Hefele, *Beiträge zur Kirchengeschichte*, Vol. I, p. 36.

|298| The New Testament contains but one text that is commonly referred to interest-taking. It is Luke VI, 34 sq., where Christ is quoted as saying: “And if you lend to them of whom you hope to receive, what thanks are to you? for sinners also lend to sinners, for to receive as much (τὰ ἴσα). But love your enemies, do good and lend, hoping for nothing thereby (δανεῖζετε μηδὲν ἀπελπίζοντες).” This text, however, throws no light on the problem of interest-taking, for in it Christ does not advise His hearers to refrain from taking interest, but to give away the capital itself.⁴⁴

⁴⁴ Luke VI, 34 sq.—Cfr. D’Annibale, *Summula Theol. Mor.*, Vol. II, 5th ed., p. 449: “That Luke’s words [vi, 34] do not pertain here is now known almost even to the bleary-eyed and barbers.”—A. Vermeersch, S.J., *Quaest. de Iustit.*, 2nd ed., p. 452: “As regards the New Testament, it contains nothing, not even in appearance.”—P. Cleary, *The Church and Usury*, pp. 32 sqq.

|299| Hence it may be safely held that the Bible does not prohibit interest-taking. b) The Fathers of the Church and the early councils, on the other hand, sternly condemned the practice, mainly for reasons drawn from the Old and New Testaments and under the influence of the Greek and Roman philosophers of antiquity, who seem to have opposed the taking of interest.⁴⁵ Some of the Fathers expressly refer to Aristotle’s well-known teaching that money is an unproductive thing. A good deal of the feeling displayed against interest-taking in the early Church was no doubt a result of the shameless way in which usury was practiced at that time. Most of the early ecclesiastical writers use “interest” and “usury” as synonymous terms. Beginning with the fourth century, however, the law against loaning money on interest was enforced only against clerics, whilst the laity were left free to do as they pleased.

⁴⁵ Matth. V, 42; VI, 12; XVIII, 23–35; cfr. Luke VI, 34 sq.; the teaching of the ancient philosophers is discussed by Cleary, *The Church and Usury*, pp. 19 sqq., 26 sqq.

The teaching of the Fathers on the subject of interest, says Dr. Funk, “was not without its defects, and the early Church seems to have made allowance for this fact when she employed her penal power in this matter against clerics only, and left the laity unmolested.”⁴⁶

⁴⁶ F. X. Funk, *Geschichte des kirchlichen Zinsverbotes*, p. 7.—Cfr. P. Cleary, *The Church and Usury*, pp. 37 sqq.

|300| c) During the Catholic Middle Ages the prohibition of interest-taking was adhered to, at least in principle.

d) After the thirteenth century the question began to be dealt with in a more scientific way by the Scholastics, who, not content with the authority of Sacred Scripture and the Fathers, searched for arguments against interest-taking in reason and the natural law. One of the principal arguments they evolved was based on the nature of money. They held that money is a commodity which is consumed in the first use and has no other use which can give it an additional value, and that, consequently, in the business of exchange, its substance (*res*) cannot be separated from its use (*usus rei*), nor can it be separately valued without an offence against distributive justice. Thus a man who would sell to one buyer the substance of a bottle of wine (*vinum*), and to another the right to drink it (*usus vini*), would violate justice because he would sell the same commodity twice, or sell something which had no real existence. In other words, the fair price for a bottle of wine is the money equivalent of the value which the wine has for drinking, because the value of the first consumption of a commodity is the value of the commodity. Money, considered as a medium of exchange, they argued further, is a commodity whose value is identical with the value of the first consumption of it, and, therefore, it is *per se* unlawful to charge a compensation (*usura*) for its use (*usus*). Hence the Schoolmen regarded all gain or profit derived from the use of an unproductive or unfruitful commodity, or from a loan as such (*lucrum ex mutuo ratione mutui*), as unjust and usurious.

[301] St. Thomas puts it thus: “To take usury [interest] for money lent is unjust in itself, because this is to sell what does not exist, and this evidently leads to inequality, which is contrary to justice. In order to make this evident, we must observe that there are certain things, the use of which consists in their consumption: thus we consume the wine when we use it for drink, and we consume wheat when we use it for food. Wherefore in such like things the use of the thing must not be reckoned apart from the thing itself, and whoever is granted the use of the thing, is granted the thing itself; and for this reason, to lend things of this kind is to transfer the ownership. Accordingly, if a man wanted to sell wine separately from the use of the wine, he would be selling the same thing twice, or he would be selling what does not exist, wherefore he would evidently commit a sin of injustice. In like manner he commits an injustice who lends wine or wheat, and asks for double payment, *viz.*: one, the return of the thing in equal measure, the other, the price of the use, which is called usury. On the other hand there are things, the use of which does not consist in their consumption: thus to use a house is to dwell in it, not to destroy it. Therefore in such things both may be granted: for instance, one may hand over to another the ownership of his house while reserving to himself the use of it for a time, or, *vice versa*, he may grant the use of the house whilst retaining its ownership. For this reason a man may lawfully make a charge for the use of his house, and, besides, reclaim the house from the person to whom he has granted its use, as happens in renting and letting it. Now money, according to the Philosopher, was invented chiefly for the purpose of exchange, and consequently the proper and principal use of money is its consumption or alienation, whereby it is sunk in exchange. Hence it is by its very nature unlawful to take payment for the use of money lent, which payment is known as usury; and just as a man is bound to restore other ill-gotten goods, so is he bound to restore the money which he has taken in usury.”⁴⁷

⁴⁷ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 78, art. 1. “To take usury for money lent is unjust in itself, because what does not exist is sold. By this an inequality is manifestly established, which is contrary to justice. To make this evident, it must be known that there are certain things whose use is the consumption of the things themselves, just as we consume wine by using it for drink and wheat by using it for food. Hence, in such things, the use of the thing ought not to be reckoned separately from the thing itself, but to whomever the use is granted, by this very fact the thing is granted, and for this reason ownership is transferred in such things by a loan. Therefore, if someone wished to sell the

wine separately and wished to sell the use of the wine separately, he would sell the same thing twice, or would sell what does not exist; hence he would manifestly sin through injustice. And for a similar reason he commits an injustice who lends wine or wheat, asking that two recompenses be given him: one, indeed, the restitution of an equal thing, and the other the price of its use, which is called usury. But there are certain things whose use is not the consumption of the thing itself, just as the use of a house is habitation, not its destruction. And therefore in such things either may be granted separately; for example, when someone hands over to another the ownership of a house, reserving its use to himself for some time, or conversely when someone grants another the use of a house while reserving its ownership to himself. And for this reason a man may lawfully receive a price for the use of a house and, besides this, demand the house lent for use, as is evident in the hiring and letting of a house. Money, however, according to the Philosopher [*Ethic.*, I, V, c. 5; *Polit.*, I, I, cc. 5–6], was principally invented for making exchanges; and thus the proper and principal use of money is its consumption or alienation, according as it is expended in exchanges. And for this reason it is in itself unlawful to receive a price for the use of money lent, which is called usury; and just as a man is bound to restore other things unjustly acquired, so he is bound to restore the money which he received through usury.” On the teaching of St. Thomas and the Scholastics generally see Cleary, *The Church and Usury*, pp. 78 sqq.

[303] β) All through the Middle Ages canonists and theologians were unanimous in condemning the taking of interest on loans made for consumption only (*mutua*), as distinguished from loans for use, reckoning money as an article of consumption. When, however, some *external reason* seemed to justify the taking of interest, it was not regarded as usury. Such a reason was called *titulus mutuo extrinsecus*. The principal “titles” held to justify interest were: (1) *damnum emergens*, i. e., a loss or damage arising to the lender from the loan; (2) *lucrum cessans*, i. e., profit lost to the owner by not having the money in his control; (3) *periculum sortis amittendae*, i. e., the danger of losing the capital lent; and (4) *poena conventionalis*, i. e., a penalty agreed upon between the contracting parties for remissness in repaying the money loaned. Where one of these “titles” could be alleged, it was permissible to demand and receive a moderate charge over and above the capital lent. This charge was not paid for the use of the money loaned, but for the danger incurred by the lender, or to indemnify him for the loss he had sustained and which he was not bound to take upon himself gratuitously.⁴⁸

⁴⁸ P. Cleary, *The Church and Usury*, “Extrinsic Titles,” pp. 91–105.—Gury, *Comp. Theol. Mor.*, I, n. 818: “Emerging loss is a detriment which the lender suffers on the occasion of a loan made to his neighbor. If the lender suffers loss because of the loan, it is a legitimate title for receiving something above the principal or the thing lent. The reason is that it is not equitable that you should bear loss from the loan; for no one is bound to confer a benefit at his own loss except in the neighbor’s necessity.”—*Ibid.*, n. 819: “Ceasing gain is that which the lender would have gained from his property or money, had he retained it, if he had employed it in another lawful contract. Ceasing gain is a legitimate title for demanding something above the principal. The reason is: 1. Because then there truly is an emerging loss; 2. Because the hope of gain is extrinsic to the loan and therefore capable of valuation in money.”—*Ibid.*, n. 820: “Risk to the principal is a well-founded fear that the principal may not be recovered. There is a twofold risk: 1. Common, intrinsic to every loan, e. g., the fear that all the borrower’s goods may perish in a fire, etc.; 2. Extraordinary, e. g., if a loan is given to a prodigal or to a man of doubtful credit or to one going by sea, or if great expenses in recovering the principal are feared.”—*Ibid.*, n. 821: “Nothing can be demanded for the common risk. The reason is that such a risk is entirely intrinsic to the loan and therefore cannot be separated from it. Extraordinary risk is a legitimate title according to the more common and more probable opinion. The reason: 1. Because, if the hope of gain is capable of valuation, much more so is the danger of probable loss; 2. Because things placed in safety are valued more highly than things placed in danger; 3. It is established by a decision of the S. C. de Propaganda Fide for the Chinese missionaries, approved by Innocent X (cf. S. Alph., I, III, n. 765 [ed. Gaudé, II, 211]). Except: 1. If the borrower is poor, because then the precept of lending is urgent; 2. If the borrower secures the principal by a pledge, because in that case the risk ceases.”—*Ibid.*, n. 822: “A contractual penalty consists in this, that the borrower binds himself to pay something above the principal if he does not repay it at the appointed time. A contractual penalty is a legitimate title for receiving, besides the principal, that which was agreed upon. The reason is that in this way provision is made for the firmness of the contract and at the same time the borrower’s negligence is forestalled. The required conditions are: 1. That the debtor’s delay be notable

and culpable; 2. That the penalty be moderate and proportionate to the fault; 3. That a usurious intention be absent, that is, that the lender not desire the other party's culpable delay."—Funk, *Zins und Wucher*, pp. 119 sqq.; Ratzinger, *Die Volkswirtschaft*, 2nd ed., pp. 278 sqq.; Göpfert, II, 172 sqq.

[305] Other and more practical exceptions from the law prohibiting interest were made in favor of those who purchased *rentes* (*supra*, pp. 293 sqq.) and in favor of State loans or charitable institutions (*montes pietatis*).⁴⁹ Thus it came about that, towards the end of the Middle Ages, the law against interest was more often violated than respected, for while Church and State still insisted that it was forbidden to take interest on loans made purely for consumption (*ratione mutui*), in matter of fact interest was quite generally demanded and taken on the strength of various "extrinsic titles," which practically neutralized the prohibition.

⁴⁹ Denzinger-Bannwart, n. 739.—Funk, *Zins und Wucher*, pp. 62 sqq., 80 sqq.—IDEM, *Geschichte des kirchl. Zinsverbotes*, pp. 42 sqq.—H. Holzapfel, O. F. M., *Die Anfänge der Montes Pietatis*, Munich, 1903.

d) In modern times the ancient definition of usury was still adhered to, not only by Catholic theologians,⁵⁰ but also by Luther and Zwingli, who forbade their followers to take interest on loans.⁵¹

⁵⁰ H. Busembaum, *Theol. Mor.*, I. III, tr. 5, c. 3, dub. 7: "Usury is gain arising immediately from a loan, so that the lender gains, above the principal (*i. e.*, the capital sum), something which can be valued in money, in such a way that such gain is intended precisely by reason of the loan. This is plainly unjust and a grave sin against human and divine law, since the lender acquires gain from a thing which is no longer his, because the thing lent has already passed into the ownership of the borrower, as is evident from the definition. And the general rule is: Every act or burden or charge added to a loan beyond that which is proper and intrinsic to it renders the contract usurious."—Cfr. St. Alphonsus, *Theol. Mor.*, I. III, nn. 758–759 (ed. Gaudé, II, 203 sqq.); Gury, I, nn. 815–817.

⁵¹ P. Cleary, *The Church and Usury*, pp. 147 sqq.; Walther, *Thesen über den Wucher*, St. Louis, 1876.

[306] But in spite of many synodal decrees, the capitalistic function of money led to a change in ideas and practice. Of particular importance in the process of evolution was the practice of selling *rentes* and the recognition of the so-called *contractus trinus*,⁵² *i. e.*, a combination of three different contracts, one social and the other two insurance. In evolving this new form of contract, the Scholastics, in Funk's opinion, did a great thing: "Though they had not succeeded in storming the fortress of the anti-interest law, they had surrounded it from two sides and laid a double breach for modern Capitalism. The capitalist through this teaching was enabled to invest his money profitably by means of a *contractus trinus*, which was always feasible when there was a question of lending capital for productive purposes. Or he could buy *rentes*, since this species of contract was now no longer hedged in with the former limitations, but the contracting parties were left free to make whatever agreement they chose. The seller could pay his indebtedness at any time, and the buyer was free to demand his capital back whenever he wished. The only precaution that had to be observed was to avoid the terms 'loan' and 'interest,' for paying interest on loans was still regarded as usury and forbidden under pain of mortal sin."⁵³

⁵² See *infra*, pp. 329 sq.; Cleary, *The Church and Usury*, pp. 126 sqq.

⁵³ Funk, *Geschichte des kirchl. Zinsverbotes*, pp. 57 sqq., 60,—IDEM, *Zins und Wucher*, pp. 84 sqq.

[307] Soon the civil governments revoked the laws forbidding interest-taking and confined themselves to punishing usury in the modern sense, and the Church and her theologians acknowledged the *titulus legis civilis* as an additional reason justifying interest. The last important papal decision on the subject is the encyclical letter of Benedict XIV, "*Vix pervenit*," issued November 1, 1745. It condemns

taking interest on a loan merely for the sake of the loan (*omne lucrum ex mutuo ratione mutui*), but recognizes the extrinsic titles enumerated above.⁵⁴

⁵⁴ The text of the encyclical in Migne, *Theol. Cursus Compl.*, XVI, 1059; cfr. Busembaum, *Theol. Mor.*, II, 59 sqq.; St. Alphonsus, *Theol. Mor.*, ed. M. Haringer, Vol. III, Ratisbon 1846, pp. 356 sqq.; Denzinger-Bannwart, nn. 1609–1612; Cleary, *The Church and Usury*, pp. 160 sqq.

A substantial mitigation of ecclesiastical discipline was initiated by the Apostolic See in the early part of the XIXth century, when it repeatedly declared, in response to inquiries, that those who took interest at a moderate rate should not be disturbed in their peace of mind, provided they were ready to submit to such decisions as the Church might see fit to make on the subject in future.⁵⁵ At first these declarations were limited by the clause that interest might be taken to the extent permitted by the civil laws of the respective country (*titulo legis civilis*), but this clause, too, was soon omitted, and the permission to take interest was extended to clerics, monasteries, and ecclesiastical foundations.⁵⁶

⁵⁵ “They are not to be disturbed, provided they are prepared to abide by the mandates of the Holy See.”—Cfr. Cleary, *The Church and Usury*, pp. 168 sqq., 174 sqq.

⁵⁶ S. C. Offic., decree of Feb. 28, 1872 (*Collectio Lacensis*, VI, 690); cfr. Gury, *Comp. Theol. Mor.*, Vol. I, n. 823 sqq.

[308] The New Code expressly says: “If a fungible thing is given to someone in such a way that it becomes his and afterward an equal amount is restored to him in the same kind, no gain may be received by reason of the contract itself; but in the furnishing of a fungible thing it is not in itself unlawful to stipulate for lawful gain, unless it is clear that it is immoderate, or even for greater gain, if a just and proportionate title supports it,”⁵⁷—that is to say, in loaning goods to be consumed by the borrower, when return is made in the same kind, no interest may be charged by reason of the contract itself; but in loaning fungible goods, a reasonable interest may be charged if there is a just and proportionate title. “The quintessence of this canon, according to Father Augustine, O. S. B., is “that interest on loans is permitted according to the usual and legal rate, not precisely by reason of the contract, but by reason of the risk incurred and other circumstances.”⁵⁸

⁵⁷ C. I. C., can. 1543.

⁵⁸ *A Commentary on the New Code of Canon Law*, Vol. VI, p. 609. Fr. Augustine refers to Benedict XIV’s encyclical “*Vix pervenit*” and to the instructions of the S. C. of the Propaganda of 1873 (*Coll. S. C. P. F.*, n. 1303), where, he says, “the documents referring to these subjects are given and the question is treated *ex professo*.”

The changed attitude of the Church on interest-taking is perfectly justified in view of the fact that money is no longer, as it was before the dawn of the industrial era, a mere means of exchange for articles of consumption and a measure of their value, but *the chief form of capital*. Today “no wealth-producing object of importance can be undertaken without a supply of money,” says Fr. Slater, “and money is now readily exchangeable for land, machinery, means of distribution, and other instruments for the production of wealth. Capital is one of the factors necessary for the production of wealth, and it is the chief instrument of its production. Money, then, looked upon as capital, is not a mere fungible; it is not a commodity which is consumed in the first use of it; it is the main instrument necessary for the production of wealth, and it thereby acquires a new function: it becomes virtually productive and puts on the nature of land and machinery, with which it is so readily exchangeable. Indeed now-a-days land can hardly put forth its natural productivity without the aid of capital, and machinery cannot be worked for the production of wealth without it. It follows then that now-a-days money is not merely a means of exchange, it is also an instrument of production, and just as money

may be charged for the use of land, or of a house, so money may be charged for the use of money. Money now has its fair and reasonable price like any other commodity, and the sin of usury is committed not by taking a fair and reasonable interest for a loan, but by exacting excessive interest.”⁵⁹

⁵⁹ Slater, *A Manual of Moral Theol.*, I, 515 sq.

[³¹⁰] “If,” says Father H. Pesch, S. J., by way of a *demonstratio ad absurdum*, “moderate interest were objectively and *per se* forbidden by the moral law of nature, the Church would not only have mitigated her demands in favor of a generation living under Capitalism, but she would be tolerating, positively and for all classes of human society, a most atrocious crime, namely, usury, which is admittedly opposed to the natural law and, in consequence, intrinsically and essentially evil.”⁶⁰

⁶⁰ H. Pesch, “Zinsgrund und Zinsgrenze,” in the *Zeitschrift für kath. Theologie*, Innsbruck, 1888, p. 37; cfr. P. Cleary, *The Church and Usury*, pp. 200 sqq.—The whole problem is admittedly a thorny one, and though many solutions of it have been proposed, none has found general acceptance. One of the latest writers on the subject, Fr. J. B. McLaughlin, O. S. B., thinks the dispute arose from ambiguity about the term *mutuum*. Benedict XIV, who, by the way, in his encyclical letter spoke with authority as teacher of the universal Church (“lest the purity of Catholic doctrine, the deposit of which was entrusted to us by Christ, be defiled by this stain of error”), used the term *mutuum* in its precise technical sense, in contradistinction to investments. His meaning was that “if the money passed so that they might become rich, then it is not *mutuum*, but of a nature altogether different from the nature of a *mutuum*. If it is *mutuum*, then it is not so that they might become rich; the purpose for which the money is to be used does not enter into a *mutuum* contract, which necessarily turns upon equality between what is given and what is returned, and in nothing else. . . . The root difference seems to be this. There is such a thing as enriching yourself by impoverishing your neighbors. And there is such a thing as enriching yourself by enriching your neighbors. The first is usury, the second is the investing of capital. My neighbor needs a loan; I shall have to help him; I will take the opportunity to annex some of his belongings. That is usury. I have not added to the wealth of the country; I have merely transferred some of it from his pocket to mine. On the other hand, is the fact expressed in such sayings as, ‘I could make my business a success if I had more capital’; ‘This country only needs capital to make it prosperous’; ‘If these islanders had a steamboat to take their fish to a market; if a bridge were built here, a railway there, a creamery opened, a pit sunk, the whole district would become prosperous.’ It is in this way that countries have become rich, and that their standard of living has been raised. Money employed in these ways is employed for the enriching of others; and you who so employed your money have a right to your share of the new riches. Not simply to a return of your money; but to a share in the increased wealth that is flowing in to us each year. Further; in a highly ‘developed’ country, the existing machinery of production must be kept efficient merely to maintain the present standard of living, apart from any question of improving it. Therefore there is a continuous demand for new capital, for the purposes of upkeep and replacement; and you who provide this capital are saving the country from impoverishment, and can claim a share in the wealth you are helping to produce. A ‘legal rate’ of interest, mentioned in the Canon Law, would seem to be an attempt to estimate what your fair share should be. This seems to have been in St. Thomas’s mind when he wrote of the man who takes up a business for the public utility, that the country may have what it needs for its life; and seeks a profit, not as his final purpose, but as his reward for what he has done. Similarly Benedict XIV says, ‘It cannot be doubted that in these contracts we have a manifold lawful method and system for preserving and improving human intercourse and profitable trade, to the public good.’ (“*Vix pervenit*,” § 3, 4; Denzinger-Bannwart, n. 1478). Whereas usury causes poverty: ‘Far be it from Christian minds to suppose that profitable commerce can flourish through usuries or similar injuries to others.’ (*ibid.*). The natural way to help a man in a difficulty is to give him the money he needs and let him make the best he can of it, binding him to return you the same amount later on. Whereas the natural way to help to develop the country is to lend your money for that purpose to some one who can use it for that purpose. The *giving* in the one case and *lending* in the other do not at first glance seem to be essentially tied up with the two contrasted purposes; but St. Thomas and Benedict XIV and the Codex unanimously put this distinction at the very root of the matter. In the Codex we read, ‘*Si res ita alicui detur ut eius fiat*,’ in contradistinction to ‘*sed in praestatione rei*’; and St. Thomas and Benedict XIV are equally explicit. Unfortunately, besides the two processes I have mentioned, enriching yourself by impoverishing others, and enriching yourself by enriching

others, there is a third—enriching yourself by enslaving others. You can use your capital, not to enable me to develop my business, but to buy up my business and make me pay you revenue if I want to continue it. It is this process of gaining control of all the means of livelihood, and taking toll of the fruits of all men's industry, that seems to many to be the main occupation of the capitalist at present. After the war, a cotton-mill valued by its owners at three and a half millions was bought by a syndicate for five millions. Those who work that mill in future have to pay interest on the extra million and a half. One reads of an American millionaire keeping a staff of experts to advise him on one point, the new businesses in which his yearly revenues are to be invested and which are to pay him tribute for the future. Leo XIII speaks of 'the concentration of so many branches of trade in the hands of a few individuals; so that a small number of very rich men have been able to lay upon the teeming masses of the poor a yoke little better than that of slavery itself.' This party holds in its grasp the whole of labor and trade; manipulates for its own benefit and its own purposes all the sources of supply.' His remedy is 'to induce as many as possible of the humbler classes to become owners.' (*The Pope and the People*, pp. 179, 208)."

[311] e) So much from the point of view of justice. Charity, of course, imposes additional duties. With a hard pressed debtor the creditor should not only have patience, but is bound *ex caritate*, in proportion to his own ability and the degree of his creditor's necessity, to aid him by giving alms or renouncing his legitimate compensation for damage sustained or profit lost. A loan without interest made to a person in need is a true act of charity, and to demand interest in such a case would be to enrich oneself unjustly at the expense of a needy fellowman. For the distinguishing mark of usury may be owing to the economic condition of the borrower.

[312] The *lawful rate of interest*, like the fair and reasonable price of other commodities, depends upon circumstances and, proximately, upon the common consent of intelligent men.⁶¹ For the farmer who earns no more than three or four per cent. on his capital, says Ratzinger, five or six per cent. on loans would be a usurious rate of interest, whereas the merchant who makes a profit of ten per cent., can pay from four to six, and the manufacturer or trader who cleans up a net gain of from thirty to forty per cent., can be charged from twelve to twenty per cent. for short term loans without usury.⁶² Of course, in deciding this question, the civil laws of each country have to be taken into consideration.⁶³

⁶¹ Slater, I, 515.

⁶² Ratzinger, *Die Volkswirtschaft*, 2nd ed., p. 261 sq.—Cfr. Seneca, *De Benefic.*, l. VI, c. 13: "I am not so unjust that I owe him nothing, who, while being useful to me, was also useful to himself. For I do not demand that he consult my interest without regard for his own; indeed I even desire that the benefit given to me should have profited the giver more, provided that he who gave, having both of us in view, gave and divided it between himself and me. Although he himself possess the greater part of it, if only he admitted me into partnership, if he considered both of us, I am ungrateful, and not merely unjust, unless I rejoice that what profited me also profited him. It is the height of malice not to call anything a benefit unless it has affected the giver with some inconvenience." (*Opera Omnia*, I, ed. I. Lipsius, Amsterdam 1672, p. 794).

⁶³ A. Vermeersch, S. J., s. v. "Usury" in the *Catholic Encyclopedia*, Vol. XV, pp. 235 sqq.; Maingie, *La Théorie de l'Intérêt et ses Applications*, Brussels, 1911; H. Parkinson, *A Primer of Social Science*, p. 157; P. Cleary, *The Church and Usury*, Dublin 1914.

[313] READINGS.—Th. Meyer, S. J., *Inst. Iuris Nat.*, Vol. II, pp. 221 sqq.—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., pp. 788 sqq.—St. Alphonsus, *Theol. Mor.*, l. III, n. 793 sqq. (ed. Gaudé, I, 232 sqq.).—F. X. Linsenmann, *Lehrbuch der Moraltheol.*, pp. 552 sqq.—V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 358 sqq.—J. Schwane, *Die theol. Lehre über die Verträge*, pp. 120 sqq.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 315 sqq.

On the WAGE CONTRACT: F. M. Schindler, *Der Lohnvertrag*, Vienna 1892.—K. Eberle, *Arbeit und Lohn*, Stans 1894.—Ch. Antoine, *Cours d'Économie Sociale*, 7th ed., Paris 1922, pp. 589 sqq.—Theo. Meyer, S. J., *Die Arbeiterfrage und die christlich-ethischen Sozialprinzipien*, 4th ed., Freiburg i. B. 1904.—F. X. Eberle, *Kath. Wirtschaftsmoral*, Freiburg i. B. 1921, pp. 53 sqq.—D. Merino, *Natural Justice and Private Property*, Eindhoven (Holland), 1922, pp. 103 sqq.—J. A. Ryan, *A Living Wage*, N. Y. 1906.—O'Grady, *A Legal Minimum Wage*, Washington 1915.—J. A. Ryan, *Social Reconstruction*, N. Y. 1916, pp. 323 sqq.—H. Parkinson, *A Primer of Social Science*, N. Y. 1913, pp. 160 sqq.—J. M. Harty, "The Living Wage: Its Ethical Basis," in the *Irish Theol. Quarterly*, Vol. II (1907), Nos. 6, 8; Vol. III (1908).—W. McDonald, "The Living Wage," *ibid.*, Vol. III (1908), No. 9.

On STRIKES AND LOCKOUTS: A. Lehmkuhl, S. J., *Arbeitsvertrag und Streik*, 4th ed., Freiburg 1904.—H. Parkinson, *A Primer of Social Science*, pp. 128 sqq.—M. Cronin, *The Science of Ethics*, pp. 354 sqq.—C. S. Devas, *Political Economy*, pp. 548 sqq.—J. Kelleher, "The Morality of Strikes," in the *Irish Theol. Quarterly*, Vol. VII (1912), No. 25.—Thos. Slater, S. J., *On the Morals of To-day*, N. Y. 1920, pp. 66 sqq.

[314] On INTEREST-TAKING: F. X. Linsenmann, *Lehrbuch der Moraltheol.*, pp. 556 sqq.—V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 362 sqq.—A. Vermeersch, S. J., *Quaestiones de Iustitia*, 2nd ed., pp. 450 sqq.—D'Annibale, *Summula Theol. Mor.*, Vol. II, 5th ed., pp. 446 sqq., Rome 1908.—F. X. Funk, *Zins und Wucher*, Tübingen 1868.—IDEM, *Geschichte des kirchlichen Zinsverbotes*, *ibid.*, 1876.—IDEM, *Zur Geschichte des Wucherstreites*, *ibid.* 1901.—H. Hay, *De Mutuo et Usura*, Angers 1902.—D. Lanna, *Delle Usure*, Giuliano 1902.—F. Schneider, *Das kirchliche Zinsverbot und die kuriale Praxis im 13. Jahrhundert* (in "Festgabe . . . H. Finke gewidmet"), Münster i. W. 1904, pp. 129 sqq.—B. Duhr, S. J., *Geschichte der Jesuiten in den Ländern deutscher Zunge*, Vol. I, Freiburg i. B. 1907, pp. 713 sqq.—Schaub, *Der Kampf gegen den Zinswucher*, pp. 26 sqq., 61 sqq.—K. Lessel, *Die Entwicklungsgeschichte der kanonistisch-scholastischen Wucherlehre im 13. Jahrhundert*, Luxemburg 1905.—M. Hainisch, *Die Entstehung des Kapitalzinses*, Leipsic and Vienna 1907.—L. Garriguet, *Prêt, Intérêt et Usure*, Paris 1907.—Seipel, *Die wirtschaftsethischen Lehren der Kirchenväter*, pp. 162 sqq.—F. X. Eberle, *Kath. Wirtschaftsmoral*, pp. 65 sqq., Freiburg i. B. 1921.—Jos. Landner, *Das kirchliche Zinsverbot und seine Bedeutung*, Graz 1918.—P. Cleary, *The Church and Usury*, Dublin 1914.—J. M. Harty, "Historical Evolution of the Catholic Teaching on Usury," in the *Irish Theol. Quarterly*, Vol. V (1910), No. 17.—IDEM, *ibid.*, Vol. VII (1912), No. 28.—J. A. Ryan, *The Church and Interest-Taking*, St. Louis 1910.

SECTION 6: SUBSIDIARY CONTRACTS

[315] A subsidiary or insurance contract (*contractus subsidiarius sive cautio*) is one by which one contracting party takes upon itself a certain danger or risk for the benefit of the other, in consideration of a specified payment. The principal kinds of subsidiary contracts are: insurance, security, and bailment (pawn or pledge).

1. *Insurance contracts* are contracts by which the insurer undertakes to make good any loss suffered by the insured through the happening of some accident, in consideration of the payment of a fixed sum, either at once or at periodical intervals, or promises to pay a given sum to another upon the happening of a particular event contingent upon the duration of human life.¹ These contracts (*contractus assecurationis*) are called subsidiary.²

¹ Slater, *A Manual of Moral Theology*, Vol. I, p. 554.

² J. P. Gury, S. J., *Comp. Theol. Mor.*, Vol. I, n. 878: “Those contracts are called subsidiary because they are employed for the security of another contract.”—Cfr. H. Busembaum, *Medulla Theol. Mor.*, l. III, tr. 5, c. 3, dub. 15: “A contract of insurance is one by which someone assumes the risk of another’s property, binding himself either gratuitously or for a fixed price to compensate for it if it is lost. If this is done gratuitously, it is a gratuitous promise; if for a price, it is as though a purchase, by which the insurer sells his obligation to keep the other’s property free from loss. For its justice it is required that the outcome concerning the property be uncertain to both parties, at least with respect to the knowledge they have of it, because otherwise equality would not be preserved.” (Tournai 1876; I, 267).—Cfr. Göpfert, *Moraltheol.*, Vol. II, pp. 206 sqq.

[³¹⁶] a) The insured party (*assecuratus*) is bound to pay the stipulated premium. The insurer (*assecurator*), on the other hand, pays the sum agreed upon only in case the accident in question actually happens.

To render an insurance contract valid it is required that the insured object really exists, that all circumstances material to the contract are made known to the insurer in order to enable him to form an accurate judgment as to the risks and merits of the case; that the insurer is able to pay the promised insurance if and when it falls due, that the premium paid is in proportion to the risk incurred, and that the stipulated terms of the contract contain nothing illicit.³

³ Gury, *op. cit.*, I, n. 882: “The conditions required for insurance are the following: 1. That the price be proportionate to the risk; 2. That the risk be real and equally known to both parties; 3. That the insured observe all the conditions of the contract; 4. That the insurer have the means from which he can pay.”

According to the nature of the accident against which insurance is taken we may distinguish *marine, fire, hail, storm, and accident insurance*.⁴

⁴ The various conditions under which insurance is issued are defined by statutory law and for the U. S. are summarized, e. g., by Boles in *Putnam’s Handy Law Book*, pp. 6, 37, 124 sqq., 167 sqq., 302.

A special kind of insurance is that by which the insurer guarantees to pay a stipulated sum either to the insured if he lives out the determined period, or to his heirs or beneficiaries if he dies before its expiration (life insurance). Not a few present-day insurance policies are really no more than savings accounts.

[³¹⁷] b) Insurance contracts generally have been devised with the object of relieving undeserved misfortune. They do not indicate a want of confidence in Divine Providence, but are merely proofs of a prudent foresight and means of self-help.⁵

⁵ See this *Handbook*, Vol. III, pp. 109 sqq.—Cfr. G. v. Hertling, *Kleine Schriften*, pp. 341 sqq.

“The social advantages of insurance,” says Linsenmann, “are best attained if the practice is extended as widely as possible, because in that case the effects of serious catastrophes are distributed amongst many and consequently felt less severely by the individual, and for the further reason that the contribution of the individual becomes smaller, whereby the danger of fraud is minimized and participation in the benefits of insurance is made easier. The contribution of the individual beneficiary then appears like a slight tax, by paying which he not only acquires a feeling of security, but likewise aids more effectively than he could possibly do by alms, in assisting those who suffer from untoward events. Who does not feel relieved when he hears after a destructive fire that those whose property was destroyed were adequately insured?”⁶

⁶ F. X. Linsenmann, *Lehrbuch der Moraltheol.*, p. 581.

c) Some writers refuse to regard *life insurance* as a *contractus assecurationis* because it does not in their opinion safeguard the subject against danger or risk. But on closer inspection we shall find that life insurance is insurance against danger or risk. "He who insures his life," says a recent writer, "does two things: He invests his savings with an insurance company and receives as an equivalent the promise that the company will, in case he dies prematurely, pay out to his heirs the amount paid in, plus the amount necessary to make it equal to the sum which the insured would have received had he attained the age stipulated in the contract, or which he has to expect according to the mortality tables. Conceived thus as a savings account combined with an insurance contract, life insurance clearly partakes of the nature of a *contractus assecurationis*."⁷

⁷ Cfr. V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 385 sq.—Huppert, *Der Lebensversicherungsvertrag*, pp. 169 sqq.; K. Wagner, *Das Problem vom Risiko in der Lebensversicherung*, Jena 1898; A. S. Bolles, *Putnam's Handy Law Book*, pp. 167 sqq.

|³¹⁸| Life insurance is of great help to farmers and merchants, to whom it affords a means of paying their debts without amortization, within a reasonable period of time, if the obligation is not excessive and the premiums can be met. Under these suppositions life insurance aids in the payment of debts and strengthens the credit of the insured.

d) There has been talk of late of the advisability of *insuring workmen against unemployment*.

"It is the duty of the State," says Fr. Cuthbert, "to see that security against unemployment enters into the bargain between employers and employed, and it is not jeopardized by merely arbitrary action of either employer or worker. Thus, for instance, when new processes or methods are introduced into any industry, the State should insist that the change be made so as to minimize the danger of the worker finding himself without employment as a consequence of the change. The proper action of the State is, however, limited. It cannot so control the conditions of industry as to leave no personal freedom to either employer or worker in the control of labor; for that would cut at the very root of personal responsibility and consequently of real personal liberty. But it can protect both employer and worker against the mere arbitrariness of physical or moral force, and it can also give opportunities which conduce to the fulfilment of moral obligations. The giving of these opportunities is indeed its most positive contribution to economic freedom, and more directly constructive than any restrictive or 'police' intervention."⁸

⁸ *The Ethics of Labor*, pp. 17 sq.

|³¹⁹| In working out a practicable system of unemployment insurance those concerned should take proper precautions to safeguard the interests of the diligent and sober workman, so that he will not be compelled to carry an extra burden because of the sloth and extravagance of his fellow-workmen.

|³²⁰| e) *Insurance against the risks of child-birth* is another new idea. This no doubt has certain advantages, provided it be so carried out that it does not become a premium upon fornication and that deserving mothers are not forced to bear the burdens of undeserving prostitutes.⁹

⁹ Göpfert, *Moraltheol.*, Vol. II, p. 210.—Cfr. A. Buckeley, *Zur Frage der Mutterschaftsversicherung*, Ratisbon 1908; J. Mausbach, *Der christliche Familiengedanke im Gegensatz zur modernen Mutterschutzbewegung*, Münster i. W. 1908.

2. Giving *bail* or becoming *surety* for the debt of another if he should fail to pay, is a contract commonly called by moralists *fideiussio*. It can be made only by one who is qualified to act in his own name and who has ample means to satisfy the obligations incurred. Minors cannot become surety

without the consent of their guardians, nor religious without the permission of their superiors, nor wives without the consent of their husbands.¹⁰ To give bail knowing that one is not qualified to do so, or has not sufficient means to meet the obligation assumed, is a mortal sin whenever it is doubtful whether the debtor himself will be able to pay.¹¹ He who has become surety for another (*fideiussor*) must satisfy the creditors (*creditores*) if the debtor (*debitor*) is unable to do so, but has the right of recourse if the latter recovers financially. A *fideiussio* also binds the heirs of the surety. The debtor is bound to repay his surety as soon as he is able and, in addition, must indemnify him for whatever losses he may have sustained through the debtor's fault.¹²

¹⁰ Ecclus. VIII, 16; XXIX, 27.—Cfr. Gury, *Comp. Theol. Mor.*, Vol. I, n. 879, 1: "No one can be a surety unless he has the free administration of goods sufficient for this, as is evident. . . . Those who cannot be principally bound cannot become sureties; such are a ward, a minor, a religious, and a wife, at least without the consent of guardian, curator, superior, or husband."—*Ibid.*: "Those who cannot be principally bound cannot become sureties; such are a ward, a minor, a religious, and a wife, at least without the consent of guardian, curator, superior, or husband."

¹¹ P. G. Antoine, *Theol. Mor. Univ.*, tr. *De Contract.*, P. II, c. 10, qu. 3, n. 5: "He sins gravely who, certain of his inability to pay for another, makes himself that person's surety, thinking it possible that the debtor may be unable to pay. For he unjustly deceives the creditor by offering a false security for the matter and gives him an occasion of danger and loss." (Douai, 1751, Vol. III, 601).

¹² Prov. XX, 16; XXVII, 13.—Cfr. Gury, *op. cit.*, I, n. 879, 3: "The surety is bound toward the creditors for all the obligations of the debtor, but only upon the latter's default. A surety who pays for the debtor is subrogated to all the creditor's rights and consequently has recourse against this debtor, so that he may recover from him the things which he was compelled to pay in his place. The surety's obligation is transmitted to his heirs, because it is a real obligation, not a merely personal one."—A. Lehmkuhl, *Theol. Mor.*, Vol. I, p. 780.

|³²¹| To become surety for another may be a true act of charity, but carelessness in this regard is anti-social, as it not only favors recklessness in business, but is apt to ruin both creditor and debtor.¹³ It is wrong to borrow if one does not know whether one will be able to repay the debt; least of all should one borrow from a person who is himself in need.¹⁴

¹³ Prov. VI, 1–5; XI, 15; XVII, 18; Ecclus. XXIX, 18–24.

¹⁴ Cfr. G. E. Lessing, "Minna von Barnhelm," Act III, Scene 7.

3. *Pawn* or *pledge* is a contract by which goods or chattels are delivered to another (pawnee) as security for money borrowed from him.¹⁵ The pawn is called *pignus*. If it is an immovable object, which is not actually transferred, but merely given over in writing, it is called mortgage (*hypotheca*).

¹⁵ Slater, *A Manual of Moral Theol.*, Vol. I, p. 540.

|³²²| As regards the respective rights and duties of pawner and pawnee, the following rules may be stated:

a) The pawner must pledge an object that is fit to serve the purpose;¹⁶ he must indemnify the pawnee for any expense the latter may incur for the preservation of the pawned object, and he may not demand that object back before the debt is paid, except in case the pawnee makes wrong use of it.

¹⁶ Busembaum, *Medulla Theol. Mor.*, l. III, tr. 5, c. 3, dub. 16: "Things which cannot be sold cannot be pledged, e. g., churches. Immovable things, as also precious movable things dedicated to divine worship, e. g., chalices, chasubles, etc., cannot be pledged except in necessity, because then they can also be sold, so that aid may be given to the church and the needy."

b) The pawnee is bound to take ordinary care in the custody of the pledge (*pignus*), he may not use it without the consent of the pawner, must deduct any fruits derived from it, and may not sell the pledged object unless the pawner is guilty of inexcusable negligence, and even then only after giving him due warning.

When the debt for securing which the pledge has been given, is paid, the pawnee must restore the pawn with all its accruing fruits to the pawner, but he may deduct necessary expenses.¹⁷

¹⁷ St. Alphonsus, *Theol. Mor.*, l. III, nn. 913–916 (ed. Gaudé, II, 317 sqq.).—Cfr. Gury, *Comp. Theol. Mor.*, I, n. 880.

| 323 | c) *Pawnbrokers* form a special kind of pawnees, whose business in most countries is regulated by statutory law. The statutes usually fix the rate of interest which the pawnbroker may charge, and also determine the time after which he can dispose of the article pawned. In many States, says Fr. Michael Martin, S. J., on sums of one hundred dollars or less, three per cent. per month for the first six months is charged, and two per cent. per month for the following six months. When the sum loaned exceeds one hundred dollars, two per cent. per month for the first six months, and one per cent. for the next six months is the usual charge.

Pawntickets are generally good for one year only, but may be renewed upon payment of the interest.¹⁸

¹⁸ See Slater's *Manual of Moral Theol.*, Vol. I, pp. 541 sq.

The sale of goods entrusted to a pawnbroker is usually regulated by statute; if no law exists, and there is no agreement between the parties, the sale must be public, after due notice of time and place. If there is any surplus from the sale, the pawnee must pay it to the pawner and not apply it to another debt that he may owe.¹⁹

¹⁹ Bolles, *Putnam's Handy Law Book*, p. 47.

d) The practice of *pawning chattels* is open to many objections, moral as well as economic. Pawnbrokers as a rule are only too ready to take advantage of the necessity of the poor and to charge usurious rates of interest. Ease in obtaining money on chattels leads many to be extravagant, and Linsenmann is therefore right when he says that, from the economic point of view, it would be better, as a rule, to sell an article outright than to pawn it, because one would realize more for it than at the pawnbroker's, where as a rule it remains unredeemed. Pawning necessary articles, such as household goods, is generally the beginning of economic ruin.

| 324 | e) Borrowing money on a *mortgage* is a different matter. Whereas a pawned chattel must be regarded as an unproductive thing, a farm or a house is of the nature of capital and bears immediate fruits. As a consequence, the creditor is secured against loss, as he runs no risk (*periculum sortis*), and therefore can be satisfied with a lower rate of interest, while the debtor has a chance of paying back his debt out of the revenues of the property itself without employing extraordinary financial means, which is not the case with chattels.²⁰

²⁰ Linsenmann, *Lehrbuch d. Moraltheol.*, p. 578.

f) *Montes pietatis* are charitable institutions, usually conducted under ecclesiastical auspices, which lend money at a low rate of interest, or without interest, upon objects left in pawn, with a view to protecting the poor from usurers. Being charitable institutions, they lend only to people who are in need of funds to pass through some financial crisis, as in cases of general scarcity of food, misfortunes, etc. They originated in the Middle Ages, when it was difficult to obtain money, both on

account of its scarcity and because of the prohibitions by which Christians were bound in relation to usury. Their establishment and dissemination is one of the brightest glories of St. Francis of Assisi. At first the *montes* met with opposition, but this was gradually overcome, and Leo X and the Fifth Lateran Council declared them to be in no way illicit or sinful, but, on the contrary, meritorious, and whoever preached or wrote against them was threatened with excommunication.²¹ To-day the *montes pietatis* flourish especially in Italy, where, in 1896, there were 556 of them with combined resources of nearly 72,000,000 lire. Msgr. U. Benigni, to whom we are indebted for this information, discusses the advantages and disadvantages of this peculiar form of charity as follows: "It is held that they promote carelessness in contracting debts, that they destroy love for labor, incite to theft, are often the cause of financial ruin, and, lastly, that they are contrary to the principle of free competition. On the other hand, they are a necessity; for without them the needy would be exposed either to the extortion of private lenders or to ruin, into which they might be plunged by some misfortune from which a momentary loan might save them. Their disadvantages are undeniable, but disadvantages are common to all human contrivances. For the rest, the *montes pietatis*, besides the relief that they brought to the poor, exerted great influence upon the ideas concerning interest on loans; for the rigid views of the theologians of the Middle Ages in that connection underwent a first modification which prepared the way for a generalization of the principle that moderate interest might justly be charged, and also the mere existence of the *montes pietatis* compelled private speculators to reduce their rates of interest from the usurious rates that had hitherto prevailed."²²

²¹ *Conc. Lat. V*, sect. 10 (Denzinger-Bannwart, n. 739).—Cfr. *Conc. Trident.*, Sess. XXII, c. 8, *De Ref.*; H. Holzapfel, O. F. M., *Die Anfänge der Montes Pietatis*, pp. 15 sqq., 32 sqq.

²² U. Benigni, article "Montes Pietatis" in the *Catholic Encyclopedia*, Vol. X, p. 534 sqq.; P. Cleary, *The Church and Usury*, pp. 106–113.

[325] In this country we have no *montes pietatis*, and rapacious "loan sharks" ply their trade freely in spite of existing laws. Whether publicly controlled pawnbrokers would be an advisable substitute for the private harpies now robbing the poor, is a question which does not belong to Moral Theology.²³

²³ Benigni, *ibid.*, p. 536.—Linsenmann, *Lehrbuch d. Moraltheol.*, p. 579.

[326] READINGS.—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., pp. 902 sqq.—St. Alphonsus, *Theol. Mor.*, l. III, nn. 911–916 (ed. Gaudé, II, 305 sqq.).—V. Cathrein, S. J., *Moralphilosophie*, Vol. II, pp. 167 sqq.—J. E. Pruner, *Lehre vom Recht*, Vol. I, pp. 424 sqq., 463 sqq.—J. Schwane, *Die theol. Lehre über die Verträge*, pp. 173 sqq.—D. Barry, "The Ethics of Insurance" in the *Irish Theol. Quarterly*, Vol. VIII (1913), No. 30.

SECTION 7: PARTNERSHIPS AND STOCK COMPANIES

[327] 1. A partnership (*societas sive contractus societatis*) is a relation based upon a contract by which two or more persons agree to carry on a business, trade, occupation or profession in common with a view to profit. The partners collectively are called a firm and carry on business under the firm name.¹

¹ Slater, *A Manual of Moral Theology*, Vol. I, p. 548.

a) For a partnership contract to be licit and valid, it is necessary, first of all, that the object or purpose for which it is entered into be lawful; second, that each partner should contribute his share to the capital invested; third, that, if actively engaged in the business, he should do his part in making it

successful and, fourth, that he receive his part of the profits, or bear his share of the losses, according as the venture proves prosperous or the reverse.²

² St. Thomas, *Summa Theol.*, 2a 2ae, qu. 78, art. 2, ad 5.—Cfr. P. J. Gury, S. J., *Comp. Theol. Mor.*, Vol. I, n. 860: “Every partnership ought to be formed concerning a lawful and honorable matter and also for the common good of the contracting parties. Each partner ought to contribute to the partnership money or merchandise or industry or work. Thus it is according to every law. A partnership contract is a legitimate mode of conducting business. This is evident from the civil laws of all nations, from the universal usage of all peoples, and from natural law; for it is no less lawful for several persons jointly than for individuals to make profit from their own property, provided due equality is observed. The required conditions are: 1. That there be equality, that is, a division of profit in proportion to the property invested; 2. That the partnership be entered into for a definite time and that before then it not be lawful to reclaim one’s own; 3. That the risk to the principal belong to the owner, unless an agreement to the contrary has been made; 4. That each person bear the burden of losses and expenses which arise on account of the partnership; 5. That each person employ the same diligence in the partnership as in private business.”

| 328 | Any losses caused to the firm by negligence or fraud on the part of any one of the partners, must be borne by the latter.

An illegal contract made by one partner will not bind the others, for all parties are supposed to know and obey the law, and an illegal bargain cannot be enforced.

A partnership contract *expires* at the end of the period stipulated therein, or by the destruction of the object for which it was made, or by the mutual consent of the partners, or by a unilateral declaration of one or more of them, or by the attainment of the purpose for which it was established, or when it is ascertained that its objects are impossible, or, finally, by the natural or civil death of one of the partners. The cessation of a partnership does not, however, end its outstanding obligations, which, on the contrary, must be fully satisfied if possible.

The death of a partner causes a *dissolution* of the partnership. Nor can executors or administrators succeed to his place; if they do so, they assume an unpleasant personal responsibility. To relieve them from this, some States have passed statutes permitting surviving partners to act together under the direction of the court having charge of the estate.³

³ Gury, *op. cit.*, I, n. 861.—Bolles, *Putnam’s Handy Law Book*, pp. 198 sqq.

| 329 | b) A species of partnership which formed a bone of contention among moralists for a long time, is that known as *triple contract* (*contractus societatis triplex sive contractus trinus*). It is defined by St. Alphonsus as a contract by which a man entrusts his money to a partner upon condition that, no matter how the undertaking may result, he receive back the entire sum invested, together with a certain profit, which is less than may reasonably be expected. In other words, it is a contract to which are joined two other contracts, one insuring against risk and the other assuring a profit. The whole agreement is based on the desire to make a small but assured profit.⁴ For instance, A enters into a partnership contract (*societas*) with B and contributes \$1000 to the business on condition that he may demand his capital back at any time (*assecuratio sortis*). He agrees to be satisfied with six per cent. on his investment, even though the actual profits may be much larger (*emptio lucri*).⁵ This form of contract was attacked by Soto and some other theologians because they regarded it as “veiled usury” (**usura palliata*). Since the mitigation of the Church’s attitude on interest-taking the *contractus trinus* can no longer be condemned, provided, of course, due proportion is observed between investment and profit.⁶ The *contractus trinus* differs from ordinary loan contracts only in this that it refers to a certain definite business and that the profit is attributable largely to the money invested.⁷

⁴ St. Alphonsus, *Theol. Mor.*, l. III, n. 908 (ed. Gaudé, II, 310 sqq.): “A triple contract is a contract by which one who contributes money agrees with another partner that, whatever may happen, the whole sum shall be restored to him with a certain gain, yet a smaller gain than he could probably have hoped for; or it is a partnership contract to which two other contracts are joined, namely, insurance of the principal and insurance of the gain, or the sale of the hope of a greater gain for a smaller gain that is certain and insured.”

⁵ J. E. Pruner, *Kath. Moraltheologie*, Vol. II, 3rd ed., p. 146; IDEM, *Lehre vom Recht*, Vol. I, p. 462.

⁶ It is thus that we must interpret the prohibition contained in the “*Detestabilis avaritiae*” of Sixtus V (1586); cfr. Göpfert, *Moraltheol.*, Vol. II, 7th ed., p. 179; P. Cleary, *The Church and Usury*, pp. 129 sqq.

⁷ Göpfert, *ibid.* Cfr. A. Lehmkuhl, S. J., *Theol. Mor.*, Vol. I, p. 749.

|³³⁰| 2. There are various kinds of societies or associations based upon partnership contracts, more or less clearly differentiated by their objects and their mode of organization.

a) A partnership consisting of a number of persons associated for mutual gain (*societas quaestuarial*), without a specific agreement as to the manner in which the expected profits are to be made, may be of two kinds: (α) one in which all the partners have an equal investment and a claim to an equal share in the profits, or (β) one in which the shares invested, and consequently the division of the profits, are unequal.

b) Partnerships or associations in which all the members contribute capital only, or in which some of the members contribute their labor in lieu of capital. The former may be either limited or unlimited, public or anonymous, according as each partner is liable for the debts of the association with the whole of his fortune or not. The latter are commonly known as c) *Stock companies or corporations* (*associationes anonymae*) because in them the capital invested is represented by shares (stocks), held by different persons, each of whom is liable for the debts of the corporation only in proportion to the amount of his shares. Under the natural law a company of this kind can only be formed with an express declaration that the liability of its share-holders is limited, in order that all those who enter into business relations with it may be aware of the risk involved.

|³³¹| α) Stock companies have their advantages as well as their disadvantages and dangers. The detachment of capital from personal responsibility is morally dangerous and may be permitted only in consideration of the fact that unlimited liability might easily involve serious disadvantages to many. Then there is the danger that the capital invested in a stock company, in view of the very slight influence exercised upon the management by the individual share-holders, will be improperly administered and that the company’s real aim is often obscured by a selfish desire for profits. Stock companies, furthermore, easily lend themselves to fraudulent practices, in which inexperienced or credulous investors may be robbed of their money. We need only remind our readers of the vast sums lost in this country of late years through stock companies organized to exploit real or fictitious oil wells. Stock companies are also used by capitalistic manipulators on the grain and stock exchanges. Finally, they are apt to be employed by large manufacturers and merchants as means to ruin smaller competitors and thus further the proletarianization of large numbers of hitherto independent business men.⁸

⁸ V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 4th ed., pp. 372 sq.; Göpfert, *Moraltheol.*, Vol. II, 7th ed., pp. 180 sq.

|³³²| Stock companies, says a recent writer, enable all who have a little money to take part in risky and fraudulent business ventures; they make it easy for dishonest speculators to exploit the credulity

of the public; with their numerous, easily transferable and fluctuating shares they furnish a convenient and welcome means of betting, and have thereby prepared the way for excessive stock gambling. These disadvantages began to appear as early as the seventeenth century, that is, at the very start of the new development, and since then the history of stock gambling is intimately bound up with the history of stock companies.⁹

⁹ *Handwörterbuch der Staatswissenschaften*, 2nd ed., Jena 1901, Vol. I, pp. 181 sqq.

It should be noted, however, that the dividends paid by all the stock companies of a particular country during a definite period are not nearly as high as Socialist writers allege.¹⁰

¹⁰ *Ibid.*, pp. 198 sq., 210 sqq.

β) Against these disadvantages stock companies have some advantages, which should not be overlooked. Thus they have played an indispensable rôle in the development of railroads, canals, tunnels, mines, and other important means of modern economic development. Hence it may safely be said that if the disadvantages and dangers that spring from their very nature are minimized by rational limitations and supervision on the part of the public authorities, stock companies may be useful factors in our economic life. Fr. Cathrein thinks that they are indispensable until men will discover a new form of association which offers all the advantages of limited liability without its disadvantages.¹¹

¹¹ *Moralphilosophie*, Vol. II, 5th ed., p. 384.

[333] d) A *corporation* is a moral entity, a fictitious person with rights of its own, distinct from the rights of the physical persons who compose it. More specifically, in modern commercial life it is “an artificial person created by law, consisting of one or more natural persons united in one body under such grants as secure a succession of members without changing the identity of the body and empowered to transact business of some designated form or nature like a natural person.” The State, of course, has the right to exercise control over such societies, and they are subject to all just laws which it may make in their regard.¹²

¹² Slater, *A Manual of Moral Theol.*, Vol. I, p. 352.

The statutes regulating corporations are so numerous and complicated that a whole class of lawyers devotes itself entirely to their study and application. These attorneys, known as “corporation lawyers,” are often hired chiefly for the purpose of aiding their clients in evading the law.¹³ One of the worst features connected with stock companies and corporations is the practice of *stock-watering*. By this term is meant *overcapitalization* in excess of the proper valuation of a business. It is mostly practiced by businesses that are not subject to normal competition. What is the measure of overcapitalization? According to Dr. Ryan, when the face value of its securities is greater than the money put into the business plus the subsequent enhancement in the value of its land. In brief, the proper measure of capitalization is cost—either the original cost, or the present cost of reproducing the business.

¹³ For a useful summary of the statutes regarding corporations in this country see *Putnam's Handy Law Book for the Layman*, pp. 71–101.

[334] “Stock-watering can become an instrument of unjust gains in two ways: first, through fraud inflicted upon some of the investors; second, through the imposition of exorbitant prices upon the consumers. . . . If stock is sold in excess of the earning power of the concern, those stockholders who

fail to obtain the ordinary rate of interest on their money are unjustly treated in so far as they have been deceived. And those officers or members of the corporation who have profited by the deception of and injury to these stockholders, are the recipients of unjust gains.”¹⁴ The consumer also is often injured by stock-watering. “The presence of a large quantity of fictitious capital whose owners are calling for dividends, sometimes constitutes a special force impelling the imposition of higher prices and charges. . . . The U. S. Industrial Commission found that, as regards railroads, ‘in the long run excessive capitalization tends to keep rates high; conservative capitalization tends to make rates low.’ . . . When prices or charges are made high enough to provide returns on fictitious capital, the consumer is treated unjustly. . . . The consumers may justly be required to pay for the use and benefit of actual productive goods; but it is not just that they should be compelled to pay for the supposed use of a capital that has no concrete reality. The stockholders of the monopolistic corporation which imposes upon the consumers exorbitant prices or charges through the instrumentality of inflated capitalization, can become guilty of this injustice in two ways: by promoting the improper capitalization, and by getting dividends on stock for which they have not given a fair equivalent. As a rule the greater part of such guilt and responsibility rests upon certain special and powerful groups among the stockholders.”¹⁵

¹⁴ J. A. Ryan, *Distributive Justice*, p. 281.

¹⁵ *Distributive Justice*, pp. 282 sqq.

[³³⁵] Nevertheless, Dr. Ryan, whom we have quoted, does not think that the State is obliged to protect, or even justified in protecting, the innocent victims of stock-watering: first, because it is impossible to distinguish the “innocent” holders from those who were fully acquainted with the questionable and speculative nature of the stock at the time it came into their possession; second, because the civil law has never formally recognized any such claim on the part of the innocent investors nor any such obligation on the part of itself; third, because the innocent investors are not the only persons whose rights are involved; the main injury falls upon the consumers.” But the State may and should intervene to secure fair charges for the consumers, basing them upon the capital actually invested in public utility corporations (for it is they that are mostly concerned) and used in the business of public service.¹⁶

¹⁶ *Ibid.*, pp. 286 sqq.

In some States, *e. g.*, Massachusetts, there are *anti-stock-watering laws*, which bind at least public service corporations, and there is a legal limit to the amount payable in dividends, usually eight per cent. Assuming that such laws are just, Fr. Slater says: “It may be that a larger percentage than is allowed by law to be paid in dividends would be the fruit of extortion and unjust dealing on the part of the corporation, and if this be so, the shareholders will have no right to the excess which is the fruit of injustice. Such excess is due to those who were wronged and from whom it was extorted, and it must be restored to them. Moreover, if the limit in the amount of the dividends allowed by law was accepted by the corporation and formed part of the conditions of incorporation, it must of course be adhered to like all other contracts lawfully entered into. If, however, the above expedients [such as paying the stockholders so-called stock dividends consisting of an outright bonus or new shares of stock; retirement of bonds in favor of stocks, etc.]¹⁷ are not productive of injustice or hardship to the public or to individuals, whether belonging to the corporation or not, but are merely illegal, the question for the moralist will be: What is the obligatory force of the laws which prohibit them? This

will chiefly depend upon the intention of the legislator, and as modern legislators as a rule have no intention of making their rules for the individual conscience, we shall be safe in saying that they do not bind under pain of sin.”¹⁸

¹⁷ On such expedients see W. Z. Ripley, *Trusts, Pools, and Corporations*, N. Y. 1905, pp. 139 sqq.

¹⁸ T. Slater, S. J., *Questions of Moral Theology*, N. Y. 1915, pp. 170 sqq.

[336] READINGS.—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., pp. 863 sqq.—St. Alphonsus, *Theol. Mor.*, l. III, n. 904–910 (ed. Gaudé, II, 305 sqq.).—V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 383 sqq.—Theo. Meyer, *Instit. Juris Naturalis*, Vol. II, pp. 234–239.—J. Schwane, *Die theol. Lehre über die Verträge*, pp. 167 sqq.—J. E. Pruner, *Lehre vom Recht*, Vol. I, pp. 455 sqq.—H. Noldin, S. J., *Summa Theol. Mor.*, Vol. II, pp. 627.—J. A. Ryan, *Distributive Justice*, N. Y. 1916, pp. 279–290.—T. Slater, S. J., *Questions of Moral Theology*, N. Y. 1915, Chapter X: “The Moral Aspects of Commercial Stock-watering,” pp. 159–175.

SECTION 8: GAMING AND WAGERING CONTRACTS

[338] Gaming and wagering contracts (*contractus aleatorii*) are those in which the profit or loss agreed upon depends upon some future and uncertain event. Their peculiar feature is that one or both parties assume a risk which originates through the contract itself at a mutually agreed price. This note distinguishes gaming and wagering contracts from insurance contracts, in which the risk for one of the contracting parties exists before the agreement is made.

Generally speaking, gaming and wagering contracts are not forbidden by the moral law, provided hope of gain and risk of loss are equal, or approximately equal, on both sides, and no other law of justice or good conduct is violated. They are illicit if too large a sum is exposed to accident, or if the agreement made cannot be kept without in some way violating Christian self-love¹ or the charity due to others.

¹ See this *Handbook*, Vol. III, pp. 4 sqq.

The most important species of gaming and wagering contracts are the following:

[339] 1. *Wagering or betting*, i. e., a contract by which a prize is agreed upon for the one who correctly guesses an unascertained event, past or future. To make a bet is not sinful, provided it has a rational purpose, the matter is not sinful or an incentive to sin, both contracting parties are uncertain as to the disputed point, the object of the bet is understood by both in the same way, and the sum at stake is moderate.² If one of the parties is certain as to the disputed matter, and neglects to notify the other of the fact, he is bound in conscience to make restitution of the sum won, for the reason that the contract itself was invalid and unjust.³ But if he informed the other party that he was sure of the truth, and the other nevertheless insisted on betting, the winner would be permitted to pocket the gain, because in that case the loser would have only himself to blame.⁴

² Busembaum, *Medulla Theol. Mor.*, l. III, tr. 5, c. 3, dub. 13: “A wager is a contract in which two persons contending about the truth or outcome of some matter promise one another something, so that it may belong to the one who has attained the truth, e. g., I wager ten imperials with you that this or that city has been besieged, captured, etc. For it to be done licitly, it is required: 1. That it concern a doubtful matter; 2. That there be equality in the thing wagered, with equal uncertainty; 3. That the outcome be doubtful for both; 4. That each understand in the same sense that concerning which they contend.” (Tournai, 1876; Vol. I, 262).

³ Antoine, *Theol. Mor. Univ.*, tr. *De Contract.*, P. II, c. 11, qu. 6: “If anyone, certain of the truth of a matter or of its outcome, has gained something by a wager, he is bound to restore it, even if he had warned the other of his certainty, who nevertheless wished to contend. For the latter does not wish to make a gift or to punish himself, but to wager, because he thinks that the matter is still uncertain and that he is being deceived by the other, and therefore afterward he diligently investigates the truth. But since in a wager the hope of gain is bought and sold as merchandise for the price of the risk of losing, if there is no risk of losing, nothing is bought or sold, and consequently the contract is invalid, just as the purchase of a false gem for a true one is invalid, even if the buyer had been warned that it was false but was unwilling to believe it.” (Douai, 1751; III, 617). Cfr. Sporer-Bierbaum, *Theol. Moral.*, Vol. II, 2nd ed., n. 829.

⁴ Lehmkuhl, *Theol. Mor.*, Vol. I, 11th ed., n. 1370: “If one of those wagering is certain of the matter, he cannot enter into a wager with the other; indeed, ordinarily it is not even sufficient that he say he is certain. But if he openly says that he is entirely certain and nevertheless the other persists in the wager, St. Alphonsus (*Theol. Mor.*, l. IV, n. 879) admits that it is lawful to enter into a wager in the following cases: 1. If he who thought himself certain begins to doubt because of the other’s stubborn contradiction; 2. If, notwithstanding the former’s certainty, the other, although doubting his own assertion, nevertheless wishes to persist in the wager. To this may be added: 3. If it is in some way evident that there is a spontaneous intention to make a gift.”

[³⁴⁰] St. Alphonsus refuses to acknowledge the permissibility of betting on the ground that the motives which alone can render it lawful, namely, recreation and entertainment, are in most cases absent, and holds that most betters are guilty of venial sin. But, as Schwane points out, there are other reasonable purposes that can be attained by betting, *e. g.*, ending an argument or quieting disputatious persons and teaching them a lesson.⁵

⁵ St. Alphonsus, *Theol. Mor.*, l. III, n. 868: “A wager is in itself an indifferent thing. Yet in the concrete (since in my opinion there is no indifferent action) I ordinarily judge that wagers of this kind are not excused from venial sin, because they lack a motive rendering them honorable, namely lawful recreation, such as is present in an honorable game. And St. Antoninus seems so to understand it (*S. Th.*, P. II, tit. 1, c. 23, § 9), calling such gain base, as serving no useful purpose but vanity and prodigality.”—Cfr. P. Scavini, *Theol. Mor.*, tr. 6, disp. 2, diss. 2, c. 2, a. 9.—J. Schwane, *Die theol. Lehre über die Verträge*, p. 188.

Nevertheless it remains true, in most cases, as Slater says, that though a wager that fulfils the conditions laid down by moralists is not in itself a sinful transaction, yet “a habit of gambling is easily contracted; and when such a habit has once been formed, it is very difficult to shake it off. There may be a certain amount of temporary success; the excitement and fascination which gambling has for many minds; the ease and rapidity with which large sums of money may sometimes be acquired by this means,—all lend their attraction, and combine to make what in itself, if indulged in occasionally, may be a legitimate form of recreation, a most dangerous temptation and the sure road to ruin.”⁶

⁶ Th. Slater, *A Manual of Moral Theol.*, Vol. I, p. 558.

[³⁴¹] Moreover, betting is almost always associated with abuses. “Race-track gambling, book-making, bucket shops, are all merely cleverly disguised devices for separating the fool from his money. If it were only the fool who suffered, it would be serious enough, though perhaps salutary for the fool. But the evil radiates in all directions. This is so clearly realized that all *betting on horse races* is in many places forbidden by law. Elsewhere the State contents itself with declaring such contracts invalid and refusing to allow the courts to be used for the collection of any betting or gambling debts. . . . No nation avoids all gambling, but those nations are strongest and worthiest whose citizens come closest to the ideal of refraining altogether from such practices.”⁷

⁷ J. E. Ross, *Christian Ethics*, p. 355.

Wagering contracts generally are not enforceable in English courts of law; in the United States some courts have enforced certain wagers which were not considered to be opposed to morality or sound policy, whilst other courts have held that no wagers are recoverable.

2. A *gaming contract* is one in which the participants agree to give to the winner in a game, sport, or other pastime a sum of money or anything of value as a stake. It differs from a bet in that it is success which wins and not the truth.

a) As games themselves, be they of skill or of pure chance, are allowed within certain reasonable limits, for exercise or recreation, so, too, there is nothing *per se* immoral in gaming contracts by which money or some other valuable is staked on the result of a game, to be lost or won according to the success or failure of the participant. “These contracts are permitted by the moral law of nature,” says Busembaum, “provided proper conditions are observed, and no scandal is given, and provided, moreover, that there is no just prohibition, no wrong-doing, and no occasion of sin. The reason is that, as every man who is master of his property, can give it away absolutely, so also may he give it away under some condition, whether that condition depend on chance or industry.”⁸

⁸ Busembaum, *Medulla Theol. Mor.*, I. III, tr. 5, c. 3, dub. 13: “A game is a contract in which players agree among themselves that what each has deposited shall fall to the victor. These contracts are lawful by the law of nature, provided the due conditions are present and no scandal or just prohibition intervenes from elsewhere, no injustice enters into it, and it is not an occasion of sin; because, just as anyone who is master of his property can give it to another absolutely, so also under some condition, whether that condition depends on chance or on skill.”

[342] “There is nothing immoral,” says Slater, “in agreeing to hand over a sum of money if I am beaten in a game either of skill or of chance. This perfectly lawful action will, however, become unlawful if one of the parties is compelled to play against his will, or if cheating and fraud are practiced in the game, or if there is no chance of success on the part of one of the players (unless he knows this and freely consents to play in spite of it), or if the parties have not the money which they stake, or at any rate not the free disposal of it on account of its being required to pay their debts, or to support themselves and their families. Moreover, although gaming itself and under the conditions which have just been laid down, is not immoral, yet it is a dangerous pastime for many and easily leads to abuse, sin, and ruin. Especially is this the case when gambling is carried on in houses kept for the purpose, where all kinds of bad characters congregate. The keeping of such dens of iniquity is rightly punished by law.”⁹

⁹ Slater, *A Manual of Moral Theol.*, Vol. I, p. 559.—Cfr. Gury, *Comp. Theol. Mor.*, Vol. I, n. 885–887; n. 890–891.

[343] In the United States gambling is considered unlawful and the contract null, yet the statutes of the different States vary considerably in matters of detail.¹⁰

¹⁰ M. Martin, S. J., in his American Notes to Slater’s *Manual of Moral Theol.*, Vol. I, p. 559.

The owners of *gambling houses*, in which so many take scandal and others lose their all and are driven to desperation and often suicide, have a grievous responsibility indeed.

The civil authorities may, for weighty reasons, tolerate *public gambling houses* in order to prevent secret gambling and thus minimize the evil as much as possible.¹¹

¹¹ Lehmkühl, *Theol. Mor.*, Vol. I, 11th ed., n. 1373; Göpfert, *Moraltheol.*, Vol. II, 6th ed., p. 203.

b) To indulge in gaming solely for pecuniary gain may easily become sinful, but, as De Lugo and Molina justly maintain, it is not sinful *per se*, for to strive after pecuniary gain for oneself or family is not in itself wrong, so long as it is not carried beyond certain reasonable limits. Playing at games of pure chance depends for its permissibility also on the players' station in life and other circumstances. Women cannot decently indulge in such pastimes, and clerics are forbidden to do so if it involves scandal to others or loss of valuable time.¹²

¹² Slater, *A Manual of Moral Theol.*, Vol. I, 558; cfr. Schwane, *Die theol. Lehre über die Verträge*, pp. 185 sq.; *Conc. Trid.*, Sess. XXII, c. 1, *De Ref.*; *Instructio Pastor. Eystettensis*, 5th ed., pp. 544 sq.

|³⁴⁴| c) To pay one's gaming debts is a duty of justice if the contract was valid and licit. Hence he who wins in a legitimate game, even of pure chance, has a moral claim to the prize offered as stake. An unjust gaming contract, on the other hand, creates no obligation because it is invalid. A conscious violation of justice, *e. g.*, lying or cheating, destroys one's right to the prize and, if unjustly accepted, entails the duty of making restitution. If the game itself was not unjust, but merely illicit, because forbidden by law, the winner is not obliged to restore to the loser the prize he has received, unless a court of law condemns him to do so. Similarly the loser is not obliged to pay out a prize won in an illicit game, if the statutes enact, as they do in some States of the Union, that a person losing money or property at any game may recover the same by civic action.¹³ Every one is free to avail himself of a law that is enacted for the public welfare and designed to prevent illicit gambling.¹⁴

¹³ Slater, *A Manual of Moral Theol.*, Vol. I, p. 559.

¹⁴ St. Alphonsus, *Theol. Mor.*, l. III, n. 887 (ed. Gaudé, II, 297):—The loser, who has paid the prize, may not apply the *compensatio occulta*.—*Ibid.*, n. 893; cfr. Gury, *Comp. Theol. Mor.*, Vol. I, n. 889.

|³⁴⁵| If the game itself and the underlying contract were licit, that is, not forbidden by positive law, and if the prize was duly proportioned to the means of the contracting parties, then the loser's duty of paying the sum at issue is usually, according to the intention of the parties, a legal duty *in foro conscientiae*; if no such intention existed, there is at any rate a duty of fidelity, which must be complied with even where the civil law does not grant the right of suing for recovery. A duty based merely on fidelity, may, however, lose its binding force under certain conditions,—a fact which must be taken into consideration in dealing with such cases *in foro conscientiae*.¹⁵

¹⁵ Schwane, *Die theologische Lehre über die Verträge*, p. 187.

3. A lottery (*loteria sive sortitio*) is a scheme under which prizes are distributed by lot or chance. A valuable consideration is given for the chance of drawing a prize of greater value. The prizes are relatively few, and most of the players lose by the transaction. *Per se* a lottery is not unjust or contrary to the natural law, provided fraud is excluded from the casting or drawing of lots by which the event is settled, and provided further that there is a certain reasonable proportion between the sum paid for a chance and the hope of winning the prize.¹⁶ Some theologians hold that the profit made by the conductors of a lottery must not be larger than that yielded by any legitimate business undertaking, unless the lottery is operated for charity or for the public benefit.¹⁷ But this view is not shared by all.

¹⁶ Gury, *Comp. Theol. Mor.*, Vol. I, n. 884: "A lottery is a contract by which several persons deposit something in common, so that they may have the right to draw by lot for the thing displayed in their midst. . . . A lottery is a licit contract, provided the required conditions are present. The reason is that a lottery can be regarded as the purchase of an uncertain thing or as a contract by which, with money, one purchases the right to draw by lot and acquire that which

by lot has fallen to him. Furthermore, it is lawful to buy an uncertain thing, just as it is lawful to contract concerning the risk of some thing. . . .”

¹⁷ *Ibid.*: “The conditions required for a lottery to be a contract licit in itself are: 1. That there be no fraud in drawing the tickets or in paying the prize that has fallen by lot; 2. That the proprietor of the lottery not be excessive in profit nor morally gain more than if he invested his money or distributed his wares by another licit contract. Nevertheless, the profit may be greater if the lottery has been established for a good work or the public benefit.”—Cfr. Lehmkuhl, I, n. 1369; J. E. Ross, *Christian Ethics*, p. 357.

|³⁴⁶| Playing the lottery is a fascinating occupation and tends to promote love of gambling with all its injurious consequences. Hence Father Cathrein says: “Though lotteries are not illicit *per se*, that is, so long as no fraud is perpetrated in selling the tickets and drawing the lots, they readily lend themselves to abuse, and only too often a simple and greedy public is led to buy chances beyond its means. Therefore lotteries should be limited as much as possible, especially if they serve no other purpose than private profit.”¹⁸

¹⁸ V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., p. 386.

But even if held for legitimate and charitable purposes, lotteries are of doubtful propriety. Many may participate therein without indulging in the gambling passion and without harboring hopes of easy profit, intending the money they pay for chances merely as an alms; but by promoting the lottery they render themselves co-responsible for the seduction of foolish and covetous persons and abet superstition.¹⁹

¹⁹ F. X. Linsenmann, *Lehrbuch der Moraltheologie*, p. 587.

|³⁴⁷| Though governments have at times resorted to this scheme for raising money, lotteries are now pretty generally condemned as a form of gambling and are prohibited by law in Great Britain and the United States.²⁰

²⁰ Slater, *A Manual of Moral Theol.*, Vol. I, pp. 558.—In the U. S. the lottery has been from the earliest settlement of the country a familiar means of raising funds which could not have been secured so easily, if at all. In the eighteenth century they were extraordinarily popular. Legislatures authorized lotteries for every species of public improvement, for the building of churches and colleges, for the repair of losses to individuals by fire and otherwise. Faneuil Hall (Boston), for instance, was rebuilt by lottery after the fire of 1761. The Continental Congress tried to raise money by lottery in 1777. The movement for the suppression of lotteries dates from 1833. The last lottery supported by government encouragement was the Louisiana State Lottery, which was crushed by an act of Congress in 1890, forbidding it the use of the mails. The company removed to Honduras, where it is still in existence, and from where it sells thousands of tickets every month in the United States. (Cfr. *Cyclopedia Americana*, Vol. IX, s. v. “Lottery”).

We Americans sometimes pride ourselves on the fact that we have abolished lotteries, regulated horse racing, and reduced various other forms of gambling to reasonable bounds; but as Fr. Ross justly observes,²¹ “this pride is hardly justified while at the same time the most important form of gambling—speculation on the exchanges—flourishes so luxuriantly and with so few regulations,” and, we may add, while our national game of *baseball* is made the means of wide-spread gambling all over the country.

²¹ Ross, *Christian Ethics*, p. 357.

READINGS.—St. Thomas, *Summa Theol.*, 2a, 2ae, qu. 168, art. 2–4 (J. Rickaby, *Aquinas Ethicus*, II, pp. 376 sqq.).—De Lugo, *De Iust. et Iure*, disp. 31.—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., pp. 868 sqq.—St. Alphonsus, *Theol. Mor.*, I, III, n. 869 sqq. (ed. Gaudé, II, 286 sqq.).—J. E. Pruner, *Lehre vom*

Recht, Vol. I, pp. 475 sqq.—J. Schwane, *Die theol. Lehre über die Verträge*, pp. 184 sqq.—Göpfert, *Moraltheologie*, Vol. II, 7th ed., pp. 202 sqq.—F. X. Linsenmann, *Lehrbuch der Moraltheologie*, pp. 583 sqq.—T. Slater, *A Manual of Moral Theology*, Vol. I, pp. 557–561.—IDEM, article on “Gambling” in the *Catholic Encyclopedia*, Vol. VI, pp. 375 sq.—J. E. Ross, C. S. P., *Christian Ethics*, pp. 352 sqq.

SECTION 9: SINS AGAINST THE PROPERTY OF OTHERS

| 349 | 1. Since the right of ownership is founded on the natural law and sanctioned by positive divine and human law, it follows that every man is in duty bound to respect the property of his fellowmen and to abstain from unjust interference with property rights. This is a duty of commutative justice (*iustitia commutativa*), and is violated by all deeds of injustice (*iniustitia sive iniuria*), *i. e.*, by every voluntary violation of the property rights of another against his reasonable will (*iuris alieni violatio*). He who renounces a right of his own free will, loses it, and he who appropriates it, cannot be accused of injustice. But if one is compelled by violence, force, stratagem, or fear to give up a right, especially an inalienable right, he does not lose it, but suffers violence.¹

¹ *Reg. Iuris in VI^o Decr. Bonif. VIII*, n. 27: “No injury or fraud is done to one who knows and consents.”—Gury, *Comp. Theol. Mor.*, I, n. 589: “No injury is done to one who knows and wills, because one who wills yields his right and therefore does not preserve the right; hence it is of the essence of injury that it be exercised against one who is unwilling. Except certain cases in which a man cannot yield his right, however willing; thus a married man cannot by his consent prevent the violation of his wife from being adultery strictly so called. See condemned proposition under Innocent XI, n. 50: ‘Intercourse with a married woman with the husband consenting is not adultery, and therefore it is sufficient in confession to say that one has committed fornication.’” —(Denzinger-Bannwart, n. 1200).—*Ibid.*, n. 590: “1. Injury is done to one consenting as a result of force, deceit, or fear unjustly inflicted, because he does not give consent freely, but only to redeem himself from unjust harassment; 2. He who kills one who is willing does injury not only to God, but to the slain man himself, because the right to life cannot be renounced unless God, who established it, has first consented; 3. He who strikes a cleric does injury to him even though he consents, because he cannot renounce the privilege of the canon which pertains to clerical status; 4. A usurer does injury to a borrower paying usury, just as a seller does to a buyer conceding an excessive price for merchandise; 5. Torturers did injury to martyrs, even though the martyrs desired death and endured it willingly.”

| 350 | Injustice is either formal or material, according as it is inflicted with or without knowledge and free will.

It is direct if fully intended; indirect, if merely an unintentional consequence of some other action.

It is grave or slight, according as it results in a grave or slight injury.

The gravity of a sin committed against the property rights of another is measured not only by the damage inflicted,² but likewise, and mainly, by the malice involved, the injury inflicted, and the danger arising from the deed to society.³

² St. Thomas, *Summa Theol.*, 2a 2ae, qu. 73, art. 3: “Sins committed against one’s neighbor are to be weighed, in themselves, according to the harms inflicted on one’s neighbor, because from this they have the character of fault. The harm is greater in proportion as the good taken away is greater.”—*Ibid.*, qu. 74, art. 2: “A sin against one’s neighbor is more grievous in proportion as greater harm is inflicted on one’s neighbor through it. But the harm is greater in proportion as the good which is taken away is greater.”

³ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 59, art. 4: “A mortal sin is one that is contrary to charity, through which the soul has life. Now every harm inflicted on another is of itself contrary to charity, which moves one to will the good of another. And therefore, since injustice always consists in harm to another, it is manifest that to do what is unjust is, by its kind, a mortal sin.”—*Ibid.*, qu. 66, art. 6: “A mortal sin is one that is contrary to charity, insofar as charity is the

spiritual life of the soul. Charity, however, consists principally in love of God, and secondarily in love of neighbor, to which it pertains that to one's neighbor we will and work his good. But by theft a man inflicts harm on his neighbor in his goods, and if men everywhere stole from one another, human society would perish. Hence theft, as contrary to charity, is a mortal sin."—Cfr. J. P. Gury, *Comp. Theol. Mor.*, Vol. I, n. 589: "What matter is judged grave in injury? That which by its nature or common estimation is capable of causing another a distress difficult to allay or of dissolving mutual charity."

[351] Slightness of matter (*parvitas materiae*) may, of course, render a sin against the property rights of another merely venial, but in itself (*in genere suo*) this sin is mortal.⁴ For injustice in its innumerable forms is, as a rule, not only inspired by immoral motives and uncontrolled passions, but it grossly violates the justice and charity which every man owes to his neighbors, and is the source of many other sins, *e. g.*, lies, treason, and perjury.

⁴ Is. V, 8–10; XXXIII, 1; Amos VIII, 2–10; Mich. VI, 10–15; Hab. II, 6–14; Zach. V, 3; I Cor. VI, 10 sq.; I Thess. IV, 6.—Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 118, art. 4: "Avarice, insofar as it is opposed to justice, is by its kind a mortal sin; for it belongs to avarice that a person unjustly take or retain the goods of another, which pertains to robbery or theft, which are mortal sins. Yet it happens that in this kind of avarice something is a venial sin because of the imperfection of the act."—*Ibid.*, qu. 66, art. 6, ad 3: "Reason apprehends that which is small as though it were nothing. And therefore, in matters that are very small, a man does not reckon that harm is being inflicted on him; and he who takes them can presume that this is not against the will of the one whose property it is. And for this reason, if anyone furtively takes such very small things, he can be excused from mortal sin. If, however, he has the intention of stealing and of inflicting harm on his neighbor, even in such very small things there can be mortal sin, just as there can be in thought alone through consent."—Cfr. J. P. Gury, *Comp. Theol. Mor.*, Vol. I, n. 589: "Injury is of itself gravely opposed to natural right, because it harms the natural and absolute independence of the man whose strict right is violated."

It is of the greatest importance that every property right be kept sacred. On the other hand, the danger of violating justice is very great, partly because of the sophistry of selfishness and partly because of the difficulty of perceiving the limits that in many concrete cases separate justice from injustice, and hence it is one of the principal duties of priests to awaken and nourish in the souls confided to their care a delicate appreciation of right and justice, based upon the fear of God.⁵ "To inspire a detestation of [theft and robbery]," says the Catechism of the Council of Trent, "and to deter the faithful from this wicked enormity, parish priests shall bestow all care and diligence."⁶

⁵ J. E. Pruner, *Kath. Moraltheol.*, Vol. II, 3rd ed., p. 179.

⁶ *Catech. Rom.*, P. III, c. 8, qu. 8: "To inspire a detestation of [theft and robbery] and to deter the faithful people from this wicked deed, parish priests shall bestow all care and diligence."

[352] II. The principal way in which the property rights of others may be violated, besides sinful coveting of their possessions, is damaging them unlawfully (*damnificatio*) by theft or robbery.⁷

⁷ Ex. XX, 15, 17; Deut. XXV, 13 sqq.; Prov. XX, 23; Matth. XV, 19; XIX, 18.—Cfr. *Catech. Rom.*, P. III, c. 8, qu. 3–6.

1. When property is destroyed or injured, not appropriated, that act is called *damnificatio iniusta sive dolosa*. It is qualified as "*non lucrosa*," because the wrong-doer gets no benefit from his act.⁸

⁸ Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., tr. 5, n. 791: "Unjust damaging, or damage unjustly done, is said to be the secret or violent destruction or deterioration of another's property against the owner's will. Hence it is called unprofitable damaging, because no gain or advantage thereby comes to the one causing the damage."—Cronin, *The Science of Ethics*, Vol. II, p. 380.

a) To this category of sins belong all real injuries done intentionally or through criminal negligence to the property of others against their reasonable will (*invito domino*); hence a) All injuries done to the

movable or immovable goods (*bona fortunae*) of others, e. g., houses, tools, crops, etc., and β) All damage inflicted on public institutions or utilities, such as streets, sidewalks, railways, bridges, water works, etc.

| 353 | b) The sinfulness of the acts just enumerated is determined by the extent of the damage done (*damnum emergens*), by the foreseeable consequences (*lucrum cessans*), by the malice inspiring the perpetrator, by the personal relationship existing between the parties concerned, and by the degree of carelessness shown.

The intentional damaging or destruction of religious statues or paintings on buildings or along public highways is not only a crime against justice, but a sin against religion, and if the articles are blessed or belong to the Church, it is also a sacrilege.⁹

⁹ See this Handbook, Vol. IV, pp. 231 sqq.

If the owner of a building sets it on fire or causes some one else to do so (*crimen incendiarii*), in order to obtain the insurance, he not only inflicts damage, but also commits the sin of fraud.

Simple *damnificatio*, in contradistinction to the unjust appropriation of the property of others, generally consists in an uncharitable act of destruction bringing no advantage to the destroyer. In such cases the moral evaluation of the sin offers no difficulties. There is a more complicated case, however, which arises out of the intricacies of modern business. Not infrequently a merchant seeks and obtains advantages for himself at the expense of his competitor, and nothing is more common than the charge of *unfair competition* raised by the loser against the winner in the mad race for profits. By the introduction of spinning machinery thousands of weavers lost their jobs and suffered serious damage, yet the inventor of the spinning jenny and those who bought and used his patents were entirely within their rights when they employed this product of human ingenuity for their own enrichment. Every new improvement in machinery might be called an injury to him who is compelled to use the unimproved model, but it is no unjust *damnificatio* in the moral sense.

| 354 | Injury done to another without a bad intention, and without culpable negligence, must be regarded as accidental; it is for the positive law to determine whether and to what extent one who unintentionally inflicts an injury on another is to be held liable for the damage done.¹⁰

¹⁰ Linsenmann, *Lehrb. d. Moraltheol.*, p. 596; Cronin, *The Science of Ethics*, II, p. 381.

2. The *unjust appropriation of the property of another* (*acceptio iniusta*), in which may be included the retention of ill-gotten goods (*retentio iniusta*), may take place secretly and furtively (theft), or openly and violently (robbery), or deceitfully (fraud), by charging an excessive rate of interest on loans (usury), by the careless incurring of debts, by fraudulent bankruptcy, and by refusing to pay wages, interest, or rent due to others.

| 355 | A) *Theft* is the secret taking away of the property of another against his reasonable will. It may be simple or qualified. Species of qualified theft are *sacrilege* and the *embezzlement* of public funds (*peculatus*).

“Three things,” says St. Thomas, “combine together to constitute theft. The first belongs to theft as being contrary to justice, which gives to each one that which is his, so that it belongs to theft to take possession of what is another’s. The second thing belongs to theft as distinct from those sins which are committed against the person, such as murder and adultery, and in this respect it belongs to theft

to be about a thing possessed: for if a man takes what is another's, not as a possession but as a part (for instance, if he amputates a limb), or as a person connected with him (for instance, if he carries off his daughter or his wife), it is not strictly speaking a case of theft. The third difference is that which completes the nature of theft, and consists in a thing being taken secretly; and in this respect it belongs properly to theft that it consists in taking another's things secretly."¹¹

¹¹ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 66, art. 3: "Three things combine in the definition of theft. The first belongs to it insofar as it is contrary to justice, which renders to each his own, and from this it belongs to theft that it usurps what belongs to another. The second belongs to the definition of theft insofar as it is distinguished from sins against the person, such as homicide and adultery; and accordingly it belongs to theft that it concerns a possessed thing. For if anyone takes what belongs to another not as a possession, but as a part (as if he amputates a limb) or as a connected person (as if he carries off a daughter or wife), it does not properly have the definition of theft. The third difference is what completes the definition of theft, namely that what belongs to another is usurped secretly, and accordingly the proper definition of theft is that it is the secret taking of another's property." Cfr. Gury, I, n. 591.

a) The sins against the seventh commandment are as various as the social connections of men and their economic condition. Unfortunately small thieves are often punished, while big ones not only go scot free, but are honored as leaders of society. Theft is by its very nature and according to the teaching of Sacred Scripture always a sin, for two reasons: "first, because of its opposition to justice, which gives to each one his due . . . ; secondly, because of the guile or fraud committed by the thief when he lays hands on another's property secretly and cunningly."¹²

¹² St. Thomas, *Summa Theol.*, 2a 2ae, qu. 66, art. 5: "If anyone considers the definition of theft, he will find two reasons for sin in it: first, because of its opposition to justice, which renders to each his own, and thus theft is opposed to justice insofar as theft is the taking of another's property; secondly, because of the guile or fraud which the thief commits secretly and, as it were, by ambush in usurping another's property. Hence it is manifest that every theft is a sin."—Gury, I, n. 592: "Theft, by whatever name it may be called, is of itself gravely opposed to the natural law, as is evident both from reason and from Sacred Scripture, in which it is numbered among the sins that exclude from the kingdom of heaven. Sacrilegious theft and robbery are graver sins than simple theft and constitute a different species of malice: the former because, in addition to justice, it violates religion; the latter because it adds to injustice an injury to the honor owed to one's neighbor. Other methods or other objects of theft, however, do not change its species, because by them the nature of the damaging is not changed."

|³⁵⁶| b) The degree of sinfulness which stealing involves is determined, first, by the greater or less value of the property stolen (*pretium absolutum, relativum, affectionis*),¹³ and, secondly, by the personal relation of the thief to his victim and the gravity of his obligation to avoid this particular sin. Hence, even though the stolen object be of little value, theft is a mortal sin if the thief, either by reason of his office or by contractual stipulation, is under a particular obligation to protect the victim against property damage. On the other hand, an important or valuable object is required to render a theft mortally sinful if the thief is bound to his victim by the ties of consanguinity, friendship, or marriage. Generally speaking, therefore, the so-called domestic thefts (*furta domestica*), i. e., those committed by married people against each other, or by children against their parents, must be judged leniently, provided the stolen object is of no great value, because the violation of justice involved in such an act may be presumed to be less *invito domino* than in ordinary cases.

¹³ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 66, art. 5.

|³⁵⁷| Thefts committed by *servants* against their masters or employers are more serious, because they involve infidelity and a breach of trust. Note, however, that if servants steal foodstuffs which are not

usually kept under lock and key, and not extraordinarily rare or costly, the fault may be extenuated, provided, of course, they do not sell them or take large quantities.¹⁴

¹⁴ Prov. XXVIII, 24; Matth. XV, 4–6.—Cfr. St. Alphonsus, *Theol. Mor.*, l. III, n. 526, 539 sqq. (ed. Gaudé, II, 36, 48 sqq.). —Gury, *op. cit.*, I, n. 595: “It is asked what matter is required for thefts by wives, children, and servants to become grave. Answer: 1. It is certain among all that, on the part of wives and children, more is required to constitute grave matter than on the part of strangers, because the head of the household is less unwilling, or at least less reasonably unwilling, in the former case than in the latter. They say that more probably a sum twice as great is required for these than for strangers, but no general rule can be assigned; for this generally depends on various circumstances of persons or conditions; 2. For servants it depends also on the greater liberality or tenacity of the masters, on the quality or location of the thing stolen, e. g., whether it is edible or not, guarded or open, etc. According to many, petty thefts committed by servants in food and victuals which are not usually carefully guarded do not generally amount to mortal sin, provided these things are not sold or carried out of the house and are not of extraordinary value. But if servants steal money or things diligently guarded, a greater quantity is not required for a grave sin, because masters are no less unwilling, and such thefts are punished more severely by civil law.”—*Catech. Rom.*, P. III, c. 8, qu. 9: “Nor are servants and unfaithful custodians of their masters’ property distinguished from thieves; indeed, they are more detestable than other thieves, who are shut out by keys, because nothing at home can be sealed or locked against a thieving servant.”

[358] c) *What is the sum required for a grave sin of theft?* This is a question which cannot be answered in mathematical terms, but must be gauged by the moral law. Broadly speaking, that is a notable sum of money which is required to supply a man and his family with the necessities of life for one day. But the amount of one’s possessions and the sum needed for his daily support, are not the only measure for the magnitude of a theft. There must be a certain objective limit beyond which every theft or robbery is a mortal sin, regardless of the wealth of the victim, for the property of the rich, too, needs to be protected against unjust violation. Therefore, in the case of the very wealthy, *materia gravis* is a sum large enough, on the one hand, to constitute an incitement to theft, and, on the other, to expose the fortune of the victim to considerable danger if it were frequently repeated.

The casuists have long ago endeavored to determine just when the matter of a theft becomes sufficient to constitute a mortal sin. “Since about the time of De Lugo (+ 1660),” says Fr. Slater, “it has been a common opinion among theologians that it is a grave sin of theft to rob a workingman of a sum which is sufficient to support him and his family for a day. The reason for this doctrine is obvious and satisfactory. For that quantity will be sufficient for a mortal sin, whose theft causes a notable injury to the owner, an injury which ordinary men of prudence and sense consider serious, and which is sufficient to upset them considerably. This is the test which is applied in other matters where there is question of the grave breach of a moral law which admits of parvity of matter. . . . In the same way, when we wish to know what sum is sufficient for a grave sin of theft, we consider how important it is for maintaining peace among men that property should be secure; what quantity of money or commodities is looked upon as considerable with a view to the use that can be made of them; and what quantity will, with reason, cause the owner serious concern and chagrin if he is unjustly deprived of it. Now, to a workman, or indeed to any one who has to earn his living, the loss of what will support him and his family for a day is a serious matter; it practically means that he has worked a whole day for nothing, and such a loss causes most men, with reason, to be seriously put out.”

[359] But what about rich men, wealthy companies, governments, etc.? “In such cases we must have recourse to other considerations in order to find what quantity will constitute a grave sin of injustice when stolen. Here we consider, not so much the loss caused to the owner of the property, as the

wrong done to public order and to the security of property. . . . The public weal requires that theft of a considerable sum must be forbidden in all cases, as a grave violation of justice, by the natural law. A prohibition, under pain of venial sin, not to steal a considerable sum of money, would not be sufficient to safeguard the right of property. In other words, theft of what is commonly at a certain time and place considered a notable sum of money, will be sufficient to constitute a mortal sin of theft, even when the owner of the property stolen is not sensibly the worse off.”

[360] After reviewing the opinions of recent moralists as to the quantity which public interest requires for a grave sin of theft, Fr. Slater, making due allowance for the depreciation of money, the higher standards of comfort, and, in consequence, the relatively less value attached to money by the working classes throughout the civilized world, independently of its purchasing power, sees “no reason for increasing the quantity which the greater number of modern theologians assign as the absolute sum required for a mortal sin of theft. That quantity is about twenty shillings, and if we attach much importance, as we should do, to the opinions of such classical moralists as Lugo about such a question, the sum will rather be below than above twenty shillings.”¹⁵

¹⁵ Slater, *Questions of Moral Theology*, pp. 99–115.—St. Alphonsus, *Theol. Mor.*, l. III, n. 527 (ed. Gaudé, II, 37).—Gury, *Comp. Theol. Mor.*, Vol. I, n. 593: “Grave matter in theft cannot be rigorously determined. According to the common opinion, which seems altogether to be held, this matter is to be regarded not absolutely in itself, but relatively to the various conditions and necessities of men, so that graver matter is required for a grave sin in theft against a rich man than against a poor man. The reason is that the gravity of theft, like the gravity of any injury, depends chiefly on the greater or lesser deprivation, distress, and resistance of will suffered by the one against whom the theft is committed; indeed, everyone sees that the same matter causes now slight, now grave distress according as the owner from whom it is taken is rich or poor. Nevertheless, regard must be had to the resistance of will as it is commonly and reasonably found among men, not in relation to men attracted by a greater or lesser love of money. . . . Yet some absolute matter must be determined that can never be exceeded without grave fault; otherwise, if a complete proportion had to be observed among all conditions, a very great quantity would certainly be required as grave matter in a theft committed against a very rich man, which everyone sees would result in harm to society.”

The *Compendium Theologiae Moralis* of Sabetti-Barrett, S. J., which is, we believe, used in most of our ecclesiastical seminaries, following Palmieri, Gury-Ballerini, Ojetti, and others, gives *about thirty-five dollars* as the absolute sum required for *a mortal sin of theft*.¹⁶ This is a probable opinion and may be safely followed.

¹⁶ *Comp. Theol. Mor.*, 29th ed., p. 369.

[361] d) The object of a theft may be *materia gravis* not only in itself, but also *per accidens*, namely, if a number of petty sums are stolen from one and the same person on different occasions, or from several persons. Innocent XI expressly condemned the proposition that “A man is not obliged under pain of mortal sin to make restitution of that which he has stolen in small sums, even though the total amount be considerable.”¹⁷

¹⁷ *Prop. damnat. sub. Innoc. XI*, n. 38: “No one is bound under pain of mortal sin to restore what has been taken by a few thefts, however great the total sum may be.” (Denzinger-Bannwart, n. 1188).—Cfr. Gury, Vol. I, n. 596 sq.—In determining when there is objective coalescence of small thefts, so that ultimately what is called *gravis materia* is stolen, theologians seek some connecting link that will bind together the petty pilferings and give them unity; for without such a bond of union they will remain isolated thefts, and will, in consequence, have merely an objective malice against justice, which corresponds to them as individual unjust acts. The intention with which the small thefts are accomplished is pointed out as one means of bringing them into moral connection with one another. When a thief intends from the beginning to arrive at a considerable amount, but, for convenience sake, takes the large sum little by

little, then, no matter what length of time intervenes between the different acts of robbery, and no matter whether the objects already stolen are attained or not, there is objective coalescence, and an externally grave sin against justice has been committed. Dr. Harty says on this subject: "It seems to me to be necessary to limit this teaching in some way. Is the intention of which theologians speak a subjective intention, an internal act of the will? If so, the question arises at once: How can an internal intention bring about an objective union between different acts? A mere subjective element cannot create an objective bond of union, cannot unite a number of petty injuries so as to make them one grave injustice. Just as, according to the opinion which seems the more common in the schools, an internal intention does not directly change the objective justice or injustice of an act, so too, it would seem, an internal intention cannot of itself provide an objective change in the relations of two or more acts of theft to one another; at most it regulates the subjective responsibility of the agent. A suggested solution of this difficulty is that the intention of which theologians speak is not a mere internal intention, but rather an intention which is externated by the different acts which follow from it; but I doubt if this solution, taken by itself, is sufficient to overcome the difficulty of the case, because each individual act of theft externates only an intention which corresponds to itself; nor does the whole series of acts, of necessity, externate any internal connecting intention, as can be seen from two examples, in one of which a certain number of acts of theft are performed without any initial intention of doing so, and in the other of which the same number of thefts are committed at equally long intervals in execution of an initially arranged determination. The difference between the two cases is purely internal. Perhaps the intention, which serves as an objective link between the various small thefts, is an intention which has a separate externation—separate in the sense that it must be distinct from that obtained by the mere repeated acts of stealing. This will frequently be expressly made, and frequently, too, it will be implicitly contained in the *modus agendi* of the agent. Such an externated intention would supply an objective bond which neither an internal intention nor an intention externated merely by repeated acts can give." (*Irish Theological Quarterly*, Vol. II, n. 7).

Besides the objective and material value of the stolen object, there must be taken into consideration such subjective circumstances as the heartlessness or incorrigibility of the thief. He who intends to steal an object of considerable value, but succeeds in stealing only a petty one, commits a mortal sin. So does he who successively steals small sums in order gradually to obtain a large one, and he who co-operates with others in committing grand larceny, no matter how small his personal share in the booty may be.¹⁸

¹⁸ Gury, Vol. I, n. 598: "On the part of the thief, the taking of a slight thing becomes a grave sin in three ways, namely: 1. Through the intention of arriving at grave matter; 2. Through multiplication, if petty thefts amount to a grave sum; 3. Through conspiracy, when several conspire among themselves and the petty thefts of the individuals, taken together, constitute grave matter." —*Ibid.*, n. 599: "If a thief intending to arrive at a grave sum through petty thefts renews this intention each time he steals, he sins gravely each time. But if from the beginning he intends to steal some determinate sum through petty thefts, v. g., so that he may not be detected, more probably he commits a single sin, because there is a single moral act; for all the particular acts tend determinately toward effecting one thing."

[³⁶³] e) As the appropriation of the property of others is unjust only when it is done against the reasonable will of the owner (*rationabiliter invito domino*), the taking of things in extreme necessity and occult compensation (v. *infra*, pp. 366 sq.) are not thefts.

A *theft committed in extreme need* is the appropriation or use of the property of another by a person who needs that property to save his life or something nearly as valuable as life (e. g., the integrity of the body or liberty).

He who in a state of extreme necessity takes as much of another's goods as he actually needs, either for himself or for others in the same predicament is not guilty of theft and not bound to make restitution, provided he is actually indigent and has no reasonable hope of ever becoming prosperous.¹⁹ He is merely exercising a right granted to him by the moral law of nature, which ordains that in extreme necessity all things are common property. In such a case, therefore, the

consent of the owner may be presumed, and if he protests, his protest may be disregarded as unreasonable, and hence there can be no theft because one of the essential notes of theft is lacking.

¹⁹ Busembaum, *Medulla Theol. Mor.*, l. III, tr. 5, c. 1, dub. 1, n. 2: “He who takes from another as much as is necessary for himself or another placed in extreme necessity neither steals nor is bound later to restore what has thus been consumed, provided he was needy in fact and in prospect.”

St. Thomas explains this with his accustomed lucidity as follows: “Things which are of human right cannot derogate from natural right or divine right. Now, according to the natural order established by divine Providence, inferior things are ordained for the purpose of succoring man’s needs by their means. And therefore the division and appropriation of things which are based on human law, do not preclude the fact that man’s needs have to be remedied by means of these very things. Hence, whatever certain people have in superabundance is due, by natural law, to the purpose of succoring the poor. . . . Since, however, there are many who are in need, while it is impossible for all to be relieved by means of the same thing, each one is entrusted with the stewardship of his own things, so that out of them he may come to the aid of those who are in need. But if the need be so manifest and urgent that it is evident that the present need must be remedied by whatever means be at hand (for instance, when a person is in some imminent danger, and there is no other possible remedy), then it is lawful for a man to relieve his own need by means of another’s property, by taking it either openly or secretly; nor is this, properly speaking, theft or robbery.” And again: “It is not theft, properly speaking, to take secretly and use another’s property in a case of extreme need, because that which a man takes for the support of his life, becomes his own property by reason of that need.”²⁰

²⁰ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 66, art. 7: “Those things which are of human law cannot derogate from natural law or divine law. Now, according to the natural order established by divine providence, inferior things are ordained so that by means of them human need may be relieved. And therefore the division and appropriation of things proceeding from human law does not prevent human need from being relieved by means of such things. And therefore the things which some possess in superabundance are, by natural law, due for the support of the poor. . . . But because there are many who suffer need and it is not possible from—” “the same thing to relieve everyone, the stewardship of his own goods is entrusted to each person’s discretion, so that from them he may relieve those suffering need. But if necessity is so evident and urgent that it is manifest that the present need must be relieved from whatever things are at hand (for example, when danger threatens a person and he cannot otherwise be relieved), then a person may lawfully relieve his need from another’s goods, whether taken openly or secretly, nor does this properly have the character of theft or robbery.”—*Ibid.*, ad 2: “To use another’s property secretly taken in a case of extreme necessity does not have the character of theft, properly speaking, because through such necessity that which one takes to sustain one’s own life is made one’s own.”—*Ibid.*, ad 3: “In a case of similar necessity a person may also secretly take another’s property in order to aid a neighbor who is thus in need.”

| 365 | f) The conditions under which a man may make use of this right are the following:

α) His own need, or that of the person for whom he takes the property, must be extreme (*necessitas extrema*), or at least very grave (*necessitas gravissima sive quasi extrema*); β) He must have no other means of livelihood; γ) The owner of the property in question must not be in equal need or likely to be subjected to equal need by the taking away of his property; δ) The needy must have the intention of taking only what he absolutely requires at the moment and of making adequate restitution if he is able.²¹

²¹ *Prop. damnat. sub Innoc.* XI, n. 36: “It is permitted to steal not only in extreme necessity but also in grave necessity.” (Denzinger-Bannwart, n. 1186).—Cfr. Gury, I, n. 601: “A poor person placed in extreme necessity may not take more than is necessary. Hence, if the use alone of a thing, v. g., a horse, suffices, the obligation of restoring it remains when

the necessity ceases. If one in extreme need has elsewhere, in fact or in probable prospect, the means from which he can pay, he cannot take another's property except with the burden of restitution, because the necessity then does not require the thing to be taken gratuitously, if it is relieved by a thing received on loan or lent for use. But one who in extreme want has consumed another's property is bound to nothing after using the thing, if he has no hope that he will ever be able to restore it, even if afterward he arrives at a better condition."

[366] g) Akin to taking another's property in extreme need is *occult compensation* (*compensatio occulta*), i. e., the secret appropriation of something to which one has a just claim (*debitum ex iustitia*), but which one cannot obtain by ordinary means. This is permissible only: (1) if the justice of the claim is indisputable, (2) if occult compensation is the only physically or morally possible means of obtaining one's own, and (3) if there is no reason for apprehending injury to a third person, e. g., suspicion of theft, or scandal.²² These three essential conditions, which must be present together to render occult compensation licit, hardly ever actually concur, especially since there must be an absolutely certain claim of justice; mere promises or claims of equity do not suffice.²³ Occult compensation is always of doubtful moral value because it is an act of self-help, and no man is an impartial judge in his own case. Therefore Saint Thomas says: "He who, by stealth, takes his own property, if this be unjustly detained by another, sins indeed, yet not because he burdens the retainer, and so he is not bound to restitution or compensation; but he sins against general justice by disregarding the order of justice and usurping judgment concerning his own property. Hence he must make satisfaction to God and endeavor to allay whatever scandal he may have given his neighbors by acting in this way."²⁴

²² St. Alphonsus, *Theol. Mor.*, I, III, n. 521–524 (ed. Gaudé, II, 33 sqq.); cfr. Gury, I, n. 602–604.

²³ Cfr. *Prop. damnat. sub Innoc.* XI, n. 37: "Male and female domestic servants may secretly take from their masters to compensate for their labor, which they judge greater than the wage they receive." (Denzinger-Bannwart, n. 1187).

²⁴ Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 66, art. 5, ad 3: "He who secretly takes his own property when it is unjustly detained by another does indeed sin, not because he burdens the one who detains it, and therefore he is not bound to restore or compensate anything, but he sins against general justice by usurping judgment concerning his own property for himself while disregarding the order of law. And therefore he is bound to make satisfaction to God and to take care that any scandal of his neighbors, if it has arisen from this, be allayed."—Cfr. Janssen, *Der hl. Alfons von Liguori gegen Hoensbroech*, pp. 103 sqq.

[367] To steal the *intellectual property* (ideas, writings, or inventions) of another is called *plagiarism*. It is a sin if the owner is injured thereby. There is also a sort of *ideal plagiarism*, which is committed if one seeks to appropriate to himself the reputation or glory of another, but it is often difficult to separate that which is the property of an author or inventor from that which he owes to the intellectual labors of his fellowmen. In the words of Dr. Linsenmann, no matter how firmly we stand on our own feet, the ground which we occupy has been prepared for us by others.²⁵

²⁵ Linsenmann, *Lehrb. d. Moraltheol.*, p. 526.

B) *Robbery (rapina)* is the act of openly taking away the property of another from his person or in his presence, against his will, and under constraint of fear or force. It differs from theft by the circumstances described and is a more grievous sin for two reasons: first, because it violates personal liberty and, secondly, because it inflicts upon the victim ignominy and injury.²⁶ If violence is employed after theft has been committed in order to ward off persecution, the crime of robbery is superadded to that of theft. Robbery may be perpetrated without the application of violence by embezzling documents, giving false testimony, perjury, bribery of judges, withholding a laborer's wages, and similar sins.

²⁶ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 66, art. 4: “Theft and robbery have the character of sin from the fact that the taking is involuntary on the part of the one from whom something is taken. But the involuntary is spoken of in two ways, namely through ignorance and through violence. And therefore robbery has one character of sin and theft another. Therefore on this account they differ in species.”—*Ibid.*, art. 9: “Robbery and theft have the character of sin because of the involuntary on the part of the one from whom something is taken, yet in such a way that in theft it is involuntary through ignorance, whereas in robbery it is involuntary through violence. But something is more involuntary through violence than through ignorance, because violence is more directly opposed to the will than ignorance. And therefore robbery is a graver sin than theft. There is also another reason, because through robbery not only is harm inflicted on someone in his goods, but it also tends toward a certain ignominy or injury of the person, and this outweighs the fraud or deceit that belongs to theft.”

|³⁶⁸| Related to robbery is *extortion*, *i. e.*, the act or practice of obtaining from another money or other valuables by violence, threats, or compulsion, more specifically the taking of money by an official under color of his office, either when none is due, or in excess of what is due, or before it is due. Extortion approaches fraud if the threat is not applied directly to the unjust appropriation of property, but in order to compel some act or omission which entails a disadvantage to others, for instance, signing a receipt or omitting to bring suit.

|³⁶⁹| C) *Fraud (fraus)* is an act of deliberate deception, practiced for the purpose of securing something to the prejudice of another.²⁷ Fraud is practiced in numerous forms in legal transactions and contracts, especially in sales, by deceiving the buyer as to the value, the quality or quantity of the object sold, by counterfeiting money and weights, etc. It is a very serious sin, whether regarded in its *nature* or in its *consequences*.²⁸ In its *nature*, because it implies deception and hypocrisy, lying, heartlessness, and injustice, all clothed in the garb of honesty and therefore difficult to discover. In its *consequences*, because he who commits fraud undermines the social order by destroying mutual confidence and creating distrust. Holy Scripture says that those who wrong and defraud others fall into the pit they themselves have dug, and that their iniquity will be visited upon their own heads and they will “not possess the kingdom of God.”²⁹

²⁷ St. Ambrose, *De Offic.*, l. III, c. 11 (n. 75): “David says: ‘Like a sharp razor you have wrought deceit’ (Ps. 51, 4); reproaching the traitor’s wickedness, because an instrument of this kind is used for a man’s adornment and often wounds.” (Migne, P. L., XIV, 166).—St. Thomas, *l. c.*, qu. 77, art. 1: “To employ fraud in order that something may be sold for more than the just price is altogether a sin, insofar as one deceives one’s neighbor to his detriment.”

²⁸ Lev. XIX, 35 sq.; Deut. XXV, 13–16; Prov. XX, 23.—Cfr. Tertullian, *De Idololatria*, c. 1: “The nature of fraud, I think, is that someone seize what belongs to another or deny what is owed to another, and surely fraud committed against a man is the name of the greatest crime?” (Ed. Leopold, P. I, 30).—St. Ambrose, *De Offic.*, l. III, c. 9 (n. 65): “All fraud is shameful. Indeed, even in cheap things a deceitful balance and fraudulent measure are accursed. If fraud is punished in the marketplace of saleable things, in the practice of commerce, can it be regarded as blameless among the duties of the virtues?” (Migne, P. L., XVI, 163).

²⁹ Ps. VII, 15–17; Prov. XI, 24; XX, 17; Jer. XXII, 13; 1 Cor. VI, 8–10; 1 Thess. IV, 6; cfr. 1 Pet. II, 1.

|³⁷⁰| Though minor frauds are not *per se* mortally sinful, yet they may become so by dint of circumstances and are to be avoided all the more because they almost invariably lead to other and more grievous acts of deception. It is this sort of iniquity which the Holy Ghost has particularly in view when He says that it is visited upon a man’s children and children’s children to the third and fourth generation.³⁰ “Those who commit frauds,” says the Angelic Doctor, “do not design anything against themselves or their own souls, but through God’s just judgment it happens that what they

plot against others recoils on themselves, according to Ps. vii, 16: 'He is fallen into the hole he made.'"³¹

³⁰ Ex. XXXIV, 7.

³¹ Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 55, art. 5, ad 3: "Those who commit frauds do not, from their intention, devise anything against themselves or against their own souls, but through God's just judgment it happens that what they plot against others recoils upon them, according to that saying (Ps. VII, 16): 'He has fallen into the pit that he made.'"

Particular kinds of fraud are: *forging documents* and *dishonest bankruptcy*. Both shake public confidence and tend to undermine the social order. In regard to the latter it is forbidden to conceal or remove portions of property, to falsify or destroy records, etc. If a business man incurs bankruptcy by living beyond his means, or by engaging in wild speculations, he is not guilty of fraud, but commits an injustice in not complying with his duties to his fellowmen.³²

³² J. Schwane, *Die Gerechtigkeit*, p. 71.

[371] Another species of fraud is the use of *dishonest means in business competition*, such as misrepresenting the quality of goods or their source of production, slandering or otherwise injuring competitors, etc.³³

³³ J. Bachem and H. Roeren, *Zur Bekämpfung des unlauteren Wettbewerbes*, 2nd ed., Leipsic 1896; H. Mayer, *Der unlautere Wettbewerb*, Stuttgart 1909.

Akin to fraud is *defalcation*, in so far as it involves an injustice, *i. e.*, a disadvantage to others or illegal favoring of one's own person or business. It is committed by fraudulently appropriating money held in trust or not employing due care in the administration of property confided to one's care, as by the executor of a will, the guardian of a minor child, the curator or administrator of an estate, etc.³⁴

³⁴ Schwane, *Die Gerechtigkeit*, pp. 71 sq.

D) *Usury (usura, fenus)* is the exploitation of the necessity of others by unjustly appropriating of their property in exchange and loan transactions.³⁵ Its principal features are the needy condition of the victim and his ignorance or carelessness, of which the usurer takes advantage by charging more for loans than he is entitled to. The term usury is sometimes broadly used to cover dishonest manipulations in grain or other commodities, excessive charges for rent, etc.

³⁵ Funk, *Zins und Wucher*, pp. 192 sqq.; Ratzinger, *Die Volkswirtschaft*, 2nd ed., pp. 259 sqq.

Not only the creditor but also the debtor may become guilty of usury, namely, by abusing the confidence of the creditor in order to appropriate his property. Thus bankruptcy proceedings are sometimes used to exploit the good nature or carelessness of creditors. The Catechism of the Council of Trent says: "Those who defraud their creditors, who deny their just debts, and also those who purchase goods on their own or on another's credit, with an agreement to pay them at a certain time, and do not redeem their pledge, shall be convicted of the crime of rapine, and it is an aggravation of their guilt that, in consequence of their want of punctuality and their fraud, prices are raised, to the no small detriment of the public."³⁶

³⁶ *Catech. Rom.*, P. III, c. 8, qu. 12: "Defrauders of creditors and repudiators—whoever, having taken a period of time for payment, purchase goods on their own or another's credit and do not discharge their pledge—will be condemned for the same crime of rapine; their offense is also graver because merchants, on account of their default and fraud, sell at

higher prices, to the great detriment of the community; that saying of David seems to apply to them: ‘The sinner shall borrow and shall not repay’ (Ps. XXXVI, 21).”

[372] Hence usury both from the moral and the legal standpoint is as deserving of punishment as fraud, theft, and robbery.³⁷ Economically this crime is committed not only when a higher rate of interest is demanded than law or custom permit, but likewise in all cases where the borrower appropriates so much of the value created by the co-operation of his labor with the capital of others, that the lender is unable to carry on his business.³⁸

³⁷ Ps. XIV, 1, 5; Ez. XVIII, 8 sq., 13; XXII, 12.—Cfr. Conc. Lat. II, can. 13: “We condemn that detestable and shameful, insatiable rapacity of usurers, rejected by divine and human laws through Scripture in the Old and New Testament, and we separate them from every ecclesiastical consolation, commanding that . . . usurers be held infamous throughout their whole life and, unless they repent, be deprived of Christian burial.” (Denzinger-Bannwart, n. 365).—Cfr. Conc. Lat. V, sess. 5; and Holweck, *Die kirchlichen Strafgesetze*, p. 276.

³⁸ Ratzinger, *Die Volkswirtschaft*, 2nd ed., pp. 261 sqq.

[373] *Usurious manipulation of the food supply* is a particularly heinous crime, all the more contemptible because it most severely affects the poor. “Amongst those who are called extortioners by the holy Fathers,” says the Roman Catechism, “are they who, in times of scarcity, hold on to their grain, thus culpably producing dearth and high prices, and this also holds good with regard to all necessities for food and the sustentation of life.”³⁹

³⁹ *Catech. Rom.*, P. III, c. 8, qu. 14: “Among the number of those who are called extortioners by the holy Fathers are those who, in a scarcity of crops, withhold grain and bring it about through their own fault that the market price is dearer and harsher; this also holds for all things necessary for food and for life.”

“He that hideth up corn,” says Sacred Scripture, “shall be cursed among the people.”⁴⁰

⁴⁰ Prov. XI, 26.

Habitual usury in credit or commodities is reckoned among the sins that cry to Heaven for vengeance.⁴¹

⁴¹ See this *Handbook*, Vol. II, pp. 89 sq.; cfr. St. Ambrose, *De Tobia*, c. 2–22 (Migne, P. L., XIV, 761); Ratzinger, *Die Volkswirtschaft*, pp. 286 sqq.

The crime of “usury” is committed also by corrupt and venal judges, who allow themselves to be won over by money or bribes to decide against the poor and the necessitous, no matter how good their cause may be.⁴²

⁴² Ex. XXIII, 8; Deut. XVI, 19.—*Catech. Rom.*, P. III, c. 8, qu. 12.

[374] READINGS.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 66, 77, 78.—*Catechismus Romanus*, P. III, c. 8, qu. 1–25.—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., pp. 472 sqq.—St. Alphonsus, *Theol. Mor.*, l. III, n. 518–546 (ed. Gaudé, II, 27 sqq.).—F. X. Linsenmann, *Lehrbuch der Moralthologie*, pp. 587 sqq.—J. E. Pruner, *Kath. Moralthologie*, Vol. II, 3rd ed., pp. 179 sqq.—IDEM, *Lehre vom Recht*, Vol. II, pp. 239 sqq.—J. Schwane, *Die Gerechtigkeit*, pp. 67 sqq.—F. Lorinser, *Die Lehre von der Verwaltung des hl. Buszsakramentes*, 2nd ed., pp. 223 sqq.—A. Lehmkuhl, S. J., *Theol. Mor.*, Vol. I, 11th ed., n. 1109 sqq.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 375 sqq., 380 sqq.—Th. Meyer, S. J., *Inst. Iuris Nat.*, Vol. II, pp. 208 sqq.—J. Rickaby, *Moral Philosophy*, pp. 255 sqq.—Calvin Elliott, *Usury: A Scriptural, Ethical, and Economic View*, Millersburg, O., 1902.—P. Cleary, *The Church and Usury: An Essay on Some Historical and Theological Aspects of Money-Lending*, Dublin 1914.

SECTION 10: THE DUTY OF RESTITUTION

A. RESTITUTION IN GENERAL

[375] 1. DEFINITION.—Restitution is reparation for an injury done to another. To restore, says St. Thomas, is “nothing else than to reinstate a person in the possession or dominion of his property, and thus in restitution we consider the equality of justice attending the payment of one thing for another, and this belongs to commutative justice.”¹ Restitution is designed to undo the consequences flowing from sins committed against one’s fellowmen. Moreover, satisfaction must be made to God for the offence committed against Him in injuring His creatures. Hence, over and above the duty of making restitution for the property loss involved, there exists the obligation of atoning for the sin committed, by internal acts of repentance and satisfaction, *i. e.*, the offender must be sorry for and confess his sin.

¹ *Summa Theol.*, 2a 2ae, qu. 62, art. 1: “To restore seems to be nothing other than to establish someone again in the possession or dominion of his property; and thus in restitution the equality of justice is observed according to the recompense of thing for thing, which belongs to commutative justice.”—Cfr. A. Lehmkuhl, S. J., *Theol. Mor.*, Vol. I, 11th ed., n. 1127 sqq.

[376] 2. NECESSITY OF RESTITUTION.—To make restitution of ill-gotten goods, either *in re* or *in voto*, is, generally speaking, a grave obligation if the matter is important (*materia gravis*). It is so grave an obligation, in fact, that without it the sin cannot be forgiven. “*Peccatum non dimittitur, nisi restituatur ablatum*,” or “*Non datur venia, nisi restituantur ablata*,” are two fundamental maxims in Moral Theology.

The duty of making restitution is not only enforced by divine and civil law,² but likewise based on the moral law of nature. For he who does not restore to his neighbor the property which he has unjustly taken away from him, inflicts upon him additional injury by continuing to withhold from him what is his and hindering him in the use thereof. Strictly speaking, therefore, the duty of making restitution arises solely from a violation of commutative justice, not of charity or equity, or of legal or distributive justice as such.³

² Ex. XX, 15; XXII, 1–16; Ez. XXXIII, 14–16; Numb. V, 7; Matt. V, 23 sqq.; Mark X, 19; Luke XII, 59; 1 Cor. VI, 8; Philm. 18 sq.—*Reg. Iur. in VT Bonif.* VIII, n. 4.—St. Ambrose, *De Offic.*, l. III, c.

³ (n. 21): “Do not the laws themselves teach us? They command that those things which have been taken from someone with injury to his person, or with increase of the thing itself, be restored, so that they may deter a thief from taking either by punishments or bring him back by a fine.” (Migne, P. L., XVI, 151).—St. Augustine, *Epist.*, CLIII (al. 54), c. 6, n. 20: “If another’s property, on account of which the sin was committed, is not returned when it can be returned, penance is not performed but feigned; but if it is truly performed, the sin will not be forgiven unless what was taken is restored—but, as I said, when it can be restored.” (P. L., XXXIII, 662).—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 62, art. 2: “Since preserving justice is necessary for salvation, it follows that restoring to someone what was unjustly taken from him is necessary for salvation.”—Duns Scotus, *Comment. in Sent.*, l. IV, d. 15, qu. 2, n. 29: “Just as one who keeps an adulteress is not capable of penance, but is a mocker, and if such a man comes to penance, he adds sin to sin, so one who detains another’s property in will and deed, while he is such, is not capable of any part of penance.”—Benzinger, *Hebr. Archäologie*, 2nd ed., pp. 294 sq.

³ J. P. Gury, S. J., *Comp. Theol. Mor.*, Vol. I, n. 605: “There is no obligation of restitution except on account of a violation of strict right or commutative justice, but not on account of the right of uprightness simply. The reason is that restitution brings it about that the thing owed to one’s neighbor equals his right that was unjustly violated. But this cannot be done when a violation of the right of uprightness is under discussion. For if someone violates the right of his superior or of his neighbor, denying obedience to the former and the consolations of charity to the latter, that violation cannot strictly be repaired, because a new act of obedience or charity would not repair the violated right, but would

satisfy only the precept, which always binds, of obeying one's superior and relieving one's neighbor in distress."—Cfr. St. Alphonsus, *Theol. Mor.*, l. III, n. 547; J. Rickaby, *Moral Philosophy*, p. 107.

|³⁷⁷| He who is able to make restitution for an injustice which he has committed is bound in justice to do so. If he is unable, he is dispensed from the fulfilment of this duty only as long as the inability lasts.

If a man is able to make restitution, he is bound to do so; if he is unable, the duty of restitution is in abeyance while the inability continues. But no one may consider himself dispensed from this duty until he has at least made a sincere effort to comply with it. Moreover he should at all times remember his liability and cherish a firm purpose to make restitution as soon as an opportunity presents itself. This is what theologians style making restitution *in voto*, but it holds good only while the external act (*restitutio in re*) is either physically or morally impossible. Whenever commutative justice has been violated and the matter is grave, absolution should be withheld until the penitent has either made restitution, or sincerely promised to do so at the first opportunity. Absolution should be refused if the penitent has repeatedly broken his promise. Those who, though burdened with debts, live in a manner which will probably make it impossible for them ever to satisfy their creditors, are unfit for absolution. The same is true of those who, in a similar condition, refuse to deny themselves luxuries or leave restitution to their heirs, although they are able to make it themselves.

|³⁷⁸| 3. THE "ROOTS" OF RESTITUTION.—Restitution may be due for one of two reasons: (a) because one holds something that belongs to another (*acceptio sive retentio rei alienae*), or (b) because one has inflicted unjust damage or loss (*iniusta damnificatio*). These are called by moralists the "roots" (*radices*) of restitution.

Sinful co-operation in acts against commutative justice (*cooperatio iniusta*) is frequently enumerated as a third root of restitution, but as it may be subsumed either under the first (*acceptio sive retentio*) or under the second division (*iniusta damnificatio*), there is no need of treating it separately.⁴

⁴ Gury, *Comp. Theol. Mor.*, I, n. 609: "The roots of restitution are the causes from which the obligation of restoring arises. They are taken from three headings, namely: 1. From the taking of another's property; 2. From unjust damage; 3. From unjust co-operation.—Co-operation does indeed fall either under taking or under unjust damage, but for a clearer distinction of matters so intricate we have judged it better to consider it separately."

READINGS.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 62, art. 6 (Rickaby, *Aquinas Ethicus*, II, 30 sqq.).—Th. Meyer, S. J., *Inst. Iuris Nat.*, Vol. II, pp. 208 sqq.—H. Noldin, S. J., *Summa Theol. Mor.*, Vol. II, pp. 458 sqq.—T. Slater, S. J., *A Manual of Mor. Theol.*, Vol. I, pp. 398 sqq.—IDEM, in the *Catholic Encyclopedia*, art. "Restitution," Vol. XII, pp. 788 sq.—A. Tanquerey, *Synopsis Theol. Mor. et Past.*, Vol. III, pp. 199 sqq.—J. B. Ferreres, *Comp. Theol. Mor.*, Vol. I, pp. 501 sqq.

ARTICLE I: THE DUTY OF RESTORING PROPERTY BELONGING TO OTHERS

|³⁷⁹| A man may be possessed of the property of another without a just title either through an act of injustice, *e. g.*, fraud, theft, usury, etc., or in good faith, *e. g.*, by purchase, donation, or legacy. In the former case there is a *culpa theologica*, *i. e.*, a formal violation of strict justice (*iustitia commutativa*), in the latter there is merely a material injustice. These two forms of unjust possession determine the manner in which restitution must be made.

The general rules for determining the duty of restitution are the following:¹

¹ P. J. Lönartz, *Die Restitutionspflicht*, pp. 77 sqq., 179 sqq., 266 sqq.—Cfr. Gury, *Comp. Theol. Mor.*, Vol. I, n. 610: “The owner of a thing alone has the right *per se* to possess it, nor does he lose ownership of the thing into whosoever hands it may come. *Per se* is said because any other possessor, even one in good faith, has the right to possess the thing only *per accidens* and from invincible error. From this principle, moreover, the following four axioms flow of their own accord: 1. The thing cries out for its owner, that is, the owner has a strict right to recover his property wherever he finds it; 2. The thing bears fruit for its owner. The reason for this axiom is that enjoyment is necessarily—” “included perfectly in the idea of ownership; 3. A thing naturally perishes to its owner, for when the object of ownership ceases, ownership itself thereby vanishes. But if it still exists in an equivalent, that equivalent belongs to the owner; 4. No one ought to be enriched from another’s property. Or in other words: The measure of restitution is the quantity of the thing detained. The reason is clear, for only the owner of the thing has the right to receive any fruit from it. But these general principles are modified according to the different condition of the possessor and sometimes according to the varying legislation of places.”—Cfr. Göpfert, *Moraltheol.*, Vol. II, p. 260.

[380] a) “*Res clamat domino*,” *i. e.*, the rightful owner is entitled to his property, no matter into whose hands it may have fallen. This rule follows necessarily from the nature of property and ownership. In applying it, however, due regard must be paid to prescription, etc.

b) “*Res fructificat domino*,” *i. e.*, the rightful owner is entitled to the fruits of his property, provided, of course, he has not ceded this right to others.

c) “*Res naturaliter perit domino*,” *i. e.*, the right of ownership is bound up with the object owned and ceases with that object. If the object has perished, but its value continues, the original owner is entitled to the latter, as, *e. g.*, when a ton of wheat has been sold and the sum received is still in the hands of the seller. If a thing has perished not from natural causes, but through the fault of the possessor, the owner is entitled to restitution.

d) “*Nemo ex re alienâ locupletari potest*,” *i. e.*, no one has a right to enrich himself with the property of another, for the fruits of that property do not belong to the unlawful possessor, but to the rightful owner.

[381] If the possessor cannot reach the owner, he must make restitution to his heirs.

It is quite a different thing, of course, to be benefitted *occasione rei alienae*, without injustice to anyone, for instance, by the growth of a community, the construction of a railway, the erection of a factory on or near one’s property, etc.²

² IDEM, *ibid.*, pp. 118 sqq.; Slater, I, 374 sqq.

The fruits of a thing (*fructus rei*) may be:

α) *Fructus naturales*, natural, *i. e.*, derived from the thing itself (*beneficio naturae*) without the co-operation of man, or with but slight co-operation on his part, for example, fruits of trees, wood in a forest, grass on a meadow, milk, wool, etc.; β) *Fructus industriales*, *i. e.*, fruits of human industry or toil, such as the profits from a sale or purchase, etc.; γ) *Fructus mixti*, which are partly the result of industry (*ex industria*) and partly of the natural or artificial fertility of the property (*ex re ipsa*), for instance, grain, wine, etc.; δ) *Fructus civiles*, which are derived from an object by means of the civil law, *e. g.*, rent, salary, etc. The latter category may be reduced to the first (*fructus naturales*).³

³ Gury, I, n. 613: “Fruits of different kinds must be distinguished: 1. Natural fruits, which proceed from the substance of the thing itself without any or with little human labor, such as grasses, etc.; 2. Industrial fruits, which are attributed chiefly to the action of the possessor using the thing; generally, however, fruits are partly natural and partly industrial, such as crops, etc., and are called mixed; 3. Civil fruits, which are not fruits properly so called, but are regarded as such

by law, such as annual revenues, the price of leasing, etc.”—Cfr. Noldin, *Summa Theol. Mor.*, II, 391 sqq.; Slater, I, 374 sqq., 401.

|382| 1. One may be in possession of the property of another either in bad faith or in good faith. A *possessor malae fidei* is one who knows, or has good reason for believing, that the property he holds belongs to another.⁴ Such a one is bound to restore to the rightful owner whatever the latter has been unjustly deprived of, that is to say:

⁴ Gury, *Comp. Theol. Mor.*, Vol. I, n. 622: “A possessor in bad faith is one who knows that the thing which he received or possesses is not his own.”—St. Augustine, *De Fide et Operibus*, c. VII, n. 10: “In the law of estates, each person is most rightly called a possessor in good faith so long as he is unaware that he possesses another’s property; but when he has learned this and has not withdrawn from another’s possession, he is then regarded as being in bad faith, then he is justly called unjust.” (Migne, P. L., XL, 203).—Cfr. Lehmkuhl, *Casus Consc.*, I, n. 652–655.

a) The stolen property itself, for “*res clamat domino*.” If the property no longer exists, its value must be restored. If it has deteriorated in value whilst under the control of the unlawful possessor, restitution must be made of the value it had when it was taken from its rightful owner. If its value has increased, it must be restored as it is, with all its fruits, for, “*res fructificat domino*.” If the stolen property fluctuated in value after the theft, the owner’s loss must be made good, and if he intended to sell it when at its highest value, that value must be restored to him.⁵

⁵ Slater, I, 405.

b) All the fruits of the property, natural, industrial, and mixed, must be restored to its owner. But any necessary or useful expenses incurred by the illegitimate possessor for the preservation or improvement of the property, as well as such fruits as may be the result of special efforts on his part, may be deducted.

|383| c) The damage suffered by the owner in consequence of being deprived of what belonged to him (*damnum emergens*) as well as any profits he may have lost (*lucrum cessans*), must also be restored to him.⁶

⁶ St. Alphonsus, *Theol. Mor.*, l. III, n. 614–625 (ed. Gaudé, II, 94 sqq.); Gury, *Comp. Theol. Mor.*, I, n. 622–627.

A difficulty arises if the property has fluctuated in value while in the hands of the unlawful possessor. A change in the value of an object may be either intrinsic or extrinsic. An intrinsic change occurs, for instance, in a colt that grows up to be a horse, or in a horse that becomes useless in consequence of old age. An extrinsic change of value may be brought about through a rise or drop in the market. As regards intrinsic changes, the unlawful possessor has to make restitution to the owner for any decrease in value which would not have happened had the owner kept his property, as, for example, if a fat ox grows lean or a good horse is overworked. If the value of the object has increased, the unlawful holder must restore the increment together with the object to the rightful owner, but may deduct necessary or useful expenses.

In regard to a change in value the following general rules apply:

a) If the price has risen or fallen, and the thief sold or consumed the stolen property at the time when the lawful owner had intended to sell or consume it, he must restore to the latter the price which the object would have brought at that time. If the price has risen or fallen, and it is certain that the owner would have sold or consumed the property had it been in his possession at the time it fetched the higher price, restitution must be made at the higher price. If the object was one which the lawful

owner had not intended to keep, and its price rose and fell, and the unlawful possessor sold or used the object when the price was lowest, he is obliged to make restitution at the lower price only, for in that case the owner suffers no loss and he himself was not enriched by the fluctuation in price. If the owner would have sold the property in case the illegal possessor had restored it at a time when its price was high, the latter is in duty bound to pay the higher price. If the owner would have consumed the object at the time when the price was low, and the thief, or his abettor, sold or consumed it at the time when the price was high, he must make restitution at the higher price, for “*res fructificat domino*.” However, some moralists are satisfied with demanding that restitution be made at the lower price, for the reason that the thief, having consumed the stolen property, has not become enriched and the owner has suffered no additional loss. When there is doubt whether the owner would have kept his property until he could have gotten a higher price or would have sold it at a lower price, the thief is bound to make restitution *pro rata dubii*, i. e., in accordance with the degree of doubt. But since, *in praxi*, all the circumstances of a case do not usually become known, it will be sufficient as a rule to make restitution of the stolen object at the price which it would have fetched at the time when it was stolen.⁷

⁷ Göpfert, *Moraltheol.*, Vol. II, pp. 265 sqq.; Slater, I, 406 sqq.

[385] 2. A *possessor bonae fidei* is he who is honestly, though erroneously, convinced that an object rightfully belongs to him, e. g., because he has acquired title to it in a legitimate way, for instance, by purchase, inheritance, etc. As soon as he discovers that the property is not his, such a one is bound to restore it to the rightful owner, or at least give the owner notice to get it, at his own expense.⁸

⁸ Gury, *Comp. Theol. Mor.*, I, n. 611: “A possessor in good faith is one who is invincibly ignorant that the thing possessed by him belongs to another, or prudently judges it to be his own, v. g., because he acquired it by a title of itself transferring ownership, such as inheritance, legacy, donation, or purchase. It is supposed, however, that he has not yet acquired the possessed thing by prescription; for otherwise he would no longer be the holder of another’s property, but of his own. As soon as a possessor in good faith learns that the thing possessed by him belongs to another, he is bound to restore it to the owner insofar as it still exists, in whole or in part or in profit. The reason is that unless such a possessor restored the thing or its equivalent, he would retain another’s good against the owner’s reasonable will; for he would violate the owner’s strict right by retaining that to which he has no right, and therefore would now become an unjust holder.”—Cfr. *ibid.*, n. 612–621.—Lehmkuhl, *Casus Consc.*, Vol. I, n. 648–651.

a) He must restore, first, the property itself, if, or in as far as, it still exists, for “*res clamat domino*.” If the property no longer exists, he must restore what he gained by its possession, on the principle that no one has a right to enrich himself at the expense of another.⁹ If the stolen property has been lost, either through or without the possessor’s fault, the latter need not restore its equivalent, because “*res naturaliter perit domino*” or “*casum sentit dominus*.” Likewise, in case of doubt whether he has become richer through possessing the property, or whether some portion of it is still in existence, the unjust possessor is not obliged to make restitution, for, “*in dubio melior est conditio possidentis*.”

⁹ *Reg. Iur. in VI^o Decr. Bonif. VIII*, n. 48: “No one ought to be enriched through another’s injury or loss.”

[386] b) He must restore, secondly, all the fruits of the stolen property, in so far as they are derived from its nature (*fructus naturales*) and have not been consumed to satisfy his own needs, for “*res fructificat domino*.” The *fructus industriales* belong to the possessor and the *fructus mixti* must be divided *pro rata*, but the possessor may deduct expenses and make a reasonable charge for his toil. Unnecessary and accidental expenses give no just claim for compensation. If the civil law grants to the *possessor bonae fidei* the consumed fruits, he may take advantage of this privilege.

c) If one finds that he is in possession of something that rightfully belongs to another, and to which he himself holds a legal title, he may fall back on the person from whom he has acquired the property, but he cannot make the restitution of the object to its rightful owner dependent on his own indemnification. Generally speaking, however, one who has purchased a property from another in good faith and according to the requirements of the law (*optimâ formâ*), may await a court decision before he is bound to make restitution.

[387] 3. One who has well-grounded reasons for believing that something he has in his possession belongs to another, is a *possessor dubiae fidei* and as such strictly bound to ascertain whether or not he is the rightful owner of the property. If he neglects to make an investigation, he becomes a possessor in bad faith. One who has been in the possession of stolen property in good faith for a while, and then becomes doubtful of his title, remains in good faith until the doubt is solved (“*in dubio melior est conditio possidentis*”); he may use the property according to his good pleasure and, in case the real owner is discovered, need restore only such portions of the property as still remain, or the sum by which he has become richer in consequence of its possession. If the doubt as to the real owner dates from the time when the property was acquired, a distinction must be made. If the object has come to the possessor directly out of the hands of the lawful owner (e. g., by occult compensation), it must, if the doubt persists, be restored to the latter whole and entire, for the possessor has no real title and the presumption is against him. But if he has acquired the object in question by some legitimate title (for instance, purchase, inheritance, donation), and the doubt merely concerns the right of the former possessor to dispose of it, the present possessor must, according to the greater or smaller probability of the existing doubt, restore a larger or smaller portion of the property to its rightful owner, or, if his identity is unknown, to the poor. The reason is because doubt does not permit of a real *ius possessionis* and therefore imposes the duty of restitution, while, on the other hand, the lawful title of ownership supplies the defect, as it were, and restitution need consequently be made only *pro qualitate dubii*. Negative doubts do not impair the good faith of the possessor and should be treated like temptations.¹⁰

¹⁰ Gury, I, n. 628–630; Lönartz, *Die Restitutionspflicht*, pp. 226 sqq.; Lehmkühl, *Casus Consc.*, Vol. I, 3rd ed., n. 656–659; Slater, *A Manual of Moral Theology*, Vol. I, pp. 406 sq.

[388] READINGS.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 62, art. 1–8.—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., pp. 22 sqq., 389 sqq.—St. Alphonsus, *Theol. Mor.*, l. III, n. 547 (ed. Gaudé, II, 52 sqq.).—J. E. Pruner, *Lehre vom Recht*, Vol. II, pp. 5 sqq.—J. Schwane, *Die Gerechtigkeit*, pp. 85 sqq.—F. X. Linsenmann, *Lehrbuch der Moraltheol.*, pp. 596 sqq.—A. Vermeersch, S.J., *Quaestiones de Iustitia*, 2nd ed., pp. 161 sqq.—Kutschker, *Die Lehre vom Schadenersatz*, pp. 3 sqq.—P. J. Lönartz, *Die Restitutionspflicht des Besitzers fremden Gutes*, Treves 1885, pp. 1 sqq.—F. Lorinser, *Die Lehre von der Verwaltung des hl. Buszsakramentes*, 2nd ed., 1883, pp. 233 sqq.—T. Slater, S.J., *Manual of Mor. Theol.*, Vol. I, pp. 400–407.—H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 463–477.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 377–380.

ARTICLE 2: THE DUTY OF REPAIRING UNJUST DAMAGE OR LOSS INFLICTED ON OTHERS

[389] Justice may be violated not only by taking away or retaining the property of others, but also by damaging or destroying it without sufficient cause. This violation lasts until the damage or loss is duly repaired.¹

¹ Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., pp. 77 sqq.; Göpfert, II, pp. 269 sqq.

1. One is in duty bound to make restitution if the damage or loss which one has caused involves a sinful violation of justice (*iustitia formalis*), by which the unjust deed was not merely *per accidens* occasioned, but physically or morally caused, and which is imputable to the author as formal sin or guilt (*culpa theologica*).² Hence if the deed in question was not the efficient cause of the damage done (*causa efficax damni per se vel in causa*), but merely furnished the occasion (*causa occasionalis*) for it, no duty of restitution arises. In the case of a purely juridical transgression (*culpa iuridica*), the obligation of making restitution does not go into effect until a court decision has been rendered, unless, of course, there is a contractual obligation of making good any damage or loss arising from a purely juridical guilt.³

² J. P. Gury, *Comp. Theol. Mor.*, Vol. I, n. 633: "For an act causing damage to induce an obligation of restitution, natural law requires that three conditions concur, namely, that it be unjust, an efficient cause of the damage, and theologically culpable; that is, that it be truly, effectively, and formally unjust."

³ Aug. Lehmkuhl, S. J., *Casus Consc.*, Vol. I, 3rd ed., n. 668–671.

[390] Reparation must be made not only of the damage intentionally inflicted, but likewise of all injuries or losses arising from that damage (*damnum emergens, lucrum cessans*), in so far as they could be foreseen, and, finally, of the expenses which the rightful owner was forced to incur in order to protect his rights.

From these principles there follow the subjoined practical conclusions:

1) He who was the cause of damage without his fault, but failed to prevent further damage afterwards when he was able to do so, must make restitution. For every man is in justice bound to take proper care that his fellowmen are not injured by his actions, and hence must prevent damage arising from his actions if he is able; neglect of this duty amounts to a formal sin of injustice. Note, however, that this duty does not bind at the risk of a comparatively serious disadvantage. Consequently, he who has inadvertently set fire to his neighbor's house, is in justice bound to extinguish the flames if he reasonably can; an apothecary who has sold poison instead of medicine, must take all available means to get it back; a physician who has prescribed the wrong drug for his patient, must correct his error, and so forth.

2) He who through his own fault caused damage to another and then vainly tried to prevent the consequences of his act, is bound to make restitution. Hence a) He who sets fire to a house and then tries to extinguish the flames, but fails, is liable for the entire damage; b) He who intentionally gives another poison, and then vainly endeavors to prevent it from taking effect, is obliged to make reparation of the injury caused by the act; the same rule applies in case of slander, bad advice, etc.

[391] 3) He who performs an illicit and at the same time unjust action, from which, *per accidens*, damage arises to another, is not bound to make restitution. This applies:

a) To the poacher who shoots a man instead of the hare he is aiming at, provided he is not guilty of criminal carelessness; b) To the thief who attempts to steal in the house of a citizen at night and accidentally overturns a lamp, thus causing the house to catch fire; c) To the burglar who breaks into a barn and accidentally sets fire to the hay, thus causing the destruction of the building with its contents.

d) One guilty of a crime which is falsely attributed to another, is not obliged to indemnify that other for the damage or loss he has suffered, unless the deed was committed in such a way or by such means that grave suspicion was thrown upon the other. The reason for this decision is that the act of the guilty man caused suspicion to fall upon the innocent party only *per accidens*; the real cause was an error committed by others.

A thief (or a murderer) is not *per se* obliged to make restitution to an innocent man accused of the crime he has committed; but charity may oblige him to prevent his conviction if he can do so without grave injury to himself. The duty of restitution binds the guilty party if he committed a crime under conditions which necessarily drew suspicion to the innocent party, *e. g.*, if he placed some of the stolen goods in his house or wore his clothes or used weapons belonging to him. Whether this is the case also amid conditions which the guilty party did not create, but merely found existing, is subject to controversy.⁴

⁴ Cfr. St. Alphonsus, *Theol. Mor.*, I, III, n. 628–629 (ed. Gaudé, II, 106 sqq.); IDEM, *Homo Apostolicus*, n. 84; Göpfert, II, 273 sq.

|³⁹²| II. Damage or loss unjustly inflicted carries with it the duty of restitution even in the case of mere mediate co-operation, whether physical or moral, positive or negative,⁵ provided the following conditions are fulfilled: (1) the co-operation must be unjust, (2) it must be the efficient cause of the damage done, and (3) it must be theologically culpable, that is to say, formally sinful. The amount to be restored in each instance depends on the manner and influence of the co-operation lent.

⁵ Rom. I, 32.—Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 62, art. 7.

1. Positive or direct co-operation may take different forms according to the various ways in which one man can co-operate with others in inflicting injury.

a) One co-operates with another in injustice by *command* (*iussio sive mandatum*) when one induces the other, by whatever means, to do an injury in his name or on his behalf. In such a case he who commands (*iubens sive mandans*) is to be regarded as the moral author of the injustice committed, and consequently is bound to make restitution, unless indeed the *mandatarius* exceeded the clear and definite instructions of the *mandans* or carried out an order which had been expressly revoked. In the last-mentioned case the *mandatarius* is obliged to repair the damage done. If the *mandans* will not or cannot make the required restitution, the *mandatarius*, as the secondary cause of the unjust deed, must do so if he knew, or should have known, that the deed was unjust.⁶

⁶ Lehmkuhl, *Casus Consc.*, Vol. I, 3rd ed., n. 725–727; Slater, Vol. I, pp. 419 sq.

|³⁹³| It does not matter, as Fr. Slater observes, “whether one of the parties is in a position of superiority with respect to the other or not, nor by what means he induces the other to perform the injurious action, whether by threats, or promises, or commands, or requests; it is sufficient if by some means he induces the other to do his unjust will. Henry II made himself guilty of the blood of St. Thomas a Becket by complaining that none who ate his bread would avenge the insults offered him. Mere approval, however, of injustice which has already been done does not render him who approves liable to restitution.”⁷

⁷ Slater, Vol. I, p. 420.

The *mandans* is not bound to make restitution if he revoked his command or request and this fact became known to the *mandatarius* before he committed the unjust deed. This remains true even if the *mandatarius*, in order to obtain the promised reward, falsely alleges that he did not know of the revocation before the deed was committed; for he acted in his own name. If it is doubtful whether the unjust deed was inspired by a command or merely by a counsel, in other words, whether the person co-operating in the other's crime was a principal or an accessory, the doubt may, as a rule, be solved by ascertaining who benefited by the crime, because under the law the beneficiary is regarded as the principal agent.

[394] b) A person co-operates with another in injustice by *counsel* if he gives him advice or urges motives or shows him how to proceed, in doing evil.⁸ Whoever is guilty of this species of co-operation and knows that his advice is sinful (*consilium simplex vel nudum*), is the secondary author of the injustice committed and consequently bound to make restitution if the principal author (*causa primaria*) will not or cannot do so. If the advice in question was given officially by an expert or a confidant consulted for the purpose, *e. g.*, a confessor or an attorney-at-law, the advisor or counsellor is the moral cause of the damage, and, as such, bound to make restitution. If the advice was recalled before the unjust act was committed, together with a statement of the reasons for which it was given, the advisor (*consulens sive suadens*) can not be held to make restitution, but if the advice was recalled without stating the motives for the recall, the advisor is liable *pro rata*, that is, for his share of the damage done.⁹

⁸ Slater, Vol. I, pp. 418 sq.

⁹ *Prop. damn. sub Innoc.* XI, n. 39: "Whoever moves or induces another to inflict grave damage upon a third party is not bound to restore that inflicted damage." (Denzinger-Bannwart, n. 1189).—*Reg. Iur. in VI° Decret. Bonif.* VIII, n. 62: "No one is bound on account of counsel, provided it was not fraudulent."—Cfr. Lehmkuhl, *Casus Consc.*, Vol. I, n. 728 sqq.—Noldin, *Summa Theol. Mor.*, Vol. II, pp. 505 sqq.

[395] The advisor is not bound to restitution if the other was determined to commit the evil deed when the advice was given, for in that case the advice, though unjust and sinful, was not the efficacious cause (*causa efficax*) of the damage done. The case is different, however, if the person who actually committed the crime was partly determined to do so by the counsel given. When it is doubtful whether or not the advice given was the cause of the unjust act, the more probable view is that the counsellor is *not* obliged to make restitution.

If one merely shows another, who is already determined to do an unjust deed, how it may be done, he does not incur the obligation of making restitution, provided the means indicated were in no way essential to the execution of the crime and neither made the damage possible nor tended to increase it. For example: If I counsel a would-be murderer to poison his victim instead of shooting him, or to kill him in a different place, or at a different time than he had planned, I am not bound to make restitution. But if I pointed out to another when and where he could best carry out a contemplated robbery, which might not have been successful otherwise, I am bound to restitution. He who counsels another who is resolved to do damage, to do it at an earlier date than was intended, is not obliged to make restitution, provided it is certain that the other was determined to commit the evil deed and in all likelihood would not have changed his mind. He who advised another to commit a lesser evil instead of the greater one which he planned, is not bound to make restitution, no matter whether the actual damage is done to the same or to an indefinite person. For example, if I advise X,

who is determined to set fire to my neighbor's house, rather to steal something, be it from the same neighbor or from another, I am not bound to make restitution; nor if Y is about to murder another for his money, and I advise him to obtain it by theft. In the former case the owner of the house could not reasonably object to my action, since I am preventing greater injury to his property; in the latter, I merely intend to prevent the commission of a greater by counselling a smaller crime.

[396] He who has given wicked counsel through gravely culpable ignorance is obliged to repair the damage resulting therefrom, if he is an official or expert (physician, lawyer, confessor, etc.) and his advice was asked as such, or if he merely posed as an expert, pretending a skill and knowledge which he did not possess.¹⁰ "Others who do not specially hold themselves out as experts will not be bound to compensate those who ask their advice and suffer loss through following it. No injury was done by giving them what they asked for, no fraud was committed by the assumption of skill or knowledge which was not possessed; if they chose to follow the advice, they took the risk on themselves, and: '*scienti et volenti non fit iniuria*.'"¹¹

¹⁰ Göpfert, *Moraltheol.*, Vol. II, pp. 287 sq.

¹¹ Slater, *A Manual of Moral Theol.*, Vol. I, p. 419.

c) A third way of co-operating in injustice is by giving one's consent (*consensus*) to an unjust action or voting for it. If the consent given is the *causa efficax* of the unjust action, it entails the duty of restitution, and if the *consentiens* is the sole author of the damage unjustly inflicted, he alone is bound to repair it, e. g., if he was aware of the formal injustice of the evil deed, while the perpetrator was not. If, however, the consent was merely the secondary cause of the unjust action, the *consentiens* is bound to make restitution only in case the principal agent cannot or will not do so. If the consent to an unjust action is given by vote, each member of the college or community thus voting, or culpably neglecting to register a protest, is responsible for the damage done, and consequently bound to make restitution *pro rata*, nay, eventually, *in solidum*, i. e., one for all and all for one. If the vote was taken publicly, he who knew that his vote could not possibly alter the result does not incur the moral obligation of making restitution, nor a legal obligation either, if he votes no, or appeals to higher authority, or refuses his co-operation. To submit to the decision of the majority without a protest would be tantamount to giving one's consent. If the decision is not irrevocable, he who has voted in favor of an unjust action can withdraw his consent and thereby escape the burden of restitution.¹²

¹² Gury, I, n. 688: "Solidarity, or the obligation of restoring in full, is a burden incumbent on several co-operators to repair the entire damage to the injured person. It is distinguished in two ways, namely: 1. Absolute, which occurs when one person is bound alone to repair the damage; 2. Conditional, by which the individual co-operators are bound to make restitution in place of the other individual co-operators who fail." —Lehmkuhl, *Casus Consc.*, I, n. 731 sqq.; Slater, I, 420 sq.

[398] d) One may become co-responsible for injury inflicted also by ridicule, praise, or flattery. As a rule, the duty of restitution thus incurred is subsidiary only, that is, it binds the co-operator only in case the principal agent refuses to repair the damage or loss inflicted; but it is primary if the co-operator actually intended the damage to be done, and by his praise or flattery impaired or destroyed the imputability of his tool. Slight befuddling of another by ordinary praise, flattery, or ridicule does not, as a rule, entail the duty of restitution. If the doer of the unjust deed is led by the praise given to him on account of his action to omit restitution, his seducer is obliged to attend to it.

e) Another way of sinful co-operation is that technically known as *recursus*, i. e., helping to perform an unjust act by furnishing protection, hiding tools, or concealing or selling the plunder, issuing false testimonials, etc. These actions entail the duty of restitution if they involve conscious or formal co-operation in the unjust deed and if they constitute a *conditio sine qua non* of its commission, so that without them the damage would not have been done, or could have been done only with great difficulty.

|³⁹⁹| Conscious co-operation is not assumed on the part of those who are lawfully engaged in trading with goods that are often sold by thieves and robbers, such as weapons, dynamite, poisons, etc.

The various kinds of *recursus* also involve a violation of charity, since by doing these things a man aids his fellowmen in committing sin instead of deterring them therefrom. The case is different when the aid or protection is purely material, and given after the commission of the unjust act, unless he who renders it is bound by his official position or by contract to report the guilty parties to the authorities.¹³

¹³ Gury, *Comp. Theol. Mor.*, Vol. I, n. 660; Aertnys, *Theol. Mor.*, Vol. I, 6th ed., l. III, n. 326 sq.

He who shelters a thief, hides his tools, or accepts or purchases from him stolen articles, thus encouraging him to new adventures of the same kind, is bound to make restitution. Innkeepers, pawnbrokers, and others who receive stolen goods or money from minors, or from servants or other suspicious persons in payment for goods, thereby foment thievery and are bound to make restitution, not only for the goods received, but likewise for the damage which they encourage others to do. Lawyers who undertake unjust lawsuits, and all who protect or warn thieves in their operations, are in the same category.

The following are not bound to make restitution:

|⁴⁰⁰| α) Those who shelter a thief to save him from punishment, shame or prison; for their purpose is to secure for him an object of a higher order. If the thief subsequently fails to make restitution, this injury is purely accidental. It is advisable, however, to admonish a thief whom one shelters to restore his ill-gotten goods.

β) Those who help an imprisoned thief to escape, in order to withdraw him from punishment, provided restitution of the stolen property is not thereby rendered impossible, and provided further that future thefts are not encouraged; γ) Those who shelter a thief for fear of serious damage to themselves, but not with the object or intention of enabling him to continue his operations; δ) Hosts and innkeepers who house a thief because it is their business to accommodate strangers; ε) Lawyers who defend a thief or other criminal in matters in which he cannot defend himself.¹⁴

¹⁴ F. A. Göpfert, *Moraltheologie*, Vol. II, 6th ed., pp. 282 sq.; Noldin, *Summa Theol. Mor.*, Vol. II, pp. 510 sqq.

f) He who helps another to perform an unjust action is a partner in injustice (*participans*). If he divides the spoils with the other (*participans in praeda*), he is obliged to restore his portion of the loot. If his participation in the crime is physical (*participans in actione damnosa sive in crimine*), he is bound to make restitution according to the measure of his co-operation, provided that co-operation was formally sinful and one of the causes of the crime. If participation was merely remote, and not *per se* sinful, or caused by threats of bodily injury or infamy, it does not entail the duty of restitution. If

there was a conspiracy, all the participants are bound to make restitution *in solidum*, i. e., one for all and all for one.¹⁵

¹⁵ Lehmkuhl, *Casus Consc.*, Vol. I, 3rd ed., n. 734 sqq.

| 401 | 2. The guilt of *indirect or negative co-operation in injustice* is incurred by any one who permits injury to be done to others, either by omitting to restrain the criminal by words (*mutus*), or in deed (*non obstands*), or by neglecting to report his conduct to the proper authorities (*non manifestans*). However, such negative co-operators are bound to restitution only if they were obliged to prevent the damage in justice, i. e., by their office or by contract (*ex officio vel ex contractu*). Parents are responsible for damage done by their young children or by domestic animals, because the presumption is that such damage is attributable to a lack of proper care or supervision. If they are not guilty of a moral fault, and the injury done is attributable to *force majeure* (*vis maior*) or to an accident (*casus*), they are bound to make restitution only after a civil court has decided against them.¹⁶

¹⁶ Noldin, *Summa Theol. Mor.*, II, 573 sq.

Servants are bound to prevent damage to the property of their masters; but they are not bound to make good any damage done by their fellow- servants, unless the damaged property had been entrusted to their special care or custody,¹⁷ and even in that case only if the master cannot obtain compensation from any other source.

¹⁷ Lehmkuhl, *Casus Consc.*, I, n. 737 sqq.

| 402 | Generally speaking, the duty of restitution arises from negative co-operation in an unjust action only when the non-prevention of damage was culpable, and the real author of the damage does not make proper compensation to the owner. Those who are obliged to prevent damage as a matter of charity only (*ex caritate*), are not bound to make restitution unless they helped to inflict the damage when it was in their power to prevent it. For example, he who accepts money from a thief as an inducement not to sound the alarm or to call in the police, or who effectively hinders some one bound *ex iustitia* to report the theft, is guilty of positive co-operation and therefore bound to restitution.

A confessor who, through gravely sinful neglect or gross ignorance, omits to remind a penitent of his duty to make restitution for damage unjustly inflicted, is not bound to make restitution instead of his penitent. He is bound *ex iustitia* to instruct his penitents properly and therefore commits a mortal sin, no matter whether the cause of his omission be ignorance or carelessness; but his silence is not a *causa efficax damni*, and hence does not entail restitution. If, however, the penitent directly asked the confessor whether he was obliged to make restitution, and the latter remained silent, he would have to make compensation himself, because his silence would then be the direct cause of the damage resulting to the injured party. He who is silent seems to consent if he is able to speak and it is his duty to speak.¹⁸ It goes without saying that a confessor who would release a penitent from the manifest duty of making restitution, would incur that duty himself. The same is true, *mutatis mutandis*, of a confessor who would compel a penitent not bound to restitution to repair damage for which he was responsible, for in both cases the confessor would be the positive and efficient cause of the damage inflicted.¹⁹

¹⁸ "He who is silent is deemed to consent, if he was able and ought to have spoken."

¹⁹ H. Noldin, S. J., *Summa Theol. Mor.*, Vol. II, pp. 514 sq.

^{| 403 |} **Readings.**—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., pp. 77 sqq.—J. P. Gury, *Comp. Theol. Mor.*, Vol. I, n. 631 sqq.—F. A. Göpfert, *Moraltheologie*, Vol. II, 6th ed., pp. 269 sqq.—H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 477–520.—T. Slater, S.J., *A Manual of Mor. Theol.*, Vol. I, pp. 408 sqq.—A. Tanquerey, *Synopsis Theol. Mor. et Past.*, Vol. III, pp. 202–234.

ARTICLE 3: THE CIRCUMSTANCES OF RESTITUTION

The circumstances of restitution are indicated in the questions: Who must make restitution? To whom must it be made? How much? How? In what order? In what manner? At what time? Where? They are briefly contained in the memorial verses:

^{| 404 |} *Quis? Quid restituet? Cui? Quantum? Quomodo?*

Quando?

Ordine? Quove loco? Quae causa excuset iniquum? 1. *Quis?* Who must make restitution? Every one who possesses unjustly acquired property or who has intentionally inflicted injury upon another.

When it is a question of unjustly acquired property (*res aliena*), the first one who is bound to make restitution is the actual possessor, if the object still exists, or else he who has consumed or sold it. The actual possessor has the right of recourse on previous possessors.

Where damage has been unjustly inflicted (*damnificatio*), the real author of the damage is bound to make restitution. If two or more co-operate in causing the damage without a previous agreement or mutual understanding, each is responsible for the injury he himself inflicts; if there is an agreement or mutual understanding, the duty of restitution binds one and all *in solidum*,¹ in the following order:

¹ “*Omnes et singuli in solidum tenentur.*”—Cfr. J. P. Gury, *Comp. Theol. Mor.*, Vol. I, n. 668–672.

If all the participants co-operated equally in causing the damage, all are equally bound to restitution; if the participation was unequal or subordinate, the duty of restitution binds unequally, in this order: first, the possessor in bad faith; secondly, the *mandans* and *consentiens*; third, the executor of the mandate, and, fourth, all who positively or negatively co-operated in the evil deed. If the possessor or the principal author of the damage has made full restitution, or if he has been released from the obligation of making restitution by the lawful owner, those who co-operated in the unjust deed are also released. If the former refuses or neglects to make restitution, the latter must do so, but has the right of recourse on the former. If one of the secondary participators in the injury is released from the duty of restitution, the others remain bound. “When it is uncertain which of several participators is the author of the damage done, all are responsible *in solidum*, because the party who has suffered the damage must not be robbed of his title to restitution on account of the existing uncertainty.”

^{| 405 |} As the duty of restitution to be made by several participators *in solidum* is not easily understood by uneducated persons, it is often necessary, even when the obligation is certain, to be satisfied with a partial restitution, because otherwise the injured party may receive nothing at all.²

² St. Alphonsus, *Theol. Mor.*, l. III, n. 579: “It should be noted, however, that the uneducated, even though bound *in solidum*, should rarely be obliged to the whole, since with difficulty can they persuade themselves that they are bound to restore the part taken away by their companions; indeed, it may reasonably be presumed that the owners themselves, to whom restitution is owed, consent that they restore only the part taken away by them, since otherwise it is greatly to be feared that nothing will be restored if they are obliged to the whole.” *Idem*, *Homo Apost.*, tr. X, n. 54; *Idem*, *Praxis Confess.*, n. 44.

| 406 | 2. *Quid et quantum?* What is to be restored and how much? The answer to this question, broadly speaking, is: Everything a man unjustly possesses must be restored to the rightful owner, and all damage unjustly inflicted upon another must be repaired. If restitution cannot be made in full, it should be made as fully as possible, even if the person obliged to make it has to limit his expenses to the necessities of life. He should further endeavor to advance the interests of his victim to the best of his ability, avert injury from his property and pray God to bless him.

In addition to material and temporary, spiritual damage must likewise be repaired. In cases where the positive law requires less than the law of conscience, he who is bound to make restitution should not be satisfied with complying with the demands of the law, and if the law imposes more onerous duties than conscience, he must comply with the former, at least after judgment has been rendered in court (*post iudicis sententiam*). Note, however, that when a judicial sentence imposes more than the moral law of nature requires, the party entitled to restitution should not insist on the plus, especially if the other party is poor.³

³ Noldin, II, pp. 520 sqq.; Tanqueray, III, pp. 234 sqq.; Slater, I, pp. 426 sqq.

3. *Cui vel quibus?* To whom should restitution be made?

a) Restitution should be made to the lawful owner of the stolen property, no matter whether he be an individual or a community, *e. g.*, the State or a corporation. After the death of the person entitled to restitution his claim passes to his heirs or, if the stolen property has been left to some one as a legacy, to the legatee. Briefly, restitution must be made to him who is the certain and known owner of the property,⁴ and this holds even if the possessor has come into possession of the property at third or fourth hand. Thus if one has taken a stolen object from a thief, he must restore it, not to the thief, but to the legitimate owner. This duty binds even if the object is purchased and the purchaser runs the risk of losing the purchase price by giving the stolen article back to its owner. The reason is that the lawful owner retains the right in his property (*“res clamat ad dominum”*).

⁴ *“Restituendum est domino certo et noto.”* Cfr. Noldin, II, pp. 520 sqq.

| 407 | b) If the owner is unknown (*dominus incertus*), careful inquiry (*debita diligentia*) must be made to find him. This inquiry must comply with the prescriptions of the positive law or else with custom. If the owner cannot be identified, the one who possesses the object in good faith may retain it, though under certain conditions it may be more advisable to give the property to the poor or to use it for charitable purposes.⁵

⁵ Numb. V, 7 sq.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 62, art. 5, ad 3.—Cfr. St. Alphonsus, *Theologia Moralis*, I. III, n. 580: “The question is asked: if the property, after due diligence has been employed to find the owner, has been handed over to the poor and afterwards the owner appears, whether it must be restored to him. . . . When, all the circumstances having been considered, it is no longer possible for the owner to be found, then the poor person acquires absolute ownership of the thing without any burden of restitution; but when, even after diligence, there still remains some hope of finding the owner of the thing, then the poor person does not acquire ownership of it and therefore ought to preserve it for the owner and restore it to him if he appears.” (Ed. Gaudé, II, 78).—Noldin, *Summa Theol. Mor.*, Vol. II, pp. 522 sqq.

| 408 | He who possesses a stolen object in bad faith, may not keep it, but should devote it to a pious cause or to the public welfare. If he is poor himself, he may keep a *res incerta*, which ought to be given to the poor, and thus release himself from the duty of restitution, even if this duty arose out of an unjust act. When doubt exists as to who is the rightful owner of a stolen object, this doubt may

extend to a few (say, three or four) persons, or to many. In the former case the property must be restored *pro rata* to the presumptive owners, unless they agree to some other mode of restitution; in the latter case, *e. g.*, where one has committed a number of petty thefts by using false weights or measures, restitution can be made to the poor or to some charitable institution, but not by temporarily giving better measure or by lowering the price of goods unless the patronage remains about the same, for in this supposition the injured parties could easily be remunerated by this simple device.

[409] c) When restitution has to be made to fire insurance companies, the case is generally one of *dominus incertus*. Dr. Göpfert lays down the following rules for such cases:

If one has set fire to his own or somebody else's property, he must make restitution of the insurance received, as follows: (1) If the money was received from a State insurance institution, supported from the public treasury, and the loss affects the whole community rather than the institution itself, restitution may be made to the poor or to some public institution; (2) if the money came from a private insurance company, restitution should be made to that company's treasury. When it is certain, however, that the money will not go to the real owners (for instance, because it will be embezzled), it may be turned over to the poor or to some pious cause or charity unless the danger of embezzlement can be obviated by other means. As insurance companies often reinsure their risks, up to eighty or ninety per cent., with other companies, it may be uncertain who actually suffered the loss and to how much it amounts. Some hold that these companies really suffer no injury at all, since they fix their premiums according to all the risks incurred, including fraud as well as fire. Hence the real sufferers are the insured property-owners, but as these, on account of their large number, would receive only a very small sum each if restitution were made to them, a charitable cause may be substituted.⁶

⁶ Göpfert, *Moraltheol.*, Vol. II, pp. 209 sq.; cfr. Noldin, II, pp. 530 sq.

d) In regard to debts arising from a written or an oral contract, *e. g.*, deposits or loans, if the creditor and his heirs cannot be ascertained, there is no obligation to donate the money to the poor or *ad pias causas*, since it is justly regarded as ownerless property under the natural law.

[410] If one is bound to make restitution to two or more persons, but cannot pay them all, he must satisfy their claims in the order of their importance. Hence compensation must first be made to those who have a *ius reale*, *i. e.*, a right to the property in question, even if the others get nothing. Second in line are those to whom the debtor owes something *ex titulo oneroso* or *ex delicto*, *e. g.*, by contract or in consequence of fraud or usury. Among the debts *ex titulo oneroso* the first to be paid are the *debita privilegiata*, *i. e.*, court fees, expenses incurred for food and lodging, the wages of servants and working-men, etc. They take precedence even over the *debita ex delicto*. Finally, certain debts (*debita certa*) take precedence of uncertain debts (*incerta*). Uncertain debts are those payable to persons whose identity is not fully established. Debts secured by pawns or mortgages precede those not so secured.⁷

⁷ *Reg. Iur. in VI^o Decr. Bonif. VIII*, n. 54: "*Qui prior est tempore, potior est iure.*"—Cfr. H. Busembaum, *Medulla Theol. Mor.*, I, III, tr. 5, c. 2, dub. 7, a. 2, n. 2: "If restitution is to be made by reason of an unjust action, certain debts—that is, those whose owners are known—must be restored before uncertain ones, because the former are owed to their owners by natural law, whereas the latter are owed to the poor by positive law alone." Cfr. Noldin, II, pp. 524 sqq.

If several creditors have equal claims, they must be satisfied equally. If the property has passed into the hands of a receiver, those obliged to make restitution should pay, not the receiver, but the creditors, unless the civil law provides otherwise.

4. *Quando?* When must restitution be made? This question is solved by St. Thomas as follows: “As it is a sin against justice to take another’s property, so also it is to withhold it, since to withhold the property of another against the owner’s will is to deprive him of the use of what belongs to him, and to do him an injury. Now it is clearly wrong to remain in sin even for a short time, and one is bound to renounce one’s sin at once, according to Ecclus. XXI, 2: ‘Flee from sin as from the face of a serpent.’ Consequently one is bound to immediate restitution, if possible, or to ask for a respite from the person who is empowered to grant the use of the thing.”⁸ And again: “Although the precept which enjoins the making of restitution is affirmative in form, it implies a negative precept, forbidding us to withhold another’s property.”⁹

⁸ *Summa Theol.*, 2a 2ae, qu. 62, art. 8: “As it is a sin against justice to take another’s property, so also it is to withhold it, because by the fact that one withholds another’s property against the owner’s will, one prevents him from the use of his own property and thus does him an injury. But it is clear that it is not lawful to remain in sin even for a short time, but every one is bound to abandon sin at once according to the saying: Flee from sin as from the face of a serpent (Eccli. xxi, 2). And therefore every one is bound to restore at once, if he can, or to seek a delay from him who can grant the use of the thing.”

⁹ *Ibid.*, ad 1: “The precept of making restitution, although affirmative according to its form, nevertheless implies in itself a negative precept, by which we are forbidden to withhold another’s property.”—Noldin, II, pp. 531.

[⁴¹¹] Restitution, therefore, must be made at the first opportunity that presents itself, if it can be done without serious inconvenience (*sine gravi incommodo*); at least one must be sincerely resolved to make restitution as soon as possible (*quamprimum*.) This duty not only binds the possessor in bad faith, but he who is in good faith must likewise make restitution to the lawful owner as soon as he perceives that property which he has in his possession belongs to another.

[⁴¹²] To resolve not to make restitution, or willfully to postpone it, is a new sin, and any additional damage or loss that results to the owner from such postponement, if intended or foreseen, involves a further duty of restitution. If the postponement is caused by real want, fear of scandal or infamy, or dread of losing one’s financial status under the law, it is excusable, provided the creditor is not in dire need. In every case the debtor must be ready to reduce his living expenses as much as possible in order to be enabled to make restitution.

If restitution has to be made in consequence of a formal act of injustice, but is postponed for sufficient reasons, any loss or damage resulting from the delay must also be made good, unless the creditor himself might easily have prevented it, but knowingly and willingly omitted to take the proper precautions.

In the case of contractual debts the debtor is not liable for damage that arises to the creditor if the payment of the debt is delayed without any fault of his.

5. *Ubi?* In determining the place where restitution should be made, it is necessary to distinguish between him who possesses the property of another in good faith and him who possesses it in bad faith.

a) The possessor in good faith must make restitution “*ibi, ubi est res*,” that is, he is bound to notify the owner that the property is in his possession and will be surrendered to him at his own cost or risk. The cost and risk of transfer, therefore, fall upon the owner, for, “*Casum sentit dominus*,” or “*Quod casu perit, domino perit*.” The possessor who is in good faith satisfies his obligation if he hands the property over to a reliable agent for delivery to the lawful owner.

|⁴¹³| b) He who in bad faith possesses property belonging to another as well as he who has injured another unjustly, must make restitution “*ibi, ubi est dominus*,” that is to say, he must return the property to the place where it would be if he had not taken, damaged, or unjustly retained it. This duty binds until the property has been restored to its rightful owner. The *possessor malae fidei* has, moreover, to bear the cost of transportation, unless the owner himself has designated the manner of its return, or expressly left it to the choice of the debtor, and the latter chose a common and safe carrier, or the matter has been attended to by a court of justice.

The question whether the *possessor malae fidei* would be responsible for the cost of transportation in case it exceeded the value of the property itself, has become futile under modern conditions, where transportation is both cheap and safe.¹⁰

¹⁰ Cfr. St. Alphonsus, *Theol. Mor.*, I. III, n. 597 sq. (ed. Gaudé, II, 82 sqq.); *Idem, Homo Apostolicus* n. 65.

6. *Quomodo?* In what manner should restitution be made? He who cannot restore the whole of what he owes to another, must restore as much of it as he is able. Restitution need not *per se* be public, for the *restituens* may and must protect his good name or reputation. Only if the injury inflicted was notorious and resulted in public scandal, must restitution be made publicly, in order that not only the damage, but also the scandal, may be repaired.

|⁴¹⁴| a) Restitution need not be made in person, but through any reliable agent, *e. g.*, the confessor, who in such cases must take due precautions that the seal of the confessional is not endangered. If the confessor feels that he would draw suspicion on himself by serving as agent, he need not assume the task.

If the unjust possessor cannot restore the stolen object in kind without danger to his good name, he may return an equivalent, but is bound to make compensation for any loss that may result to the owner from the fact that he does not receive back the stolen property *in individuo*.

If the stolen property cannot be restored to the owner *sub titulo restitutionis* and without disclosing the identity of the thief, the form of a gift or present may be chosen. In that case, if the donee makes a present in return, this may not be accepted if the principal motive for making it was to make a return for the present received, but it may be retained if the receiving of the present was the occasion rather than the cause of the return being made.¹¹

¹¹ Slater, *A Manual of Moral Theology*, Vol. I, p. 435.

Restitution may, finally, be made *creditori creditoris*, that is to say, by paying a debt owed to a third party by the creditor, provided it is of equal amount, and the creditor is reliably informed of the payment made.

|⁴¹⁵| A declaration of *bankruptcy* does not excuse the debtor from paying his creditors, if he becomes able to do so later, for the assignment of his property for the benefit of his creditors (*cessio bonorum*) merely assures him the protection of the law and a temporary respite.

In making restitution care should always be taken that it is not done in such a way as to bring suspicion upon an innocent third party.

b) If the *confessor* undertakes the task of making restitution for a penitent, he should see to it:

a) That the seal of confession is kept inviolate. The theory that a penitent, in commissioning the confessor to make restitution in his name, thereby relinquishes his right to have the matter kept secret, is untenable. Hence the confessor must appoint another to make the restitution or divide the sum to be repaid into installments if he has reason to fear that the real author may otherwise be discovered.

β) That the party to whom restitution is made gives a receipt for the article or sum of money restored, and that this receipt is handed to the person making the restitution.

γ) That, if the person to whom restitution is due, cannot be found, the sum involved be given to the poor.

If the rightful owner refuses to accept the restitution offered, the money reverts to the penitent. If the latter cannot be found, the confessor may keep the money,¹² but is advised to donate it to some charitable cause.

¹² Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., 177 sqq.; St. Alphonsus, *Theol. Mor.*, l. III, n. 696 sqq. (ed. Gaudé, II, 161 sqq.); Lehmkühl, *Theol. Mor.*, Vol. I, 11th ed., n. 1228–1238.

Readings.—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., n. 129 sqq.—St. Alphonsus, *Theol. Mor.*, l. III, n. 579 sqq., 676 sqq. (ed. Gaudé, II, 71 sqq., 151 sqq.).—J. E. Pruner, *Lehre vom Recht*, Vol. II, pp. 50 sqq.—F. Lorinser, *Die Lehre von der Verwaltung des hl. Buszsakramentes*, 2nd ed., pp. 271 sqq.—F. A. Göpfert, *Moraltheologie*, Vol. II, 6th ed., pp. 289 sqq.—A. Tanquerey, *Synopsis Theol. Mor. et Past.*, Vol. III, pp. 234 sqq.—T. Slater, S.J., *A Manual of Mor. Theol.*, Vol. I, pp. 424 sqq.

ARTICLE 4: CAUSES WHICH EXCUSE FROM RESTITUTION

[416] The obligation of making restitution ceases absolutely and for ever the moment it has been certainly and completely fulfilled. When it is doubtful whether or not restitution has actually been made, it may be presumed in cases where the debtor is in the habit of meeting his obligations promptly and can adduce in his favor reasons which render it very probable that he has made the required compensation.

Though the duty of making restitution for goods unjustly acquired, or damage unjustly inflicted, is a most important one, yet there may be reasons (*causae*) which excuse one from complying with it, for, as the theologians say, “Restitution is not necessary as a means of salvation.”¹ These causes either excuse the debtor from making restitution for ever (*omnino sive in perpetuum*), in which case there is an *excusatio plena*, which completely extinguishes the obligation; or they excuse him only for a time (*ad tempus*), in which case the obligation is merely suspended. Causes of the latter kind are known as *suspensiones*.²

¹ “*Restitutio non est necessaria ad salutem necessitate medii.*”

² Cfr. Elbel-Bierbaum, *Theol. Mor.*, Vol. II, 3rd ed., p. 6, n. 324, where ten such causes are given.—Lehmkühl (*Theol. Mor.*, Vol. I, pp. 705 sqq.), following Reuter (*Theol. Mor.*, P. III, n. 351 sqq.), enumerates fourteen (cfr. Reuter-Lehmkühl, *Neo-Confessarius*, n. 233).

|⁴¹⁷| 1. The chief causes which excuse from restitution for ever are: (a) Remission or condonation on the part of the rightful owner of the property involved; (b) legal prescription; (c) compensation; (d) entry of the debtor into an approved religious institute, and (e) a papal dispensation.

a) *Remission or condonation (remissio sive condonatio)* supposes that the rightful owner is able and willing to give up his claim to restitution, *i. e.*, that he has power and dominion over the property involved and has not been forced to relinquish his claim by fear or violence. Children, wards, administrators, and religious, cannot validly remit or condone a claim to restitution without the consent of their parents, guardians, or superiors, respectively.

Equivalent to free remission or condonation, according to the common teaching of theologians, is the certain presumption that the owner does not insist on restitution nor expects it to be made (*certo praesumpta voluntas domini*), even though he has not expressly said so.³ This presumption (which must be based on solid grounds) may be reasonably invoked in favor of minors, husbands and wives, brothers and sisters, and other relations, and also in favor of servants, when the amount involved is small; for in all these cases it is reasonable to assume that the owner, if requested, would readily grant the desired condonation.⁴

³ Scavini-Del Vecchio, *Theologia Mor. Univ.*, Vol. II, 5th ed., n. 298 (p. 211): “Tacit remission also has force, for according to the rule of law, ‘tacit and express consent have nearly the same force and condition.’ Indeed, even a certainly presumed remission has force, as theologians quite commonly teach with the Angelic Doctor: For what fraud does he commit who thinks that the owner would have consented? Hence an owner dismissing a servant for petty thefts is deemed to remit to him the whole obligation, because he asks nothing.”—Cfr. St. Alphonsus, *Theol. Mor.*, l. III, n. 700 (ed. Gaudé, II, 164).

⁴ Noldin, *Summa Theol. Mor.*, Vol. II, pp. 534 sq.

|⁴¹⁸| b) *Legal prescription (praescriptio)* or *usucapio*, that is, continued exercise of the right of ownership for a certain definite time, also excuses from restitution, under the usual conditions, but may be claimed only by those who are in good faith, not by those who possess property in bad faith or doubtfully.⁵

⁵ “*Possessor malae fidei ullo tempore non praescribit.*”—(Reg. Iur. in VT° Decr. Bonif. VIII, n. 2).

c) *Occult compensation (compensatio occulta)* consists in covertly taking one’s own from another, who unjustly holds it, or in inflicting upon that other an injury equal to the value of the object claimed.⁶ Occult compensation is allowable in conscience on four conditions:

⁶ V. *supra*, pp. 366 sq.

a) The debt must be morally certain. If I have only a probable right, I may have recourse to the law to have the question decided, but with nothing more than probability on my side, I must not deprive another of what he possesses with a probable right on his side. In such a case, “*melior est conditio possidentis.*”

|⁴¹⁹| β) There must be a difficulty in vindicating my right by the ordinary legal process. Public order and peace require that I should not take the law into my own hands. Even though there be no fear of a breach of peace from occult compensation, yet no man is a safe judge in his own case.

γ) I must not secretly take what belongs to me when there is likelihood that I may be paid in the long run; for by so doing I should wrong my debtor.

δ) Compensation must, as far as possible, be made in the same kind of property. The debtor must not be forced to barter or sell his property against his will.⁷

⁷ Slater, *A Manual of Moral Theology*, Vol. I, pp. 452 sq.; cfr. Noldin, II, pp. 453 sq.

Of these conditions the first is the most important; but all should be loyally and conscientiously observed in those special cases where recourse is had to occult compensation.

The fact of occult compensation being established, no further restitution need be made.

d) Profession in an approved order or congregation (*professio religiosa*), which implies a renunciation of all property rights, excuses from restitution only if the creditors are not injured, or the debtor is absolutely insolvent, so that his creditors expect nothing from him. If he can make restitution by postponing his entrance into religion, the more reasonable and safe course will be to satisfy his creditors before he bids adieu to the world. The Code of Canon Law prescribes that those who “are burdened with debts which they are unable to discharge” may not licitly be admitted as novices in any religious order or congregation.⁸ This holds even though the order or congregation is willing to pay his debts. For, as Fr. Augustine observes, “such an offer would imply alienation of the goods of the order, which is not permitted.”⁹

⁸ C. I. C., can. 542, 2°.

⁹ Charles Augustine, O. S. B., *A Commentary on the New Code of Canon Law*, Vol. III, p. 213. Cfr. Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., 190 sqq.; Elbel-Bierbaum, *Theol. Mor.*, Vol. II, 3rd ed., p. 6, n. 335, 342 sqq.; Lehmkuhl, *Theol. Mor.*, Vol. I, p. 705.

| 420 | e) A *papal dispensation (compositio pontificia)* can be applied only to cases where restitution may be made *ad pias causas*, hence only to uncertain obligations when the owner cannot be ascertained, and to restitution which has to be made to the Church in obedience to ecclesiastical laws; also to ecclesiastical goods and revenues, for instance, where a cleric has to make compensation for having unjustly held a benefice or having neglected to say his Breviary. In all these cases it must be shown (a) that the injustice was not committed in view of the dispensation to be obtained, and (b) that full restitution is impossible. Whenever the rightful owner is known, the Pope cannot remit the duty of making restitution to him because he has no direct dominion over the property of others.¹⁰

¹⁰ J. E. Pruner, *Lehre vom Recht*, Vol. II, p. 79; *Idem*, *Kath. Moraltheologie*, Vol. II, 3rd ed., p. 221; cfr. Lehmkuhl, *Casus Consc.*, Vol. I, 3rd ed., 783 sqq.; Göpfert, *Moraltheol.*, Vol. I, 6th ed., pp. 296 sqq.

| 421 | 2. A temporary postponement is justified by *physical and moral inability to make restitution* and by *bankruptcy*.

a) *Physical (impotentia physica vel absoluta)*¹¹ as well as moral inability to make restitution constitute a valid excuse as long as they last, for no one can be held to do what is beyond his power.¹² Moral incapacity (*impotentia moralis*) exists when a man cannot make restitution without impairing goods of a higher order, such as life, health, honor or good name, or without exposing himself and those dependent upon him to severe want or to destroy his entire honestly acquired fortune.¹³ It is assumed, of course, that the rightful owner is not exposed to the same danger if restitution is not made, for “*melior est conditio innocentis quam nocentis*.” When there is real incapacity to make restitution, a third person (for instance, the confessor) may intercede with the creditor to obtain a remission or postponement. Whoever is incapable of making restitution must be willing to do so in case he becomes able, make every reasonable effort and actually do his duty as soon as he can.

¹¹ Cfr. Gury, *Comp. Theol. Mor.*, Vol. I, n. 687: “Physical impotence, or impossibility of every kind, which is present in extreme necessity, and indeed even in very grave necessity, whether of the debtor himself or of his own, that is, of his wife and nearest blood relatives.”—Cfr. Noldin, II, pp. 535 sq.

¹² *Reg. Iur. in VI^o Decr. Bonifat.* VIII, n. 6: “No one can be obliged to the impossible.”—C. 5, X *de usuris*, V, 19: “Those who do not have the means from which they could restore usury must not be punished by any penalty, since the mark of poverty excuses them.”—Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 62, art. 8, ad 2: “When some one cannot restore at once, the impotence itself absolves him from making restitution immediately, just as he is also absolved entirely from restitution if he is wholly impotent; nevertheless he ought to seek remission or delay from him to whom he owes, either by himself or through another.”

¹³ Gury, *Comp. Theol. Mor.*, Vol. I, n. 687: “Moral impotence, or a grave difficulty of restoring, that is, if restitution cannot be made without grave inconvenience to the debtor, *e. g.*, if by restoring he would have to fall notably from his justly acquired station or fall into grave necessity, etc. The reason is that then there is a true impossibility of restoring; for in morals that is called impossible which is very difficult and which cannot be done fittingly and honorably.”—Cfr. Elbel-Bierbaum, *Theol. Mor.*, Vol. II, 3rd ed., P. VI, n. 197 sq., 336 sqq.; Lehmkuhl, *Casus Consc.*, Vol. I, 3rd ed., n. 769 sq.

|⁴²²| b) *Bankruptcy (concursum creditorum)* is a judicial proceeding by which a person, who has been legally ascertained to be insolvent, is adjudged to be discharged from his indebtedness upon surrender of his property (*cessio bonorum*) for *pro rata* distribution among his creditors.

Bankruptcy may be voluntary or forced. It is voluntary (*cessio bonorum voluntaria*) if freely accepted by the creditors of the bankrupt man or firm; it is forced if they are compelled to accept it by a decree of court. Voluntary bankruptcy¹⁴ is really nothing more than a sort of mutual agreement between debtor and creditors.

¹⁴ In the U. S. a corporation, a minor, or an insane person cannot become a voluntary bankrupt under the Federal Bankruptcy Act of 1898, which superseded the various State insolvency laws till then in force.

If the debtor is incapable of meeting the demands of his creditors, he may either cede to them his property voluntarily for the satisfaction of their claims, or wait till he is compelled to do so by the courts, but in either case he remains bound in conscience to make good the deficiency as soon as his financial condition permits, unless the creditors release him from this obligation.

|⁴²³| He who gives up his property to satisfy his creditors, may retain as much of it as he needs to support himself and his family in accordance with their station in life. The fraudulent concealment or removal of valuable objects, or any notable preference shown to particular creditors is punishable under the civil law and a mortal sin.

If a bankruptcy is fraudulent, it entails the duty of complete restitution. If it is the result of culpable carelessness, the debtor is bound to make restitution to his creditors to the best of his ability. If there is no guilt involved, this obligation does not bind unless and until the debtor again becomes prosperous and has an income exceeding the requirements of his station in life.

When one is in doubt whether or not he has paid his debts, he is obliged to pay. For a certain demand of justice cannot be satisfied by an uncertain payment, because commutative justice demands equality (*aequalitas rei ad rem*). Most authors declare the debtor to be free from all obligation, provided the uncertainty is not the result of his own negligence. The assertion that the *aequalitas rei ad rem* demands that to a certain debt there must correspond a certain payment, proves nothing because the equality would again be destroyed by the fact that the debtor might run the risk of paying the debt

twice. It is equally false to argue that under such conditions a man is bound to pay the debt twice, because the doubt in his mind is the result of his own carelessness.¹⁵

¹⁵ Lehmkuhl, *Casus Consc.*, Vol. I, 3rd ed., n. 754–759, 775–778.—Göpfert, *Moraltheologie*, Vol. II, 7th ed., p. 300.—The American bankruptcy legislation and practice are well summarized by Dr. Albert Sidney Bolles in *Putnam's Handy Law Book for the Layman*, New York, 1921, pp. 31–38, to which we refer the student. A general assignment for the benefit of creditors is an act of bankruptcy. A petition for the appointment of a receiver is not. The U. S. district courts in the several States are courts of bankruptcy and have power to adjudge bankrupt those who have their principal place of business, residence, and domicile within their respective districts, and they have power also over those who have property within their jurisdiction.

| 424 | Is a bankrupt who has obtained his discharge after paying his debts in part only, bound to pay in full if he subsequently becomes able to do so? If the creditors have expressly released him from all further obligations, it is evident that he need not pay the balance of his indebtedness. But if they have not so released him, the question is plainly reduced to one of fact, namely, what is the civil law on the point, and what is its effect? In this country several theologians have held that a discharge in bankruptcy does not in conscience free the debtor from liability to pay his debtors in full, if he subsequently becomes able to do so, whereas others (Marc, Kenrick) regard the contrary as a probable opinion. Fr. Slater thinks that “in the United States one who cannot pay his creditors in full must make up the deficiency afterwards if he can, whether he makes a composition with his creditors or goes into the bankruptcy court.”¹⁶ Sabetti-Barrett say that, in view of the clause in the Federal Bankruptcy Act of 1898, that “a discharge in bankruptcy shall release a bankrupt from all of his provable debts, except such as are due to a tax levied by the United States,” and since there is nothing in the wording of the act itself to prove that the discharge should be limited to a mere denial of legal action for the balance of the debt, it is safe to hold, with Father Martin, S.J.,¹⁷ that there is no obligation to pay the residue of the debt, and even if the confessor should hold the opposite opinion as probable, he has no right to impose it upon his bankrupt penitent, but is rather bound to allow him the benefit of the probability.¹⁸ All of which, of course, supposes that the bankruptcy was not fraudulent.

¹⁶ T. Slater, S. J., *Questions of Moral Theology*, p. 190.

¹⁷ In his American notes to Slater's *Manual of Moral Theol.*, Vol. I, pp. 438–451.

¹⁸ Sabetti-Barrett, *Comp. Theol. Mor.*, 27th ed., p. 408.—Cfr. J. O'Mahony, “The Bankruptcy Laws and Conscience,” *Irish Theol. Quarterly*, Vol. II (1907), No. 7.

| 425 | **Readings.**—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., 177 sqq.—St. Alphonsus, *Theol. Mor.*, l. III, n. 696–706 (ed. Gaudé, II, 161 sqq.).—A. Lehmkuhl, S. J., *Theol. Mor.*, Vol. I, pp. 705–712.—H. Noldin, *Summa Theol. Mor.*, Vol. II, pp. 533–541; 452–455.—A. Tanquerey, *Synopsis Theol. Mor. et Past.*, Vol. III, pp. 253–258.—J. B. Ferreres, *Comp. Theol. Mor.*, Vol. I, pp. 560–564.—T. Slater, *A Manual of Moral Theol.*, Vol. I, pp. 437–452.

B. RESTITUTION IN PARTICULAR

ARTICLE 1: RESTITUTION FOR DAMAGE CAUSED TO LIFE AND LIMB

Injury done to the life or health of another entails the duty of restitution if the injured party, or in case of death his heirs, have sustained a definite and provable material loss. The wrong-doer is liable for all the damage done by his criminal act, whether mediately or immediately, if it was expressly

intended, or was or could have been foreseen, including physicians' fees, hospital expenses, wages or salary lost, a certain amount of smart-money if such is provided for by the civil law, the expenses caused to others by the support of an incapacitated person, and the loss suffered by husband, wife, parents, children, or heirs (*lucrum cessans, damnum emergens*). The heirs of the victim, if he has been killed, have a just claim to be indemnified for whatever he would have been strictly obliged to furnish according to law and what he could have done at the time of his death.¹ Extraordinary funeral expenses must be compensated, for instance, if the slain person was killed away from home and the corpse has to be sent a long distance to be buried in the family tomb. Restitution must also be made to the creditors whom the dead man left unsatisfied, if the killing was the immediate cause of his inability to pay them.²

¹ Gury, Vol. I, n. 695–698.

² Busembaum, *Medulla Theol. Mor.*, l. III, tr. 5, c. 2, dub. 6, a. 3, n. 7: "Nothing is restored for funeral expenses, because they would at some time eventually have had to be incurred, unless perhaps they had to be greater on account of the killing inflicted, e. g., outside one's native country."—*Ibid.*, n. 12: "Although it is probable that restitution is also owed to the creditors of the slain person if some damage came to them from that killing, nevertheless the contrary is also probable . . . since the killing is not directly causative of that damage."

|426| The duty of restitution binds the slayer even if he was in error concerning the identity of the person slain,³ but does not extend to unforeseeable consequences of his act.

³ *Idem, ibid.*, n. 2: "He who kills Caius thinking him to be Titus is bound to restitution, because that action is injurious to Caius."—Cfr. St. Alphonsus, *Theol. Mor.*, l. III, n. 628: "Others deny it, because the homicide in relation to Caius is merely accidental and involuntary." (Ed. Gaudé, II, 106).

|427| Injury inflicted in a duel does not entail restitution because there is implied no violation of commutative justice, unless one party was either by force or grave threats compelled by the other to fight, and hence deprived of his liberty.⁴

⁴ Cfr. Lehmkuhl, *Theol. Mor.*, Vol. I, pp. 677 sq.

The judicial condemnation of an innocent man entails restitution on the part of the real culprit only if the latter was the efficient cause in directing suspicion to the former.⁵

⁵ Schwane, *Die Gerechtigkeit*, p. 113, note 2: "Caius is planning to kill his friend Titus and while waiting for a favorable opportunity, hears of a public quarrel between Titus and Sempronius, in the course of which the latter declared that he would take the former's life. Thereupon he (Caius) kills Titus secretly. The suspicion falls on Sempronius, who is arrested and executed for the crime. Caius is obliged to make restitution to the wife and children of Titus as well as to those of Sempronius."

To make compensation for *industrial accidents* in dangerous occupations (e. g., in mines or factories, or on railroads) is not a strict duty of justice, but merely one of equity, unless real guilt has been incurred.

The development of modern machinery has created new problems. In most cases of industrial accidents no single individual can be definitely blamed. The cause lies rather in the manner in which modern industry is organized and the danger involved in tending to machines. This danger can be reduced by caution on the part of the worker, by various safety appliances, legal precautions, and technical improvements, but it can never be wholly eliminated on account of the imperfection of human nature and especially because of the occasional interference of a higher power (*vis maior*) and accidents (*casus*). In indemnifying the victims of accidents, therefore, it is not enough to look to

personal guilt (*culpa*), but a higher principle must be invoked, namely, causal connection. Now since industry as a whole, because of its peculiar character, is the ultimate cause of all industrial accidents, it is bound to make restitution to the injured *in solidum*. In consequence of the new social and political views, which are in conformity with social justice, provision against industrial accidents is now commonly made by *accident insurance*, either public or private,—if private, at the expense of the employer.⁶

⁶ Msgr. H. Parkinson, *A Primer of Social Science*, p. 250; J. Biederlack, S. J., *Die soziale Frage*, 7th ed., pp. 237 sqq.

|⁴²⁸| Bodily mistreatment or injury which involve loss of the reproductive power are punished with special severity by the civil law, and in many cases are very serious indeed because they affect several persons.

Reading.—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., 889 sqq.—St. Alphonsus, *Theol. Mor.*, l. III, n. 626–639. (ed. Gaudé, II, 105 sqq.).—J. E. Pruner, *Lehre vom Recht*, Vol. II, pp. 148 sqq.—*Idem*, *Kath. Moraltheologie*, Vol. I, 3rd ed., pp. 538 sqq.—H. Noldin, S. J., *Summa Theol. Mor.*, Vol. II, pp. 490 sqq.—A. Tanquerey, S. S., *Synopsis Theol. Mor. et Past.*, Vol. III, pp. 239 sqq.—A. Lehmkühl, S. J., *Theol. Mor.*, Vol. I, pp. 675 sqq.

ARTICLE 2: THE DUTY OF RESTITUTION ARISING FROM BROKEN MATRIMONIAL ENGAGEMENTS

|⁴²⁹| Under the new Code of Canon Law a promise of marriage, made by one party or by both, is valid in the court of conscience as well as in the external forum only if made in writing and signed by the parties themselves and by the parish priest, the Ordinary of the diocese, or at least two witnesses.¹

¹ C. I. C., can. 1017, §1.

Such a promise (*sponsalia*), if mutual, imposes on both parties the grave obligation of mutual fidelity and eventual marriage. The time for the latter is left to their own prudent judgment, but it should not be unreasonably protracted.²

² P. Chas. Augustine, O. S. B., *A Commentary on the New Code of Canon Law*, Vol. V, p. 43, St. Louis 1920.

If one of the betrothed parties has carnal intercourse with a third person during the engagement, this act, according to some moralists, involves a sin against justice and therefore entails the duty of restitution. However, not a few contradict this statement.³

³ *Ibid.*

§ 3 of Canon 1017 provides that from a promise of marriage, even though it be canonically valid and no just reason excuses, no action is admissible to compel the celebration of marriage, but an action to recover damages is permitted. This means that if actual damage was done, *e. g.*, if the bride became pregnant, or if expensive preparations were made for the marriage, the party guilty of the breach of promise is liable for an amount sufficient to cover the damage inflicted or the expenses incurred.⁴

⁴ *Ibid.*, p. 44.

|⁴³⁰| These effects follow only such betrothals as are made in the form prescribed by the Code. “No other form of engagement, no matter how pompously celebrated, produces any of these effects, either before the tribunal of the ecclesiastical judge or in the court of conscience. Hence confessors have no

right to oblige anyone to any restitution arising from a broken informal engagement, though it goes without saying that a young man who has injured a woman's reputation by undue familiarity is bound in conscience to make restitution, or if no remedy can heal the damage, marry her. This obligation arises not from the betrothal but from the natural law."⁵

⁵ *Ibid.*, pp. 44 sq.

A matrimonial engagement may be justly *cancelled* for valid personal reasons, for instance, (a) if one of the parties absents himself from the other for a long time without giving notice; (b) if the moral character of one of the parties has considerably deteriorated, *e. g.*, if the man has become a spendthrift or a roué, or has to face an accusation in a criminal court; (c) if a notable physical or mental change has taken place in either or both of the parties, such as mental derangement; (d) if a change of fortune or social condition has occurred on one side. This would be a reason for breaking the engagement by either, but an indemnity should be paid where an engagement is broken on account of an unexpected social or financial rise. Finally, (e) family reasons may render the dissolution of an engagement advisable, *e. g.*, if serious enmity, hatred, dissension, or aversion are apt to result from the contemplated marriage, or there is strong parental opposition and danger of being disinherited.⁶

⁶ *Ibid.*, pp. 48 sq.

[431] Justice obliges each party to a marriage engagement to acquaint the other with any defects which would probably prove very injurious in case the marriage took place, for instance, pregnancy, contagious disease, etc.⁷

⁷ *Ibid.*, p. 49.

He who breaks a marriage engagement contracted in canonical form, or conceals a valid reason militating against the marriage, or creates such through his own fault, is bound to repair the injury thereby inflicted upon the innocent party.

Full reparation of such an injury comprises both positive and negative indemnification. The former consists in paying the expenses incurred in preparing for the contemplated marriage, the latter in repairing any damage arising to the woman, *e. g.*, because of pregnancy or inability to find another husband. If the bride withdraws from the engagement, it is ordinarily sufficient that the groom be indemnified for any positive losses he may have sustained, because a man can nearly always find another partner. If the groom withdraws, he will in many cases be able to make full reparation of the damage done to the bride by bestowing a dowry upon her.⁸

⁸ H. Noldin, S. J., *Summa Theol. Mor.*, Vol. III, p. 606.

[432] Even when there is no canonically binding engagement, the betrayed party has a claim to indemnification for the damage sustained. If the woman has been seduced to a gross sin of unchastity under promise of marriage, and was not able to perceive the fraudulent character of the promise, the seducer is in justice bound to marry her, and if he cannot do so, must repair the damage in such a way that she can marry another.⁹ wholly grave reasons against the marriage are present. . . . But other reparation is not thereby excluded merely because the obligation or ability to enter marriage is absent."

⁹ St. Thomas, *Summa Theol.*, 3a, Suppl., qu. 46, art. 2, ad 4.—St. Alphonsus, *Theol. Mor.*, l. III, n. 642 sqq. (ed. Gaudé, II, 119 sqq.).—Gury, *Comp. Theol. Mor.*, Vol. I, n. 700: "If, however, the girl had become pregnant through fornication, the

seducer should be pressed to marry her, unless too great a disparity between the condition of the two intervened or some other very grave disadvantage stood in the way.”—Lehmkuhl, *Theol. Mor.*, Vol. I, n. 997: “If a girl has been induced to sin under a promise of marriage, whether genuine or feigned, the very common doctrine holds that the young man is obliged to marry the girl, not only when she has become pregnant, but even if she has not conceived; otherwise there is an unjust deception, which is repaired only by entering into marriage. Yet this obligation ceases if

| 433 | **Readings.**—Chas. Augustine, O. S. B., *A Commentary on the New Code of Canon Law*, Vol. III, pp. 36 sqq.—H. Noldin, S. J., *Summa Theol. Mor.*, Vol. III, 12th ed., pp. 597 sqq.—Sporer-Bierbaum, *Theol. Mor.*, Vol. III, 2nd ed., 858 sqq.—F. A. Göpfert, *Moraltheologie*, Vol. II, 7th ed., pp. 306 sqq.

ARTICLE 3: THE DUTY OF RESTITUTION ARISING FROM FORNICATION AND ADULTERY

It is impossible to make restitution for lost bodily integrity (virginity) because the damage done is beyond repair. But reparation can and must be made for material injury arising from illicit cohabitation.

1. If both parties have freely committed fornication together, neither has a valid claim to restitution, because “scienti et volenti non fit iniuria.”¹ If a woman has been dishonored by means of fraud, trickery, violence, or grave threats of cruelty, mutilation or death, she is entitled to full reparation of the damage inflicted upon her reputation, station, or fortune, and eventually to compensation for the injury to her health resulting from ill-treatment or excitement.² A man who has seduced an honorable woman, especially if she was a virgin, is bound under pain of mortal sin to employ all the means at his command to lead her back to the path of virtue. Such means are: advice, warning, a good example, prayer, and, eventually, marriage. If a secret sin of unchastity committed by a woman has become public through the fault of the seducer, the latter must repair the damage resulting to her.³ Equity requires that an apology be made to the injured parents, if they are not themselves to blame for the sin of their daughter; but there is no strict obligation to this effect.⁴

¹ Cfr. H. Busembaum, S. J., *Medulla Theologiae Moralis*, III, tr. 5, c. 2, dub. 6, a. 4: “Restitution is not binding precisely for virginity alone. Hence, if the defloration remained secret, or did not prevent her from marrying equally advantageously, the deflowerer is bound to nothing. Likewise he is bound to nothing if he deflowered one who consented, without force, fraud, or promise of marriage, because no injury was done. If he bent a virgin by importunate entreaties, he is bound to restore nothing, because she still consented freely, unless perhaps the entreaties were such as to be equivalent to force and coercion: for example, if they were joined with threats or reverential fear, e. g., if he was her master or a man of great authority.”—Cfr. St. Alphonsus, *Theol. Mor.*, l. IV, n. 642, dub. 2.

² St. Alphonsus, *Theol. Mor.*, l. III, n. 641: “If anyone violates [a virgin] by force, threats, or fraud, he is bound to repair for both the girl and her parents all damages to honor and fortune. Hence he is bound to increase her dowry so that the girl may marry equally well as if she had not been violated. . . . But if he himself wished to marry her, while the girl rejected the marriage, he is bound to endow her fully. . . . And the same must be said even in doubt whether the girl had previously been corrupted by another or not, because she is presumed intact until the contrary is certainly proved. Likewise, if a man has intercourse with a secretly corrupted girl or with a widow of honorable reputation and, through his unjust intercourse, they suffer loss of reputation; but otherwise, if the intercourse remained entirely secret, for then he would be bound to nothing.” Ibid., n. 642, dub. 1: “What if a virgin unjustly violated afterwards marries equally well? The answer is that the violator is bound to nothing unless, before the marriage, a dowry was awarded to the girl by judgment or agreement; for otherwise he is bound to furnish nothing: not for the violation of virginity, which is irreparable, nor for damage, since none followed. . . . If the woman is ill-treated by her husband because of the known defect, the deflowerer is bound to compensate the woman.”—Cfr. Ex. XXII, 16 sq.; Deut. XXII, 25; Ehrlich, *Randglossen zur hebr. Bibel*, II, 316.

³ St. Alphonsus, l. c.: “If the man afterwards defamed the girl by making the deed public, then in justice he is bound to make good to the girl and her parents every damage arising from the defamation, as Laymann and the Salmanticenses

rightly observe.”

⁴ Ibid.: “If the virgin freely consents, it is commonly held that the deflowerer is bound to restore nothing to her. But the first doubt arises whether in that case he is bound to make satisfaction for the injury to the girl’s parents. There are two probable opinions. The first denies it. . . . The reason is that if the girl herself, since she is mistress of her own body, inflicts no injury on her father when she consents to defloration in exercise of her right, much less does the deflowerer inflict one. She alone will sin, and consequently the violator also, against the filial duty owed to her father, and also against obedience if she had an express prohibition from her father concerning such a crime, as Lugo says. The second opinion, however, affirms it. And St. Thomas holds the same (*S. Th.*, 2a 2ae, qu. 154, art. 6, ad 3), who says: ‘The [deflowerer] inflicts injury upon the girl’s father, and hence according to the law he is liable to a penalty to him,’ namely from Deut. XXII, 28 sq., where deflowerers, if they had been brought to judgment, were bound to pay the girl’s father fifty shekels. Yet this, St. Antoninus rightly observes, has place only after the judgment of a judge. Moreover, the aforesaid second opinion holds that both the girl and her deflowerer sin in two ways, namely against chastity and justice; and that the deflowerer is bound to restore to the father the honor taken away through some sign of honor, a request for pardon, or something similar, unless it is presumed that the father would not want such satisfaction. The second doubt arises whether the violator of a consenting girl is bound to restore to her parents the loss of property coming upon them because of the dowry which they must increase in order to settle their daughter in marriage. Azor and Corduba and others affirm it. But Scotus, Suarez, Sanchez, Lessius, Lugo, etc., very commonly deny it. The reason is that, just as the girl, since she can freely reject marriage, does not injure her parents if, by consenting to her defloration, she renders herself less fit for it, so neither does the deflowerer injure them by violating her with her consent.” (Ed. Gaudé, II, 116).

[⁴³⁵] a) Restitution is of strict obligation in cases of criminal assault or rape (*stuprum*), and by this term moralists understand not only an act of violence which the assaulted person was unable to ward off, but in which she was given no other choice but to suffer violation or risk bodily ill-treatment, mutilation, or perhaps even death.

In some dioceses rape is a reserved case subject to canonical penalties.⁵

⁵ A. Vermeersch, S. J., *De Castitate*, Bruges, 1919, p. 323. Cfr. can. 2357, § 1; 2359, § 2.

[⁴³⁶] b) The claim of having been “seduced” does not in itself entitle a woman to restitution. Seduction is not necessarily accomplished in one act or in a single moment in which it would be possible to deprive the will of its freedom. It usually extends over some time, in which reason and conscience have a chance to assert their influence and put a chaste and conscientious woman on her guard. Probably most women who pretend to have been seduced were willing victims.⁶ At any rate, in its subtler form, seduction is traceable to the coquetry of the female as much as to the passion of the male.⁷ A man may fancy he is seducing a woman when in reality the woman is seducing him. And even when religious motives are given no room for play, an ordinarily good woman can with a little reflection realize that, while dallying with the seducer, she is embarking on a dangerous course and that, if actual “seduction” follows, it will be her own fault as much as the man’s.⁸

⁶ Gen. XXXIX, 7–18 (Putiphar’s wife); cfr. XXXVIII, 13 sqq. Homer, *Odyssey*, I, 55 sqq. (Calypso and Ulysses); *Iliad*, VI, 160 sqq. (Anteia and Bellephoron).—Elbel-Bierbaum, *Theol. Mor.*, Vol. I, 3rd ed., 223 sq. (*Casus non fictus, sed vere factus*).

⁷ 2 Kings XIII, 11–17. (Amnon’s rape of Tamar).—Cfr. St. Jerome, *Epist.*, XXII, n. 12 (Migne, *P. L.*, XXII, 401).—Prov. VII, 5–27.

⁸ Linsenmann, *Moraltheologie*, pp. 612 sq.

“That a weak and poorly developed woman should be abused by a strong man against her will is credible,” says a medical writer; “but when both are in good health and in the possession of ordinary strength, such a thing is improbable, and a contrary statement deserves no credence unless the

circumstances are exceptional. A woman may be attacked and abused against her will by two or more men; . . . but one man unaided is hardly able, under ordinary conditions, to overpower and rape a grown-up, healthy, and fully developed woman who is in the full possession of her strength and free to use it in offering resistance.”⁹

⁹ J. Maschka, *Handbuch der gerichtlichen Medizin*, Vol. III, pp. 136 sq.

|437| 2. If a birth results from an act of fornication to which both parties freely consented, both are equally and in solidum bound to rear the child.

a) If the sin was committed through violence, grave fear, trickery or fraud, or if the woman was made incapable of offering resistance by intoxicating liquor or other similar means, or if consent or resistance on her part was morally impossible on account of mental weakness or extreme youth, the guilty aggressor is alone liable for the support and education of the child and, moreover, bound to marry the woman, or at least provide for her and the child to the best of his ability.¹⁰

¹⁰ Aertnys, *Theol. Mor.*, Vol. I, 7th ed., l. III, n. 371: “If offspring has been born, a distinction must be made: 1. If the virgin freely consented, by natural right each parent is bound proportionately and *in solidum* for the expenses of education until the offspring can provide for itself; 2. If she was overpowered, the deflowerer alone is bound to bear the expenses of education; yet in his default the girl must supply them, since she is the mother of the offspring, but she then retains an action against her violator, who is obliged to restore the whole damage. Furthermore, both parents ought to acknowledge the offspring conceived or already born as their own in the manner of a legacy and, through subsequent marriage, to endow it with legitimacy, lest it remain disgraced and be deprived of inheritance and due education. This obligation ceases, however, if a grave disadvantage stands in the way or if the girl was deceived or overpowered, since she is not bound to enter marriage with her violator. Finally, for practice I observe: When the deflowerer is to compensate the damage with money, it is expedient that he agree upon the amount of the sum with those who suffered the damage and pay the sum at one time, lest perhaps a dangerous association be continued or payment of the debt be omitted.”—Noldin, II, pp. 494 sqq.

When necessary, it is licit to garnishee a portion of the man’s wages or salary for the benefit of the woman whom he has violated and of her illegitimate child.

|438| If a woman has had voluntary intercourse with two or more men and it is consequently uncertain who is the father of her child, no one is obliged to make restitution, unless the civil law provides otherwise; for when a duty is doubtful, no certain burden may be imposed.¹¹

¹¹ St. Alphonsus, *Theol. Mor.*, l. IV, n. 658: “This opinion, considered in respect of reason and speaking absolutely, is more probable, for no one is bound for damage unless it is morally certain that he was its cause.”—Cfr. A. Lehmkuhl, *Theol. Mor.*, Vol. I, 12th ed., n. 997; IDEM, *Casus Consc.*, Vol. I, 2nd ed., n. 714 sqq.—Noldin, II, p. 495.

If in case of rape several men have been guilty and there is consequent uncertainty with regard to the paternity of a child, all are obliged to make restitution *pro rata*.¹²

¹² Lehmkuhl, *Theol. Mor.*, Vol. I, p. 683; Aertnys, *Theol. Mor.*, Vol. I, 7th ed., l. III, n. 376, p. 6: “What if, between two adulterers who have known the same woman, it is doubtful whose offspring it is? The answer is: The first and more common opinion teaches that each is bound for support in proportion to the doubt, because each inflicted a certain injury and some damage, namely either illegitimate offspring or uncertainty about the author who would be bound to pay. Moreover, the innocent party ought not to suffer from this uncertainty. The second and more probable opinion asserts that neither is bound to anything, because no one is to be bound to payment and restitution so long as the debt is not established; hence no one is bound to support offspring which is not established to be his. Nor does an injurious action suffice, but in addition damage certainly following from it is required. Yet the reasoning of the first opinion is persuasive in two cases: 1. Against the second adulterer, who, knowing that adultery was committed by the other, perceives that by his second adultery he becomes the cause of uncertainty because of which compensation cannot be

demanded from the first adulterer; 2. If they committed adultery by common counsel. Such awareness and such counsel will be very rare. The aforesaid answer applies also to fornicators.”

b) The sin of fornication, committed with mutual consent, violates no strict right of the families of the respective participants, but it constitutes a gross violation of the respect and charity due to them. This damage the guilty parties should repair by making an apology and giving satisfaction, which they can do by faithful compliance with their duties. Parents, superiors, or teachers who seduce their subjects to fornication, possibly with a view of pecuniary profit (*lenocinium*), incur the same guilt and responsibility as those who command others to sin (*mandantes*).¹³ They are guilty of negative co-operation if they grossly neglect their duty towards their charges.

¹³ V. *supra*, concerning coöperation in evil.

| 439 | c) In some countries a woman cannot recover damages if it can be proved that she had sexual intercourse with several men. The admission of this principle (*exceptio plurium*, as it is called), seems a hardship for the mother and her child, and gives unscrupulous men an opportunity to escape responsibility for their sins by causing others to have sexual intercourse with a seduced woman. But experience shows that to exclude this principle would promote blackmail and immorality. If the legal consequence of *exceptio plurium* is admitted, every intelligent girl that commits fornication with one man, knows that she will lose her claims against him if she takes up with another, and thus her will-power is strengthened and she is saved from sinking to lower depths. The illegitimate child will at least have a mother, who, though she may have sinned, is not a professional harlot or a blackmailer who runs after rich men to secure a “father” for her child.

Under the *Code Civil Napoléon* a suit for damages against the father of an illegitimate child was impossible because search for the father was forbidden.¹⁴

¹⁴ Art. 340: “La recherche de la paternité est interdite.”—Cfr. W. Beringer, *Das uneheliche Kind und seine Mutter*, Metz 1903; A. Bebel, *Die Frau und der Sozialismus*, 37th ed., Stuttgart 1904.

| 440 | 3. When a child is born of *adulterous intercourse*, the wrong-doers, if they sinned freely, are both bound to provide for the child and make compensation for the loss ensuing to the husband or wife (provided he or she did not consent), and to his or her legitimate offspring.¹⁵ If the crime of an adulteress has remained unknown to her husband, and he is compelled to support the child, unaware that it is not his, though her guilt is grave and she is bound to make adequate restitution, she may nevertheless conceal her crime in order to preserve her good name and the domestic peace,¹⁶ and, under certain circumstances, she has the duty of safeguarding the interests of the adulterine child.¹⁷ But she is also bound to make compensation for the damage inflicted upon her husband and legitimate offspring, either from her own means, or if she possesses no property of her own, by increased diligence, economy, and reduction of her personal expenses.¹⁸

¹⁵ St. Alphonsus, *Theol. Mor.*, l. III, n. 651; Gury, *Comp. Theol. Mor.*, Vol. I, n. 702: “Each adulterer is bound *in solidum* to repair all damages coming upon the family, if the crime was voluntary on both sides, because the whole must be imputed to each. Hence: 1. All expenses which the husband made in supporting and educating the offspring must be restored; 2. If the illegitimate son has already received an inheritance with the legitimate children, compensation must be made to them proportionately.”

¹⁶ St. Alphonsus, *Theol. Mor.*, l. III, n. 653 (ed. Gaudé, II, 130).—Gury, *Comp. Theol. Mor.*, Vol. I, n. 703: “Is a woman bound to reveal her crime if she cannot repair the damage in another way? The answer is negative, speaking generally. The reason is: 1. Because commonly this revelation cannot be made without great disgrace to the woman and often

without danger of death or of perpetual hatred and other grave evils; 2. Because even if such a means were employed, she could repair the damage only with difficulty. They commonly make an exception if the mother is of ruined reputation.”

¹⁷ Linsenmann, *Moraltheologie*, pp. 613 sq.: “If no other proofs are given, the child may not, merely because of the testimony of the mother, be denied the right of legitimacy; *pater est, quem nuptiae demonstrant*.”—Cfr. Gury, *Comp. Theol. Mor.*, I, n. 704: “Is a son bound to believe his mother, even when she swears that he is illegitimate? The answer is negative, because by law and common sense no one is bound to believe one witness, even one of the most proven fidelity. It is otherwise, however, if besides the mother’s testimony evident indications are present, e. g., the father’s absence for a long time.”—Cfr. St. Alphonsus, *Theol. Mor.*, I, III, n. 654 (ed. Gaudé, II, 132).

¹⁸ Gury, *Comp. Theol. Mor.*, I, n. 702: “If the adulteress has paraphernal property, she must make restitution from it to her injured husband and children through gifts by hand, by contract, testament, legacies, etc. If she has none, let her administer the household more diligently and be more sparing in private expenditures; let her work more diligently, insofar as her state permits.”

| 441 | a) If an adulteress conceals her crime *in confessionali* until she is near death, when it is impossible for her to make restitution, she should not be compelled to reveal her sin to her husband, because the reputation of a wife and mother is a more valuable possession for her husband and children than the temporal good of which they will be deprived in consequence of being ignorant of her sin.¹⁹

¹⁹ C. 9, *de Poenit. et Rem.*, V, 38: “Just as penance is not to be denied to a woman who, unknown to her husband, conceived offspring through adultery, although she fears to confess this to her husband, so neither is it to be denied to her who substituted another’s offspring for her own, . . . but suitable satisfaction must be enjoined upon her by a discreet priest.”

b) If a man, by the use of force or serious threats, compels a married woman to commit adultery with him, he is the sole cause of the resulting damage and alone bound to make restitution and to provide for the support and education of the child.²⁰ In case there is doubt whether the child belongs to him or to the woman’s lawful husband, the adulterer is not obliged to make restitution, for according to the principle, “*Pater est, quem nuptiae demonstrant*,” a child is regarded as the offspring of the mother’s lawful husband unless the contrary is proved.²¹

²⁰ Aertnys, *Theol. Mor.*, Vol. I, 7th ed., I, III, n. 374: “When an adulterer has extorted the woman’s consent by force, fear, or fraud, he alone is bound to repair the whole damage. The reason is that then he alone is the cause of the whole damage.”

²¹ St. Alphonsus, *Theol. Mor.*, I, II, n. 657 (ed. Gaudé, II, 133).—Gury, *Comp. Theol. Mor.*, I, n. 703.—*Code Civil Napoléon*, a. 312: “L’enfant conçu pendant le mariage a pour père le mari.”—J. Maschka, *Handbuch der gerichtl. Medizin*, III, 4 sqq.

| 442 | c) If a woman has had adulterous intercourse with two or more men besides her husband, and it is uncertain which of them is the father of her child, none is held to restitution, since the mother is the cause of the uncertainty. But if a conspiracy existed between the men, they are bound to make restitution *in solidum*. If those that came later were aware of the woman’s previous relations with others, they are bound to make restitution *pro rata dubii* and *in solidum*.²²

²² Aertnys, *Theologia Moralis*, Vol. I, 7th ed., I, III, n. 376, qu. 6; Lehmkühl, *Theologia Moralis*, Vol. I, 11th ed., n. 1190: “When several adulterers have approached a woman at about the same time suitable for generation, and it is not known whose the offspring, certainly adulterine, is: if they acted by common counsel, or if they merely knew or gravely suspected that others had already been admitted, I think that they are all bound, in proportion to the doubt, to repair the damages that will arise to the husband or legitimate children. For they all posited a cause which of itself is apt either to procreate offspring of a certain father or to produce uncertain and doubtful paternity, and therefore to produce

uncertainty concerning the one from whom the husband and others who suffered damage could seek complete reparation of certain damage. But producing this uncertainty is an unjust and damaging action. Therefore, from this injustice, whose effect they knew could arise from their own action, they are bound to repair the damage; nevertheless, since the same injustice is not present just as if the certain author were established, each must repair only in proportion the damages that will arise; he is not bound *in solidum*.”

| 443 | d) He who commits his illegitimate child to a public *foundling asylum*, is not bound in justice to make restitution of the money expended for its support, because such institutions exist for all children, rich and poor, which are exposed to danger. Since, however, foundling asylums are not intended to relieve wealthy people of the care for their offspring, it is surely a matter of equity that the expenses be repaid in such cases.²³

²³ Cfr. St. Alphonsus, *Theol. Mor.*, l. III, n. 656 (ed. Gaudé, II, 133); Gury, *Comp. Theol. Mor.*, I, n. 705.

e) Adultery is a canonical ground for demanding a separation *a mensa et toro*. The guilty party loses the *ius petendi debitum coniugale*, which may, however, be recovered by express or implied condonation on the part of the innocent party. The least that can be expected of a husband or wife who has been guilty of adultery is that he or she humbly confess his or her sin, ask for forgiveness, and sincerely promise to be faithful in future. Genuine penitence can usually repair the scandal given, at least in its more serious consequences.

Readings.—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., 1022 sqq., 146 sqq.—St. Alphonsus, *Theol. Mor.*, l. III, n. 640 (ed. Gaudé, II, 115 sqq.).—H. Noldin, S. J., *Summa Theol. Mor.*, Vol. II, pp. 494 sqq.—A. Tanquerey, *Synopsis Theol. Mor. et Past.*, Vol. III, pp. 242 sqq.—T. Slater, S. J., *A Manual of Moral Theol.*, Vol. I, pp. 416 sq.—A. Lehmkuhl, S. J., *Theol. Mor.*, Vol. II, pp. 680 sqq.

ARTICLE 4: RESTITUTION FOR DAMAGE DONE TO THE PROPERTY OF OTHERS

1. All ill-gotten gains must be restored and all unjustly inflicted damage must be repaired in accordance with the rules laid down in a previous Section of this treatise.¹

¹ V. *supra*, pp. 379 sqq.

| 444 | To appropriate another’s property in extreme necessity, in order to save oneself or others from death, for instance, in time of famine, is not a violation of justice and hence does not impose the duty of restitution. Life is more than food, and the body more than the raiment.² This teaching is acknowledged even by the civil law.

² Matth. VI, 25.

a) The so-called *domestic thefts* (*furta domestica*), committed by children against their parents, by wives against their husbands, etc., do not entail restitution unless the stolen sum is considerable. It is assumed that there is a sort of communism in family life, and parents and husbands do not take such things seriously.

b) Thefts committed by servants call for a distinction. If the stolen goods were ordinary eatables and consumed, *i. e.*, not given away or sold, no restitution is involved. But if money was stolen, or valuables ordinarily kept under lock and key, or extraordinary and expensive delicacies, the damage must be repaired. If servants appropriate things belonging to their masters or employers on the plea that they were not properly paid for their services (occult compensation) they are obliged to make restitution.³

³ On occult compensation see *supra*, pp. 366 sq., 418 sqq.—Cfr. the propositions condemned under Innocent XI, n. 37.

| 445 | c) He who sets fire to his own property, or to the property of others, and collects the insurance, is responsible to the insurance company for the resulting loss.

Since in cases of restitution arising from fire the party to whom compensation is to be made is as a rule *dominus incertus*, the money may be turned over to pious causes.⁴

⁴ A. Lehmkuhl, S. J., *Theol. Mor.*, Vol. I, 11th ed., n. 1359: “An incendiary, whether he destroyed his own property or another’s, must make restitution. But if it is asked to whom restitution ought to be made, there can be a certain practical difficulty if at times the matter can only with difficulty reach the true owners. Wherefore I say: 1. If the insurance institution is public, i. e., belongs to the commonwealth itself or to the province, restitution can be made to the poor or to public causes. 2. If the insurance institution is private, restitution is owed proximately and of itself to this institution. But if this institution itself has again insured itself and its losses in part, so that insurance of a second kind (*reasecuratio*, re-insurance) exists, certainly part of the restitution is owed to it. 3. Nevertheless, there are several reasons why, in place even of a private institution, the poor or pious causes can usually be chosen, to whom restitution may be made. Namely: a) Often in insurance companies so many hold ‘shares’ that the sum of restitution, although grave in its entirety, nevertheless when distributed among individuals is grave matter for no single owner. b) Reinsurance is customarily made, and that for the greater part of the thing insured, but it is customarily made with several and different institutions, nor can it be known with which one or ones that damaged thing which gave rise to the restitution owed was reinsured, unless this very matter is disclosed to the principal insurance institution; this indeed can be full of dangers. c) Finally, it is not so much the insurers as rather the insured, or their whole number, who in fact suffer damage from intentional fires. For the insurers, in determining the premium to be paid annually, certainly take account of all fires which in fact customarily occur, even intentional ones; otherwise the annual premium would have to be reduced, lest it be greater than is just. Therefore the insured are forced to pay a higher annual premium because of the intentional fires themselves, so that they suffer unjust damage from incendiaries. But the number of those who are thus harmed is so great that, because of their multitude, restitution may be judged to devolve upon the poor or pious causes.”

2. There can be no doubt that the *unjust appropriation of public property*, e. g., wood from a communal forest, game or fish caught without a permit, profits made from smuggling or de-frauding the customs, violates commutative justice and therefore carries with it the duty of restitution. The reason is because in a well-ordered community such acts mean an unjust enrichment of a few at the expense of the many.⁵ Restitution in such cases must be made, if it can be done without serious inconvenience, not to the poor, but to the public treasury of the community upon which the injury was inflicted.

⁵ *Cat. Rom.*, P. III, c. 8, qu. 10: “Those are included in this crime of rapacity who fail to pay, or intercept and transfer to themselves, the customs duties, taxes, tithes, and other things of this kind which are owed to the rulers and magistrates of the Church.”—Cfr. St. Alphonsus de’ Liguori, *Theol. Mor.*, l. III, n. 617 (ed. Gaudé, II, 99); Gury, *Comp. Theol. Mor.*, Vol. I, n. 707–717; J. Schwane, *Die Gerechtigkeit*, pp. 182 sqq.; A. Wagner, *Die sittlichen Grundsätze bezüglich der Steuerpflicht*, pp. 50 sqq., 73 sqq.

| 446 | *Tax and customs collectors* who have neglected to collect the revenues required by law, are obliged to make restitution if the neglect involved any moral guilt on their part.

a) To *bribe officials* in order to cause them to violate their oath of office, is to co-operate in injustice and imposes the duty of making restitution in a subsidiary manner, i. e., if the bribed official does not make good the loss, the briber must do so.

If an official suffers personal loss through fraud committed against the commonwealth, that loss must be repaired by the defrauder.

b) He who unjustly evades the duty of serving his country when drafted into the army or navy, commits an act of injustice towards the State, but is not obliged to make restitution to a substitute who may be drafted in his place, because the latter does not lose a strict right, but merely an accidental privilege. But if one directly employs unjust means to force another to serve in his stead, he owes that other restitution.⁶

⁶ Gury, *Comp. Theol. Mor.*, Vol. I, n. 718 sqq.; cfr. Lehmkuhl, *Theol. Mor.*, Vol. I, 11th ed., n. 1175 sqq.; Gennari, *Consultazioni*, Vol. I, 2nd ed., 127 sqq.; L. v. Ruymbeke, “Peut-on se soustraire à la loi en matière de conscription militaire?” in *La Nouvelle Revue Théologique*, Tournai, 1905, pp. 371 sqq.; Noldin, *Summa Theol. Mor.*, Vol. II, pp. 498 sq.

|447| c) For those who evade the payment of taxes, the duty of making restitution is quite clear in some cases, but not so clear in others.

Officials who co-operate in this misdemeanor in spite of their oath of office, are plainly bound to make restitution. The same is true of those who unjustly influence officials to defraud the public treasury by means of bribes, promises, etc.; they are liable to subsidiary restitution of the damage done, that is, they must make good the damage if the guilty officials do not do so. Again, the case is quite clear if one has paid his taxes in counterfeit money or with a worthless check; he must repair the loss thus caused to the public treasury or to the individual official who may have been compelled to make good the deficiency out of his own pocket.

|448| d) As regards non-payment of taxes by those legally obliged to pay them, theologians differ concerning the duty of restitution involved.

The *sententia communissima et probabilior* of the older school was that the duty of paying taxes is based on commutative justice and therefore involves the obligation of making full restitution. Some held that this duty obliged only on condition that the taxes imposed were really necessary for the public welfare and that they were assessed with strict impartiality. If this were not the case, it would not be necessary (*post factum*) to impose restitution as a strict duty upon the citizen who by fraudulent means had escaped paying his assessed share. Those who took this view regarded such cases as instances of occult compensation.

Another school of moralists bases the duty of paying taxes simply upon legal justice (*iustitia legalis*) and holds that, as there is no question of commutative justice involved, there can be no strict duty of restitution. Some who take this view think that the duty of restitution exists, but only so long as the misdemeanor is not legally outlawed. A third group regards all, or nearly all, civil tax laws as purely penal (*leges mere poenales*), *i. e.*, as obliging merely under a legal penalty, but not in conscience. Several representatives of this group hold that imposition by the State of heavy fines for tax defraudations is a sufficient compensation for the losses suffered by others.⁷

⁷ See the *Kirchenlexikon*, Vol. I, 2nd ed., 85 sq.; Hamm, *Zur Grundlegung und Geschichte der Steuermoral*, pp. 125 sqq., 309 sqq.; Schindler, *Lehrbuch der Moralthologie*, Vol. II, ii, 800 sqq.

Dr. Ryan rightly says that the application of the principles of Catholic Moral Theology to the subject of taxation *in praxi* is “not entirely simple, owing to the complexity and injustice of our tax system and the very large proportion of persons who habitually understate their taxable property. The principal form of taxation, at least in local and State jurisdictions, is what is known as the *general property tax*. Not only does this directly violate the ethical principle of taxation in proportion to ability to pay, as determined by comparative sacrifices, but it is apportioned and administered most

inequitably, and it is evaded in wholesale fashion. In the words of Professor Seligman, ‘the general property tax, as actually administered, is beyond doubt one of the worst taxes known in the civilized world.’”⁸ In these circumstances, the conscientious citizen cannot be required to do more than pay that proportion of the full amount which is paid by the majority. If the prevailing understatement of taxable property amounts to twenty-five per cent., the citizen who pays on more than three-fourths of his goods contributes more than his share.⁹ This general rule of action may properly be applied to other kinds of taxes where evasion is considerable and notorious. Of course, the conscientious citizen will not take advantage of it until he is morally certain of the facts. . . .

⁸ *Essays in Taxation*, N. Y. 1895, p. 61.

⁹ Cfr. Tanquerey, *De Iust.*, n. 597.

| 449 | “As a rule, the citizen is not bound to pay taxes until the amount due from him has been defined by the fiscal authorities. When he is legally required to furnish a statement of his property, he is obliged by legal justice to comply. Is he obliged to volunteer such information? For example, is a person morally bound to inform the authorities that his income is sufficiently large to subject him to the *income tax*? If he does not give this spontaneous information he will escape. The income tax law requires the citizens to make such a statement, and penalizes them for failure to do so when their evasion of the tax has been detected. It seems clear, therefore, that the citizen is bound by legal justice to provide a statement of his taxable property, not only in response to an official requisition, but sometimes in the absence of such a requisition.”¹⁰

¹⁰ Ryan, *The State and the Church*, pp. 268 sq.

| 450 | e) *Tariff duties* are probably purely penal, “not only because of the common popular conviction, but because they are saturated with economic and ethical inequalities.”¹¹

¹¹ *Ibid.*, p. 269.

Readings.—H. Noldin, S. J., *Summa Theol. Mor.*, Vol. II, pp. 477 sqq., 331 sqq.—A. Tanquerey, S. S., *Synopsis Theol. Mor. et Pastor.*, Vol. III, pp. 249 sqq.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 611 sqq.—J. A. Ryan, *Distributive Justice*, pp. 101 sqq.—F. Suarez, *De Legibus*, l. V, c. 13–18.—Th. Meyer, S. J., *Inst. Iuris Nat.*, Vol. II, pp. 654 sqq.—A. Lehmkuhl, S. J., *Theol. Mor.*, Vol. I, pp. 670 sqq.—V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 656 sqq.

ARTICLE 5: RESTITUTION FOR DAMAGE DONE IN THE CHOICE OF A VOCATION OR THE PURSUIT OF AN OCCUPATION

I. If one is under a grave obligation to help another to embrace a certain occupation or profession, and neglects this obligation, though he is able to fulfil it, with the result that the other remains without a calling, he is obliged to make restitution. This duty often falls upon parents or their representatives in regard to children.

| 451 | The compensation made can, of course, be only a partial one because the victim of such neglect will never be able to enjoy the authority and influence which the contemplated calling or profession would have given him. But that which every man obtains through his calling, namely, work and a livelihood, must be given to such a neglected person. A mere annuity without some sort of occupation would be a poor compensation for a neglected training, for “if any man will not work, neither let him eat.”¹ If the neglected person decides of his own accord to engage in some occupation

that does not correspond to his station in life, those guilty of allowing or necessitating this ill choice will be in duty bound to repair the injury done him as best they can, for instance, by improving his condition, by endowing him with money or property, though the last-mentioned manner of restitution can never be a full equivalent for a lost professional training.

¹ 2 Thess. III, 10; see this *Handbook*, Vol. III, pp. 130 sq.

If a child is forced by his parents or guardians to choose a vocation or profession for which he has neither aptitude nor inclination, and for which he has had no chance to obtain the necessary training, such parents or guardians are obliged to make restitution, though adequate compensation in such cases is manifestly impossible; wherein men have failed, God alone can repair.²

² Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 104, art. 5; Conc. Trid., Sess. XXV, *De Reg. Monial.*, c. 18.

| 452 | 2. He who for an unjust motive keeps another away from an office or position for which he has duly prepared himself, and which he has a right to occupy, no matter what the means chosen, is obliged to make restitution for the injury inflicted,—an injury, by the way, often not limited to the past, but extending into the future.

If a man is unable to hold his position in consequence of the opposition of others, a distinction must be made as to the means employed by the latter; if these means do not involve a violation of commutative justice, the civil law does not demand compensation, on the principle that “*Qui suo iure utitur, neminem laedit.*” Christian equity, however, requires of each and every man that he “let others live.”

“All things therefore, whatsoever you would that men should do to you, do you also to them.”³

³ Matth. VII, 12.

Readings.—St. Alphonsus, *Theol. Mor.*, l. III, n. 582 sqq.; l. IV, n. 106 sqq. (ed. Gaudé, II, 73 sqq., 522 sqq.).—Jocham, *Moraltheologie*, Vol. III, 406 sqq.—A. Tanquerey, S. S., *Synopsis Theol. Mor.*, Vol. III, pp. 248 sq.

ARTICLE 6: RESTITUTION FOR SPIRITUAL DAMAGE

| 453 | 1. He who intentionally, or in a manner which he could have foreseen, injures his neighbor mentally, for instance, by giving alcohol to a child, or habit-forming drugs to an adult, or by fraud, deception, lying, or other unjust means, or deprives him of some knowledge or skill which he needs in his profession or occupation, is bound in justice to make restitution. This applies particularly to those who, *ex officio* or *ex contractu*, are obliged to instruct others, but neglect to secure the necessary qualifications or fail to offer their pupils sufficient opportunities to acquire the knowledge or skill which they need. If the injury thus inflicted extends into the future, this circumstance must be taken into account in making restitution.¹

¹ Gury, *Comp. Theol. Mor.*, Vol. I, n. 694: 1. “He who has deprived another of memory, reason, etc., by poison or a potion, is bound in justice to repair everything that is reparable in the damage unjustly and efficaciously caused. 2. He who by fraud prevented another from learning knowledge, an art, . . . or from teaching others, is bound to remove the fraud and repair the temporal damages which arose from it. 3. He who by office must teach an art or science is bound to correct errors if he has admitted any and they are of some importance. The same obligation also rests upon him if through carelessness or levity he has mixed probable things with improbable ones. 4. If someone, gratuitously and without an obligation of contract or office, taught badly through negligence or ignorance, fraud and deceit being excluded, he would not be bound to reparation.”—Noldin, *Summa Theol. Mor.*, II, 4th ed., n. 455: “He who deprives

another of the use of reason is not bound to restitution for this spiritual damage inflicted in itself, because it cannot be repaired in the same order; he is, however, bound to repair temporal damage, if any was suffered by the one who was deprived of the use of reason.”

| 454 | 2. He who unjustly injures another in his supernatural possessions (*bona supernaturalia*), for instance, by purposely leading him into error in matters of faith or morals, or by seducing him to sin, or, what is still worse, robbing him of his most precious gifts, faith and hope, or who otherwise gives grave scandal, is obliged under pain of mortal sin to repair the damage thus inflicted so far as lies in his power. Means to this end are: recantation of the lies told, refutation of the errors inculcated, admonition and exhortation, good example, prayer, and, if scandal has been given (*e. g.*, through offensive writings), public reparation.

It is furthermore necessary to repair any temporal damage that may have been caused to others by the spreading of false reports, the commission of a sin, or the giving of scandal. This duty of restitution binds even in cases where the offender had no direct intention of causing spiritual damage to others by word, deed or omission, and extends to all the evil consequences of the offence committed,—both those that were directly intended and those that might have been foreseen under the circumstances of the case.²

² Gury, *Comp. Theol. Mor.*, Vol. I, n. 693: “1. He who by force, a lie, fraud, or unjust fear induced another into mortal sin is bound under pain of mortal sin, in justice, to reparation of the damage by removing the force or seduction and disclosing the error. But he who, without force or fraud, induced someone to sin mortally merely by counsel is indeed bound by charity to retract that counsel, but not by justice, because no injury is done to one who knows and wills. 2. He who by deceit induced another into error, especially practical error, from which grave damage could arise for him in the matter of morals, is bound in justice to repair the damages which result therefrom and to remove him from the error by every effort. The same must be held concerning speculative error about the principal articles of faith.”

| 455 | If *spiritual damage* has been caused without the employment of means *per se* unjust,—for instance, by request, admonition or counsel,—the seducer is bound, at least *ex caritate*, under pain of mortal sin, to repair the damage inflicted and to undo its consequences to the best of his ability.

He who, by force or fraud, restrains another from entering a religious institute (order or congregation), or causes him to leave the same, is bound in strict justice to desist and make restitution of the damage inflicted, both to the misguided individual and to the monastery which he deserted. He who, without a just cause, deters another from joining a religious order or congregation, even though he employ no unjust means, commits a grievous sin against charity, but is not bound to make restitution because no offence against justice is involved.

A religious who at an election refuses to vote for the admission of a novice, sins and is obliged to make restitution, unless a sufficient cause existed for rejecting the novice, *e. g.*, disease or lack of talent, and there was consequently reason to fear that the candidate might become a burden to the order.³

³ Cfr. F. A. Göpfert, *Moraltheologie*, Vol. II, 6th ed., 301.—Gury, *Comp. Theol. Mor.*, I, n. 693, 3: “For everyone has a right not to be unjustly hindered or withdrawn from the attainment or possession of so great a good.”

| 456 | Priests or teachers who are bound by their office to instruct others in the truth, must carefully correct any false instruction which they may have given, for, as Fr. Slater says, it is better to leave people in ignorance than to imbue their minds with falsehood.⁴

⁴ Slater, *A Manual of Moral Theology*, I, 414 (notes to Part II, Ch. I).

Readings.—Sporer-Bierbaum, *Theol. Mor.*, Vol. II, 2nd ed., tr. 5, n. 117–149.—J. P. Gury, S. J., *Comp. Theol. Mor.*, Vol. I, n. 693–694.—H. Noldin, S. J., *Summa Theol. Mor.*, Vol. II, pp. 488 sq.

Part II: Man's Duties to his Fellow-Men as a Whole, or to Society

Chapter I: Definition and Division of Society

| 457 | 1. **Definition.**—Man is not a lone individual, but a *social* being.¹ That is evident not only from the innate attraction he feels for his fellowmen, but likewise, and in a particular manner, from his physical and intellectual dependence upon others. In the words of Jesus, the son of Sirach, “all flesh consorts with the like of itself, and every man shall associate himself to his like.”²

¹ ζῷον πολιτικόν, *animal rationale et sociale*.—Cfr. St. Thomas, *Summa Theol.*, 1a, qu. 96, art. 4; 2a 2ae, qu. 109, art. 3, ad 1; qu. 114, art. 2, ad 1; qu. 129, art. 6, ad 1; 3a, qu. 65, art. 1. The term *animal rationale et sociale* in Scholastic parlance means a rational and social being, not animal. Animal is *brutum*. *Animal* in Latin is a generic term comprising *homo* and *brutum*.

² “Every man shall associate with one like himself.”—Ecclus. XIII, 20.

“Man’s natural instinct,” says Pope Leo XIII in his famous encyclical on the Christian Constitution of States, “moves him to live in civil society, for he cannot, if dwelling apart, provide himself with the necessary requirements of life, nor procure the means of developing his mental and moral faculties. Hence it is divinely ordained that he should lead his life—be it family, social or civil—with his fellowmen, amongst whom alone his several wants can be adequately supplied.”³

³ Encyclical “*Immortale Dei*,” Nov. 1, 1885: “It is implanted in man by nature that he should live in civil society: for if he lives in solitude, he cannot obtain the necessary sustenance and preparation for life, nor likewise the perfection of mind and soul; therefore it has been divinely ordained that he should be born for union and human association, both domestic and civil, which alone can furnish the perfect sufficiency of life.” (*The Pope and the People*, p. 73.)

| 458 | Another proof that men are destined to consort with their like is the gift of language, by which they can communicate to one another their thoughts, desires, and aspirations. Finally mutual love also has its part in the constitution of society.

The principal requirements of a society are: (a) multiplicity of individuals, (b) a common end, and (c) a stable union for the attainment of that end. A single individual can not constitute a society. It is only when several persons come together and unite their aims for the attainment of a common object that a society is established. Since rational beings alone are capable of forming such a union, which involves rights and duties on the part of each member, the term *society* is inapplicable to irrational brutes, no matter how many analogies may be found among them reminding us of human society, as in a colony of bees or ants.⁴

⁴ V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 4th ed., p. 377; M. Cronin, *The Science of Ethics*, Vol. II, pp. 385 sqq.

| 459 | An essential requirement flowing from the very nature of society is *authority*, *i. e.*, the right of certain members to compel others to do or to omit certain things in relation to the common purpose. In view of its object, authority can be but one, and must always remain the same, so that it becomes extinguished only when the society itself ceases to exist or undergoes an essential change. Being a moral person with well-defined objects and scope, every society is the bearer of rights and duties, towards other societies as well as towards its own members. Hence a society may be more comprehensively defined as *the permanent union of a number of free beings who, under the direction of an authority, strive by common effort to achieve a common purpose*.

2. **Division.**—Societies are distinguished from one another in purpose, origin, and extent.

a) In regard to its *purpose* a society may be *perfect* or *imperfect*, according as its object is to procure for its members all the things they need for their welfare, and it possesses all the means necessary for this purpose within itself, or according as it aims only at the one or other necessity, and consequently requires to be supplemented in its efforts by other societies. The *State* (*civitas sive communitas civilis*) is a perfect society because it possesses all the means required for the attainment of its objects and is self-sufficient within the natural order. The *Church*, too, is a perfect society, because it is equipped by its Divine Founder with all the means necessary to attain its end. The family (*familia domestica*), on the other hand, consisting of father, mother, and children, is an imperfect society, for the reason that, though it aims at providing its members with all they need, it cannot fully attain this purpose without the aid of other social organisms of a wider scope, namely, State and Church.⁵

⁵ St. Thomas, *Comment. in Polit.*, I, l. 1: "Since every association of all men is ordered to something necessary for life, that community will be perfect which is ordered to this: that man have sufficiently whatever is necessary for life; but such a community is the State."—Cfr. V. Cathrein, S. J., *Phil. Mor.*, n. 433: "For a twofold reason a society can be called perfect: 1. because it is ordered to the perfect sufficiency of human life and is sufficient unto itself for this end, and in this sense it is the same as a society complete intrinsically and extrinsically; 2. because it possesses in and of itself (actually or virtually) the means necessary for attaining its end, and does not depend, at least directly, upon other societies: in this sense both the State and the Church are perfect societies; all the others are imperfect."—Cfr. M. Cronin, *The Science of Ethics*, Vol. II, pp. 388 sq.

|⁴⁶⁰| b) In respect to its origin a society is either natural (necessary) or free, according as its peculiar character is based upon the very nature of man or depends upon free choice, exercised within the limits of justice and order.

|⁴⁶¹| c) In regard to extent, a society is either *general* or *particular*, according as it includes all men or only one race, community, or body of men. The only general society in this sense is that which comprises the whole race, human society, *i. e.*, all men, in as far as all have the same final end, namely, to glorify God and work out their eternal salvation, and in so far as they are all subject to one supreme Legislator and bound together by mutual rights and duties. This general society—"society" *par excellence*—is divided into a large number of particular societies, of which the basic groups are the family and the State.⁶

⁶ Is. XLVIII, 11; Prov. XVI, 4; Gal. VI, 2; Jas. IV, 12.—Conc. Vatic., Sess. III, c. 1.—St. Augustine, *De Bono Coniugali*, c. 1: "Since every man is a part of the human race, and human nature is something social and has the great and natural good of the power of friendship, for this reason God willed to create all men from one, so that in their society they might be held together not only by likeness of kind but also by the bond of kinship. Therefore the first natural bond of human society is husband and wife. God did not create even these as separate individuals and join them as strangers, but created the one from the other, signifying also the power of union in the side from which she was taken and formed (Gen. II, 21–22). For those are joined at their sides who walk together and together look to where they walk. There follows the connection of society in children, who are the one honorable fruit, not of the union of male and female, but of intercourse. For in each sex there could have been, even without such commingling, a certain friendly and genuine union, the one ruling, the other obeying." (Migne, *P. L.*, XL, 373).

The respective relations to State and Church give rise to the further distinction between *public* and *private societies*. Public societies are those which are acknowledged as juridical persons by the authority, either of State or Church, and enjoy definite public rights. All others are private.

|⁴⁶²| **Readings.**—Theo. Meyer, S. J., *Inst. Iuris Naturalis*, Vol. I, n. 347 sqq.—V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 388 sqq.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 385 sqq.—J.

E. Ross, C. S. P., *Christian Ethics*, pp. 190 sqq.—C. Antoine, S. J., *Cours d'Economie Sociale*, Intr. and Ch. I of Part I.—T. Slater, S. J., *Questions of Moral Theology*, pp. 191 sqq.

Chapter II: The Christian Family

SECTION I: THE MUTUAL DUTIES OF THE MARRIED

| 463 | Husband and wife together constitute a society, *i. e.*, a stable union of persons, entered into for a common purpose, *i. e.*, a complete enduring personal partnership for the continuance of the race.

From this definition may be deduced the mutual duties of husband and wife. These duties are partly natural, partly intellectual, moral, and religious. They are based upon the *threefold character* of Matrimony as a natural union, a moral society, and a sacramental association for the salvation of its members, and designed to enable man to accomplish the *threefold purpose* of marriage, namely, the propagation of the human race, mutual assistance, and mutual sanctification.¹

¹ Gen. I, 27 sq.; II, 18; Matth. XIX, 4–6; 1 Cor. VII, 2–5; 1 Tim. II, 15; 1 Pet. III, 7.

Though the *sedatio concupiscentiae* and the propagation of the species are true purposes of Matrimony, yet its highest or principal object is the undivided community of life led by husband and wife.² Hence we may distinguish matrimonial duties of the natural or lower, and of the spiritual or higher order.³

² 1 Cor. VII, 2.—St. Augustine, *De Bono Coniug.*, c. 5: “Marriage exists for this, that concupiscence, reduced to a legitimate bond, should not drift about misshapen and unrestrained, having from itself an unbridled weakness of flesh, but from marriage an indissoluble fellowship of fidelity; from itself a tendency to immoderate intercourse, from marriage a manner of chaste procreation. For although it is shameful to wish to use a husband lustfully, it is nevertheless honorable to be unwilling to unite except with a husband and to bear children only by a husband.”—*Ibid.*, c. 3: “The good of marriage, which the Lord also confirmed in the Gospel, not only because He forbade dismissing a wife except for the cause of fornication (Mt. XIX, 9), but also because He came when invited to a wedding (John II, 2), why it is good is rightly asked. It does not seem to me to be only the natural fellowship in the different sex. Otherwise marriage would no longer be called such in old age, especially if they had either lost children or had begotten none. But now, in a good marriage, even one advanced in years, although the ardor of age between male and female has withered, the order of charity between husband and wife nevertheless flourishes, because the better they are, the earlier, by mutual consent, they have begun to abstain from the union of their flesh, not that it would thereafter be a necessity not to be able to do what they wished, but that it would be to their praise first not to have wished what they could.” (Migne, *P. L.*, XL, 377, 375).

³ Gen. II, 24; Matth. XIX, 5; 1 Cor. VII, 4; Eph. V, 25–29; Tit. II, 4.

| 464 | The qualities required of the married are thus described by the famous pulpit jester Abraham a Santa Clara: “Married people must have good teeth, for they are obliged to chew and swallow many disagreeable things. They must have good fingers, for it is often necessary that they peer through them. They must have good feet, for the shoe will often pinch them. They must have a good stomach, for they have to digest many troubles. They must be very devout, for they have to carry the cross every day in the year.”

| 465 | I. The principal duties of the married in the natural order are cohabitation and the *debitum coniugale*.

1. The duty of living together (*communio mensae sive cohabitatio*) is imposed by the common life to which both parties are vowed.⁴ By the law of nature the husband is the head of the family and determines its place and manner of living. If for some good reason he decides to change his domicile,

the wife is bound to follow him, unless she is physically or morally unable to do so. If he is temporarily forced to live apart from his wife, he should obtain her consent, without which he should not act except in case of necessity, and even then only provided the separation does not bring in its wake the *periculum incontinentiae*. For a short absence the husband does not need the consent of his wife, but it would undoubtedly be an injustice to her if he remained away even for a brief while without informing her of the reason.⁵

⁴ Matth. XIX, 5; 1 Cor. VII, 5.—Cfr. St. Alphonsus, *Theologia Mor.*, l. VI, n. 977.—Gury, *Comp. Theol. Mor.*, Vol. I, n. 388.

⁵ St. Alphonsus, *Theol. Mor.*, l. VI, n. 939: "It is certain that spouses are bound by an obligation of justice to cohabit in the same house, at the same table and bed. Hence it is inferred that neither spouse can depart elsewhere for a long time against the will of the other unless just causes are present, namely for the public good, to support or protect the family, or to avoid harm from enemies. But Bossius, with Toletus and Sayrus, said that if the husband had to remain elsewhere for a long time, he would be bound, if he conveniently can, to bring his wife there so that she may cohabit with him. . . . The husband can undertake a brief pilgrimage for the sake of devotion even against his wife's will; the wife, however, cannot do this without the husband's consent, since she is subject to his will and it does not become the state of women to travel. From mutual consent, however, spouses can rightly separate from each other, provided the danger of incontinence and harm to the education of the offspring are absent, from the words of the Apostle (1 Cor. VII, 5): 'Defraud not one another, except perhaps by consent for a time, that you may devote yourselves to prayer, and return together again, lest Satan tempt you because of your incontinence.'"—Cfr. Reuter-Lehmkuhl, *Neoconfessarius*, P. II, c. 4, n. p. 151.

[466] If the matrimonial contract stipulates that the husband shall not change his domicile without the wife's consent, or if he becomes a vagabond after marriage, and the wife was unaware of this propensity before she married him, she is not bound to accompany him. The fact that the wife's dowry has not yet been paid, does not justify the husband in refusing to cohabit with her, for the duty of cohabitation flows from the marriage contract. Arbitrary separation, secret escape, or malicious abandonment of one party by the other, is a grievous injustice.

If married people live apart, it is usually an indication that their spiritual union is not very close. The wife's place is in her husband's house, and she inflicts an injury upon him if she goes away to live with her parents or other relatives.

If a man wishes to emigrate to a foreign country, he should not do so against the wishes of his wife. Even though she can give no other reason for opposing the plan than a strong love of home, this sentiment should be respected. The man who without important reasons disregards such a noble sentiment in his wife, cannot expect her to become more closely attached to him if he disregards her wishes. Only when the motives inspiring the husband are very weighty, can the wife be expected to acquiesce, even at the sacrifice of her natural sentiments.⁶

⁶ Linsenmann, *Moraltheologie*, p. 629.

[467] Neither party may leave the other except on account of notorious adultery or if further cohabitation has become impossible without serious danger to faith, morals, or honor. In that event the facts should be reported to the ecclesiastical authorities and permission obtained for a *separatio a mensa et toro*.

If one party has committed adultery, and the fact is established beyond doubt, the innocent partner is justified in denying to the guilty the *debitum coniugale* and other signs of matrimonial affection, and if

he or she intends to apply for an ecclesiastical decree of separation, the *debitum* must be denied, because otherwise the right to a separation would be forfeited.

Even when there are good reasons for demanding a separation the innocent party should consider well whether it would not be better, for the sake of the temporal and eternal welfare of himself or herself and of the children, to condone the crime and continue to cohabit with the guilty partner rather than get a separation.

For a husband or wife to live apart from the other without sufficient canonical reasons is a mortal sin and renders the party *per se* unworthy of absolution. Under present conditions, however, the Church is no longer able to prevent such unauthorized separations and therefore tolerates them. Hence if married persons living apart are convinced that they are right, if their separation does not give scandal, and if admonitions and warnings are likely to prove ineffective, they may be left unmolested.⁷

⁷ J. E. Pruner, *Kath. Moralthologie*, Vol. I, 3rd ed., p. 335; cfr. Lehmkuhl, *Theol. Mor.*, Vol. II, n. 934 sqq.

| 468 | 2. The *communio tori* or *ius et debitum coniugale* also flows from the nature of Matrimony.

a) Matrimonial cohabitation in the narrower sense of the term is not sinful, but on the contrary, the right to demand, and the duty to render it, are clearly taught by St. Paul, when he says: “Let the husband render to his wife her due, and likewise the wife to her husband. The wife hath not control of her own body [in this matter], but the husband; the husband likewise hath not control of his own body, but the wife. Deprive not one another [of your due], unless it be by consent for a time, that you may devote yourself to prayer and [then] be together again, lest Satan use your lack of self-control to tempt you.”⁸

⁸ 1 Cor. VII, 3 sq.—St. Alphonsus, *Theol. Mor.*, l. VI, n. 938: “Although spouses are bound by no law to the use of marriage, they are nevertheless bound of themselves in justice to render the debt to each other if one asks it of the other expressly or tacitly (modesty, of course, standing in the way). The reason for the former is that they are not bound to use their right. The reason for the latter follows from the nature of a mutual contract. Neither is bound, speaking of itself, to request the debt, although accidentally one may sometimes be bound either by charity, e. g., to notice the danger of incontinence threatening the spouse, or by legal justice, because the public welfare would be endangered unless offspring were born.”—Gury, *Comp. Theol. Mor.*, II, n. 687: “The conjugal debt is called that common action of the spouses which is necessary for generation and which is ordained by the supreme Provider of all things for propagating human society. This action consists in carnal union, by which man and woman become as it were one body and one flesh. An act of this kind is called a debt by the Apostle; for it is what spouses owe to each other.”—Ibid., n. 688: “The conjugal act is of itself altogether honorable and licit between true spouses, provided it is exercised for a due end; for it is the sole means established and ordained by the Creator of nature Himself for the legitimate propagation of the human race. The ends which render such an act honorable are: 1. The generation of offspring, which is numbered among the principal ends of marriage; 2. The satisfaction of the obligation arising from the right of one’s spouse; 3. The avoidance of incontinence both in oneself and in one’s spouse; 4. The desire of fostering or obtaining honorable friendship, of making manifest the conjugal affection, or of promoting it.”—Ibid., n. 696: “There is no obligation of itself to request the conjugal debt. The reason is that neither spouse is bound to use his right and each can remit it. Accidentally, however, there can be an obligation to request it from charity or another virtue, especially in the husband, e. g., if he judges that his spouse is in danger of incontinence because of modesty in asking, or if the request is necessary for the sake of fostering or restoring conjugal friendship, etc.”—Wilhelm, *Das Eheleben*, 98 sqq.

| 469 | It follows that the married have the right, within the limits set by God, to demand the *debitum coniugale* of each other, and to this right corresponds the strict duty of rendering the *debitum*, unless there are good reasons justifying a refusal. Hence both parties have equal rights and duties in regard

to matrimonial cohabitation and, generally speaking, are bound under pain of mortal sin to render each other the *debitum*. This obligation is especially grave if either party is exposed to the danger of incontinence.

As a rule the *debitum coniugale* or the *redditio debiti* may not be denied *sub gravi* if the other party expressly demands it, or the demand may be reasonably presumed. Unwarranted denial of this right is apt to disturb the peace and may easily become a source of marital infidelity.⁹

⁹ 1 Cor. VII, 7.—St. Thomas, *Summa Theol.*, 3a, Suppl., qu. 63, art. 2: “Requesting the debt happens in two ways: in one way expressly, as when they request it from one another in words; in another way interpretatively, when, namely, the husband perceives through certain signs that the wife would wish the debt to be rendered to her, but is silent because of modesty; and thus, even though she does not expressly request the debt in words, nevertheless the husband is bound to render it when certain signs of rendering the debt appear in the wife.”—*Ibid.*, art. 9, ad 1: “This has been divinely ordained because of the slipperiness of the flesh, that the debt always be rendered to one requesting it, lest any occasion of sin be given.”—St. Alphonsus, *Theol. Mor.*, l. VI, n. 940: “He sins mortally who denies the debt to a spouse seriously and urgently requesting it, because it is a grave matter and is owed in justice. Understand this unless the one requesting can be turned aside by entreaties or another honorable reason and the request is not immoderate (for if it is denied once in words to one frequently requesting it, apart from danger of incontinence, it seems to be only venial because of lightness of matter; and sometimes, if one requests too immoderately and unjustly too often, none), nor is there another just cause for denying. M. Perez judges it a just cause, apart from danger of incontinence for either, if more children would be born than they can support.”

[470] The duty of rendering the *debitum* ceases if the party demanding it is not in the full possession of his or her senses (e. g., insane or totally drunk), if he or she suffers from an infectious disease or has forfeited the *ius petendi debitum coniugale* by adultery.¹⁰

¹⁰ St. Alphonsus, *Theol. Mor.*, l. VI, n. 948, 950–953; Gury, II, n. 696: “The obligation of rendering the debt ceases when the right of demanding it ceases; but the right is extinguished especially in the following cases, namely: 1. If one of the spouses has committed adultery, because fidelity is no longer owed to one who breaks fidelity; 2. If the one requesting lacks the use of reason, because his request is not a human act; 3. If the one rendering can reasonably fear damage or grave danger to health, because spouses are not judged to have bound themselves to render the debt with so great an inconvenience; 4. If the one requesting has lost the right to request because of incest committed with the other’s blood relatives or for some other reason.”

b) The conjugal act (*usus matrimonii*) is licit only if prompted by reasonable and proper motives, such as the desire for children (*generatio prolis*), mutual affection (*caritas mutua*), or the wish to avoid sin (*evitatio peccati*), and provided it takes place within the limits prescribed by the moral law, or, as theologians are wont to put it, “*salva personae incolumitate et salvâ debitâ honestate*.” Though in its nature licit, nay laudable and where the conditions for supernatural merit are present, even meritorious, the *actus coniugalis* may become illicit and sinful *per accidens*, i. e., through the circumstances accompanying it.¹¹

¹¹ St. Augustine, *De Genesi ad Lit.*, l. IX, c. 7, n. 12: “That which marriages possess as a good, and by which marriages are good, can never be a sin. This, however, is threefold: fidelity, offspring, sacrament. In fidelity, care is taken that there be no intercourse with another woman or man outside the marriage bond; in offspring, that it be lovingly received, kindly nourished, religiously educated; in the sacrament, moreover, that the marriage not be dissolved and that the man or woman who is dismissed not be joined to another even for the sake of offspring. This is, as it were, the rule of marriages, by which either the fecundity of nature is adorned or the depravity of incontinence is governed.” (Migne, P. L., XXXIV, 397.)—*Idem*, *De Bono Coniug.*, c. 6, n. 6: “Conjugal intercourse for the sake of generation has no fault; that for satisfying concupiscence, however, but nevertheless with one’s spouse, has venial fault because of fidelity to the marriage bed; adultery, however, or fornication, has mortal fault. And for this reason continence from all intercourse is indeed better than even marital intercourse itself, which is performed for the sake of begetting.”—*Ibid.*, c.

7, n. 6: “But because that continence is of greater merit, while rendering the conjugal debt is no crime, demanding it beyond the necessity of generation is a venial fault, and fornicating or committing adultery is a punishable crime, conjugal charity ought to take care lest, while seeking for itself that from which it may be more greatly honored, it make for the spouse that from which the spouse may be condemned.” (P. L., 377 sq.)—Peter Lombard, *Sent.*, l. IV, dist. 31, c. 5.—St. Thomas, *S. Theol.*, 3a, Suppl., qu. 49, art. 5: “Just as the goods of marriage, in so far as they are in a habit, make marriage honorable and holy, so also, in so far as they are in actual intention, they make the act of marriage honorable with respect to those two goods of marriage which concern the act itself. Hence, when spouses come together for the sake of procreating offspring, or in order to render to each other the debt that pertains to fidelity, they are totally excused from sin.”—J. Nider († 1438), *Praeceptorium Div. Legis*, pr. 6, c. 4: “Intercourse in marriage is therefore a meritorious act and an act of the virtue which is called conjugal chastity, when it takes place solely for the sake of procreating offspring and educating it religiously for the increase of divine worship. And if the other due circumstances are then present, it is an act of the virtue which is called religion.”—Cfr. Denifle, *Luther und Luthertum*, Vol. I, 2nd ed., pp. 238 sqq.

|471| a) If it entails grave danger to life or health for one or both of the parties, the act is illicit and cannot even be justified by the *periculum incontinentiae*, because the latter may be obviated by other means, e. g., prayer and mortification. When there is immediate danger to an already conceived fetus, e. g., through abortion, the *concubitus matrimonialis* is forbidden, because it would inflict upon the child an injustice which not even the danger of incontinence could excuse. If the procreation of an imperfect offspring is to be apprehended from the act, the principle of St. Thomas applies: “Although weak offspring may be generated, nevertheless it is better for it to exist thus than not to exist at all.”¹² In such a case no right is violated by matrimonial intercourse because the *proles concipienda* as yet possesses no rights. Besides, the fact of conception and the harm apprehended are both uncertain.

¹² St. Thomas, *Summa Theol.*, 3a, Suppl., qu. 64, art. 1, ad 4.

|472| It should be observed, however, that harm caused to a child quite often means injury to the family and to the State, for instance, through idiocy. For this reason prospective parents are under a grave obligation to avoid whatever might lead to the birth of exceptionally abnormal offspring. Broadly speaking, married couples have not the right to bring into the world children whom they are unable to support, for they would thereby inflict a grievous damage upon society.

It should be remembered that a *fetus* has the rights of a human being. Hence the married are not permitted to have sexual intercourse if it is apt to injure an existing fetus and the injury is not compensated by a corresponding advantage. The risk of incontinence can be offset by other means. But to forbid marital intercourse when the danger of abortion is but slight, would be imposing an intolerable burden. Aside from the danger of abortion, all other possible injuries to be apprehended from marital intercourse may be compensated for by such reasonable ends as the fostering of mutual affection, avoiding incontinence, etc.¹³

¹³ F. A. Göpfert, *Moraltheologie*, Vol. III, 5th ed., p. 431.

|473| In cases of mental derangement on either side, the sexual intercourse of the married is subject to certain restraints imposed by regard for the welfare of the offspring. The children of a psychopathic or neurotic couple will not easily escape a hereditary taint. In cases of extreme and permanent psychic affection some authors hold that sexual intercourse is forbidden. When the trouble is less deep-seated and merely temporary, it will be advisable to await the return of a more normal condition, if this can be done without irritating the patient too much.¹⁴

¹⁴ Stöhr-Kannamüller, *Handbuch der Pastoralmedizin*, 5th ed., pp. 507 sqq.

β) Married people may not, under pain of mortal sin, gratify the sexual instinct outside the limits established by nature, especially are they forbidden to prevent conception or limit offspring except by mutual abstention.¹⁵ A husband who practices *onanism* cannot be absolved unless he shows extraordinary signs of contrition and a firm purpose of amendment. The wife should try to prevent onanistic intercourse. If she does not succeed, she should withhold interior consent from the sin committed by the *vir onanista* and manifest her disapproval of his conduct by earnest protests and admonitions. For the rest she may remain passive, because the act is legitimate in its inception and becomes sinful only through subsequent abuse on the part of the husband. If, however, it is impossible for the wife to render the *debitum coniugale in ordine naturae*, because the husband uses mechanical appliances (*condoms, pessaries*) or other means to prevent conception, (“contraceptives,” as they are called), she is strictly bound to deny him the *debitum coniugale*, because in that case the act is intrinsically bad from the very beginning and therefore co-operation would be illicit and a mortal sin except when rendered under the influence of dire compulsion.¹⁶

¹⁵ “A certain noble lord, otherwise well instructed, is accustomed to interrupt intercourse, even though his spouse objects, lest offspring follow. Asked why he acts thus, he replies that this was permitted to him by some learned confessor. When reproved, he says that he does it for a twofold reason: 1. Lest the condition of the family be brought low by more numerous offspring; 2. Lest the wife be excessively wearied by repeated pregnancy. Moreover, rejected by the pastor, who does not absolve him when he is unwilling to withdraw from this manner of acting, he everywhere proclaims his pastor ignorant and proud, as one who corrects the opinion of others and imposes unbearable burdens upon penitents. The Sacred Penitentiary, under date of Nov. 13, 1901, replied: The pastor of whom the case speaks acted rightly, and a penitent who is unwilling to abstain from this manner of acting, which is pure onanism, cannot be absolved.”—Cfr. L. Freund, *Kindersegen und Kindersorgen*, 2nd ed., Donauwörth 1907; D. J. Cardinal Mercier, *The Duties of Conjugal Life*, London C. T. S., pp. 14 sqq.

¹⁶ St. Alphonsus, *Theol. Mor.*, I, VI, n. 927: “From the cases stated it is consequently resolved that it is lawful to use marriage for the sake of offspring, even though offspring need not necessarily be intended while it is exercised, provided that it is not positively prevented; indeed, sometimes it may even lawfully be excluded by a simple intention, e. g., by a poor man, lest he be excessively burdened with children.”—*Ibid.*, n. 954: “You ask whether it is ever lawful to impede the generation of offspring. It is answered: Spouses can indeed for a grave reason do something from which the emission of seed follows accidentally; they sin, however, if in the use of marriage or after its use they do something by which conception is impeded or conceived seed is cast out. The reason for the former is that generation is not impeded, not even indirectly, but it is merely permitted that generation not occur, which is lawful for a reasonable cause. The reason for the latter is that they act against fidelity and the principal end of marriage. Hence neither impending poverty nor danger from childbirth excuses such persons.”—Gury, *Comp. Theol. Mor.*, II, nn. 702–705.—Lehmkuhl, *Casus Consc.*, Vol. I, 3rd ed., nn. 548–552.—Jos. Antonelli, *Medicina Pastoralis*, Vol. II, 3rd ed., pp. 152 sqq., 476 sqq.

[475] A woman who directly or indirectly (e. g., by complaining) induces her husband to employ unnatural means to prevent conception, commits a mortal sin.

It goes without saying that the medicinal or artificial sterilization of the *semen virile post copulam* is illicit.¹⁷

¹⁷ Except in cases of rape; Lehmkuhl, *Theol. Mor.*, Vol. I, n. 1013; cfr. Aertnys, *Theol. Mor.*, Vol. I, 7th ed., I, III, n. 192, qu. 2.

It is permissible to limit sexual intercourse to the period during which conception does not ordinarily take place.¹⁸

¹⁸ S. Poenit., decree of June 16, 1880.—M. D. Nardi, *De Sanctitate Matrimonii Vindicata contra Onanism*, 3rd ed., Rome 1907.—C. Capellmann, *Fakultative Sterilität ohne Verletzung der Sittengesetze*, 13th ed., Aix-la-Chapelle, 1896, pp. 15 sqq.—

A decision of the Holy Office, March 24, 1897, forbade the artificial fecundation of women (see Antonelli, *Medicina Past.*, Vol. II, 4th ed., pp. 534 sqq.).

The *excision of the uterus or ovaries*, if performed for the sole purpose of preventing conception, is sinful, even in cases where conception might involve danger to the woman's life.

If the husband demands the *debitum coniugale* while intoxicated, the wife, because of the danger to the offspring, is justified in denying him; nay, she is in duty bound to refuse if there is direct danger of abortion.¹⁹

¹⁹ Stöhr-Kannamüller, *Handbuch der Pastoralmedizin*, 5th ed., p. 507.

[476] γ) Married people in the nature of things enjoy great freedom in those actions which are directed towards the *concubitus coniugalis*.²⁰ But the *usus matrimonii* is not, as many seem to think, a permit for the unlimited gratification of the passions. It is, on the contrary, designed as a medicine and protection against inordinate concupiscence and must, therefore, always be chaste and decent.²¹ To indulge in it merely and solely for pleasure, *i. e.*, to the positive exclusion of every other legitimate end, would consequently be sinful, for that pleasure is intended by nature as a means to an end, namely, the procreation of offspring, and must not be raised to the rank of an end in itself.²²

²⁰ St. Alphonsus, *Theol. Mor.*, l. VI, n. 932: "You ask whether and when touches, looks, and indecent words are lawful between spouses. It is answered: Such acts are lawful to them in themselves, because to one to whom the end is lawful, the means are also lawful, and to one to whom consummation is lawful, the beginning is also lawful. Hence they may lawfully excite nature to intercourse by such acts. But if they are performed separately and without relation to intercourse, *v. g.*, solely for the sake of pleasure, they are venial sins, because by reason of the state which renders those acts honorable they have a right to them. Unless, however, as often happens, they are joined with danger of pollution, or the spouses have a vow of chastity, for then they are mortal."—Gury, *Comp. Theol. Mor.*, Vol. II, n. 700 sq.

²¹ Tob. IV, 13; VI, 16 sqq., 22. 1 Cor. VII, 29; Tit. II, 5.—St. Jerome, *Adv. Iovinian.*, l. I, n. 49: "A wise man ought to love his wife with judgment, not with passion. Let him govern the impulses of pleasure and not be borne headlong into intercourse. Nothing is more shameful than to love one's wife as though she were an adulteress. . . . It is the saying of a most learned man that chastity must above all be retained; when it has been lost, every virtue falls. In it lies the pre-eminence of womanly virtues. It commends the poor woman, exalts the rich, redeems the deformed, adorns the beautiful; it serves the ancestors well, whose blood it does not corrupt with secret offspring; it serves the children well, who need neither blush for their mother nor doubt their father; above all it serves herself well, whom it vindicates from the outrage of another's body. . . . There are many things which ennoble distinguished characters. A woman's proper virtue is chastity." (Migne, P. L., XXIII, 281 sq.)—St. Augustine, *De Bono Coniug.*, c. 11, n. 12: "The beauty of marriage is chastity in procreating and fidelity in rendering the carnal debt." (P. L., XL, 382). *Idem*, *Serm.*, n. 9 (al. 96 *de tempore*), c. 9, n. 12: "Many safeguards make a woman chaster; let manliness itself make a man chaste. For a woman therefore has greater custody, because she has greater weakness. She blushes before a man; do you not blush before Christ? You are freer because stronger: because you conquer easily, you are therefore entrusted to yourself. Over her are both the vigilance of her husband and the terror of the laws and the custom of morals and greater modesty; and over you is God, God alone." (P. L., XXXVIII, 84.)

²² *Prop. damn. sub Innoc. XI*, n. 9: "The conjugal act performed solely for pleasure is wholly free from all fault and venial defect." (Denzinger-Bannwart, n. 1026.)

[477] According to Thomas R. Malthus († 1834) population, when unchecked, always increases in a geometrical ratio, whereas the food supply increases only in an arithmetical ratio, in other words, "while the primitive agricultural community increases from two to sixteen, the food which their labor produces only increases from two to eight. Thus a time must sooner or later arrive when the population has outrun the means of subsistence, and its further increase is limited by actual

starvation.” The so-called *Malthusian law* has long since been disproved, but this fact does not hinder thousands of presumably educated persons from regarding its fundamental thesis as a sure conclusion of science.²³ Christian economists have proved on a strictly scientific basis that Malthusianism is wrong.²⁴ “With the increase in population,” says Dr. Linsenmann, “there grows not only the power of productivity inherent in human labor, but also, in consequence of advancing civilization, the productiveness of the soil, because it is more intensely cultivated, and the progress of the science of economics enables men to make better use of the gifts of nature. . . . The theory of voluntary self-restraint, moreover, misses its aim. If this self-restraint is to be truly moral, rather than a cause of grave moral aberrations and social evils (prostitution), it presupposes a moral strength which can be expected least of those who ought to be the first to exercise it. The man who possesses enough strength of character to practice this self-control, will not ‘breed proletarians,’ but is competent to establish and support a home of his own and to rear his children as useful members of society. It would not be better, but rather worse, for society if the best and morally most perfect families would produce fewer children in order not to deprive the offspring of the homeless proletarians of their sustenance. . . . When self-restraint is really moral and based upon mutual consent, it may be justified by the motive not to have more children than can be properly taken care of, in connection with other motives. But because of its dangers it should be recommended only with the greatest caution.”²⁵

²³ A. M. Carr-Saunders, *The Population Problem*, London, 1922; H. G. Sutherland, M. D., *Birth Control*, London, 1922, pp. 1 sqq.

²⁴ H. G. Sutherland, *Birth Control*, London 1922, *passim*.—H. Pesch, S. J., *Lehrbuch der Nationalökonomie*, Vol. II, pp. 587 sqq.—V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 132 sqq.—*Idem*, *Der Sozialismus*, 9th ed., pp. 392 sqq. (Engl. tr. by V. Gettelmann, S. J.).—F. Keller, *Bevölkerungspolitik und christliche Moral*, Freiburg 1905.—S. de Plauzoles, *La Maternité et la Défense Nationale contre la Dépopulation*, Paris 1909, pp. 119 sqq.

²⁵ F. X. Linsenmann, *Lehrbuch der Moralthéol.*, pp. 633 sq.

[478] Malthus, who was a parson of the Anglican Church and a conservative in politics, recommended abstinence from sexual intercourse on moral grounds only, and hence it is wrong to designate the modern theory of “birth control” as “Neo-Malthusianism.” In direct opposition to Malthus’s teaching the Malthusian League in England advises early marriage combined with artificial birth control.²⁶ There can be no doubt that the honest citizen who marries and rears a large family of healthy children serves his country more effectively than the bachelor who engages in speculation regarding population figures.

²⁶ “Although their policy is thus in flat contradiction to the policy of Malthus,” says Dr. Sutherland (*op. cit.*, p. 3 sq.), “there are two things common to both. Each is based on the same fallacy, and the aim of both is wide of the mark. Indeed, the Neo-Malthusian, like Malthus, has ‘a mist of speculation over his facts, a vapor of fact over his ideas.’ Moreover, the path of the Malthusian League, although at first glance an easy way out of many human difficulties, is in reality the broad road along which a man or a nation travels to destruction; and as guides the Neo-Malthusians are utterly unsafe, since they argue from (a) false premises to (b) false deductions.”—Cfr. Aertnys, *Theol. Mor.*, Vol. II, 7th ed., I. VI, n. 493; B. Mosso, *De Frustratione Finis Matrimonii* in the *Pastor Bonus*, Treves 1893, pp. 376 sqq.

[479] There is a *duty of moderation and continence* which binds all, even the married, according to the individual character of their relationship, and cannot therefore be regulated by a general law,—a duty to take care of one’s health and that of one’s partner, which finds expression in the ancient ecclesiastical admonition to the married to abstain from sexual intercourse at certain seasons of the

year as a work of penance. That no positive law to this effect has come down to our time does not prove that the duty of moderation no longer binds married people. They should practice moderation for moral, religious, and hygienic reasons. The admonition of the Roman Catechism is still timely: “As all blessings are to be obtained from God by holy prayer, the faithful should be taught to abstain at times from marital intercourse in order to devote themselves to prayer and supplication to God. By practicing this religious continence, according to the proper and holy injunction of our Fathers, they will find the blessings of marriage augmented by a daily increasing accumulation of divine grace; and living in the pursuit and practice of piety, they will not only spend this life tranquilly and placidly, but will also rest on the true and firm hope, which ‘confoundeth not’ (Rom. v, 5), of attaining, through the goodness of God, life eternal.”²⁷

²⁷ *Catech. Rom.*, P. II, c. 8, qu. 34.—Cfr. St. Thomas, *Summa Theol.*, 3a, Suppl., qu. 64, art. 6–9.

|480| c) Intimately connected with the *debitum coniugale* is the duty of *fidelity* which the married owe to one another (*fides matrimonialis*). This duty is a postulate of nature, imposed by the purpose of Matrimony as well as by the fact that Christian marriage is a symbol of Christ’s indissoluble and exclusive union with His Church.²⁸ Every gratification of the sexual instinct outside of Matrimony, nay even the voluntary desire for it, is a mortal sin (*adulterium*), doubly grave if the real or coveted accomplice is a married person. The specific sin of adultery is committed also if one party has illicit sexual intercourse with the consent of the other, because neither husband nor wife can abolish the matrimonial relation.²⁹

²⁸ Gen. II, 24; Matth. XIX, 5; 1 Cor. VII, 4; Eph. V, 25 sqq.; Heb. XIII, 4.—*Catech. Rom.*, P. II, c. 8, qu. 24: “Fidelity . . . is the second good of marriage, not that habit of virtue with which we are imbued when we receive baptism, but a certain faithfulness by which husband and wife mutually bind themselves in such a way that one hands over to the other power over his or her body and promises never to violate that sacred covenant of marriage.”—St. Augustine, *De Bono Coniug.*, c. 4: “This [fidelity], even in corporeal and abject matters, is a great good of the soul, and therefore it is certain that it ought to be preferred even to bodily health, in which our life also is contained. For although a little straw is almost nothing in comparison with much gold, nevertheless fidelity, when it is sincerely kept in a matter of straw just as in gold, is not therefore less because it is kept in a lesser matter.” (Migne, P. L., XL, 376.)

²⁹ *Prop. damn. sub Innoc. XI*, n. 50: “Intercourse with a married woman with the husband’s consent is not adultery, and therefore it is sufficient in confession to say that one has committed fornication.” (Denzinger-Bannwart, n. 1067.)

|481| Though, so far as the duty of mutual fidelity is concerned, there is no difference between man and wife, and adultery is equally sinful for both, in regard to the *bonum fidei* as well as the *bonum sacramenti*, this crime may be aggravated by uncertainty regarding the paternity of a resulting child.³⁰

³⁰ *V. supra*, pp. 438 sq., 440, 442. Cfr. Holweck, *Die kirchlichen Strafgesetze*, p. 265.

Adultery is one of the most pernicious of crimes, for it not only involves a grievous injustice to the innocent spouse, but violates the most sacred bond of society, destroys the peace and happiness of numberless families, promotes perjury, child-murder, and other heinous crimes; and hence we need not wonder at the terrible punishments leveled against it.³¹

³¹ *Ecclus.* XXIII, 21 sqq.; *Ez.* XXII, 11 sqq.; 1 Cor. VI, 9; Heb. XIII, 4.—St. Jerome, *Adv. Iovinian.*, l. I, n. 49: “No calamity of captivity is greater than to be drawn to another woman.” (Migne, P. L., XXIII, 282).—*Idem*, *Epist.*, 22, n. 12: “David . . . after, while walking upon the roof of his house, he was captivated by the nakedness of Bethsabee, joined homicide to adultery.” (P. L., XXII, 401).

Adultery is usually preceded by a mental estrangement between husband and wife, and by undue affection for a third party. Where this occurs, it is evident that husband and wife were not what they should have been to each other, namely, true soul-mates and boon companions, and this is often the fault of the party who poses as the innocent one after the catastrophe. Lack of expressions of sincere affection and signs of indifference are usually the first indications of an estrangement. They are followed by the destruction of mutual confidence and jealousy. *Jealousy* may be a sin, namely, when it nourishes suspicion; but in most instances it is caused by the coldness of the other partner, who claims rights, but forgets that he has corresponding duties to fulfil.³²

³² Linsenmann, *Moraltheologie*, p. 634.

|482| II. Prominent among the duties of the higher order which elevate and ennoble married life, are mutual love and the unity and indissolubility of the marriage bond.

1. The principal duty of the married is *mutual love* (*amor mutuus*). The love which induced them to contract Matrimony should remain with them till death. St. Paul says: "Husbands, love your wives, as Christ also loved the Church and gave himself up for her sake . . . Even thus ought husbands to love their wives as their own bodies. He that loveth his own wife loveth himself. Surely no man hateth his own flesh, nay, he doth nourish and cherish it, even as Christ the Church; because we are members of his body, of his flesh and of his bones. For this shall man leave father and mother, and shall cleave to his wife, and the two shall come to be one flesh. The mystery here is great—I mean in reference to Christ and the Church. However, let each of you, also, love his wife even as himself; and let the wife reverence her husband."³³

³³ Eph. V, 28–33; cfr. Tit. II, 4.—Rive-Umberg, S. J., *Die Ehe*, 2nd ed., Ratisbon 1921, pp. 312 sqq.

|483| This mutual love (*unio cordium*), which should be so strong that neither party will prefer his parents or children to the other except *in extrema necessitate*,³⁴ is a highly important factor in marital life, first, because it preserves domestic concord, and especially the sacred blessing of mutual fidelity; second, because it guarantees mutual assistance and aid in the material, moral, and religious necessities of life, and third, because it secures the divinely-established subjection of the wife to the authority of her husband. For although husband and wife stand in a most intimate mutual relationship, and possess the same rights over each other in regard to the *bonum fidei*, yet the husband is the natural head of the family, and the wife owes him reverence and obedience in all matters pertaining to domestic government. From this duty of obedience it does not, however, follow that the husband may treat his wife as a servant or slave, for she is his companion and best friend, to whom he owes reverence and love.³⁵

³⁴ St. Alphonsus, *Theol. Mor.*, I. VI, n. 939, dub. 2: "It must be noted that in extreme necessity aid must first be given to parents, who are to be loved as the source, rather than to one's spouse, and first also to children, since they are a part of the parent. In grave necessity, however, aid must first be given to one's spouse rather than to parents and children, because with respect to domestic administration there is a greater union between spouses, since they are one flesh."

³⁵ Gen. II, 20; III, 12, 16; Eph. V, 22–25, 28; Col. III, 18 sq.; Tit. II, 4 sq.; 1 Pet. III, 1.—*Cat. Rom.*, P. II, c. 8, qu. 26 sq.—St. Ambrose, *Epist.*, 63, n. 107: "Let the woman show deference to the man, not serve him; let her present herself to be governed, not coerced. She is unworthy of marriage who is worthy of strife. Let the man likewise direct his wife as a governor, honor her as the companion of his life, and let him make her a participant as a co-heir of grace."—Leo XIII, *Encycl. "Arcanum divinae sapientiae"*, Feb. 10, 1880: "The man is the ruler of the family and the head of the woman; nevertheless she, because she is flesh of his flesh and bone of his bones, should be subject and obedient to the man in the manner not of a maidservant but of a companion, so that neither honor nor dignity be absent from the obedience

rendered. In him who commands, and in her who obeys, since each represents an image, the one of Christ, the other of the Church, let divine charity be the perpetual moderator of duty.”—Cfr. J. P. Gury, *Comp. Theol. Mor.*, I, nn. 389–391.

| 484 | The sin of marital infidelity differs specifically from all other violations of charity. Voluntary aversion or enmity among married people easily becomes a mortal sin, both per se and because of the scandal arising therefrom and the evil consequences it may entail for the whole family.

One of the worst enemies of marital happiness is that blasé indifference to the simple joys of life which so often leads to coldness and neglect. When true love vanishes, its place is but too often taken by passion. The severest character test for the married is *childlessness*. Not many husbands can say to their sterile wives what Elcana, the father of Samuel, said to Anna: “Why weepest thou? and why dost thou not eat? And why dost thou afflict thy heart? Am I not better to thee than ten children?”³⁶ And yet childless couples might learn from this Old Testament story, not only how to console each other, but also that God can render a barren womb fertile in answer to pious prayers and a vow.³⁷ Unfortunately many childless marriages are barren through the fault of the husbands, who render their wives sterile by infecting them with loathsome diseases, usually contracted from prostitutes.

³⁶ 1 Kings I, 8.

³⁷ Linsenmann, *Lehrb. der Moraltheol.*, pp. 635 sq.—Cfr. Gen. XV, 2 sqq.; XVIII, 10 sqq.; XXI, 1 sqq.; Judg. XIII, 2 sq.; 1 Kings I, 19 sq.; Luke I, 36 sq.

| 485 | 2. The *unity* of marriage (*unitas matrimonii*), flows directly from the spiritual and moral nature of Matrimony.

a) That polyandry (plurality of husbands) is opposed to the social order is evident from the fact that there is no room under that system for paternal law and authority. Polyandry is not so much a means for the multiplication of offspring as for indulgence in lust.

Polygamy (plurality of wives) does not necessarily and completely prevent the propagation of the race,³⁸ yet it is unnatural and forbidden, being opposed to the unity of marriage, and consequently more or less incompatible with the equality which it demands between husband and wife. One inevitable consequence of the inequality ensuing from polygamy is the subjection of the wife to the husband; instead of a helpmeet, she becomes his slave.³⁹ Polygamy is consequently forbidden by divine law, and the Church has strongly insisted on the unity of Christian marriage from the beginning of her career.⁴⁰

³⁸ *Conc. Trid.*, Sess. XXIV, can. 2: “If anyone shall say that it is lawful for Christians to have several wives at the same time, and that this is prohibited by no divine law, let him be anathema.”—St. Augustine, *De Bono Coniug.*, c. 17, n. 20: “It is not lawful for one woman to have several husbands as it is for one man to have several wives; nor could this be for the sake of offspring, if perhaps she could bear while he could not beget. For by a hidden law of nature, things which rule love singularity; things subject, however, are not only singly subject to single things, but, if natural or social reason permits, even several are becomingly subject to one. For one servant does not have several masters in the way that several servants have one master. Thus we read that no holy women served two or more living husbands, but we read that several women served one man, since the society of that nation permitted it and the reason of the time advised it; for this is not contrary to the nature of marriage. For several women can be impregnated by one man, but one woman cannot by several men (this is the force of first principles), just as many souls are rightly subjected to one God. And therefore there is no true God of souls except one, while one soul can commit fornication with many false gods, but cannot be made fruitful by them.” (Migne, P. L., XL, 387).—*De Nupt. et Concup.*, l. I, c. 9, n. 10 (P. L., XLIV, 419).—St. Thomas, *Summa Theol.*, 3a, Suppl., qu. 65, a. 1: “Plurality of wives neither wholly removes nor in any way impedes the first end of marriage, since one man is sufficient to impregnate several wives and to educate the children

born of them. But although it does not wholly remove the secondary end, it nevertheless greatly impedes it, because peace cannot easily exist in a family where several wives are joined to one husband, since one husband cannot suffice to satisfy several wives according to their desire, and also because the participation of several in one office causes strife: just as potters quarrel with one another, and similarly several wives of one husband. It wholly removes the third end, because just as Christ is one, so also the Church is one. And therefore it is plain from what has been said that plurality of wives is in one respect contrary to the law of nature and in another respect not.”

³⁹ Gen. I, 27; II, 24; IV, 19 sqq.; cfr. Gen. VI, 2; Matth. XIX, 2 sqq.; Luke XVI, 18; Rom. VII, 3; 1 Cor. VII, 3 sqq., 10.—*Cat. Rom.*, P II, c. 8, qu. 19.—St. Augustine, *De Nupt. et Concup.*, l. I, c. 9, n. 10: “Nevertheless the very first divinely established union of the spouses sufficiently indicates that not one man and many women, but one man and one woman, pertains more to the good of marriage, so that marriages might take their beginning from there, where a more honorable example was contemplated.” (Migne, P. L., XLIV, 419).—St. Jerome, *Adv. Iovinian.*, l. I, n. 14: “Where there is a number of husbands, there the husband, who is properly one, ceases to be. One rib at the beginning was changed into one wife. And they shall be, he says, two in one flesh (Gen. II, 24), not three or four; otherwise they are no longer two, if they are several.” (P. L., XXIII, 233).—The passage in Tertullian’s Montanistic treatise, *De Exhort. Castitatis*, c. 5: “Adam, the man of God, and Eve, the woman of God, having discharged the office of marriage one with the other, sanctioned the form of the man of God from the authority of the origin and the first will of God” (ed. Leopold, P. II, 103), refers to first in opposition to second marriage, which Tertullian regards as tantamount to fornication (cfr. *ibid.*, c. 9: “Second marriage must be called nothing other than a kind of debauchery”).—V. Jäkel, *Studien zur vergleichenden Frauenkunde*, Berlin 1901, pp. 140 sqq.—G. Dorys, *La Femme Turque*, Paris 1902, pp. 236 sqq.

⁴⁰ *Conc. Trid.*, Sess. XXIV, can. 2.—Minucius Felix, *Octavius*, c. 31: “We gladly cling to the bond of one marriage; from the desire of procreating we know either one wife or none.” (Migne, P. L., III, 337).—Clement of Alexandria, *Stromata*, l. III, c. 12 (P. G., VIII, 1184).—St. Chrysostom, *Hom. in Gen.*, LVI, c. 3 (P. G., LIV, 489).—Nicholas I, *Epist.*, 97, n. 51 (P. L., CXIX, 999).

|⁴⁸⁶| Gen. II, 24: “They shall be two in one flesh” (cfr. Matth. XIX, 5; Eph. V, 31) must be interpreted ethically. The meaning is that husband and wife should share the same ideas and sentiments, bear prosperity and adversity together, and act as if they were but one person. The text contains an indirect commendation of monogamy, because the relationship which it describes would be impossible in a polygamous marriage.

|⁴⁸⁷| Gen. VI, 2: “The sons of God seeing the daughters of men, that they were fair, took to themselves wives of all which they chose [i. e., as many as] they chose,” describes not a good, but an evil deed.⁴¹

⁴¹ Ehrlich, *Randglossen zur hebr. Bibel*, Vol. I, 12, 29.

A non-Catholic writer says: “Monogamy is a burden to both parties, but weighs more heavily upon the husband than upon the wife. . . . From this fact the advocates of free love argue, with truly masculine logic, that monogamy ought to be abolished. Free love would probably be a more agreeable relation than marriage for the average man of to-day. For many it would merely mean the recognition and legalization of an existing condition. But for the female sex it would just as certainly prove a source of serious dangers and aberrations, fraught with far worse consequences than the present ‘yoke,’ of which a few neurotic women so bitterly complain. . . . The average man prefers polygamy, whereas the average woman rather favors monogamy. A radical change of the existing order would merely reverse the situation without improving it. . . . But there stands in favor of marriage and against free love this powerful argument: that the State recognizes (at least in principle) the duty of caring for children only in connection with a monogamous union concluded for life. Marriage and free love are equally unacceptable to both sexes: neither will be satisfied, no matter which solution is chosen. But the necessity of providing for the offspring decides the question absolutely in favor of

marriage. The modern social community which we call State, and which has serious defects, but still greater advantages, demands monogamy in the interest of the child. All other expedients to safeguard the interests of the child and the liberty of the parents, are purely theoretical and utopian, and their occasional successful adoption within very small circles does not prove their adaptability on a larger scale. For the sake of the child it is necessary, therefore, that marriage be established by law. . . . We may agree with Björnson that the ideal of the woman, namely, chastity before and outside of marriage, should also be the ideal of the man. . . . Chastity on the part of the male is an absolutely reasonable demand and indispensable under present conditions for a healthy social life. Hence it should be striven for with might and main, even though, on account of its ideal nature, it can never be completely attained.”⁴²

⁴² E. Platzhoff-Lejeune, *Handschuhmoral*, 2nd ed., pp. 16 sqq., 21.—F. W. Förster, *Sexualethik und Sexualpädagogik*, 3rd ed., Munich 1910, pp. 45 sqq., 83 sqq.

|⁴⁸⁸| If polygamy is contrary to the natural law because it violates the rights of woman and endangers the welfare of the family, how could God permit it under the Old Law? Fr. Victor Cathrein, S.J., answers this question as follows: “Inasmuch as polygamy is opposed to equal rights for both sexes, God could permit it because He is the supreme Lord and therefore can dispense or withdraw human rights as He pleases in His wisdom and holiness. The evil consequences resulting from polygamy He can prevent in some other way, or, for wise reasons, tolerate temporarily, if the chief purpose of marriage, namely, the propagation of the species, is thereby more quickly attained and this object is desirable for very particular reasons, as it was in the time of the Patriarchs.”⁴³

⁴³ V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., p. 418.—St. Augustine, *Contra Faustum Manich.*, l. XXII, c. 47: “Now, indeed, the fact that his son Jacob is reproached for four wives as though for an enormous crime is cleared away by a general preliminary statement. For when it was the custom, it was not a crime; now it is a crime for the reason that it is not the custom. For some sins are against nature, others against custom, others against precepts. Since these things are so, what crime, then, is it that is charged against the holy man Jacob because he had several wives at once? If you consult nature, he used those women not for lusting but for begetting; if custom, this was commonly done at that time and in those lands; if precept, it was prohibited by no law.” (Migne, P. L., XLII, 428).—*Idem*, *De Bono Coniug.*, c. 15, n. 17: “There is not now the necessity of propagation which existed then, when those already joined in marriage were permitted to take others for more abundant posterity, which certainly is not permitted now. For the hidden distinction of times brings so much opportunity to the just doing or not doing of something, that now he acts better who has not taken even one wife, unless he cannot contain himself. Then, however, even those who could much more easily contain themselves took several wives without blame, unless piety at that time demanded otherwise.” (P. L., XL, 385).—*Idem*, *De Nupt. et Concup.*, l. I, c. 8, n. 9: “It was also permitted to certain individual men to have several wives, where the reason was the multiplication of offspring, not a varying appetite of pleasure.” C. 9, n. 10: “Hence, if one woman lies with several men, because there is for her no multiplication of offspring from this, but a multiplication of lust, she cannot be a wife, but is a harlot.” (P. L., XLIV, 419).—Cfr. St. Thomas, *Summa Theol.*, 3a, Suppl., qu. 65, art. 2; A. Lehmkühl, S. J., *Theol. Mor.*, Vol. II, n. 916 sqq.

|⁴⁸⁹| b) The *remarriage* of either party after the death of the other (*nuptiae secundae, bigamia successiva*) is permitted, in fact, St. Paul expressly says that “the younger [widows] should marry, bear children, be mistresses of families, give no occasion to the adversary to speak “evil.”⁴⁴ In matter of fact it is far more difficult for young widowers and widows to practice sexual continence than it is for those who have never been married.⁴⁵

⁴⁴ 1 Tim. V, 14; 1 Cor. VII, 8 sq., 39 sq.—St. Cyril of Jerusalem, *Catech.*, IV, c. 26: “And let those married only once not reject those who have entered a second marriage; for continence is indeed good and admirable, but it is also pardonable to enter a second marriage, lest the weak commit fornication.” (Migne, P. G., XXXIII, 488 sq).—St. Augustine, *De Bono*

Viduit., c. 11, n. 14: "I discuss these things for this reason, lest you suppose that either second marriages are a crime or that any marriages, since they are marriages, are an evil. Therefore do not wish them to be condemned by you, but to be disdained. Thus the good of widowed continence shines more brightly, since in vowing and professing it women can disdain what is lawful and pleasing to them."—*Ibid.*, c. 12, n. 15: "Men are accustomed to raise a question concerning third and fourth and still further marriages. Hence, to answer briefly, I dare neither to condemn any marriages nor to take from them the honor due to their number." (P. L., XL, 439).—St. Jerome, *Epist.*, 54 (al. 10), n. 18: "Think daily that you [Furia, a widow] are going to die, and you will never think of second marriages." (P. L., XXII, 560).—St. Thomas, *S. Th.*, 3a, Suppl., qu. 63, art. 1 sq.

⁴⁵ Tertullian, *Ad Uxor.*, l. I, c. 8: "Although in them [virgins] undiminished integrity and complete holiness are about to see the face of God close at hand, nevertheless the widow has something more laborious, because it is easy not to desire what you do not know and to turn away from what you have never desired. More glorious, therefore, is the continence which feels its own right, which knows what it has seen. A virgin may be regarded as happier, but a widow as more laborious; the former has what good she always had, the latter what good she has found for herself; in the former grace, in the latter virtue, is crowned. For some things are of divine liberality, others of our own operation." (Ed. Leopold, P. II, 69).—St. Jerome, *Epist.*, 123 (al. 11), n. 11: "It is certainly much more laborious not to enjoy what you have than to desire what you have lost. Hence virginity is also easier in that it has not known the incentives of the flesh, and widowhood more solicitous in that it recalls past pleasures in the mind; especially if she thinks that she has lost a living person, not sent him ahead: the former is a matter of grief, the latter of joy." (Migne, P. L., XXII, 1053).

|⁴⁹⁰| Regarded merely as a sign of sexual incontinence, second marriage appears as an imperfection, and there have been theologians who on this account declared it to be forbidden. But a second marriage need not be inspired entirely, or even mainly, by sensuality. It may, on the contrary, be contracted for honorable and highly moral motives, such as zeal for one's own salvation, the welfare of society, etc., and hence the Church does not object to it. That she refuses to confer the nuptial blessing upon a bride who has received it before, must not be interpreted as a disapproval of second marriages. That blessing is for life. Not everything that looks stricter is morally more perfect, else the self-immolation of widows in India would constitute the highest ideal of marital fidelity.⁴⁶

⁴⁶ Linsenmann, *Moraltheologie*, p. 637.

|⁴⁹¹| Tertullian, who in his Catholic period had permitted, nay exalted second marriage with all the power of his matchless rhetoric, after joining the Montanists changed his attitude on this as on many other questions, and not only condemned the remarriage of widows and widowers, but denounced it as tantamount to fornication.⁴⁷ This was an error, though it need not be regarded as specifically Montanistic, since several orthodox writers before Tertullian, *e. g.*, Athenagoras,⁴⁸ Theophilus,⁴⁹ and Irenæus⁵⁰ seem to have held the same view. Other ecclesiastical authors of the early period permitted second marriage, but regarded it as more or less an imperfection.⁵¹

⁴⁷ *Ad Uxor.*, l. II, c. 8 (ed. Leopold, P. II, 76); *De Exhort. Castit.*, c. 9. *De Monogamia*, c. 1: "We know one marriage just as we know one God." (Ed. Leopold, P. II, 112).—De Labriolle, "La Lutte de Tertullien contre les Secondes Noces," in the *Annales de Philos. Chrét.*, Paris 1907, pp. 362 sqq.

⁴⁸ *Supplic.*, c. 33.

⁴⁹ *Ad Autol.*, l. III, c. 15.

⁵⁰ *Adv. Haeres.*, III, 17, 2.

⁵¹ Cfr. J. Müller, *Das sexuelle Leben der christlichen Kulturvölker*, pp. 35 sqq.; J. Mausbach, *Altchristl. und moderne Gedanken über Frauenberuf*, pp. 23 sqq.

3. The indissolubility of the marriage bond (*inseparabilitas vel indissolubilitas matrimonii*)⁵² is to a certain extent founded on the nature and purpose of Matrimony, inasmuch as it determines the right

relationship of husband and wife to each other, as well as that between parents and children, and *vice versa*. But the chief reason why marriage is indissoluble is that it has been raised to the rank of a Sacrament and constituted a symbol of Christ's union with His church. The Catechism of the Council of Trent explains this as follows: "Although it belongs to marriage as a natural contract to be indissoluble, yet its indissolubility arises chiefly from its nature as a Sacrament, as which it attains to its highest perfection. To make its bond dissoluble would be repugnant both to the care of bringing up offspring and to the other advantages of marriage."⁵³

⁵² Cfr. Pohle-Preuss, *The Sacraments*, Vol. IV, pp. 183 sqq.—A. Cigoi, *Die Unauflösbarkeit der christl. Ehe und die Ehescheidung*, Paderborn 1895, pp. 151 sqq., 193 sqq.—J. Fahrner, *Geschichte der Ehescheidung im kanonischen Recht*, Vol. I, Freiburg 1903, pp. 11 sqq.—K. Böckenhoff, *Die Unauflösbarkeit der Ehe*, Munich, 1908, pp. 24 sqq.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 429 sqq.—M. C. Forest, O. P., *Divorce* (tr. by J. K. Foran), Ottawa, 1921, pp. 19 sqq.

⁵³ *Cat. Rom.*, P II, c. 8, qu. 11: "Although it belongs to marriage, in so far as it is an office of nature, that it cannot be dissolved, nevertheless this is chiefly the case in so far as it is a sacrament, from which fact it also attains the highest perfection in all things which are proper to it by the law of nature. Nevertheless, both the care of educating offspring and the other goods of marriage are incompatible with making its bond dissoluble."

| 492 | Pope Pius IX, in his famous Syllabus of Errors, condemned the proposition that "The marriage bond is not indissoluble by natural law and in various cases divorce, in the strict sense of the term, may be sanctioned by civil authority."⁵⁴

⁵⁴ *Syllabus Errorum*, n. 67: "By natural law the bond of marriage is not indissoluble, and in various cases divorce properly so called can be sanctioned by civil authority." (Denzinger-Bannwart, n. 1767).—St. Thomas, *Summa Theol.*, 3a, Suppl., qu. 67, art. 1 sq.—Cfr. *Cat. Rom.*, P II, c. 8, qu. 25.—G. Schneemann, *Die Irrtümer über die Ehe*, Freiburg i. B. 1865, pp. 104 sqq.

| 493 | Hence Christian marriage, when properly contracted and consummated, is absolutely indissoluble.⁵⁵ "Whosoever shall put away his wife and marry another," says Jesus Christ Himself, "committeth adultery against her."⁵⁶ And St. Paul writes to the Corinthians: "To the married I give this charge,—nay, not I, but the Lord,—that a wife depart not from her husband (but if she have departed, let her remain unmarried, or be reconciled to her husband), and that a husband put not away his wife."⁵⁷ Hence, even though the married may separate, they cannot marry again, since the matrimonial bond is dissolved only by death. The Catholic Church has never wavered in proclaiming the indissolubility of marriage.⁵⁸ The question whether a woman may ever leave her husband and marry another, is answered by St. Jerome as follows: "Cutting off all subterfuges, the Apostle [St. Paul] positively declared that the woman who marries another while her husband lives, is an adulteress. . . . Let the husband be an adulterer, a sodomite, steeped in iniquity and therefore deserted by his wife,—yet he remains her husband as long as he lives, and she is not allowed to marry another. . . . He who marries a discharged wife is an adulterer, no matter whether she has left her husband or he has left her."⁵⁹

⁵⁵ St. Augustine, *De Bono Coniug.*, c. 24, n. 32: "The good of marriage among all nations and all men consists in the cause of generation and in the fidelity of chastity; but, as regards the people of God, also in the holiness of the sacrament, by which it is unlawful even for the woman departing by repudiation to marry another while her husband lives, not even for the sake of bearing offspring; although this alone is the reason for which marriages are contracted, the marriage bond is not dissolved, when the reason for which they are contracted does not follow, except by the death of a spouse." (P. L., XL, 394).

⁵⁶ Mark X, 11 sq.; cfr. Matth. V, 32; XIX, 9; Luke XVI, 19.—F. E. Gigot, *Christ's Teaching Concerning Divorce*, N. Y. 1912, pp. 43 sqq.—J. MacRory, "The Preaching of the New Testament on Divorce," *Irish Theol. Quarterly*, Vol. V, No. 17; Vol.

VI, No. 1.

⁵⁷ 1 Cor. VII, 10 sq.; cfr. Rom. VII, 2 sq.—J. MacRory, *The Epistles of St. Paul to the Corinthians*, Dublin 1915, pp. 92 sq.—F. E. Gigot, *op. cit.*, pp. 95 sqq.; A. Lehmkuhl, S. J., *Theol. Mor.*, Vol. II, n. 920 sqq.

⁵⁸ *Conc. Trid.*, Sess. XXIV, can. 7 (cfr. Pohle-Preuss, *The Sacraments*, Vol. IV, pp. 190 sq.).—Tertullian, *De Monogamia*, c. 9: “He alone will separate who also joined. He will separate, however, not through the harshness of repudiation, which he reproves and restrains, but through the debt of death.” (Ed. Leopold, P. II, 123).—St. Chrysostom, *Hom. in Matth.*, XVII, c. 4 (Migne, P. G., LVII, 259).—St. Basil, *Epist.*, 199, c. 31, 36, 48 (P. G., XXXII, 727).—St. Augustine, *De Serm. Dom. in Monte*, I. I, c. 16, n. 48 (P. L., XXXIV, 1253).—*Idem*, *Serm.*, 292 (al. 49 *inter Hom.* 50), c. 2 (P. L., XXXIX, 1710).—*Idem*, *De Coniug. Adulter.*, I. II, c. 13, n. 13 (P. L., XL, 479).—*Idem*, *De Nupt. et Concup.*, I. I, c. 10, n. 11: “This is without doubt the reality of this sacrament (Eph. v, 25): that a man and woman joined in wedlock persevere inseparably as long as they live, and that it is not lawful, except for the cause of fornication, for one spouse to be separated from the other. For this is observed in Christ and the Church, that the living with the living be separated in eternity by no divorce. The observance of this sacrament is so great . . . that, although women marry or wives are taken for the sake of procreating children, it is not lawful to leave a sterile spouse in order that another, fruitful one, be taken.” (P. L., XLIV, 420).

⁵⁹ *Epist.*, 55 (al. 147), n. 3 (Migne, P. L., XXII, 562 sq.)

[494] Although the *indissolubility of marriage* may not be absolute under the moral law of nature,⁶⁰ yet there can be no doubt that it corresponds more perfectly than dissolubility to the various purposes of Matrimony, and that, at any rate, *arbitrary divorce* is directly contrary to the natural law. Experience furthermore teaches that divorce inevitably leads to a loosening of the marriage bond and entails serious moral and social disorders.⁶¹ If in any case it becomes dangerous or intolerable for a husband and a wife to remain together, a temporary or permanent separation from bed and board (*separatio a mensa et toro*) will solve the difficulty.⁶²

⁶⁰ Deut. XXIV, 1 sqq.; Matt. V, 31; XIX, 7 sq.—On this controverted question see Pohle-Preuss, *The Sacraments*, Vol. IV, pp. 188 sqq.

⁶¹ Forest-Foran, *Divorce*, Ottawa 1921, pp. 59 sqq.; H. Woods, S. J., *A First Book in Ethics*, N. Y. 1923, pp. 261 sqq.; A. Lehmkuhl, S. J., art. “Divorce,” in the *Catholic Encyclopedia*, Vol. V, pp. 54 sqq.

⁶² *Conc. Trid.*, Sess. XXIV, can. 8: “If anyone shall say that the Church errs when it decrees that, for many causes, a separation between spouses with respect to bed or with respect to cohabitation can be made for a fixed or an indefinite time, let him be anathema.”

[495] The fact that the marriage bond is indissoluble should, and as a rule does, result among Catholics in a more careful choice of partners for life, and thus provides an excellent guarantee for a truly moral union. But he who has made his choice carelessly, without regard for the principles of sound ethics, has no right to complain of the harshness of the law if his marriage turns out unhappy, but is in duty bound to try as hard as he can to convert the relationship into a truly moral one. Necessity often reconciles married couples who, if they could have easily obtained a divorce, would never have gotten away from a life of superficiality and dissipation. The marriage bond in such cases serves as a means to temper egoism and to restrain an undue craving for liberty.

[496] It is objected that the strict enforcement of the law of indissolubility not only causes many persons to suffer needlessly, but exposes them to severe temptations and spiritual attacks for the rest of a possibly long life. We reply that, in the first place, when a marriage is unhappy, both parties are as a rule to blame, and hence merely suffer the penalty of their own sins, and their guilt is not expiated and their character will not be improved by placing them in a position where they can repeat the unsuccessful experiment at the risk of others. But when an innocent party is compelled to live in

an unhappy marriage, he or she should remember that many an undeserved cross must be borne in this vale of tears, and the more patiently we submit to the trials God sends us, the better it will be for us in time and eternity. As a last and extreme measure of relief from danger to soul and body the Church is willing to grant a *separatio a mensa et toro*. In case such a separation takes place, the innocent party must, though there be no guilt on his or her part, renounce the gratification of the sexual instinct; nor is this a greater misfortune than when, as not infrequently happens, disease or some other reason compels a faithful husband or wife to abstain from the use of the marital privilege or forces many to remain single.

To the objection that an innocent wife is punished with undue severity by a separation from bed and board because she cannot escape a state of loneliness and helplessness by contracting a second marriage, we may reply that nowadays women are no longer as helpless as they used to be and can find legal or civil protection (alimony) and employment much more easily than in bygone days.⁶³ Though an individual may now and then suffer grievously under the law of indissolubility, and though the purpose of marriage may not always be attained in spite of it, there can be no doubt that the chief object of Matrimony, namely the *bonum commune*, absolutely demands that the marriage tie be kept inviolate.⁶⁴ "Marriage," says Goethe, "is the beginning and the end of all culture. It gentles the boor and affords the educated a splendid opportunity to prove their nobility of character. Marriage must needs be indissoluble, for it bestows so much happiness that no single misfortune can outweigh it."

⁶³ Linsenmann, *Moraltheol.*, p. 638.

⁶⁴ St. Thomas, *Summa Theol.*, 3a, Suppl., qu. 67, art. 1, ad 4.—*Idem*, *Summa contra Gentiles*, l. III, c. 124.—Cfr. J. Mausbach, *Die Stellung der Frau im Menschheitsleben*, M. Gladbach 1906, pp. 19 sqq.

[497] "The question whether legislation should make divorce more difficult or build a golden bridge for it when married people find their burden unbearable," says a non-Catholic writer, "is a profoundly ethical one, both sides of which can be defended with solid arguments. To me it seems that the weightier reasons speak *against easy divorce*, because easy divorce paralyzes the courage and strength that men need for solving their difficulties in accord with the moral law, and tempts them to look prematurely for an external solution of them; and also because easy divorce undermines the security and confidence of both parties to the matrimonial contract."⁶⁵

⁶⁵ Schneidewin, *Die antike Humanität*, pp. 180 sq.

READINGS.—St. Thomas, *Summa Theol.*, 3a, Suppl., qu. 41–44; 44, 49, 64–65.—*Catechismus Romanus*, P. II, c. 8, qu. 23–34.—Sporer-Bierbaum, *Theol. Mor.*, Vol. III, 2nd ed., 1009 sqq.—St. Alphonsus, *Theol. Mor.*, l. VI, n. 881–883, 909–954.—J. A. Stapf, *Die christliche Moral*, Vol. III, Innsbruck 1842, pp. 357 sqq.—F. X. Linsenmann, *Lehrbuch der Moraltheologie*, pp. 627 sqq.—J. Schwane, *Die Gerechtigkeit*, pp. 153 sqq.—Rive-Umberg, S. J., *Die Ehe*, 2nd ed., pp. 114 sqq., 312 sqq. Ratisbon, 1921.—V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 415 sqq.—A. Stöckl, *Das Christentum*, Vol. III, pp. 152 sqq.—Wilhelm, *Das Eheleben*, 2nd ed., (1910), pp. 232 sqq.—J. E. Ross, *Christian Ethics*, pp. 366 sqq.—F. W. Förster, *Marriage and the Sex Problem*, N. Y. 1912, Pt. I, Ch. IX.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 415 sqq.—A. Vermeersch, S. J., *De Castitate*, Bruges 1919, pp. 234 sqq.—J. Antonelli, *Medicina Pastoralis*, Vol. II, 4th ed., pp. 493 sqq., 497 sqq.—T. Slater, S. J., *A Manual of Moral Theology*, Vol. II, pp. 361 sqq.—Cardinal D. Mercier, *The Duties of Conjugal Life*, London (C. T. S.), s. a.

SECTION 2: THE SOCIAL POSITION OF WOMAN

[499] I. Holy Scripture teaches that while man and woman are united by God in a most intimate union, woman is not man's equal, but his helpmate and companion. The husband is the head of the family, and the wife is subject to him as such, though his equal in personality and dignity.¹ This was the relation originally established by the Creator. In course of time it became essentially altered, to the great disadvantage of woman, but Christianity restored the lost equality by teaching that every human soul, regardless of sex, has the same value before God.²

¹ Gen. I, 26 sq.; II, 18, 22–24; III, 16; V, 2.—Cfr. St. Augustine, *De Mor. Eccl. Cath.*, l. I, c. 30, n. 6: "You (the Church) subject women to their husbands, not for the satisfying of lust, but for the propagation of offspring and for the partnership of the household, in chaste and faithful obedience. You place men over their wives, not to mock the weaker sex, but by the laws of sincere love." (Migne, P. L., XXXII, 1336).—Dionys. Rickel, *Comment. in Sent.*, I, dist. 3, qu. 6: "Man is no more intellectual in himself than woman."

² John III, 5; Gal. III, 27 sq.; V, 6; VI, 15. Cfr. Apoc. V, 14 sqq.—J. Döllinger, *Heidentum und Judentum*, Ratisbon 1857, pp. 697 sqq.; 781 sqq.; C. S. Devas, *Studies in Family Life*, London 1886, pp. 4 sqq.; C. Bader, *La Femme Romaine*, Paris, 1877; Schneidewin, *Die antike Humanität*, pp. 175 sqq.; Aug. Roesler, C. SS. R., *Die Frauenfrage*, 2nd ed., pp. 144 sqq.; C. S. Devas, *The Key to the World's Progress*, London 1906, pp. 174 sqq., 151 sqq.

In emphasizing the moral equality of both sexes, however, and their equal worth in the eyes of God, the Catholic Church does not dispense the wife from the duty of being subject to her husband. It follows that woman in public and social life may legitimately aspire to no other rôle than that of a true helpmate to man. To attempt to raise her to a state of complete independence would be contrary to the principles of Christianity.³

³ 1 Cor. XI, 7–12; XIV, 34; Eph. V, 22–24; Col. III, 18; 1 Tim. II, 11 sqq.—J. Schell, *Kath. Dogmatik*, Vol. III, ii, pp. 666 sqq.; A. Harnack, *Die Mission und Ausbreitung des Christentums*, Vol. II, 2nd ed., pp. 51 sqq.; H. Jordan, *Das Frauenideal des Neuen Testaments und die älteste Christenheit*, Leipsic 1909.

[500] "The enemies of the Christian Church," says Cathrein, "who would fain tear one jewel after another from the crown of her merits, assert that it was not Christianity, but the progress of civilization that emancipated woman from slavery. But this contention is refuted by the fact that in Rome and Greece woman's position deteriorated in proportion as civilization and culture,—taking these terms in their commonly accepted sense,—advanced. At the time of Homer and under the Roman kings, woman occupied a respectable position; but when pagan civilization reached its climax, she became a slave. In ancient Egypt, too, and in China, the progress of civilization was marked by the degradation of the female sex. And even to-day, among the nations that have shut themselves off against the influence of Christianity, the status of woman is no better than it was in pagan antiquity. Especially Mohammedanism, in spite of all the external culture which it produced at one time in Spain and Arabia, has degraded woman to the rank of a slave."⁴

⁴ H. Dacier, *La Femme d'après Saint Ambroise*, Paris, 1900.—St. Augustine, *Serm.*, 192 (al. 16 *De tempore*), c. 2: "Rejoice, virgins of Christ; your fellow is the mother of Christ. You could not bear Christ, but for Christ's sake you chose not to bear. He who was not born from you was born for you. Yet if you remember His word, as you ought to remember it, you too are His mothers, because you do His Father's will (Mt. xii, 50). Rejoice, widows of Christ; to Him who made virginity fruitful you vowed the holiness of continence. Rejoice also, nuptial chastity, all you who live faithfully with your spouses; what you have lost in the body, preserve in the heart. Where the flesh can no longer be intact from intercourse, let the conscience be virgin in faith, according to which the whole Church is virgin. In Mary pious virginity bore Christ; in Anna aged widowhood recognized Christ as a little child; in Elisabeth conjugal chastity and aged fruitfulness served Christ. All ranks of the faithful members contributed to the Head what by His grace they were able

to contribute.” (Migne, P. L., XXXVIII, 1012).—*Breviar. Rom.*, d. d. 8 Julii, l. 1, resp. 1: “Sprung from royal stock, Elisabeth (queen of Portugal) triumphs in heaven, surrounded by a threefold variety of merits. For on earth, in the threefold state of life, she left to posterity examples of virtues to be imitated: she passed with unoffending foot through the virgin, married, and widowed states.”—Cfr. A. Roesler, *Die Frauenfrage*, 2nd ed., pp. 292 sqq. and this *Handbook*, Vol. I, n. 92, note 7.—C. S. Devas, *The Key to the World's Progress*, pp. 45, 50.

| 501 | We are told that the theological writers of the Patristic and those of the medieval period had a very low opinion of women and marriage. This is demonstrably untrue.⁵ While it cannot be denied that some medieval preachers were guilty of deplorable exaggerations in their treatment of the fair sex, we must not overlook the fact that the great majority of theologians speak of woman and Matrimony in the highest terms.⁶

⁵ V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 409 sqq. Cfr. J. Schmitz and G. Hütten, *Gattin und Mutter im Heidentum, Judentum und Christentum*, Einsiedeln 1904; Wilke, *Das Frauenideal und die Schätzung des Weibes im Alten Testament*, Leipsic 1907; Ehrlich, *Randglossen zur hebr. Bibel*, Vol. I, pp. 10, 180 sqq.; Pohle-Preuss, *The Sacraments*, Vol. IV, pp. 153 sqq.

⁶ Pohle-Preuss, *The Sacraments*, Vol. IV, pp. 153 sqq.; Landmann, *Das Predigtwesen in Westfalen*, 180 sq.; Braun, *Die kath. Predigt*, 6 sqq.; Pilatus (V. Naumann), *Quos ego? Fehdebriefe wider den Grafen Paul Hoensbroech*, 2nd ed., Ratis- bon 1903, pp. 430 sqq.; H. Crohns, *Die Summa Theologica des Antonin von Florenz und die Schätzung des Weibes im Hexenhammer*, Berlin 1903; J. Mausbach, *Altchristl. und moderne Gedanken über Frauenberuf*, pp. 7 sqq.; E. Vacandard, “La Question de l’âme des Femmes et le Concil de Macon,” in the *Revue du Clergé Français*, Vol. LVIII (1900), pp. 216 sqq.—Cfr. this *Handbook*, Vol. I, p. 243, note 12; J. Mausbach, *Catholic Moral Teaching and its Antagonists*, pp. 301 sqq.

| 502 | II. The modern movement for the emancipation of the feminine sex is not purely revolutionary, but had its origin in the more or less justifiable desire of women to enlarge the sphere of their industrial activity and to make a decent living under morally and economically acceptable conditions. While the women of the so-called lower classes, that is, laboringmen’s wives and daughters, find their work in the family circle or in clerical and industrial pursuits, those of the so-called educated classes, who cannot or will not marry, feel they lack adequate opportunities to earn a livelihood and make themselves useful to humanity. This condition of affairs is aggravated by the displacement of house industries by factories. Hence there is an excess of work for the so-called proletarian women and an insufficiency of occupations for the women of the middle and higher classes. This fact has led to a division of the feminist movement into two camps. One demands a widening of the sphere in which women can work for their own support and the benefit of society, whereas the other wishes to withdraw the female sex from such occupations as destroy family life and make woman’s lot harder, especially since men have learned to regard women as competitors.

| 503 | In conformity with this division of opinion there are two distinct groups of emancipationists or women’s rights advocates.

1. The *radical or extreme group* favors the extinction of all differences in social life and demands absolute equality for the two sexes in economic and all other relations,⁷ including politics. It cannot be denied that in some countries there are inequalities which violate justice and favor a double standard of morality. But the fact that the male sex has in course of time appropriated unto itself certain privileges which are not based upon the natural law, does not justify the conclusion that all male privileges *in globo* are contrary to the natural order and that woman should not be subject to man in any respect. Nature herself has made the sexes unequal and woman dependent on man, and any attempt to wipe out this inequality would be unnatural. Moreover, complete equality of the sexes

would not only lead to the abolition of the family and the education of children by the State, but it would render the social position of woman worse instead of better. For the emancipated woman, when compelled to enter into free and unlimited competition with man, would necessarily succumb because her physical constitution and mental make-up incapacitate her for many kinds of labor to which man is fully equal. Complete equality between the sexes, therefore, would not solve, but rather intensify the problem, especially if it were worked out on the basis of radical Socialism.⁸

⁷ L. Braun, *Die Frauenfrage, ihre geschichtliche Entwicklung u. wirtschaftliche Seite*, Leipsic 1901, pp. 156 sqq.; E. Gnauck-Kühne, *Die deutsche Frau um die Jahrhundertwende*, Berlin 1907, 2nd ed.; Turgeon, *Le Féminisme Français*, Vol. I, pp. 67 sqq., 173 sqq., 341 sqq.; Vol. II, pp. 10 sqq., 201 sqq., 341 sqq.; S. Deploige, *L'Émancipation des Femmes*, Louvain 1902.

⁸ John Stuart Mill, *The Subjection of Women*, 5th ed., London 1895; V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 251 sqq.

[504] “Women do not have less rights than men,” says Dr. Linsenmann, “but their rights are different. They are no less capable than men of being educated and trained, but their nature requires a different education and training. They are as efficient as men, but in another sphere. Therefore, to give them the education and training that befits their nature, and to open to them those industrial occupations for which they are fitted, is entirely just. But the differences of natural and intellectual organisation existing between the two sexes must not be denied or disregarded. Woman is fit for nursing, but not so fit for medical practice, for many duties of which she lacks the necessary strength. She is fit for sanitary service in war, but not for military operations, and even in hospitals she cannot entirely supply the place of man. Her adaptation for the teaching profession is limited, and whether she should devote her life to scholarly research, to authorship, or to art, is a question that has not yet been definitively settled. On the other hand there are industrial pursuits which are peculiarly adapted to her nature, and it may be regarded as an act of unfairness if men crowd into these pursuits, thereby narrowing the circle within which women must seek their livelihood. There are other pursuits which women can follow with nearly the same ability and success as men, *e. g.*, bookkeeping, telegraphy, etc., and it will not require a very strenuous battle to conquer these occupations for them. They can obtain them without difficulty if they show that they can do the required work as efficiently as, and more cheaply than, men. They can work more cheaply, because their demands are smaller; but as soon as they begin to acquire artificial and costly habits, which it takes larger incomes to satisfy, male labor will again crowd out female labor.”⁹

⁹ Linsenmann, *Lehrb. der Moraltheol.*, pp. 642 sq. Dr. J. A. Ryan does not agree with this view. He says (*Social Reconstruction*, p. 43 sq.): “If women and men are paid at different rates in the same occupation, one of two things will happen; either the man’s wage will be reduced to the level of the woman’s, or men will insist that women get out of that industry. It is not possible for the two sexes to work side by side and receive different rates of wages,—I say, it is not economically possible. Sometimes one of these alternatives takes place and sometimes the other. In the telephone industry, at least in the telephone exchanges, what has happened is that the men have abandoned it, and the wage has gone down to the woman’s level. In other places, where the men are strongly organized, they insist on monopolizing the occupation. This is a simple reason and a sufficient one why women should have the same wages as men when engaged in the same work.” Further down in the same lecture Dr. Ryan contends that the living wage for woman should not be based on the needs of possible dependents, but on her individual needs, and it is hard to reconcile his theory on women’s wages with his well-known stand on a living wage (*i. e.*, a family wage) for men.

[505] 2. The *conservative wing* of the woman’s party, more commonly known as “Liberal,” demands both political and social equality.¹⁰

¹⁰ J. Duboc, *Fünzig Jahre Frauenfrage*, pp. 123 sqq.; S. Gerok, *Frauenabende*, Stuttgart 1896, pp. 96 sqq.; C. Hilty, *Frauenstimmrecht*, Bern 1900, pp. 63 sqq.

| 506 | a) The political emancipation of women consists in their admission to public life and political government on equal terms with men. Its first demand is that all women, or at least all not subject to husbands and at the head of their own household, shall be given the right to vote and hold office. This demand militates not only against an almost universal tradition, but likewise against the natural relationship existing between husband and wife, woman's innate modesty, and especially her weakness of allowing emotion rather than reason to guide her conduct.¹¹

¹¹ Cfr. V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 432 sqq.; IDEM, *Die Frauenfrage*, 3rd ed., pp. 171 sqq.

One of the latest and ablest Catholic writers on the subject of feminism, Msgr. Joseph Mausbach, says on this head: "It seems venturesome to pronounce either for or against the political emancipation of women. Though custom and our traditional notions of female character, virtue, and beauty seem to argue in favor of keeping her out of the political arena, yet it is difficult to say on what principle of Moral Theology we shall deny her the exercise of such a general civic right. Modern civilization brings so many surprises that an unconditional veto or prophecy in such questions would be hazardous, even though one may personally hold the opinion that in the long run the female sex is likely to lose more than it can possibly gain by participation in politics."¹²

¹² J. Mausbach, *Die Stellung der Frau im Menschheitsleben*, p. 54.

This opinion was shared by the late Archbishop J. L. Spalding, of Peoria, who, in his essay, "Woman and Education," in answer to the question: "Should women vote?" says: "The rule of the people is good only when it is the rule of the good and wise among the people, and of these women, in great numbers, are part. The leadership of the best comes near to being the leadership of God. But the question of the suffrage for women is grave; it is one on which an enlightened mind will long hold judgment in suspense. Does not political life, as it exists in our democracy, tend to corrupt both voters and office-seekers? Is it not largely a life of cant, pretence, and hypocrisy, of venality, corruption, and selfishness, of lying, abuse, and vulgarity? Do not public men, like public women, sell themselves, though in a different way? Is the professional politician, the professional caucus-manipulator, the professional voter, the type of man we can admire or respect even? The objection so frequently raised, that political life would corrupt women, has at least the merit of a certain grim humorousness. Could it by any chance make them as bad as it makes men? To tell them they are the queens of the home, to whom the mingling with plebeians is degrading, is an insult to their intelligence. We have foresworn kings and queens, both in private and in public life, and at home women are, for the most part, drudges. What need is there of a hollow phrase when the appeal to truth is obvious?

| 507 | 'A servant with this clause Makes drudgery divine; Who sweeps a room as for thy laws, Makes that and the action fine.'

Active participation in political life is not a refining, an ennobling, a purifying influence. Is it desirable that the half of the people to which the interests of the home, of the heart, of the religious and moral education of the young are especially committed, should be hurled into the maelstrom of selfish passion and coarse excitement? The smartness and self-assertiveness of American women are already excessive; they lack repose, serenity, and self-restraint. If they rush into the arena of noisy

and vulgar strife, will not the evil be increased? Will not the political woman lose something of the sacred power of the wife and mother? Are not the primal virtues, those which make life good and fair, and which are a woman's glory,—are they not humble and quiet and unobtrusive? The suffrage has not emancipated the masses of men, who are still held captive in the chains of poverty and dehumanizing toil. Do women themselves, those, at least, in whom the woman soul, which draws us on and upward, is most itself, desire that the vote be given them? But whatever our opinions on the subject may be, let us not lose composure. 'If a great change is to be made,' says Edmund Burke, 'the minds of men will be fitted to it, the general opinions and feelings will draw that way. Every fear, every hope will forward it; and then they who persist in opposing the mighty current will appear rather to resist the decrees of Providence itself than the mere designs of men. . . .'¹³

¹³ J. L. Spalding, "Woman and Education" in *Means and Ends of Education*, 5th ed., Chicago, 1909, Ch. IV, pp. 108 sqq.

|508| b) In consequence of their social emancipation women have been admitted to practically all professions and occupations, and we now have women ministers of religion, doctors, university professors, druggists, lawyers, judges, police officers, streetcar conductors, post-office clerks, etc., etc. The opening of new occupations for the female sex is morally permissible and economically desirable in so far as these occupations are compatible with woman's nature, especially with her duties as wife and mother, and with public morality. As regards in particular her admission to the higher branches of learning, it should be noted that while woman on the whole is not inferior to man in mental endowment, she lacks physical endurance and capacity for the learned professions, and though it may be desirable to have female physicians for women patients, they are neither an ethical nor a hygienic necessity.

|509| Generally speaking, therefore, we may outline the Catholic attitude by saying that female emancipation is reasonable and just only in so far as it does not break down the bulwarks erected around women by their own nature and by the moral law.

It is praiseworthy for women to desire a higher education and to test their strength in essaying difficult tasks. But this endeavor involves a great danger. For woman to strive forward and upward is ennobling and conducive to moral progress only if she is inspired, not by pride and selfishness, but by a feeling of grave responsibility and a desire to co-operate with man in solving the great tasks imposed upon humanity. Without injustice to anyone we can say that the efforts of women to attain equality with men are not always inspired by such noble motives, but quite often by an inordinate desire for freedom, notoriety, and unlimited opportunities to do what they please. This tendency is incompatible with the Christian ideal of womanhood and entails danger to good morals. In regard to the purity of family life, the education of children, and modesty and chastity, woman will always be a paramount factor, but the most wholesome influence in these important matters is not as a rule exercised by those representatives of the fair sex who publicly insist on absolute equality for the sexes.¹⁴

¹⁴ J. Pachali, "Die moderne Frauenbewegung u. die christliche Sittlichkeit," in *Glaube und Wissen*, Stuttgart 1910, p. 76.

It goes without saying that where women have been granted the suffrage, Catholic women are in duty bound to use the vote honestly and intelligently, and the same rules of conduct apply to them in this matter as to men.¹⁵

¹⁵ Cfr. Ross, *Christian Ethics*, pp. 412 sqq.

[510] READINGS.—F. X. Linsenmann, *Lehrbuch der Moraltheologie*, pp. 639 sqq.—A. Rösler, C.SS.R., *Die Frauenfrage*, pp. 8 sqq.;—A. Rösler and J. de Rochay, *La Question Féministe*, Paris 1899, pp. 22 sqq.—F. X. Godts, C.SS.R., *Le Féminisme*, pp. 172 sqq.—G. Ratzinger, *Die Volkswirtschaft*, 2nd ed., pp. 490 sqq.—M. von Nathusius, *Die Mitarbeit der Kirche an der Lösung der sozialen Frage*, 3rd ed., Leipsic 1904, pp. 345 sqq.—J. E. Ross, *Christian Ethics*, pp. 31, 412 sqq.—C. S. Devas, *Political Economy*, pp. 78 sqq.

SECTION 3: THE DUTIES OF PARENTS TO THEIR CHILDREN

[511] If a marriage is blessed with children,¹ parents and children together form the social community called family. The bond which unites its members is love, not by virtue of some secondary or artificial arrangement, but by the voice of nature and divine Revelation.² The duties of parents to their children are manifold and various. St. Paul sums them up in the passage: “And you, fathers, provoke not your children to anger, but bring them up in the discipline and correction of the Lord.”³

¹ Even aside from religious motives, a child has a “right,” as it were, to brothers and sisters. A recent non-Catholic writer (Mary Vida Clark) says on this subject: “If the plural is in all cases too much to demand, at least one ‘sibling’ should be a minimum concession. The liability of the only child to the danger of being ‘spoiled’ has been long and widely recognized. The expectation of moral life which can be calculated for an only child is about equal to that of the proverbial ‘minister’s son.’ But it is not only in the strictly moral sphere that to be an only child is an extra hazardous occupation. Our ultra-modern psychologists and psychiatrists are calling attention to previously unrecognized mental risks, and warning us that this way madness lies. The first decade of life is no longer pictured as a garden of delight, but as a field of battle where ‘invisible armies clash by night.’ It is in these infantile conflicts (‘conflict’ is the technical word) that those wounds of the spirit are acquired, which, after festering in ‘the unconscious’ for a few decades, break out in the neuroses and psychoses of middle life. One of our leading Freudians has produced a learned monograph entitled *The Only or Favorite Child*, a signpost pointing out the *descensus Averno* down which these preordained victims of infant damnation are pushed by the fatuous and doting parents who are called by an inscrutable Providence to do the work. According to this school of thought, the superior opportunity that the only child is afforded by his freedom from domestic competition is that of ending his days in an insane asylum—and being able to be a paying patient. But even without these lurid lights on this dark subject, we can feel our way to the sensible realization that an only child is at best a forlorn and unnatural object, arbitrarily and unjustly deprived of the company of his peers, and condemned to excessive and demoralizing association with rude-mannered adults, constantly intruding their unwelcome attentions, and making the unfortunate an object of ridicule to the more happily situated groups of brothers and sisters to be observed in the outer world. To fail to conform to the requirements of this abnormal environment, where one is the only one of his kind in his world, makes for immediate misery; and to conform, it now appears, results in even more serious disaster in the future. A cruel dilemma indeed for a guileless enterer in life’s handicap! And yet the senile speak of ‘childhood’s happy hours’! Consider next the child’s right to respectful treatment. The rudeness exhibited by most adults in their relations with children is fully recognized only by the victims themselves, who are too forbearing and well-mannered to speak out in their own defense. The child is a very serious-minded individual, engaged in a life and death struggle for existence and growth and knowledge, in a world ill adapted to meet his needs, to which he must by increasing and herculean effort learn to conform. Self-respect and consideration for others demand the repression, so far as possible, of external indications of the conflict going on within the soul; but to the combatant, conscious of the struggle, life and himself are very serious propositions. To the adult, however, whose growing pains have ceased and been forgotten with the conclusion of his stunted development, the child, because of a certain meretricious outer appearance of calm, seems for some inscrutable reason an object of hilarity, to be treated jocosely when not subjected to autocratic domination and suppression. A sense of humor, in cases where it exists at all, is a development of maturity, a thing not born but made. The child still regards life as real and earnest. Yet his serious observations on his discoveries in the natural and supernatural world are treated by thick-headed grown-ups as funny sayings to be bandied about for public entertainment. The child, naturally sensitive to ridicule, soon learns to keep to himself his queries and his discoveries, painfully and laboriously acquiring knowledge by putting two and two together through æons of time.” *North American Review*, Vol. 216, No. 3 (Sept. 1922), pp. 407 sqq.

² Is. XLIX, 15; Matth. VII, 9–11; Luke XI, 11–13; cfr. John XVI, 21.—J. P. Gury, S. J., *Comp. Theol. Mor.*, Vol. I, n. 378.—Tit. II, 4; cfr. Matth. X, 37; Luke XIV, 26.

³ Eph. VI, 4.

|⁵¹³| 1. This bringing up,—*education* as we are wont to call it,—comprises a threefold care on the part of the parents, namely, a) *Care for the physical life and well-being of their children*. Parents are bound to protect their children against everything that is apt to prove injurious to their life and health. In positive terms this means that they must provide for them whatever they need to grow up and develop their physical powers. This duty begins long before the child is born, at the moment of its conception in the maternal womb. Hence parents commit a mortal sin if they deliberately induce abortion or expose their children to any other grave danger to life and health, either before or after birth.

b) In regard to *support* (*victus*), the first duty devolves upon the mother. She is bound to give the newborn infant the food which nature has provided for it, and if she is unable to do so, either because of ill health or for some other weighty reason, she must provide an adequate substitute for *mother's milk*. After the infant is weaned, father and mother must share in his care by providing him with food, shelter, and clothing in accordance with their station in life, until the child is able to take care of himself.⁴

⁴ Col. III, 21. Cfr. Gury, *Compend. Theol. Mor.*, I, n. 379–381.

|⁵¹⁴| The mother's duty of *nursing her babies* obliges under pain of mortal sin, and it is a grievous mistake to think that compliance with this duty injures a woman's health or mars her youthfulness. Under normal conditions the contrary is true: neglect to nurse her baby is apt to induce serious disturbances in the physical organism of the mother. It is foolish to regard nursing as immodest or degrading. But if a mother is really incapable of nursing her infant, which is nowadays unfortunately but too often the case, in consequence of unnatural habits continued through many generations, the best substitute that can be had is a *wet nurse*. In engaging a wet nurse preference should be given to healthy married women of good repute, not only for moral reasons, but also because unmarried mothers are more likely to transmit diseases.⁵

⁵ Lam. IV, 3.—Gury, *op. cit.*, I, n. 381.—H. Noldin, S. J., *Summa Theol. Mor.*, Vol. II, p. 310; H. Muckermann, S. J., *Der biologische Wert der mütterlichen Stillpflicht*, Freiburg 1918; J. Antonelli, *Medicina Pastoralis*, Vol. II, pp. 10 sqq.

A relatively large proportion of infants nowadays die of neglect. They are mostly the offspring of mothers who entrust their little ones to strangers while they, compelled by poverty, go out to work. This is a deplorable evil, which can not be effectively combatted by the erection of *foundling asylums*. Such institutions, even when conducted according to the most approved rules of Christian charity, cannot supply to the foundlings what their nature demands and their mothers refuse to give them. A certain monarch once suggested as an appropriate motto for a foundling asylum the words: "*Ici on fait mourir les enfants*—Here infants are made to die." There is more truth than poetry in this inscription. Foundling asylums are not without their merits, but statistics show that the majority of the children entrusted to them either die prematurely or become degenerate in after life.

|⁵¹⁵| If possible, *orphans* should be entrusted to good Christian families, rather than to asylums, where they usually feel as if they were in prison. Still a well conducted orphanage is superior to a private home in which the children are allowed to grow up wild or are exploited for profit.

Experience teaches that men often abandon girls whom they have seduced and that the *young unmarried mothers* are unable to support their offspring with their meagre earnings. This condition of affairs is responsible for many crimes, such as abortion, child-murder, and suicide. Relief should be furnished by the State or municipality by erecting institutions for the proper care of such mothers and their children. Institutions for receiving *girls about to become mothers* are also a desideratum, especially in our large cities, and can do much good, not only by relieving such poor unfortunate creatures of worry, but likewise by leading them back to virtue. To accomplish this double end it is advisable that the girls should remain in these institutions for some time both before and after delivery. The charges should be moderate, and poor girls should be received and treated gratis. Upon being dismissed, the unmarried mother should be given an opportunity to leave her baby in a home connected with the institution and herself be provided with safe lodging if she is obliged to go out to work.⁶

⁶ F. X. Linsenmann, *Lehrbuch der Moraltheologie*, p. 646.—P. G. Kammerer, *The Unmarried Mother, A Study of Five Hundred Cases*, Boston 1918.—C. Bruehl in the *Homiletic and Pastoral Review*, Vol. XXIII (1923), no. 10.

Motherhood insurance (against the risks of maternity) is a good thing because it secures to mothers proper care during and after confinement and enables them to nurse their babies if they are physically able to do so.

[516] c) Parents are further bound to aid their children in *choosing a vocation or profession* and in preparing them for it. This means, under modern conditions, that they have to accumulate a certain amount of money in order to enable the children to equip themselves properly for the battle of life. St. Paul expressly teaches that parents should lay up treasures for their children, not children for their parents.⁷ St. Thomas states the reason as follows: “Since a father stands in the relation of a principle, and his son in the relation of that which is from a principle, it is essentially fitting for a father to support his son, and consequently he is bound to support him not only for a time, but for all his life, and this is to lay by. On the other hand, for the son to bestow something on his father is accidental, arising from some momentary necessity, wherein he is bound to support him, but not to lay by as for a long time beforehand, because naturally parents are not the successors of their children, but children of their parents.”⁸

⁷ 2 Cor. XII, 4.

⁸ *Summa Theol.*, 2a 2ae, qu. 101, art. 2, ad 2: “Since a father has the character of a principle, while a son has the character of one existing from a principle, it therefore belongs to the father in himself to assist his son; and for this reason he ought to assist him not only for the present hour, but for the whole of his life, which is to lay up treasure. But that a son should contribute something to his father is accidental, by reason of some pressing necessity in which he is bound to assist him, but not to lay up treasure as though for the distant future, because by nature parents are not the heirs of their children, but children are the heirs of their parents.”—Gury, *Comp. Theol. Mor.*, I, n. 382: “Finally, parents are bound to procure for their children a station in which they may someday live honorably according to their condition. Hence the following sin gravely: 1. Those who do not employ at least moderate diligence to acquire goods from which they may suitably support their children and provide for their future station, according to that saying of the Apostle (2 Cor. xii, 14): Children ought not to lay up treasure for their parents, but parents for their children; 2. Those who neither teach nor have their children taught a trade suited to their station or some other honorable manner of making a living; 3. All the more, those who dissipate the family property through sloth, negligence, drinking, feasting, games, and gravely imprudent transactions; 4. Those who without legitimate cause obstinately deny a daughter a suitable dowry for contracting marriage or entering religion.”

^[517] Parents are not, however, bound to go to extraordinary pains, or to impose privations upon themselves, in order to enrich their children. The best they can do for them is to fit them for a position where they can take care of themselves.

It is wrong for parents to spend money without stint to help along their sons and at the same time to make no provision for their unmarried daughters.

Just how much or how little a child needs to be properly provided for, cannot be definitely determined by any general rule. Often the sons of poor families become prosperous, nay wealthy, whereas the pampered scions of the rich grow poor. "To surround the young with what they ought themselves to achieve," says Archbishop Spalding, "is to enfeeble and corrupt them. Happy is the poor man's son, who, whithersoever he turns, sees the obstacles rise to challenge him to become a man; miserable the children of the rich, whose cursed-blessed fortune is an everpresent invitation to idleness and conceit. O mothers, you whose love is the best any of us have known, harden your sons and urge them on, not in the race for wealth, but in the steep and narrow way wherein, through self-conquest and self-knowledge, they rise toward God and all high things."⁹

⁹ J. L. Spalding, *Means and Ends of Education*, 5th ed., Chicago 1909, pp. 124 sq.

^[518] A good education, or a trade or profession, is worth more than a large fortune. "He who hath a trade hath an estate," says Poor Richard.

Parents are not obliged to go to the limit of their ability in providing for their children. For a good and appreciative child they will naturally do more than for a wicked and ungrateful one. "Parents cannot do too much for good children," says Lessing; "but if a foolish father deprives himself of the necessities of life to support a wayward son, love degenerates into folly."

Among the duties of parents, says a recent writer on ethics, is that of training their children so that they will avoid sloth and pleasure-seeking, and teaching them to work diligently, to employ their time in useful pursuits, to be methodic and frugal, and to save money. To many a thriftless and prodigal parent might be applied the words of Homer's Lycophron, when he says of the father of Mestra, that "he hath consumed everything." They consume, *i. e.*, waste everything, and not only fail to provide for their children, but abandon them to material and moral ruin. Pauperism with all its misery too often has its source in gross parental neglect.

2. The most important duty which parents have towards their children is to educate and train them in the fear of God.¹⁰

¹⁰ Gury, *Comp. Theol. Mor.*, I, n. 383: "Parents are bound chiefly to provide a spiritual education. The reason is that man, besides that material or bodily being which he has in common with the other animals, is endowed by God with a rational and most noble soul in the image of the divinity Himself, and was created to tend toward God as his final supernatural end; consequently he ought above all to be instructed and directed by his parents toward this end. For this reason Matrimony was raised to the dignity of a sacrament, that the offspring born might be reborn in Christ and prepared for eternal life. Hence the Apostle (1 Tim. V, 8) says: If anyone does not have care for his own and especially for those of his household, he has denied the faith and is worse than an unbeliever. For this education are required: 1. Instruction; 2. Correction; 3. Example."—St. Augustine, *De Bono Coniug.*, c. 17, n. 19: "For among them the desire for children itself is carnal; among them, however, it was spiritual, because it accorded with the sacrament of that time. Now indeed no one perfect in piety seeks to have children except spiritually; but then it was an operation of piety itself to propagate children also carnally." (Migne, P. L., XL, 386 sq.).

| 519 | a) Children need *instruction (doctrina)*, that they may acquire proficiency in the things a man needs to know in order to be enabled to take care of himself when he grows up and, in his turn, to provide for his own offspring. The most necessary and elementary branches of knowledge are the so-called three R's, *i. e.*, reading, writing, and arithmetic, commonly conveyed in elementary or grammar schools. To these Catholics are wont to add a fourth "R,"—namely religion. Hence parents, who are unable to instruct their children themselves, are bound to send them to a good Catholic school. If a boy is fit for and aspires to a higher education or profession, parents should cheerfully provide the means to achieve his ambition, but compulsion should never be exercised in the choice of a profession or occupation.

It would be a travesty of liberty and a suppression of rights if parents were prohibited from choosing their own schools for their children, where the latter will receive the kind of instruction that is in keeping with the parents' outlook on life and their religious beliefs. Right gives way to might and liberty becomes tyranny when education is made a monopoly of the State and when thoughts and ideas are shaped and controlled by a party in power, by "vested" interests, or a hostile majority.

| 520 | When a child shows signs of a *vocation for the priesthood or for the religious life*, the parents should encourage it, but they are not allowed to interfere with the child's freedom of choice.¹¹

¹¹ *Conc. Trid.*, Sess. XXV, *De Regular. et Monial.*, c. 16–18; St. Thomas, *Summa Theol.*, 2a 2ae, qu. 104, art. 5.

Parents who let a child grow up without giving him all the opportunities for mental development which they can command, or who oppose the child's desire for a higher education and forcibly try to keep him in ignorance, commit a grievous sin, especially if they could give him the desired opportunities without great sacrifices on their part. A boy who shows a talent for a higher profession should not be denied an education on the plea that his help is needed at home and the family would have to deny itself certain luxuries if he quit working.

In all questions pertaining to education parents should above all remember that they may under no circumstances entrust their children to institutions in which faith or morals are exposed to direct danger.¹²

¹² J. L. Spalding, *Means and Ends of Education*, pp. 151 sqq.; Linsenmann, *Lehrb. der Moraltheol.*, p. 647. Cfr. Gury, *Comp. Theol. Mor.*, I, n. 386; Lehmkuhl, *Theol. Mor.*, Vol. I, n. 937 sqq.

b) So much for instruction. Of equal importance is *moral and religious training (disciplina)*. It must comprise the intellect, the will, and the heart. The child must be instructed in its duties to God, to himself, and to his fellowmen, and taught to acquire a firm and enduring tendency toward moral goodness, in order that he may acquire true culture and nobility of character and attain to "the age of the fullness of Christ."¹³ Consequently, parents are in duty bound to instruct their children at an early age in those moral and religious truths which are necessary for salvation, to accustom them to the daily practice of religion, to protect them against the danger of seduction arising from servants or companions, and particularly to train them in obedience and respect to authority.

¹³ Eph. IV, 13.—Cfr. Brother Azarias, *Phases of Thought and Criticism*, Boston 1896, pp. 72 sqq.

| 521 | Some parents fancy that in sending their children to a religious school they have discharged all their obligations towards them. Even in secular quarters apprehension is growing on account of the remissness of parents at home in the matter of supplying a background for the teaching in the schools. Miss Sarah Louise Arnold, dean emeritus of Simmons College, recently registered the

following complaint: “The modern American home is no longer filling its former place in the education of the child. We are leaving to the school the responsibilities of the home. Education is not for the school alone. Where can responsibility and co-operation be taught, if not at home? The home is the environment that is natural for a proper training for responsible citizenship. But to-day our homes too often lack the permanence that made the homes of a generation ago so fundamental in training our present generation. To-day our homes, too, often lack the books and the chores and the duties toward the family.”

| 522 | Still graver consequences than those which follow the state of affairs set forth by Miss Arnold are produced by faulty home environment and false standards of life. “In many a Catholic home,” says a current Catholic writer, “the inspiring and helpful teaching given to the children at school not only remains unencouraged, but principles and modes of action are stimulated which are directly opposed to what the child has learned while under the care of Catholic teachers. What is the result of this twofold standard, presented almost daily to the impressionable character of the young persons? They will be apt to follow the example, and to adopt the views of their elders at home. After all, the adolescent boy or girl understands quite well that it is not the school, but the home where father and mother and friends and neighbors meet, which really counts. In the minds of the young it is the home, and not the school that presents a sample of what goes on in the great world around. The child looks upon the school as an episode to be gotten through with as soon as possible, in order to start real life.”

| 523 | When it becomes necessary to *correct* or *punish* their children, parents must proceed with prudence and moderation. Punishment, especially corporal chastisement, when applied in anger or to excess, produces discouragement, bitterness, and contempt of authority, and is apt to prove an obstacle rather than a help to education. “Fathers, provoke not your children to anger, but bring them up in the discipline and correction of the Lord.”¹⁴

¹⁴ Eph. VI, 4; cfr. Col. III, 21; Prov. XIII, 24; XXIII, 13 sq.; Eccclus. XXII, 6; XLII, 5.—Gury, *Comp. Theol. Mor.*, I, n. 385.

No partiality should ever be shown, because it is a hindrance to the right development of character.

The best and most effective means of training a child, especially in religion, is *good example*.¹⁵ Parents are, therefore, under a particular obligation to fulfill their religious duties regularly and conscientiously. “You will give [your daughter] very much if you give her nothing but your [good] example,” says Seneca; and Horace: “The virtue of good parents is a rich dowry.”¹⁶

¹⁵ St. Jerome, *Epist.*, 107 (al. 7), n. 9: “Let her have you as her teacher; let her inexperienced childhood imitate (admire) you. Let her see nothing in you and in her father which, if she does it, she sins. Remember that you are the parents of a virgin, and that she can be taught by examples more than by voice. . . . Let her never go out in public without you. . . . Let our little virgin so celebrate the days of vigils and solemn night watches that she does not depart from her mother even by the breadth of a fingernail.” (Migne, P. L., XXII, 875).—St. Gregory the Great, *Regula Past.*, p. 3, c. 4 (al. 28): “Let these [fathers] learn how also to furnish outwardly to those committed to them examples of living well. Prelates must also know that if ever they perpetrate perverse deeds, they are worthy of as many deaths as the examples of perdition which they transmit to their subjects. Hence it is necessary that they guard themselves from fault all the more cautiously, since through the evil things which they do, not only do they themselves die, but they are guilty of the souls of others, which they have destroyed by evil examples.” (P. L., LXXVII, 54).

¹⁶ Seneca, *De Consol. ad Helviam*, XVIII, 8: “You will give her much, even if you give her nothing except an example.”—Horace, *Carm.*, l. III, c. 24, 21: “The virtue of parents is a great dowry.”

[524] “Education,” says Archbishop Spalding, “is always the result of *personal influence*. A mother, a father in the home, a pure and loving heart at the altar, a true man or woman in the school, a noble mind uttering itself in literature, which is personal thought and expression, these are the forces which educate. Life proceeds from life, and religion, which is the highest power of life, can proceed only from God and religious souls. Not by preaching and teaching, but by living the life, can we make ourselves centres of spiritual influence.”¹⁷

¹⁷ *Means and Ends of Education*, p. 125.

The dread which prevents so many parents from being strict with their children is not a sign of a humane disposition, but rather a proof of mental unsteadiness, moral weakness, and lack of principle. They hesitate to impose a law upon their children because they themselves have no law to guide them, and because father and mother proceed on different principles, or have no principles at all. *Parental discipline*, to be effective, must be concerted, reasonable, moderate, and uniform. Though the father is stricter than the mother, both should communicate to each other their experiences and observations and never let the children notice any difference of opinion that may arise between them. There should be no partiality in the treatment of children, yet, on the other hand, each should be dealt with according to his or her individual character, with due regard to his or her idiosyncrasies, and all should be made to know and feel that they are equally dear to their progenitors. That parents love those of their children who cause them trouble with a special tenderness seems to be natural, but to treat the younger children more leniently than the older is neither just nor prudent.¹⁸

¹⁸ Linsenmann, *Moraltheologie*, pp. 647 sqq.

[525] Though instruction in matters of sex may be necessary in some cases, it cannot be regarded as a general duty incumbent upon all parents, for three reasons: First, not all are able to give this sort of instruction effectively; secondly, a great many children, in consequence of temperament, education, or environment, do not require such instruction, at least not in childhood; third, it is not at all certain that instruction in matters of sex always produces the desired effect, but experience teaches that, on the contrary, this sort of enlightenment, no matter how well-intentioned, often entails great danger.¹⁹ For very good reasons drawn from personal experience many moralists, pedagogues, and parents oppose this new fad. The words of the noble Bishop Sailer²⁰ remain as true to-day as when they were spoken nearly a century ago: “The lure of curiosity and forbidden desire, aided by the imagination, often overcomes the trained reason of the adult man; what will they do to the boy whose reason is so very weak and whose imagination is so immensely strong? Hence sexual instruction must not be the rule. Whether it may be employed beneficially in exceptional cases, must be left to the judgment of the wise and prudent lover of youth.”²¹ Consequently, there can be no duty in this matter for parents except in individual and exceptional cases, when such instruction appears necessary, and even then only to the extent in which it is necessary. The general rule is that parents should instruct their children in the unchangeable principles of Christian morality, inculcate especially the necessity of watchfulness and prayer against the temptations of the flesh, train the children to be chaste and modest, and instil into them at an early age fear of God and a deep aversion for the sins against the Sixth Commandment.²²

¹⁹ Cfr. F. Damian, “Eine aktuelle Frage,” in the *Theologisch-prakt. Quartalschrift*, of Linz, 1906, pp. 750 sqq.; F. Tischler, *Prinzipielle Gesichtspunkte zur sexuellen Aufklärung*, *ibid.*, 1908, pp. 783 sqq.; Th. J. Gerard, *The Church and Eugenics*, London 1921, pp. 61 sqq.

²⁰ On Sailer see the *Cath. Encyclopedia*, Vol. XIII, p. 328.

²¹ Schmetz, *Das Glück im Heim*, p. 191. Cfr. F. W. Foerster, *Sexualethik*, 3rd ed., pp. 183 sqq.

²² L. Auer, *Die Einführung in ein richtiges Geschlechtsleben*, Donauwörth 1907, pp. 22 sqq.; M. Gatterer and F. Krus, *Die Erziehung zur Keuschheit*, 2nd ed., Innsbruck, 1910, pp. 4 sqq. (English edition by Van der Donckt).

| 526 | Father Thomas J. Gerrard, a very competent authority, says that parents and teachers have to steer between Scylla and Charybdis in this matter of sex instruction:

“The difficulty arises from this, that there is an intimate nervous connection between the imagination and the bodily functions; so that knowledge may cause keen physical sensations and they in turn may become a source of temptation and sin. If the knowledge is gained before the mind can rightly grasp the motives for self-control or the will acquire the habit, the removal of ignorance may mean the loss of innocence as well. Whereas if when knowledge is due it is withheld, an unhealthy curiosity may seek gratification in wrong ways or be suppressed by an equally unhealthy prudery.

| 527 | “Once the necessity of this instruction is admitted, the solution of the problem must take the form of an answer to the questions—Who? When? and How? *Who* is the proper person to give the instruction? As the parent stands in the closest relation to the child and is primarily responsible for its moral education, it is clearly the parental duty to see that the offspring gets the requisite knowledge neither too early nor too late. It is never too early to begin to train children in habits of modesty as regards themselves and others, but the time will come when that training must be supplemented and confirmed by a disclosure of the rational and religious grounds for those habits. Of the parents, the mother is normally the best fitted in herself and in her opportunities to undertake this duty, but if she for some reason cannot do it, she is bound to provide an efficient substitute.

“As to the *when* and *how*, clearly the disclosure must be gradual. As generally it is the phenomenon of birth that first arouses the child’s curiosity, the mother should be prepared to use the analogy of reproduction amongst irrational animals, such as cats and rabbits, to illustrate such part of the human process as concerns herself. Answers to some questions may readily be deferred for a time, especially if the child leads a sheltered life, but false information should never be given. God’s share in the process, both in ordaining it and actually creating the rational soul, should be emphasized, so as to show its essential sacredness, and, whilst it is described as too intimate to be discussed with others, care must be taken not to let the child think that there is anything improper in the function itself. Not until much later, when the occurrence of the phenomena of puberty seems likely to arouse youthful curiosity again, should the part the father takes be indicated. Then it is time that the growing youths should learn other reasons, besides God’s stern prohibition, for preserving continence, such as reverence for the purity of others and the personal and social harm of indulgence.

| 528 | “So much for what we may call home instruction, normally indispensable if the moral character is to be duly developed. But it should always be accompanied or followed up by that training in religion by which young minds are best enlightened and young wills best strengthened against sexual sin. The explanation of the Sixth and Ninth Commandments, if given clearly and fully, should, by indicating precisely what is wrong, and the penalties which are assigned by God to transgression, suffice to preserve any Catholic child from unconsciously forming habits of vice. Unfortunately, as every confessor can testify, owing to a mistaken reticence on the part of parents or to the difficulties attending class instruction in so delicate a subject, many children are allowed to grow up and to leave

school inadequately or even wrongly informed as to what is and what is not sinful. Such ignorance is widespread outside the Catholic Church, but, with Catechism instruction as a basis of enlightenment, it should be impossible for a Catholic child to be misinformed on so vital a matter. It is the grave duty of those entrusted with the task of teaching the Catechism to see that the nature of the obligations imposed by these two commandments, and the reason for them, are clearly understood by their pupils. This obviously cannot be done by questioning in public, both because of the nature of the subject and the different degrees of precocity exhibited even by children of the same age and standing. For this reason, detailed class instruction in this matter is strongly to be deprecated. The state of the child's knowledge is best ascertained by judicious questioning in private with the view to removing misapprehensions, and correcting, if need be, both laxity and scrupulosity of conscience."

| 529 | Closely akin to this question, and equally important, is when and how to tell the young of the harmful physical effects of sexual indulgence. It is a pressing question to-day when the looseness of morals, induced by the Great War, has greatly increased the incidence of venereal disease. The medical profession are seriously alarmed at the spread of this racial poison, which affects the innocent as well as the guilty, and are casting about for means of checking its ravages. One of these means is the diffusion of knowledge both as to the painful and health-shattering character of *venereal diseases*, and as to the methods by which they can be cured once they have been incurred. "In the conveyance of this information," says Fr. Gerrard, "the moralists (and genuine eugenics put morality foremost) see a double effect: the revelation of the terrible nature of the infection is clearly a deterrent, whilst the indication of a ready means of recovery tends to make the sinner more reckless. However, the need of promoting public health and of protecting the innocent from loathsome complaints, outweighs the possible danger of making the way of the transgressor less hard; and, the crisis being what it is, no Catholic moralist would refuse to second the efforts of the health authorities, both to warn the public and to heal, as speedily as may be, those who do not heed the warning.

"Again, the risk attending public instruction of adults must necessarily be run, if only because of the impossibility of conveying the knowledge otherwise. Members of non-Catholic bodies, deprived of explicit moral teaching and the counsels of the confessional, must be treated thus *en masse* and appealed to mainly on physical and social grounds. But we hold out against such instruction being given publicly in schools, and we insist on the religious motive as being the highest and most permanent in fighting this great evil. Religion, as we said above, is the only eugenic force in the world capable of realizing the final aim of eugenics."²³

²³ *The Church and Eugenics*, Appendix.

| 530 | All further explanations may, as a rule, be postponed to the time immediately preceding marriage.²⁴ Innocence of mind and heart has this great advantage that it turns away the imagination of the adolescent boy or girl from the sexual organs and their functions, which in not a few cases is of greater advantage than the most profound knowledge concerning these things.

²⁴ See the excellent specimen instruction for bridal couples by Dean J. H. Keim in Dr. F. Schulze's *Pastoral Theology*, 3rd ed., St. Louis 1923, Appendix II.

A Catholic lay writer on these subjects says that the instruction which he and his bride received from an experienced and pious priest immediately before marriage, was of greater benefit to them than all

professed instruction in matters of sex could possibly have been. Given in the confessional, such instructions are frequently even more effective, because they turn the attention to the sacred purpose of Matrimony at a time when and in a place where the mind is most receptive to such things.

READINGS.—Sporer-Bierbaum, *Theol. Mor.*, Vol. I, 2nd ed., pp. 794 sqq.—Elbel-Bierbaum, *Theol. Mor.*, Vol. I, 3rd ed., pp. 730 sqq.—Reuter-Lehmkuhl, *Neoconfessarius*, pp. 166 sqq.—J. M. Sailer and J. Baier, *Über Erziehung für Erzieher*, Freiburg 1899, pp. 160 sqq.—D. Dupanloup, *L'Éducation*, Paris 1850.—W. Becker, S.J., *Die christl. Erziehung oder Pflichten der Eltern*, 3rd ed., Freiburg 1907.—F. A. Göpfert, *Moraltheologie*, Vol. II, pp. 419.

|⁵³¹| —T. Slater, S.J., *A Manual of Moral Theology*, Vol. I, pp. 274 sqq.—Th. Meyer, S.J., *Inst. Iuris Nat.*, Vol. II, pp. 101 sqq.—J. E. Ross, *Christian Ethics*, pp. 386 sqq.—H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 307 sqq.—F. Walter, *Die sexuelle Aufklärung der Jugend*, Donauwörth 1907.—T. J. Gerrard, *The Church and Eugenics*, London 1921, pp. 61 sqq.—A. Vermeersch, S.J., *De Castitate*, nn. 134, 172, 175, 196, 199, 242.

SECTION 4: THE DUTIES OF CHILDREN TO THEIR PARENTS

|⁵³²| The Decalogue contains a special commandment for children, namely, “Honor thy father and thy mother, that thou mayest be long-lived upon the land which the Lord thy God will give thee.”¹ This precept was expressly re-inculcated by Jesus Christ: “For God said: Honor thy father and mother.”² St. Paul calls attention to the fact that this “is the first commandment with a promise” attached to it.³

¹ Ex. XX, 12; cfr. Deut. V, 16; Tob. IV, 3; Eccus. III, 3, 5–8; VII, 29.—Cfr. Ehrlich, *Randglossen zur hebr. Bibel*, I, 344.

² Matth. XV, 4; cfr. Mark VII, 10.

³ Eph. VI, 1–3; cfr. Col. III, 20.

The precept to honor father and mother, therefore, is not merely based on the law of nature, but it is a positive divine law, given for the purpose of materially lightening the duties of parents.⁴

⁴ St. Augustine, *Quaest. in Heptateuch.*, I, I, qu. 153: “There is also a natural order among human beings, that women serve men and children their parents, because here too this is justice, that the weaker reason serve the stronger.” (Migne, P. L., XXXIV, 590).—*Cat. Rom.*, P. III, c. 5, qu. 2.

The term “honor”⁵ signifies not only the love which every man must show to every other man,⁶ but that filial respect which has its natural foundation in the dependence of youth upon age, in a feeling of personal inferiority, and in addition, that *pietas* which children owe to their parents as the authors of their existence and their educators.⁷

⁵ τιμᾶν, *honorare*.

⁶ Lev. XIX, 18; Matth. XIX, 19; XXII, 39.—Love for his parents is part of the child’s natural equipment and therefore is not particularly emphasized in Revelation.

⁷ Lev. XIX, 3; *Cat. Rom.*, P. III, c. 5, qu. 7; Gury, *Comp. Theol. Mor.*, I, n. 368: “Children are bound toward their parents by a most special obligation. Three duties, moreover, are to be rendered by children to parents under the title of piety, namely, love, reverence, and obedience. For parents stand in a threefold relation to their children, namely, by reason of cause, by reason of preeminence, and by reason of governance. Consequently children ought to love them as the cause of their existence, to reverence them as superiors, and to obey them as rulers delegated by God.”

|⁵³³| The duties that flow from this virtue are three: reverence, love, and obedience.

1. *Reverence* (*reverentia sive timor reverentialis*) is a feeling of deep respect, mingled with awe and affection. Children owe reverence to their parents as long as they live, nay, beyond the grave. It should cause them to bear with their parents even if their demands sometimes exceed the right measure, to spare their feelings, and in their conduct towards them to avoid whatever might savor of contempt. Sins which are but venial when committed against others, may be mortal if committed against parents because they violate reverence.⁸

⁸ Cfr. Gen. XLVI, 29; Tob. X, 9 sqq.—Sporer-Bierbaum, *Theol. Mor.*, Vol. I, 2nd ed., 793: “Every hatred, injury, irreverence, and contempt which is judged moderate or light toward another neighbor is grave toward parents; and that which is judged grave toward another neighbor is supreme toward parents (the matter of theft alone is excepted). The reason is taken from the order of degrees, because after God the first degree of union with us is that of parents, and therefore hatred, injury, and irreverence inflicted upon them is always, other things being equal, graver than that inflicted upon other neighbors, even relatives.”

| 534 | Children sin against the reverence they owe to their parents if they deny them those signs of respect which are demanded by custom or treat them with indifference or neglect. Contempt, mockery, or maltreatment, which would be sinful towards strangers, are a much more grievous sin when committed against parents. To mistreat one’s parents or to curse them was punished by death under the Old Law. Reverence forbids us to reveal the faults of our parents. Children should not sue their parents in court, unless higher considerations of justice or public welfare are at stake, and it is a wise provision of the law which exempts them from testifying against their progenitors. The duty of reverence must not be disregarded even when it becomes necessary to treat parents with physical violence, for instance, in self-defence, when they are insane.⁹

⁹ Linsenmann, *Lehrb. der Moraltheol.*, pp. 651 sq. Cfr. St. Thomas, *Summa Theol.*, 2a 2ae, qu. 75, art. 2: “It is most grave to mock God and the things that are God’s (Is. XXXVII, 23); then the mockery of parents holds the second place (Prov. XXX, 17).”—Cfr. Gury, *Comp. Theol. Mor.*, I, n. 372 sq.; Lehmkuhl, *Theol. Mor.*, I, n. 949.

2. Children must, secondly, *love* their parents. This love is not identical with the charity every man must entertain for all his fellowmen, but a special duty, based upon the fact that children are indebted to their parents, under God, for their life and for innumerable material and spiritual benefits. This filial love should not only be deeply rooted in the heart (*amor affectivus*), but it should be manifested outwardly in acts of assistance and protection (*amor effectivus*).¹⁰ Children are in duty bound to support their parents when the latter become unable to support themselves.

¹⁰ Ecclus. III, 14–18; VII, 29 sq.; Prov. XIX, 26.—Gury, *Comp. Theol. Mor.*, I, n. 369: “Children ought to love their parents with both inward love, pursuing them with a pious and benevolent affection of heart, and outward love, repelling from them every notable evil and injury, showing them also outward signs of benevolence, and assisting them according to their means when they are in need. This is established by natural law. Therefore, although our parents may have defects, however grave, and however they may have acted toward us, nevertheless we owe them life and preservation, which surely is the greatest of all benefits.”

| 535 | This support is, of course, to be gauged in each case by the child’s ability. When a man has to strain every nerve to provide for his own family, or to pay his creditors, he cannot be held to contribute to the support of his parents except in case of urgent need. But even when children have become wealthy, they are not obliged to support their parents on a scale essentially higher than that to which their station in life entitles the latter. Whatever children do for their parents, however, they should do in such a manner that the latter can feel that the assistance given them is not a cold matter of duty, but inspired by genuine affection. Parents have a right to demand this of their children in

view of what they have done for them. The consequences of lack of filial affection are graphically portrayed in Shakespeare's "King Lear."¹¹

¹¹ Linsenmann, *Lehrb. d. Moraltheol.*, pp. 652 sq.

3. The duty of filial *obedience* (*obedientia filialis*) is coextensive with parental authority, and hence comprises whatever is subject to that authority, *i. e.*, all matters of education and domestic government.

[536] a) For minors living under the parental roof the obligation of obeying their parents is a grave one in all important matters. But not all violations of this duty are mortal sins; quite often the guilt is diminished by youthful thoughtlessness, imprudence, or lack of judgment.¹² In the case of children who have reached the age of maturity, however, it is nearly always a mortal sin if they refuse to obey their parents in matters that concern their eternal salvation or are of vital importance for the preservation of peace and good order within the family circle. The sin of disobedience is aggravated by pride, obstinacy, and hypocrisy. Grown-up children may, of course, raise objections against parental commands or orders, but they should present their reasons with respect and deference, and be ready to obey, no matter what the final decision may be.¹³

¹² Ecclus. III, 1; Eph. VI, 1; Col. III, 20.—Gury, *op. cit.*, I, n. 374 sq.

¹³ *De Benefic.*, l. III, c. 38.

b) The duty of filial obedience ceases to bind when parents command their children to do something that is bad in itself or a proximate occasion of sin, for Jesus says, "He that loveth father or mother more than me, is not worthy of me."¹⁴

¹⁴ Matth. X, 37; Luke XIV, 26; Acts IV, 19; V, 29.—St. Augustine, *Enarr. in Ps.*, LXX, s. I, n. 2: "In this matter alone a son ought not to obey his father, if his father has commanded something against the Lord his God. For the father ought not to be angry when God is preferred to him. But when a father commands that which is not against God, he is to be hearkened to as God, because God commanded that one obey one's father." (Migne, P. L., XXXVI, 875).—IDEM, *Sermones*, 100 (*al. 7 de Verbis Domini*), c. 1, n. 2: "The father is to be honored, but God is to be obeyed; the begetter is to be loved, but the Creator is to be preferred."—*Ibid.*, c. 2: "Love your parents, but prefer God to your parents." (P. L., XXXVIII, 603).

[537] Nor does the duty of obedience bind a child in the *choice of a vocation* or state of life. Parents have no right to compel their children to embrace a vocation which would require them to renounce marriage or the religious life. If they fear that they will be exposed to extreme want through the marriage of a child, or his reception into a religious order, they may demand that the one or the other act be postponed, and in that case the child should not resist. Children may enter a religious order against the will and without the knowledge of their parents if they are unable to overcome parental resistance and there is no danger that the parents will suffer want. Minors, however, should be kept back as long as possible, since in their case the matter is not urgent and their vocation as yet uncertain.¹⁵

¹⁵ St. Alphonsus, *Theol. Mor.*, l. III, n. 335: "Here it must be noted that children are not bound to obey in those matters which pertain to choosing a state of life. Hence parents sin gravely who compel them, even indirectly, against their will, to choose a state of life, whether religious, clerical, or matrimonial; or, conversely, if without a just cause they unjustly draw them back, even without force or fraud, from the religious, clerical, or matrimonial state, because it especially falls to parents to take counsel for the spiritual good of their children. Hence, if a son feels himself called by God to the religious or clerical state and perceives that his parents will unjustly impede him, he acts more advisedly by concealing the matter from them and carrying out the divine will. It has been said *unjustly*, for it would have to be said otherwise if

the parents opposed him for a just cause, for example, if they would remain in need, or if otherwise a most noble family would become extinct, as Elbel says (*Theol. Mor.*, P. III, n. 539). In this second case, however, I think the son is not bound on that account to abandon his vocation.—Cfr. H. Busembaum, S. J., *Medulla Theol. Mor.*, l. III, tr. 3, c. 2, dub. 1, n. 4: “A child is bound to support needy parents, to such a degree that, if in grave necessity they cannot be helped otherwise, he is bound to remain in the world (unless, however, in this there would threaten him a certain, or at least very probable, danger to salvation); and if he has entered religious life, he is bound to leave and help his parents, provided that their necessity preceded his profession.”—*Ibid.*, n. 5: “But if the necessity arises after profession and is extreme, he is bound to leave, permission having first been sought (though not obtained). But if it is merely grave, such that they can somehow live, he is not indeed bound, yet he can leave if the superior permits. In which case he is bound, insofar as it does not obstruct his purpose, to wear the habit and observe the essentials of religion; but after help has been given to his parents, he is bound to return.” (Tornaci 1876, I, 161).—Cfr. St. Thomas, *S. Th.*, 2a 2ae, qu. 101, a. 4; Gury, *Comp. Theol. Mor.*, I, n. 377; Lehmkuhl, *Theol. Mor.*, I, nn. 946–948.

[538] The duty of obedience ceases to bind, lastly, when a child marries, becomes of age or enters a religious order or congregation. Children who continue to dwell under the parental roof after they have attained their majority, remain subject to parental authority, and this includes sons who are in clerical orders, but have no benefice and are supported wholly or in part by the family.

If a conflict arises between the demands of the parents and those of the children, the presumption is in favor of the parents because they are supposed to have a riper judgment, and it is, generally speaking, not wise to support children who resist their parents. On the other hand it cannot be denied that parents are sometimes unreasonable in the demands they make upon their children. In the same Epistle in which he inculcates the duty of filial obedience St. Paul says: “Fathers, provoke not your children to anger.”¹⁶ Parents should always remember that they rear their children not for themselves, but for society, and they must not refuse to make the sacrifices demanded of them on this account. They may not hinder their children from choosing a vocation or establishing a family of their own, merely because they themselves would have to live less comfortably in consequence.

¹⁶ Eph. VI, 4.

[539] The children, on the other hand, must remember that they should not take any important step in life without the consent and blessing of their parents and that if they do so without a just cause, they forfeit an important condition of happiness. Parents have a right to be consulted in regard to their children’s choice of a vocation, and often, when the children are moved by passion or restiveness, the will of the parents represents the counsel of mature wisdom. It may justly be assumed that the son or daughter who marries with due regard to the wishes of his or her parents will be better off than he or she who parts from them in anger and contracts a marriage which they disapprove.

As there are children who, because of mental or bodily defects, cannot take care of themselves, but remain a charge on their parents as long as they live, so, too, it may happen that a child must renounce an independent position in order not to expose his parents to penury. Circumstances may render this an imperative duty, and if the sacrifice is made in the right spirit, it is as much a virtue as making a religious profession.¹⁷

¹⁷ Linsenmann, *Moraltheologie*, p. 651.—The question whether there are between parents and children mutual duties of justice in addition to those of *pietas* and the other virtues distinct from justice (e. g., gratitude, veracity, etc.) is controverted among theologians.

Those who take the place of parents, especially *guardians* and *teachers*, and, in general, *superiors*, participate in their rights as well as duties.¹⁸ The rights and duties of guardians are, as a rule determined by positive law.¹⁹

¹⁸ Sporer-Bierbaum, *Theol. Mor.*, Vol. I, 2nd ed., 806: “To these [teachers] pupils are bound to render love, reverence, and obedience or diligence in those matters which pertain to their care. The sins of pupils, therefore, are: unjust indignation, contempt, irritating the teacher, disobedience in matters pertaining to their care, e. g., studies, insults, abusive words, and other injuries inflicted; although in these matters boys are for the most part excused from mortal sin by levity, imprudence, or passion, so that they are to be condemned not to hell but only to the furnace. Conversely, masters and teachers are bound to render to their pupils love, instruction, correction, and example. This is evident from the nature of their office. Their sins, therefore, are, among others, unjust or indiscreet indignation and rebukes, negligent, incautious, false teaching, omission of due correction, scandals of the little ones: woe to them! Academic masters or teachers are bound to still more duties, which they themselves will have learned from the statutes and the common law.”

¹⁹ C. I. C., can. 765 sqq.; cfr. this *Handbook*, Vol. II, p. 121.

[540] *Sponsors* must see to it that their godchildren are raised in the Catholic religion and lead a good Christian life in conformity with the promises made at Baptism. This is a grave obligation which ceases only with death.²⁰ Baptism gives rise to a spiritual relationship between the sponsor and the baptized person. If one is sponsor by proxy, the principal, not the proxy, contracts spiritual relationship with the *baptizandus*.

²⁰ Cfr. Conc. Trid., Sess. XXIV, c. 2, *De Ref. Matr.*; C. I. C., can. 769.

Sponsors are absolved from all obligation if it can be prudently presumed that the godchild is properly taken care of by his parents or guardians.²¹

²¹ J. B. Ferreres, *Comp. Theol. Mor.*, Vol. II, p. 184; cfr. St. Alphonsus, *Theol. Mor.*, l. IV, n. 1476.

The *baptizing priest* should see to it that the canonical regulations concerning sponsors are duly observed, and instruct the sponsors in regard to the obligations they assume, and also with respect to the spiritual relationship they contract.

It is a bad sign if scholars and pupils do not remember gratefully their teachers and others who have contributed towards the formation of their character and their success in life. As true gratitude is a splendid virtue, so ingratitude is a detestable vice, and if it is formal, i. e., coupled with downright contempt for the favors received or for those who bestowed them, it is a mortal sin, unless the matter involved is so small as to diminish the guilt (*parvitas materiae*).²²

²² St. Thomas, *Summa Theol.*, 2a 2ae, qu. 106 sq.; Sporer-Bierbaum, *Theol. Mor.*, Vol. I, 2nd ed., 806 sqq.—Cfr. Pseudo-Augustine, *Append. Serm.*, 265 (al. 215, *De Temp.*), n. 2: “Know that you who receive children in baptism have stood as sureties for them before God. And therefore always chastise and correct both those who are born of you and those whom you receive from the font, that they may live chastely, justly, and soberly. And conduct yourselves in such a way that if your children wish to imitate you, they may not burn with you in the fire, but may come with you to the eternal rewards.” (Migne, P. L., XXXIX, 2238).—IDEM, *De Rect. Cath. Conversat.*, n. 4 (P. L., XL, 1171).

[541] READINGS.—*Catechismus Romanus*, P. III, c. 5.—St. Thomas, *Summa Theol.*, 2a 2ae, qu. 101–105.—Sporer-Bierbaum, *Theol. Mor.*, Vol. I, 2nd ed., 784 sqq.—Elbel-Bierbaum, *Theol. Mor.*, Vol. I, 3rd ed., 719 sqq.—J. B. Hirscher, *Die christliche Moral*, Vol. III, 5th ed., pp. 539 sqq.—V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 433 sqq.—W. Becker, S.J., *Die Pflichten der Kinder und die christl.*

Jugend, 2nd ed., Freiburg 1898.—T. Slater, S.J., *A Manual of Moral Theology*, Vol. I, pp. 270 sqq.—J. E. Ross, C. S. P., *Christian Ethics*, pp. 385 sqq.

SECTION 5: THE MUTUAL DUTIES OF BROTHERS AND SISTERS AND OTHER RELATIVES, AND OF MASTERS AND SERVANTS

| 542 | 1. THE MUTUAL DUTIES OF BROTHERS AND SISTERS.—While the family converges towards unity in the parents, it diverges into variety in the children. The natural tie that binds brothers and sisters together is not their individuality, but their common relation towards their parents and towards the family to which they belong. For this reason the bond in question is much weaker and entails fewer duties than the one which unites parents and children.

Broadly speaking, brothers and sisters are bound to love one another more dearly than other human beings and to help one another, not only in urgent, but also in grave and ordinary necessities.¹

¹ Ps. CXXXII, 1–3; Eccclus. XXV, 1 sq.—St. Alphonsus, *Theol. Mor.*, l. III, n. 340 (ed. Gaudé, I, 606).

These duties, however, vary even between brothers and sisters. Older brothers and sisters have more duties towards younger brothers and sisters because they are the natural representatives of the parents. If they marry, however, their duties to their younger brothers and sisters must in case of collision give way to the duties they owe to husband or wife, and children. As a rule, too, brothers have more onerous duties towards their sisters than *vice versa*. Thus, if an unmarried sister would probably be exposed to want in case her brother joined a religious order, he would have to give up his intention, or at least postpone its execution, until satisfactory provision could be made for the dependent sister. If the parents are dead and an older brother or sister takes their place in rearing the younger children, he or she has a right to demand from them, in all that pertains to unity and peace of the family, the same respect and obedience that they would show to the parents, were they alive. Uncharitableness, enmity, and revenge among children of the same parents is doubly detestable and sinful.²

² See this *Handbook*, Vol. I, pp. 215 sq.; cfr. O. v. Marmerie, *Die Familie*, pp. 331 sqq.

| 543 | 2. THE MUTUAL DUTIES OF RELATIVES.—When a family broadens out into several, we have what is called *relationship*. Descent from the same ancestors is a bond that unites relatives into a natural group. This bond grows weaker in proportion to the distance of the descendants from their common ancestor. Consequently, the duties of relatives to one another are difficult to define. We may lay it down as a general rule, however, that when different relatives are simultaneously in need, the nearer should be given precedence over the more distant. For the rest, the duties which relatives have towards one another are obligations of charity rather than of justice, except when there is question of an inheritance *ab intestato*.³

³ Sporer-Bierbaum, *Theol. Mor.*, Vol. I, 2nd ed., 803.

| 544 | Lack of affection for one's relatives is a sign of selfishness and involves a gross violation of Christian charity. On the other hand, love of one's relatives should never be allowed to degenerate into unjust partiality or lead to the neglect of higher vocational duties.⁴ *Nepotism*, i. e., favoritism extended to relatives, near or distant, in the bestowal of offices, in fact every species of undue discrimination in favor of relatives, especially in governmental patronage, is detrimental to private and public morality because it leads to violations of duty, unjust preference, and other vices.

⁴ Matth. VIII, 21 sq.; XII, 46 sqq.; Luke IX, 59 sqq.

It belongs to the allied sciences of politics and political economy to weigh the advantages and disadvantages of the patriarchal or feudal system of society as against its opposite extreme, the atomization of society and property into minute particles. Both tendencies involve grave social dangers.

[545] Another danger, which affects morality very closely, is *inbreeding*, i. e., marrying among near relatives. It is apt to result in physical degeneration and the transmission of undesirable characteristics, notably mental defects, from ancestors to descendants. Though the physiological consequences of inbreeding are undeniable, it will be well to put the case against it on moral grounds, because *heredity* is still a largely unexplored subject. Among the moral dangers of inbreeding are too great intimacy between near relatives, the exclusion of new blood, and the cultivation of a spirit of social pride and exclusiveness that is detrimental to society at large. Marriages between near relatives as a rule are not contracted for love, but for extrinsic, conventional reasons, and hence involve an undue restriction of individual liberty. It is difficult to determine the exact limits to which parental authority may go in controlling the rights of children, though quite evidently he who shares in the advantages of family life, ought to submit to a certain amount of compulsion for the benefit of the whole.⁵

⁵ St. Augustine, *Enarr. in Ps.*, 127, n. 12: "The Lord wills that we prefer God to earthly blood relationships. Defer to your father, because he is your father; defer to God, because He is God. Your father begot you by furnishing his flesh; God created you by applying His omnipotence. Do not— let the father be angry when God is preferred to him; rather let him rejoice that so much deference is paid to him, that He alone was found who ought to be preferred to him." (Migne, P. L., XXXVII, 1685).

[546] Unequal treatment of relatives is not immoral so long as the personal rights of each are respected and no one is compelled to choose a vocation, to marry or to abstain from marriage, to sacrifice his religious convictions, or hindered in the performance of his duties. But when love of one's kin leads to clannishness, to undue pride, and to the exploitation of outsiders, it is sinful and apt to foment social disturbances.⁶

⁶ St. Augustine, *De Civ. Dei*, l. XV, c. 16, n. 1: "Since, after the first union of the man made from dust and his wife from the man's side, the human race needed the joining of males and females in order to be multiplied by generation, and there were no human beings except those who had been born from those two, the men took their sisters as wives; and this act, certainly, the earlier it was under the compulsion of necessity, the more damnable it afterward became when religion prohibited it. For the most right account was taken of charity: that men, for whom useful and honorable concord existed, should be bound by the ties of diverse relationships, and that one man should not have many of them in one person, but that individual relationships should be distributed among individuals and thus, for the more diligent binding together of social life, many relationships should hold many persons. Father and father-in-law, indeed, are names of two relationships. Therefore, in order that each person might have one man as father and another as father-in-law, charity extends itself more widely."—*Ibid.*, n. 3: "The union, therefore, of male and female, so far as the mortal race is concerned, is a kind of nursery of the state." (Migne, P. L., XLI, 457, 459).—St. Thomas, *S. Th.*, 2a 2ae, qu. 154, art. 9; 3a, *Suppl.*, qu. 54, art. 3: "Incidentally, the end of marriage is the alliance of men and the multiplication of friendship, since a man regards his wife's blood relatives as his own. And therefore prejudice would be done to this multiplication of friendship if someone married a wife connected to him by blood, because from this no new friendship would accrue to anyone through marriage."—On endogamy and exogamy see Cronin, *The Science of Ethics*, Vol. II, pp. 451 sqq.—Cfr. Linsenmann, *Moraltheol.*, pp. 654 sq.

The duties arising between *masters* and *domestic servants* from the express or implicit contract existing between them, are duties of justice in the strict sense,⁷ neglect of which involves sin and the duty of making restitution. Besides the duties flowing directly from the contract, there are other duties, which bind masters to provide for the spiritual and, to a certain extent and more remotely, also for the temporal welfare of their servants. They should not only make it possible for their servants to comply with their religious duties, but exhort and persuade them to avoid proximate occasions of sin. Servants, on their part, should be faithful to their employers, honor them, promote their interests, obey them in all legitimate things, and keep the secrets entrusted to them. As a rule it is a mortal sin for a servant to make statements which are apt to cause his employer considerable loss or annoyance.

⁷ Ecclus. XXXIII, 31; Eph. VI, 5–9; Col. III, 22–24; IV, 1; 1 Tim. VI, 1 sq.; Tit. II, 9; 1 Pet. II, 18 sq.—Elbel-Bierbaum, *Theol. Mor.*, Vol. I, 3rd ed., 740 sqq.; Gury, *Comp. Theol. Mor.*, Vol. I, n. 392–394.

[⁵⁴⁷] In the ideal social order every servant would be enabled sooner or later to become his own master and to govern others, service would merely be a condition of, and a preparation for, the government of others, and no one would command who had not previously learned to obey.

READINGS.—Sailer, *Handbuch der christl. Moral*, Vol. III, pp. 194 sqq.—Jocham, *Moraltheologie*, Vol. III, pp. 336 sqq.—H. Noldin, *Summa Theol. Mor.*, Vol. II, pp. 314 sqq.—A. Lehmkuhl, S. J., *Theol. Mor.*, Vol. I, pp. 554 sq.—Th. Meyer, S.J., *Inst. Iuris Nat.*, Vol. II, pp. 112 sqq.—F. A. Göpfert, *Moraltheologie*, Vol. II, pp. 29 sq., 427 sqq.

Chapter III: The Christian State

SECTION 1: NATURE AND PURPOSE OF THE STATE

| 548 | 1. As marriage gives rise to the family, so the family is the nursery of the State,¹ which may be defined as a *perfect and self-sufficient society, consisting of many families, united together under a common ruler and governed by the same laws, for the attainment of complete life and welfare of all the members*. The State owes its existence to the natural needs of men as social beings, which compel them to unite in larger (political) communities. For neither as an individual nor as a family member is a man able to supply even his own urgent needs.

¹ Cicero, *De Offic.*, l. I, c. 17: “Since it is common to living creatures by nature to have the desire to procreate, the first society is in marriage itself, the next in children, then one household, all things in common. And this is the beginning of the city and, as it were, the nursery of the commonwealth. Next come the unions of brothers, afterward those of first cousins and second cousins, who, when they can no longer be contained in one household, go out into other houses as into colonies. Next come marriages and affinities, from which there are yet more relatives. This propagation and offspring will be the origin of commonwealths. Moreover, blood relationship and benevolence bind men by charity.”

| 549 | Now, as it would be impossible to preserve order in the family without some higher (paternal or parental) authority, so, too, the permanent cohabitation of many families would not be possible without a common leader.² History teaches that in matter of fact there is not and never was a nation or State that wholly lacked political organization, no matter what form of public policy it adopted.

² Prov. XI, 14.—St. Thomas, *Summa Theol.*, 1a, qu. 96, art. 4: “The social life of many could not exist unless someone presided who aimed at the common good. For many of themselves aim at many things, but one at one thing. And therefore the Philosopher says that whenever many things are ordered to one, one is always found as principal and director.”

But the State is not only a spontaneous outgrowth of sheer natural necessity, it is at the same time a free and voluntary product of human intelligence. It furnishes a fruitful soil for countless moral relations which are sustained and regulated by the ideas of social order, right, and justice,—ideas implanted by the Creator Himself in the minds and hearts of men. Accordingly the State or civil society is not a purely human invention, but instituted by God; for, as St. Paul says, “there is no power but from God, and those that are, are ordained of God.”³ “Because no society can hold together unless some one be over all,”—writes Leo XIII in his famous encyclical “*Immortale Dei*,”—“directing all to strive earnestly for the common good, every civilized community must have a ruling authority, and this authority, no less than society itself, has its source in nature, and has, consequently, God for its author. Hence it follows that all public power must proceed from God. For God alone is the true and supreme Lord of the world, to whom everything without exception must be subject, and whom everything must serve: so that whosoever holds the right to govern, holds it from one sole and single source, namely, from God, the Sovereign Ruler of all.”⁴

³ Rom. XIII, 1; cfr. Prov. VIII, 15 sq.

⁴ Encycl. “*Immortale Dei*,” Nov. 1, 1885: “Since no society can hold together unless someone presides over all, moving each person toward the common purpose with an efficacious and simultaneous impulse, it follows that an authority by which it is ruled is necessary to the civil community of men; this authority, no less than society, arises from nature and therefore from God Himself as author. From this it follows that public power in itself is from none but God. For God

alone is the truest and supreme Lord of things, to whom all things whatsoever must be subject and must serve; so that whoever possesses the right of command receives it from no other source than from God, that supreme Prince of all.”—Cfr. J. A. Ryan, *The State and the Church*, pp. 2 sq., 26 sqq.

| 550 | Yet, though political power is from God, Divine Revelation has not prescribed any particular form of government,⁵ but leaves men free to choose whichever form they prefer, and civil society is a moral entity precisely by the fact that it is based in part upon a free agreement, that it is sustained by the voluntary co-operation of its members, and that the individual finds within it ample scope for free activity. This liberty, however, like human liberty in general, is not merely legal, derived from positive law, but has its root in the divine will, and, ultimately, in the eternal and imperishable ideas of right and justice as they exist in God.

⁵ Rom. XIII, 1–7; 1 Pet. II, 13–19. Cfr. Linsenmann, *Moraltheol.*, pp. 621 sqq.; G. v. Hertling, *Kleine Schriften*, pp. 41 sqq., 61 sqq., 91 sqq., 470 sqq.; M. Cronin, *The Science of Ethics*, Vol. II, pp. 557 sqq.; J. A. Ryan, *op. cit.*, p. 28 sq.

| 551 | The influence of Christianity on the development of political life shows itself especially in this that the Church of Christ inculcates a higher conception of justice and goodness. She is the authorized interpreter of the natural law. And since the human race is not intended to work out its destiny exclusively on this earthly planet, but has a truly transcendental aim and purpose,⁶ the State does not contain its ultimate purpose within itself, in other words, it is not absolute, but merely a means to an end. This end is to help humanity reach its temporal and eternal destiny. “Nature did not fashion society with the intent that man should seek in it his last end, but that in it and through it he should find suitable means to attain to his own perfection.”⁷

⁶ Mark VIII, 36 sq.; Luke IX, 25; X, 42.—St. Augustine, *Confess.*, l. I, c. 1: “Thou [Lord] dost stir us, that it may delight us to praise Thee, because Thou hast made us for Thyself, and our heart is restless until it rests in Thee.” (Migne, P. L., XXXII, 661).

⁷ Leo XIII, Encycl. “*Sapientiae Christianae*,” Jan. 10, 1890: “Nature did not beget society for this reason, that man should pursue it as an end, but that in it and through it he should find helps suited to his perfection.”

2. The *end or purpose of the State* may be briefly described as the promotion of the public welfare (*salus sive prosperitas publica*). This means that the State must by proper laws and institutions insure the preservation of good morals and the proper government of families, inculcate respect for religion, enforce the demands of justice, secure the prosperity of business, trade, and commerce, etc., because upon the promotion of these things the welfare and happiness of civil society mainly depends.⁸

⁸ Cfr. Rom. XIII, 3 sq.—Cathrein, *Moralphilosophie*, Vol. II, 5th ed., pp. 525 sqq.—Leo XIII, Encycl. “*Immortale Dei*,” Nov. 1, 1885; IDEM, Encyclical letter “*Rerum Novarum*,” March 15, 1891.

| 552 | The object of the State, therefore, is the preservation of civil society on the basis of justice and order. Still law and order are not the last and highest purpose, but means for the attainment of a still higher one, which is contained in the very destiny of man himself, namely, *culture* and *civilization* in the fullest and most perfect sense of the term. The State must create such conditions of law and order as are suitable to a nation’s state of culture and apt to lead the people to a still higher plane of morality. Law and order must be directed toward good morals. Hence it belongs to the State not only to protect its citizens against external and internal enemies, and to protect private property, but likewise to prevent and punish all public violations of morality and to promote every form of true culture and civilization,—education, religion, science and art.⁹

⁹ J. A. Ryan, *The State and the Church*, pp. 195 sqq.; Linsenmann, *Moraltheologie*, p. 620.

The State has its natural basis in *nationality*. But History shows that a nation (in the strict sense) can very well comprise several States, and that a State may comprise people of different nationalities. Both the undue suppression of national aspirations and the undue exaltation of the principle of nationality are moral defects and therefore illicit.¹⁰

¹⁰ *Ibid.*, pp. 615 sqq.—Cfr. Stöckl, *Das Christentum*, Vol. II, pp. 389 sqq.; W. Frind, *Das sprachliche und sprachlich-nationale Recht in polyglotten Staaten und Ländern*, Mayence 1899; W. Haidegger, *Der nationale Gedanke im Lichte des Christentums*, 2nd ed., Brixen, 1902; A. Vermeersch, S. J., *Quaestiones de Iustitia*, 2nd ed., pp. 6 sqq.

| 553 | READINGS.—F. X. Linsenmann, *Lehrbuch der Moraltheologie*, pp. 619 sqq.—V. Cathrein, S. J., *Moralphilosophie*, Vol. II, 5th ed., pp. 462 sqq.—IDEM, *Die Staatsgewalt und ihre Grenzen*, Freiburg i. B. 1882.—G. v. Hertling, *Recht, Staat und Gesellschaft*, Kempten 1906.—B. Seidel, *Die Lehre des hl. Augustinus vom Staate*, Breslau 1909.—M. Cronin, *The Science of Ethics*, Vol. II, pp. 461 sqq., 507 sqq.—J. A. Ryan, *The State and the Church*, N. Y. 1922, pp. 62 sqq., 195 sqq., 221 sqq.—Th. Meyer, S.J., *Inst. Iuris Nat.*, Vol. II, pp. 241 sqq., 266 sqq., 303 sqq.—J. E. Ross, C.S.P., *Christian Ethics*, pp. 395 sqq., 433.—P. Tischleder, *Ursprung und Träger der Staatsgewalt nach der Lehre des hl. Thomas und seiner Schule*, M. Gladbach 1923.

SECTION 2: THE DUTIES OF PUBLIC OFFICIALS

| 554 | 1. The highest government official in a country, whether his title be emperor, king, or president, is the representative of God, appointed for the purpose of enforcing justice and promoting the common welfare.¹ St. Thomas² describes his duties in a classical passage as threefold: “(1) That he establish a good life among the subject multitude; (2) That he preserve what has been established; (3) That he promote what has been preserved toward better things.” The *institutio bonae vitae* comprises: (a) that the people live in unity of peace; (b) that, united by the bonds of peace, they be directed in doing good; (c) that by the industry and foresight of their ruler they be provided plentifully with the necessities of life.³

¹ Rom. XIII, 3 sq.

² *De Regimine Principum*, l. I, c. 15.

³ *Ibid.*: “(a) That the multitude be established in the unity of peace; (b) that the multitude, united by the bond of peace, be directed to acting well; (c) that through the ruler’s industry there be a sufficient abundance of the things necessary for living well.”

The *conservatio bonae vitae* implies: (a) a just administration by, and a proper succession of, officials; (b) proper laws and precepts, rewards to encourage civic virtue and punishments to deter the people from wrongdoing; (c) safety of the commonwealth against exterior and interior enemies.⁴ The *promotio bonae vitae* implies: (a) correcting crimes, misdemeanors, and serious faults; (b) supplying the things that are necessary for the welfare of the nation, and (c) introducing indispensable and advisable reforms.⁵ The principal duty of the regent is to dispense justice to all. Hence he must never violate justice, or permit others to violate it; he must render to each what is his due, reward or punish all according to their deserts, combine firmness with paternal kindness and charity, and be ever mindful of the account he will one day have to render to God.⁶

⁴ *Ibid.*: “(a) Care concerning the succession of men and the substitution of those who preside over the various offices; (b) that by his laws and precepts, punishments and rewards, he restrain the men subject to him from iniquity; (c) that the subject multitude be rendered safe against enemies.”

⁵ *Ibid.*: “(a) In each of the things set forth above, if anything is disordered, to correct it; (b) if anything is lacking, to supply it; (c) if anything can be done better, to bring it to completion.”—Cfr. Aug. Lehmkuhl, *Theol. Mor.*, Vol. I, 11th ed., n. 952.

⁶ Ps. II, 10, 12; Wisd. I, 1; VI, 2–4; VI, 7; cfr. Jas. II, 13.

| 555 | “The right to rule,” says Leo XIII, “is not necessarily bound up with any special mode of government. It may take this or that form, provided only that it be of a nature to insure the general welfare. But whatever be the nature of the government, rulers must always bear in mind that God is the paramount Ruler of the world, and must set Him before themselves as their exemplar and law in the administration of the State.... They, therefore, who rule, should rule with even-handed justice, not as masters, but rather as fathers, for the rule of God over man is most just, and is tempered always with a father’s kindness. Government should, moreover, be administered for the well-being of the citizens, because they who govern others possess authority solely for the welfare of the State. Furthermore, the civil power must not be subservient to the advantage of any one individual or of some few persons, inasmuch as it was established for the common good of all. But if those who are in authority rule unjustly, if they govern overbearingly or arrogantly, and if their measures prove hurtful to the people, they must remember that the Almighty will one day bring them to account, the more strictly in proportion to the sacredness of their office and the pre-eminence of their dignity.”⁷

⁷ Encyclical “*Immortale Dei*,” Nov. 1, 1885: “The right of command is not of itself necessarily joined to any form of commonwealth: it can rightly assume this form or that, provided it is in fact effective for the common utility and good. But in every kind of commonwealth princes must altogether look to God, the supreme Governor of the world, and set Him before themselves as an exemplar and law in administering the state.... Government, therefore, ought to be just, not masterly, but as it were paternal, because God’s most just power over men is joined with paternal goodness.... But if those who are in authority slip into unjust domination, if they sin through arrogance or pride, if they take bad counsel for the people, let them know that they will someday have to render an account to God, and that the reckoning will be so much stricter, the more sacred the office in which they have been engaged or the higher the degree of dignity they have obtained.”—Cfr. J. A. Ryan, *The State and the Church*, pp. 3, 26 sqq.

| 556 | Least of all is a ruler permitted to employ his power against God, *i. e.*, to the detriment of religion;—on the contrary, it is one of his first and most sacred duties to protect and foster religion, inasmuch as fidelity to God and to His holy law is a necessary condition of the temporal no less than of the spiritual welfare and prosperity of nations as well as individuals.⁸

⁸ *Ibid.*, pp. 4 sqq., 29 sqq. Cfr. Ecclus. XIX, 18; 1 Tim. IV, 8.

| 557 | “All who rule,” says Leo XIII, “should hold in honor the holy name of God, and one of their chief duties must be to favor religion, to protect it, to shield it under the credit and sanction of the laws, and neither to organize nor enact any measure that may compromise its safety. This is the bounden duty of rulers to the people over whom they rule.”⁹

⁹ Encyclical “*Immortale Dei*”: “The name of God must be holy among princes; and it must be placed among their chief duties to embrace religion with favor, to protect it with benevolence, to cover it with the authority and sanction of the laws, and neither to institute nor decree anything contrary to its safety. They owe this also to the citizens over whom they preside.” (Ryan, *op. cit.*, pp. 4 sq., 29 sqq.)

2. Public officials are the organs of the supreme ruler and entrusted with the duty of promoting the welfare of the people in their respective spheres, whether these be large or small.¹⁰

¹⁰ St. Thomas, *Summa Theol.*, 2a 2ae, qu. 67–71; Lehmkuhl, *Theol. Mor.*, Vol. I, 11th ed., n. 960–987.

The statement is frequently made in the United States that public officials are merely *public servants*. This, says Dr. Ryan, is incorrect. “They are, indeed, the servants of the people, but they are also something more. Inasmuch as their function is that of public service, they may properly be regarded as public servants; inasmuch as their position gives them the authority to enact laws which are morally binding on the people, they are not servants, but masters. Their character as public servants does not depend upon the fact that they are elected by the people; for hereditary kings are likewise bound to serve the common welfare. In a republic the members of legislatures may in a special sense be regarded as servants of the people, whenever they are instructed by the electors to carry out certain political policies. Their promise to pursue this course creates a particular responsibility to the people, and renders their position analogous to that of servants or agents. Nevertheless, they are masters and rulers when they enact the legislation necessary to carry out the policies to which they have committed themselves.”¹¹

¹¹ *The State and the Church*, p. 263.

| 558 | One of the primary duties of public officials, according to the same writer, is “to possess an adequate knowledge of what constitutes the common welfare and of the means by which it is best promoted. This obligation is disregarded by a large proportion of those who seek public office. Men who are otherwise conscientious assume that good will and right motives are a sufficient equipment for public service. When we consider the enormously extended functions of the modern State, the numerous and profound ways in which its activities affect the welfare of all the people, and the consequent complexity of legislating and governing wisely, we see that this notion is utterly mistaken. Only in local governments and subordinate official positions is it true that common honesty plus common sense suffice for those who are charged with the duty of caring for the public welfare. In all the more important legislative and executive officers a considerable amount of special and specific knowledge is essential to an adequate discharge of official obligations.”¹²

¹² Ryan, *op. cit.*, p. 262.

| 559 | Other important duties of public officials are: *fidelity* and *conscientiousness* in fulfilling the particular obligations of their state and *impartiality* in the administration of justice.¹³ They should also strive to be models of all other Christian virtues, especially of prudence, mildness, and benevolence. Here, too, what St. Paul says is true, that “love is the fulfilling of the law.”¹⁴ If public officials intentionally or out of culpable ignorance violate the rights of the people, or cause them material damage, they are guilty of sin and must make restitution. Thus, for example, a *judge* who, in a gravely culpable way, either because of ignorance or carelessness, has pronounced an unjust judgment, must repair the damage that results therefrom, because he is in duty bound to administer his office fairly and justly. If he has erred without grave fault, he is bound to correct his mistake as far as lies within his power.

¹³ Ex. XXIII, 2 sq., 6 sqq.; Lev. XIX, 15, 35; XXIV, 22; Deut. I, 17; XVI, 18 sq.; XXIV, 17; XXV, 1 sq.; Ps. LXXXI, 3 sq.; Is. I, 17; XXXII, 1; LVI, 1; Jer. XXII, 3; Zach. VIII, 16; Wisd. I, 1; Ecclus. XX, 31; Rom. XIII, 3 sq.; Jas. II, 1–9.—St. Augustine, *De Civit. Dei*, I. IV, c. 4: “Justice removed, what are kingdoms but great robberies? For what are robberies themselves but little kingdoms?” (Migne, P. L., XLI, 115).—Cicero, *De Offic.*, I. II, c. 11: “Such is the power of [justice] that not even those who feed upon wrongdoing and crime can live without some particle of justice.”

¹⁴ Rom. XIII, 10; cfr. Zach. VIII, 19; Eph. IV, 15; Col. III, 14.—Sallust, *Jugurth.*, 10: “By concord small things grow; by discord the greatest things fall apart.”

“The man who regards public office as an opportunity for private gain, except incidentally and as a necessary consequence of faithful public service, is false to his trust and violates legal justice. To accept a bribe for aid in the enactment of a bad law, for negligent or oppressive administration of the law, or for unjust judicial conduct, is an evident moral wrong. To obtain some advantage on the occasion of proper official actions, for example, through some form of ‘graft,’ is likewise a violation of legal justice. Such conduct is generally forbidden by the civil law; at any rate, it renders right judgment and adequate performance of official duties extremely difficult. Public officials are not justified in exposing themselves to such a grave temptation. What is true of their own private advantage, applies also to that of their friends. In their enactment or administration of the law they may not extend favors of any sort to any individual or class of individuals. The common good must be preferred to the good of individuals, and all individuals must be treated with exact justice.”¹⁵

¹⁵ J. A. Ryan, *The State and the Church*, pp. 260 sq.

|⁵⁶⁰| What would become of a State without *justice*? It would fall to pieces, for injustice breeds anarchy, and anarchy causes the disruption of all social bonds. When a State departs from the laws of justice, therefore, it courts destruction.

Every public official ought to be a vessel and an organ for the manifestation of justice within the sphere of his jurisdiction. He must be incorruptible, because justice cannot coexist with bribery. He must be impartial, for without impartiality his judgments would be unjust. He must be unselfish, for selfishness would render him susceptible to bribery. He must be discreet, for without discretion he cannot acquire and hold the confidence either of his superior or of the public. He must be diligent and punctual in the performance of his duties, else he cannot be a model to others. He must be chaste and temperate in all things, for he who is guilty of immoderate indulgence in the pleasures of the flesh can be neither assiduous nor impartial. Where would a slave of lust find the courage to sacrifice himself for the welfare of his country?¹⁶ He must be a man of superior culture, for without true culture there can be no wisdom, without wisdom no religion, without religion neither justice nor true benevolence.

¹⁶ J. M. Sailer, *Handbuch der christl. Moral*, Vol. III, p. 51, note 1: “History and philosophy both admit the influence of the current immorality on the conduct of public business.”—Tacitus says: “Nothing honorable resides in a mind corrupted by lust.”—Aristotle asks: “What difference does it make whether women govern, or whether those who govern are governed by women?”—Cfr. *Polit.*, I, II, c. 9 (*Op.*, II, 1269; III, 629).

|⁵⁶¹| The most indispensable qualities of a true statesman are: justice, wisdom, incorruptibility, and discretion; and the higher his office, the greater is his responsibility, and the more assiduously should he cultivate these virtues.

As *justice* is the very life and foundation of the State, and its administration is formally entrusted to the *judges*, their duties demand a special treatment.

- a) A judge can pronounce official judgment only in matters over which the law gives him jurisdiction.
- b) He must be familiar with the law so that he can apply it correctly to the concrete cases submitted for his decision.
- c) He must be guided by a firm purpose of administering justice and, therefore, love justice above all things, as the embodiment of the divine will.

d) He must render his decisions according to the letter of the law, but never against its spirit, for this would be to disregard its very essence.

e) He must examine every case without prejudice, and preserve this impartial attitude until he has rendered judgment.

f) He must hear and examine all witnesses who are able and willing to tell the truth, and discount the testimony of those who are incompetent or addicted to falsehood.

| 562 | g) He must adhere to the prescribed formalities in pronouncing judgment, for they are of the essence of the law.

h) He must protect right and justice against the prejudice and selfishness of minor officials; against interference by unauthorized outsiders; against prevarications on the part of lawyers, and, if necessary, also against usurpation by the rich and by the mob.

All this demands courage, wisdom, and fortitude of an altogether exceptional kind.¹⁷

¹⁷ F. A. Göpfert, *Moraltheologie*, Vol. II, pp. 432 sqq.

READINGS.—St. Thomas, *De Regimine Principum*, l. I, c. 15 sqq.—IDEM, *Summa Theologica*, 2a 2ae, qu. 67 sqq.—Leo XIII, Encyclical “*Immortale Dei*,” of Nov. 1, 1885; English translation in *The Pope and the People*, London 1912, pp. 71 sqq. and in J. A. Ryan, *The State and the Church*, pp. 1 sqq.—St. Alphonsus, *Theol. Mor.*, l. IV, n. 192 sqq. (ed. Gaudé, II, 625 sqq.).—J. Schwane, *Die Gerechtigkeit*, pp. 177 sqq.—J. M. Sailer, *Handbuch der christl. Moral*, Vol. III, pp. 21 sqq., 50 sqq.—J. P. Gury, S.J., *Comp. Theol. Mor.*, Vol. II, n. 1 sqq.—J. E. Ross, C.S.P., *Christian Ethics*, pp. 415 sq.—H. Noldin, S.J., *Summa Theol. Mor.*, Vol. II, pp. 325 sqq.—Th. Meyer, S.J., *Inst. Iuris Nat.*, Vol. II, pp. 536 sqq., 584 sqq.

SECTION 3: THE DUTIES OF CITIZENS

| 563 | 1. The first duty of a citizen is *obedience* to legitimate authority and to the laws passed by that authority. For, as St. Paul says, he that resists legitimate authority, resists the ordinance of God and purchases for himself eternal damnation.¹

¹ Rom. XIII, 2; cfr. 1 Pet. II, 13–15; Tit. III, 1.—J. P. Gury, S. J., *Comp. Theol. Mor.*, Vol. II, n. 1–18.

“The Catholic Church, as well as natural reason, teaches that civil law obliges in conscience. The ultimate basis of this obligation is the natural law; the immediate basis is the authority of the State. Civil laws of importance are gravely obligatory, unless the legislator formally intends their binding force to be slight. The general teaching of moral theologians is that a law is not binding without at least the implicit intention of the legislator. Some civil laws may be purely penal, but their number is probably small.”²

² Ryan, *The State and the Church*, Ch. XII, “Moral Obligation of Civil Law,” pp. 244–259.—Cfr. Matth. XVII, 23–26; XXII, 21; Rom. XIII, 6 sq.; 1 Pet. II, 17.

| 564 | Obedience to the law should be inspired by a sincere respect and reverence, which, of course, presupposes confidence in the lawgiver and faith in the sanctity of the law itself—a confidence and a faith which, unfortunately, modern lawgivers themselves too often undermine.

The individual citizen has the duty to employ the rights and liberties he enjoys under the law in a manner conducive to the public welfare. This means that he must choose for himself a useful

profession or occupation, conscientiously perform his duties as a member of his family and of the profession and political community to which he belongs, and take part in public affairs according to the measure of his talent, his professional duties, his physical strength, and his material means.

a) The extent to which a *citizen* is obliged to participate in *politics* depends on the constitution of the particular State to which he belongs and on the answer to the question whether it is necessary for him to make his influence felt in public life in order to safeguard liberty, civilization, and religion. Sometimes the interests of religion require that all good citizens should throw their influence into the political balance, and occasionally the individual citizen is compelled to defend himself against unjust aggression on the part of the State. In that case, as St. Peter says, “we ought to obey God rather than men.”³

³ Acts V, 29.

| 565 | b) Fidelity to one’s country attains its climax in the virtue of *patriotism*, which is one of the noblest forms of charity.

In the natural order, says St. Thomas, “we observe that the part naturally exposes itself to safeguard the whole; as, for instance, the hand is without deliberation exposed to the blow for the whole body’s safety. And since reason copies nature, we find the same inclination among the social virtues; for it behooves the virtuous citizen to expose himself to the danger of death for the conservation of the whole State.” And again: “Man becomes a debtor to other men in various ways, according to their various excellences and the various benefits received from them. On both counts God holds first place, for He is supremely excellent and is for us the first principle of being and government. In the second place, the principles of our being and government are our parents and our country, that have given us birth and nourishment. Consequently man is debtor chiefly to his parents and his country, after God.... The worship given to our country includes homage to all our fellow-citizens and to all the friends of our country.”⁴

⁴ *Summa Theol.*, 1a, qu. 60, art. 5: “We see that the part naturally exposes itself for the preservation of the whole, just as the hand is exposed to a blow without deliberation for the preservation of the whole body. And because reason imitates nature, we find an imitation of this kind in the political virtues. For it belongs to the virtuous citizen to expose himself to the danger of death for the preservation of the whole commonwealth.”—*Ibid.*, qu. 101, art. 1: “A man becomes a debtor to others in different ways according to their diverse excellence and the diverse benefits received from them. In both respects God holds the highest place, who both is most excellent and is for us the first principle of being and government; secondarily, however, the principles of our being and government are our parents and our country, by whom and in which we were born and nourished. And therefore after God a man is most indebted to his parents and country. Hence, just as it pertains to religion to offer worship to God, so in the second degree it pertains to piety to offer homage to parents and country.... In the homage paid to one’s country is understood homage to all fellow-citizens and all friends of the country. And therefore piety principally extends to this.”

| 566 | The basis of true patriotism is *loyalty*, which may be defined as “faithfulness and constancy in allegiance and service.”

“The genuinely loyal citizen,” says Dr. Ryan, “is always ready and eager, not only to obey the laws, but to support and maintain the political institutions of his country.... Whether positive or negative, loyalty always implies a certain habitual spirit and attitude toward laws and institutions. It habitually recognizes that a presumption exists in favor of organic and statutory enactments and principles. The loyal citizen is always disposed to give his government and his political institutions ‘the benefit of doubt,’ and to withhold obedience or support only when the doubt is converted into moral certainty

that the laws or the government are in the wrong. In a word, the habitual attitude of the loyal citizen is that of sympathetic faith, not that of criticality and distrust.”⁵

⁵ *The State and the Church*, p. 264.

Dr. Thomas Wright, in his brochure on *Christian Citizenship*, declares that obedience, respect, and loyalty are the *constituent elements of patriotism*, and Dr. Ryan, who quotes the passage, thinks “this is as satisfactory as any other analysis of the vague, though apparently elementary sentiment that we call patriotism. The good citizen loves to be acclaimed a patriot,” he adds, “and the orator finds patriotism one of the most appealing and popular subjects. Nevertheless, it is very elusive. To the average man it means *love of country*, but what does love of country mean? Not merely love of green fields, lofty mountains, and winding rivers; not always love of existing political institutions. In time of actual or threatened war, the idea of patriotism is very simple. It means support and defense of one’s country against armed attack. In time of peace, the phrase, ‘love of country,’ means many things to many minds. The object of the love may be the physical characteristics of the country, or its economic opportunities, or its government, or its political ideals, or its history, or some combination of these entities. As commonly used, the term patriotism has almost always an international connotation. It appeals to the national consciousness. It brings before the mind the facts of national individuality, separateness, distinctness of interests. It lays stress upon the welfare of one’s own country against the welfare of other countries. Too often it takes the form of boasting, *jingoisism*, contempt of foreign nations, and identifies the national welfare with national power, *imperialism*, and aggression. The average citizen frequently confuses patriotism with *national jealousy* and *provincialism*. He does not regularly think of it as having anything to do with internal affairs. Adequate and national patriotism should be quite as active in peace as in war, and it should extend to every matter that affects the common good. If patriotism is love of country, its only rational and concrete meaning is love of the people who inhabit the country and compose the State, in other words, *love of one’s fellow citizens*. Therefore, its ultimate object is the same as that of the State, namely, the common good.”⁶

⁶ *Ibid.*, p. 266.

[568] c) Of late years, especially in connection with the World War, there has been a recrudescence of pagan patriotism, which is “all the more dangerous because it is untrammelled by any laws of morality. The ancient [Christian] State professed to be scrupulously observant of the laws of justice and fidelity. The modern State adopts the principles of Machiavelli; it acknowledges only one law, the law of success. The watchword ‘Germany over all’ is not confined to Germany; some in England change it to ‘England over all,’ and they add another to it, ‘England, right or wrong.’ A powerful State, fettered by no laws, human or divine, treating its pledged word as only a scrap of paper, commanding the blind obedience of its subjects, becomes a menace to the world.”⁷

⁷ Thos. Slater, S.J., in the *Catholic Times*, London and Liverpool, Sept. 16, 1922.

d) There is another aspect of patriotism to which attention should be called, namely, its exploitation by the capitalist class to counteract every movement on behalf of social justice for the laboring people. “Loyalty to the State, or to one’s country, to the public weal, does not include belief in, love of, or defense of existing private institutions, industrial or other. The loyalty which is incumbent upon the citizen, as citizen, concerns only political institutions and relations. The organized attempt to make it apply to the economic order, is one of the most extraordinary and brazen performances in

the history of human selfishness.”⁸ Most perversions and exaggerations of the duty of loyalty are inspired by selfishness and greed.

⁸ J. A. Ryan, *The State and the Church*, p. 365.

| 569 | e) Catholics should uphold the true concept of patriotism both in theory and practice. They should remember that, in the words of Archbishop John Lancaster Spalding, “there is a higher love than love of country,—the love of truth, the love of justice, the love of righteousness; and he alone is a patriot who is willing to suffer obloquy and the loss of money and friends, rather than betray the cause of truth, justice, and righteousness, for only by being faithful to this can he rightly serve his country.... The American’s loyalty to his country is first of all loyalty to truth, to justice, to humanity. He feels that its institutions can be enduring only when they are founded on religion and morality.... If a nobler race is to spring forth in this new world, all the influences that are active and potent in the national life must conspire to form *public opinion*, by which in the end we are ruled,—a public opinion which shall be favorable to pure religion, to the best education, and to sound morality. The better kind, however otherwise they may disagree, must unite and support one another in ceaseless efforts to create such a public opinion.”⁹

⁹ *Opportunity and Other Essays*, Chicago, 1899.

| 570 | 2. Genuine Christianity demands that the nations which are politically separated should unite in the higher unity of religion, since in the kingdom of God we are taught to look forward to a time when humanity will constitute one fold under one shepherd. There is a *Christian internationalism* which does not aim to abolish the virtue of patriotism, but rather to ennoble it and free it from the fetters of egotism and national hate. The unbroken tradition of the papacy with respect to international harmony and peace has been worthily continued to the present time. Pope Benedict XV, during the recent World War, not only made all possible efforts to stop hostilities, but was also one of the first advocates of an *international organization for the preservation of peace*. In his letter to the American people, Dec. 31, 1918, he expressed his fervent hope and desire for an international organization “which, by abolishing conscription will reduce armaments, by establishing international tribunals will eliminate or settle disputes, and by placing peace on a solid foundation, will guarantee to all independence and equality of rights.”¹⁰

¹⁰ J. A. Ryan, *The State and the Church*, p. 324.

| 571 | 3. In most countries to-day the people govern themselves by electing their own lawgivers, judges, and executive officers. Hence a second class of duties incumbent on the citizen results from his *functions as an elector*. The right to vote has for its corollary a special *duty*, and this duty is one of legal justice. “The citizens are bound to promote the common good in all reasonable ways. The franchise enables them to further or hinder the common weal greatly and fundamentally, inasmuch as the quality of the government depends upon the kind of officials they elect. Not only questions of politics, but social, industrial, educational, moral and religious subjects are regulated by legislative bodies and administered by executive. Therefore, the matter is of grave importance, and the obligation of the citizen to participate in the election and to support fit candidates is correspondingly grave.”¹¹

¹¹ *Ibid.*, p. 271.

a) To omit to vote in an important election without a grave cause, such as the loss of one's means of livelihood, is a sin. It may even be a mortal sin, namely, if one's abstention is the cause of others neglecting to vote, for in that case the careless citizen would be responsible for the election of dishonest or incompetent officials, the passing of unjust laws, or neglect to pass measures which are necessary for the public welfare.¹²

¹² S. Poenit., 1 Dec. 1866.

| 572 | When there is no hope of electing an honest representative, and no reason to fear that the one elected will cause serious injury to Church or State, *abstention from voting* cannot be regarded as a mortal sin; in fact it may not even be a venial sin if inspired by the desire to avoid grave personal injury or inconvenience. If an election seems to involve the recognition or promotion of an illegitimate government, it may be unlawful or at least inadvisable to take part in it.

b) To vote for a candidate who is known to harbor pernicious principles, is *per se* illicit and, broadly speaking, a sin against justice. Would the fear of a grave personal loss or inconvenience excuse one in a case of this kind? If the election is certain to go one way, no matter how I vote, I may abstain from voting, or, if I am compelled to vote for the wrong man, I should strive to avert scandal by explaining that I cast my vote under compulsion. To vote for a candidate for the legislature, State, municipal, or national, is in itself an indifferent act, and no one can predict with certainty what attitude the candidate will take after the election.

Material co-operation in the election of a bad candidate may be excused by any grave reason. When of two candidates running for office neither is likely to promote the principles of justice, it is licit to vote for the less objectionable of the two if this appears necessary to prevent the election of the more objectionable one, but only on the following conditions:

| 573 | α) The danger of scandal must be removed by a declaration stating the reasons for the act; β) Participation in the election must really be necessary to prevent the triumph of the objectionable candidate.

c) A Catholic who possesses all the qualifications necessary for a public office may be in duty bound to become a candidate for that office, namely, if his election is certain, if he can accept the office without grave inconvenience to himself, and if no other equally competent candidate is available.¹³

¹³ Noldin, *De Praeceptis*, pp. 336–339.—Dr. Ryan (*The State and the Church*, p. 275) thinks that “in as much as the issues involved in such a situation are of much graver consequence than those dependent upon the ballot of the private citizen, the man who refuses to become a candidate for office will need a much graver reason to excuse him than will the citizen who merely neglects to vote.”

d) A *legislator* is never allowed to vote for a law which he recognizes as bad and unjust. If it is necessary to accept certain objectionable stipulations in order to get an otherwise good law passed, or to prevent greater evil, he may vote for those stipulations, provided they involve no direct wrong, but should do so under protest. Legislators furthermore have the duty of preventing the passage of unjust laws by diligently attending the sessions and voting whenever an opportunity offers. They owe this duty to their constituents. If by culpable absence or abstention from voting they become responsible for the passage of obnoxious bills, they are liable for the damage done to the community, to their constituents as well as to any others who may be injured. They are in duty bound to promote the

public welfare of the community also in a positive way, especially by representing the interests of their voters if they have expressly promised to do so.¹⁴

¹⁴ Göpfert, II, 447 sq.; Scavini-Del Vecchio, *Theol. Mor. Universa*, Vol. I, 3rd ed., n. 332.

[574] e) The duty to *vote for the common welfare* instead of for the benefit of private persons or groups is too often forgotten even by well-meaning citizens, who will give their support, for instance, to a friend, or to a member of their own race or religion who has not the required moral or intellectual equipment for the office he seeks or who upholds socially harmful policies. “Too often in such situations,” says Dr. Ryan, “the honest citizen salves his conscience with the excuse that the opposing candidate ‘is just as bad.’ Where this is the fact one might legitimately determine one’s choice on the basis of personal friendship, or racial or religious affiliation, or other extrinsic considerations; but the general fact is that voters who adopt this course do not take adequate care to find out whether the candidate of the opposition is in reality ‘just as bad.’ They too easily decide the question on the basis of their inclinations and predilections.”¹⁵ On another unjustifiable practice; that of ignoring *principles* and *policies* in the exercise of the franchise, the same able writer says: “ ‘Vote for a good man, regardless of party,’ is a plausible but essentially inadequate political rule. A distinction should be drawn between legislative offices and those which are merely administrative. In choosing a city treasurer or a city auditor, the only pertinent qualifications are honesty, intellectual capacity, and technical equipment. There is involved no question of legislative policy. When the office to be filled is that of governor of a State, president of the United States, member of a State legislature, or congressman, other qualifications are essential in addition to those just mentioned. The ‘good man’ may have some very harmful views concerning political and industrial policies. He may sincerely favor national imperialism and jingoism, or legislation to promote the undue aggrandizement of one social class or the oppression of another social class. Obviously the citizen does not fulfill his duty when he votes for a ‘good man’ of this sort. Sometimes the common welfare will suffer less through the election of a man whose political policies are right but whose moral or intellectual equipment is deficient, than through the elevation of a ‘good man’ who gives his adhesion to wrong policies.”¹⁶

¹⁵ *The State and the Church*, pp. 271 sq.

¹⁶ *Ibid.*, p. 272.

[575] f) Excellent advice to citizens in regard to the duties of voters is contained in a letter addressed by the late Cardinal Amette, Archbishop of Paris, to his people in 1921:

“In the joint letter which they recently addressed to the French Catholics, the bishops of France said: ‘It is a duty of conscience for all citizens honored with the right of suffrage to vote honestly and wisely with the sole aim of benefitting the country. The citizen is subject to the divine law as is the Christian. Of our votes, as of all our actions, God will demand an account. The duty of voting is so much the more binding upon conscience because on its good or evil exercise depend the gravest interests of the country and of religion.’ It is your duty to vote. To neglect to do so would be a culpable abdication of duty on your part. It is your duty to vote *honestly*; that is to say, for men worthy of your esteem and trust. It is your duty to vote *wisely*; that is to say, in such a way as not to waste your votes. It would be better to cast them for candidates who, although not giving complete satisfaction to all our legitimate demands, would lead us to expect from them a line of conduct useful to the country, rather than to cast your vote for others whose programme would indeed be more

perfect, but whose almost certain defeat might open the doors to the enemies of religion and of the social order.”¹⁷

¹⁷ Quoted *ibid.*, pp. 273 sqq.

[576] g) Tanqueray¹⁸ points out that, in order to possess the specific knowledge required to vote intelligently and rightly, upright citizens should organize and participate in *political organizations*. Dr. Ryan approves this advice. “Men unite in trade unions, manufacturers’ associations, chambers of commerce, and professional societies of various kinds for the promotion of their economic interests. Hundreds of thousands of good men, thus occupationally organized, fail to see the necessity of organizing politically for the protection of their civic interests and the effective performance of their duties to the commonwealth. The conduct of political organizations they leave to professional politicians, who are usually in the service of selfish private interests. When the inactive citizens see the evil results of this arrangement, they attempt to justify their aloofness by the reflection that politics is essentially corrupt. This *lazy pessimism* is not warranted by anything inherent in political affairs. It represents a vain attempt to evade moral responsibility. If politics is rotten, a large part of the responsibility rests upon well meaning but indolent citizens.”¹⁹

¹⁸ *Synopsis Theol. Mor. et Past.*, Vol. III, pp. 475 sq.

¹⁹ Ryan, *op. cit.*, p. 274.

4. The citizens of a country owe particular respect and reverence to the higher administrative officials to whom is entrusted the execution of the laws. These are the servants and representatives of God, and even if they do not always do their duty, they must be honored because of the exalted office they hold. Reverence for the highest representative of the State, whether he be king or president, is allied to the worship of God, for St. Peter says: “Fear God; honor the king.”²⁰ And Leo XIII: “Hallowed in the mind of Christians is the very idea of public authority, in which they recognize some likeness and symbol as it were of the Divine Majesty, even when it is exercised by one who is unworthy.”²¹ In addition the Christian citizen should pray for those in high station, in order that “we may lead a quiet and a peaceable life in all piety and chastity.”²²

²⁰ Rom. XIII, 4–6; 1 Pet. II, 17.—Tertullian, *Ad Scap.*, c. 2: “A Christian is the enemy of no one, much less of the emperor, whom, knowing that he must have been appointed by his God, he must also love and revere and honor and wish safe. . . . Therefore we also honor the emperor thus, in such a manner as is both lawful for us and expedient for him: as a man second after God, who has obtained from God whatever he is, inferior to God alone.” (Ed. Leopold, P. I, 248).—St. Justin Martyr, *Apol.*, I. I, n. 17.—Athenagoras, *Supplic.*, c. 1, n. 17.—Theophilus of Antioch, *Ad Autol.*, I. I, c. 14.—St. Augustine, *Enarrat. in Ps.*, CXXXIV, n. 7: “Christian soldiers served an unbelieving emperor; when the cause of Christ was reached, they acknowledged none but Him who was in heaven. . . . They distinguished the eternal Lord from the temporal lord, and yet for the sake of the eternal Lord they were subject even to the temporal lord.” (Migne, P. L., XXXVII, 1654).

²¹ Encycl. “*Sapientiae Christianae*,” Jan. 10, 1890: “Therefore the name of public authority is sacred to Christians, for in it they recognize a certain likeness and image of the divine majesty, even when it is exercised by an unworthy man.”

²² 1 Tim. II, 1 sq.—Tertullian, *Apol.*, c. 30: “For the safety of the emperors we invoke the eternal God, the true God, the living God, whom the emperors themselves desire to have propitious to them above all others. They know who gave them their authority; they know, being men, who also [gave them] a soul; they perceive that He alone is God, in whose power alone they are, from whom they are second, after whom they are first, before all and above all gods.” (Ed. Leopold, I, 101 sq.)—IDEM, *Ad Scap.*, c. 2: “Thus [the emperor] is greater than all, since he is lesser only than the true God; thus he is greater even than the gods themselves, since they themselves are in his power. And so we sacrifice for the emperor’s safety, but to our God and his, and, as God commanded, with pure prayer. For God, creator of the

universe, has no need of any odor or blood.” (Ibid., 248).—Cfr. Pius IX, Encycl. “*Etsi multa luctuosa*,” Nov. 21, 1873 (Denzinger-Bannwart, n. 1841).

|578| “Let those who assert that Christianity is opposed to the public welfare,” says St. Augustine, “provide us with soldiers such as Christian doctrine demands, with subjects, husbands, wives, parents, children, masters, servants, kings, judges and, finally, taxpayers and tax collectors such as they ought to be according to Christian standards, before they dare to assert that Christian teaching runs counter to the welfare of the State. [If they are honest] they will, on the contrary, not hesitate to admit that the Christian religion, when obeyed, is apt to promote the public welfare in a high degree. The Catholic Church instructs the little children in a manner adapted to their understanding; she teaches the boys and young men with power; she speaks to the old in a manner becoming their age and state of mind. She subjects the wife in faithful obedience to her husband, not as a tool of lust, but for the propagation of the race and the community of domestic life. She appoints man the head of woman, not to abuse the weakness of her sex, but to exercise her in the duty of sincere affection. She makes children subject to their parents in a sort of voluntary servitude and constitutes parents as the affectionate masters of their children. . . . She unites citizen with citizen, nation with nation, and the whole race of men in memory of their common progenitors, not merely for sociability, but also in a kind of brotherliness. She teaches kings to provide for their peoples, and exhorts nations to be obedient to their rulers. She points out particularly to whom honor is due, to whom love, to whom respect, to whom fear, to whom consolation, to whom admonition, to whom warning, to whom instruction, to whom censure, to whom punishment, at the same time pointing out that not everything is due to everyone, but love is due to all, injustice to none.”²³

²³ St. Augustine, *Epist.*, 138 (al. 5), c. 2, n. 15 (Migne, P. L., XXXIII, 532).—IDEM, *De Moribus Eccl. Cath.*, l. I, c. 30, n. 63 (P. L., XXXII, 1336).—St. Ambrose, *De Offic.*, l. III, c. 9, n. 59: “If one person cannot be aided without another being harmed, it is better that neither be helped than that the other be burdened. . . . [The priest’s] duty is therefore to harm no one and to wish to benefit everyone; but the power to do so belongs to God alone.” (P. L., XVI, 162).

|579| Let both powers instituted by God, Church and State, each supreme in its own particular sphere,²⁴ co-operate harmoniously for the welfare of humanity and the honor of God. Dante justly says that true religion makes for good government— “*La sana religione fa sano il governo.*”

²⁴ Cfr. Leo XIII, Encycl. “*Immortale Dei*,” Nov. 1, 1885: “God has divided the care of the human race between two powers, namely, the ecclesiastical and the civil, appointing the one over divine matters and the other over human affairs. Each is supreme in its own order; each has fixed limits within which it is contained, limits defined by the nature and proximate cause of each; hence there is traced, as it were, a sphere within which the action of each is exercised by its own right.”

READINGS.—J. M. Sailer, *Handbuch der christl. Moral*, Vol. III, pp. 40 sqq.—K. Werner, *System der christl. Ethik*, Vol. III, pp. 609 sqq.—J. Schwane *Die Gerechtigkeit*, pp. 181 sqq.—F. X. Linsenmann, *Lehrbuch der Moraltheologie*, pp. 625 sqq.—J. A. Ryan, “The Duties of the Citizen,” in *The State and the Church*, New York 1922, pp. 260–275.—J. A. Lapp, *The Catholic Citizen*, N. Y. 1922.—Ad. Tanqueray, S.S., *Synopsis Theol. Mor. et Past.*, Vol. III, pp. 475 sqq.—Theo. Meyer, S.J., *Inst. Iuris Nat.*, Vol. II, pp. 480 sqq.

GENERAL INDEX (TO ALL THE FIVE VOLUMES)

- Abandoned objects**, V, 228.
- Abel**, I, 208.
- Abélard**, V, 188.
- Abelly**, Louis, I, 59.
- Abnormality**, Psychic, I, 261 sq..
- Abortion**, A species of murder, II, 87; who guilty of, V, 214 sqq.; artificial or medical, V, 217 sq.; Danger of, renders *concubitus matrimonialis* forbidden, V, 471 sq.; by unmarried mothers, V, 515.
- Abraham**, I, 131, I, 136, II, 38, V, 82.
- Abraham à Santa Clara**, V, 464.
- Abrogation (of law)**, I, 180.
- Absolution**, II, 177 sqq.; When it should be denied, II, 179 sq.; When deferred, II, 182; To be refused to those who refuse to make restitution of ill-gotten goods, V, 378.
- Abstention from voting**, V, 571 sq..
- Abstinence**, I, 175, I, 273, IV, 352 sqq., IV, 356 sqq., IV, 362 sqq., IV, 364 sq..
- Accessory to the sins of others**, II, 62.
- Accidents**, Compensation for industrial, V, 427 sq..
- Accomplice**, Penitent must not disclose name of, II, 158.
- Acta Apostolicae Sedis**, I, 161 sq..
- Actors**, III, 51.
- Actus elicit—imperati**, I, 113 sq..
- Actus externus—internus**, I, 254.
- Actus hominis**, I, 79, I, 253.
- Actus humanus**, I, 79, I, 253 sqq..
- Actus numero unus**, I, 273 sq..
- Adam**, I, 116, I, 128, I, 184, II, 13, II, 38, II, 43, III, 5, III, 130.
- Administration of the Sacraments**, Requisites of valid, II, 108 sqq..
- Adolescence**, I, 87.
- Adoration**, IV, 139 sq..
- “Ad peccatum obligare,”**, I, 167.
- Adulteration of food**, V, 212.
- Adultery**, II, 74; Husband may not kill his wife in the act of, V, 126; Duties when a child is born from, V, 440; Compulsion to, V, 441 sq.; A canonical ground for separation *a mensa et toro*, V, 443, V, 467; Sin against marital fidelity, V, 480 sq.; a most pernicious crime, V, 481; usually preceded by mental estrangement, V, 481 sq..
- Advertence required for mortal sin**, II, 30 sq..
- Advertisements**, matrimonial, II, 210.
- Advertising**, In evil publications, V, 44; Ethics of, V, 293.
- Aequiprobabilism**, I, 231 sqq..
- Aertnys, J. (C. SS. R.)**, I, 70.
- Affections**, I, 103 sqq..
- Affectus antecedentes—subsequentes**, I, 106.
- Agape**, III, 40.
- Age**, as a determinant of free-will, I, 86 sqq..
- Agoraphobia**, I, 261.
- Albert the Great**, I, 53, I, 187, II, 192.
- Alcuin**, I, 51.
- Alexander the Seventh**, I, 229, IV, 371.
- Alexander the Eighth**, I, 229.
- Alexander of Hales**, I, 53, I, 187.
- Almsgiving**, a relatively good act, I, 266; Duty of, III, 134; Fasting should be accompanied by, IV, 352 sqq.; May become bad if done for a wicked purpose, I, 268; The duty of, V, 173 sqq.; Of precept, V, 173 sq.; S. Scripture on, V, 174; A duty of justice and charity, V, 174 sq.; How much must we give?, V, 175 sq.; Refusal to give according to one's means a grievous sin, V, 177; The duty of giving alms binds particularly the clergy, V, 177; How large a percentage of a man's income should be devoted to?, V, 177 sq.; Public charity must be supplemented by private, V, 178 sq.; Wife may not give without husband's consent, V, 180; Must be inspired by a pure motive, V, 182 sq.; Pharisaic ostentation condemned, V, 182; Must be done voluntarily and gladly, V, 183; Must be guided by prudent economy, V, 184; Rules for, V, 184 sq.; As a sport, V, 187 sqq.; Warning against indiscriminate, V, 189; Blessings and fruits of, V, 190 sqq..
- Alonso de los Angeles**, I, 59.

Aloysius, St., III, 19.

Alphonsus de' Liguori, St., As an authority in Moral Theology, I, 33 sq.; His writings, I, 59 sq.; And the casuists, I, 64; Followed by Kenrick, I, 71; On Christian perfection, I, 209; On Probabilism, I, 228; On Aequiprobabilism, I, 232 sq.; On the question whether one may be one's own executioner, III, 99; On theatrical performances on Sundays, IV, 333 sq.; On when one is excused from hearing Mass on Sunday, IV, 342; On what is a collation, IV, 365; On prohibition of books, IV, 400, IV, 417; On fraternal correction, V, 33; On the "*contractus trinus*," V, 329; On betting, V, 340.

Altruism, I, 23.

Alvarez, Didacus (O. P.), I, 60.

Amado, R. A. (S. J.), III, 62.

Ambiguous language, V, 79 sqq..

Ambition, II, 69.

Ambrose, St., As a writer on ethics, I, 47; On interior disposition, I, 208; On virginity, I, 250; On sin, II, 1; On wealth and almsgiving, III, 148; On poverty, III, 152; On prayer, IV, 107 sq.; On vows, IV, 202; On almsgiving, V, 174, V, 189.

Ambuscades, V, 136.

Amendment, Purpose of, II, 146 sqq..

Amette, Cardinal, On the duties of voters, V, 575 sq..

Amicus, F., I, 224.

Amor affectivus, effectivus, V, 15 sq..

Amort, Eusebius, As a moralist, I, 57; As an Aequiprobabilist, I, 233.

Amount required for a grave sin of theft, V, 358 sqq..

Amour désintéressé, I, 20 sq..

Amphiboly, V, 79.

Amputation of limbs, III, 83, V, 120.

Amusements, III, 36, III, 56, IV, 328 sqq..

Anabaptists, On capital punishment, V, 149.

Ananias and Saphira, II, 39, II, 82.

Angels, Sin of the, II, 11 sq..

Angelus bell, The, IV, 163 sq..

Angelus de Clavasio, I, 55.

Anger, I, 103, II, 65, II, 81 sqq., V, 213, V, 512.

Animals, Ownerless, V, 228; Domestic never become ownerless, *ibid.*.

Animus iniuriandi, II, 10, V, 101.

Anointments in Extreme Unction, II, 195.

Antinomianism, I, 150 sq..

Antoine, P. G. (S. J.), I, 58, I, 226.

Antoninus, St., As a moralist, I, 52; On the Commandments of the Church, IV, 315 sq..

Apartment houses, III, 31.

Appropriation of public property, V, 445 sq..

Apocalypse, II, 84.

Apologists, The early, I, 44.

Apology, when called for, V, 113.

Apostasy, II, 92 sq., IV, 39 sq..

Apostles, The, I, 88, I, 146.

Apostolic Constitutions, The, On virginity, I, 248.

Apostolic Fathers, The, As moral teachers, I, 42 sqq..

Aragon, III, 99.

Arbitration, International, V, 143.

Aridity of the soul, IV, 80, IV, 128 sq..

Aristocracy, III, 120.

Aristotle, Catholic moral teaching based on the philosophy of, I, 53; On the faculties of the soul, I, 187; On sin, II, 4; On duties of parents, III, 105; On a voluptuous life, III, 122; On liars, V, 108.

Arms, Clerics should not carry, III, 37.

Arnold, Sarah L., V, 521 sq..

Arrogance, II, 69 sq..

Art, III, 36, III, 47 sqq.; For art's sake, III, 47 sqq..

Asceticism, I, 39, III, 18.

Assault, Criminal, V, 435.

Astrology, II, 96, IV, 274 sq..

Athanasius, St., On Lent, IV, 357.

Atheism, IV, 36.

Athenagoras, V, 491.

Athenians, II, 82.

Athletic sports, III, 44 sqq., III, 141 sqq..

Atonement, II, 14, II, 102 sq..

Attrition, II, 116, II, 138, II, 140 sqq., II, 142 sqq..

Auctions, V, 282 sqq..

Auger, Edmund, IV, 314.

Augustine, St., On certain Biblical characters, I, 30; As a moralist, I, 47 sq., I, 53; On the natural law, I, 125; On the obligation of law, I, 165; On charity, I, 208; On sin, I, 216; On virginity, I, 250; On sin, II, 1 sq., II, 3; On God's cooperation in sin, II, 8; God's hatred of sin, II, 12 sq.; On mortal and venial sins, II, 18 sq., II, 20, II, 26; On cooperation of the will in sin, II, 36 sq.; On temptations, II, 38 sq., II, 40; On pride, II, 56; On sins of thought, II, 58, II, 61; On sins against the Holy Ghost, II, 92, II, 95; On eating and drinking, III, 21 sq.; On suicide, III, 75; On sharing the guilt of another's sin, III, 87; On Samson's deed, III, 89; On faith, IV, 17 sq., IV, 21; On persevering in error, IV, 30; On pride as a source of heresy, IV, 32; On hope, IV, 65; On the efficacy of prayer, IV, 99; On the necessity of prayer, IV, 108 sq.; On praying continuously, IV, 110 sq.; On verbosity in prayer, IV, 134 sq.; On the Lord's Prayer, IV, 160; On vows, IV, 202; On confession, IV, 386; On receiving Communion on certain days, IV, 392; On fraternal correction, V, 33; On error and the erring, V, 37; On almsgiving, V, 188, V, 241; On Christianity and its influence on the public welfare, V, 578 sq..

Authority, In Moral Theology, I, 35; Civil, I, 158, I, 164; Resistance to, I, 166 sq., I, 168; Contempt of, I, 171; An essential requirement of society, V, 459.

Authorship, as a title of ownership, V, 234.

Autonomy, Moral, I, 4, I, 6, I, 125, I, 133.

Avarice, II, 55, II, 65, II, 71 sqq., II, 88.

Aveling, F., I, 151.

Ave Maria, The, IV, 161 sqq..

Aversion for God, IV, 57 sq..

Azar, John (S. J.), I, 58, V, 131.

Azarias, Brother, On the spiritual life, III, 111.

Azpilcueta, Martin de, I, 62, III, 62.

Backbiting, V, 105 sqq..

Bacon, Lord, On knowledge is power, III, 102.

Bail, V, 320 sq..

Ballerini, A. (S. J.), I, 70.

Balls, III, 36, V, 188.

Bañez, Dom. (O. P.), I, 57.

Bankruptcy, A form of defrauding laborers, II, 89; Dishonest, V, 370 sq., V, 372; Declaration of, does not excuse a debtor from paying his creditors if he becomes able, V, 415, V, 424 sq.; Defined, V, 422; As a cause for postponing restitution, V, 422 sqq..

Banks, V, 257.

Banquets, III, 36, III, 40.

Banter, Usually not a sin, V, 103.

Baptism, I, 238, II, 108, II, 112, II, 115, II, 116, II, 118 sq., II, 153.

Barber's trade, IV, 333.

Barnabas, Epistle of, I, 43.

Baronius, Vincent, I, 225.

Barrett, Timothy (S. J.), I, 70.

Bartholomew of Pisa, I, 55.

Baseball, Permitted on Sunday, IV, 333 sq.; a means of gambling, V, 347.

Basil, St., As a moralist, I, 48; On lying, V, 71; On almsgiving, V, 189.

Bathing, III, 69.

Baumgartner, Alex. (S. J.), On theatre-going, III, 52.

Bauny, Stephen (S. J.), I, 63, I, 224.

Bazaars for charity, V, 188.

Beasts, Man's relation to, III, 58 sqq..

Beasts of prey, Their purpose in the economy of nature, III, 64.

Beatitude, Eternal, I, 21, I, 83, II, 10, II, 192.

Beatitudes, The, I, 282.

Becanus, Martin, I, 57, V, 131.

Bechmann, IV, 299.

Bede, St., I, 51.

Bellarmino, Cardinal, I, 66.

Benedict of Aniane, St., III, 134.

Benedict the Fourteenth, I, 63 sq., V, 262.

Benedict the Fifteenth, V, 570.

Benediction of the Bl. Sacrament, II, 134.

Benigni, U., V, 325.

Bequest, As a title of ownership, V, 238 sqq.; Last will and testament, V, 238 sqq.; *Ad pias causas*, V, 240 sq..

Berardi, E., I, 71.

Bernard, St., On the soul's progress from self-love to charity, I, 21 sq.; As a moralist, I, 39; As representative of the ascetic method, I, 55; On true liberty, I, 111 sq.; On charity, I, 205 sq.; On the devil as tempter, II, 40; On the body as companion of the soul, III, 11; On luxurious living, III, 32; On justification, IV, 65; On the uses of meditation, IV, 148; On almsgiving, V, 188.

Berthold of Ratisbon, I, 244.

- Betrothals**, V, 429 sqq..
- Betting**, V, 339 sqq..
- Bianchi, A.**, I, 229.
- Bible**, Rules for reading the, IV, 401 sq..
- Bierbaum, J. (O. F. M.)**, I, 59.
- Billuart, Chas.**, I, 57, I, 225, I, 228.
- Birds**, why protected by law, III, 64.
- "Birth control"**, V, 473 sqq., V, 478 sq..
- Björnson, B.**, I, 6, V, 488.
- Blancus**, see Bianchi.
- Blasphemy**, II, 82, II, 91 sq., IV, 181 sqq..
- Blessed objects**, II, 213.
- Blessed Sacrament**, Devotion to the, II, 133 sq..
- Blessing at meals**, III, 26.
- Blois, Louis de (O. S. B.)**, I, 64.
- Blosius**, see Blois.
- Boastfulness**, II, 70.
- Bodily punishment of children**, V, 119.
- Body**, The, I, 84 sq.; Moral significance of the, III, 9 sqq.; Care of the, III, 21 sqq.; Various means of caring for the, III, 25 sqq..
- Bona, Cardinal**, I, 66.
- Bonacina, M.**, I, 61 sq..
- Bonaventure, St.**, As a moralist, I, 39, I, 55; On conscience, I, 187 sq.; On the distinction between mortal and venial sin, II, 21; On the root, *stimuli* and sources of sin, II, 65; On Extreme Unction, II, 192; On justice, V, 12 sq..
- Boniface the Eighth**, V, 206.
- Bonum ex integra causa***, I, 264.
- Bonum melius***, I, 241 sq., I, 245, I, 248.
- Book-making**, V, 341.
- Books**, Duty of placing good books in public libraries, III, 46 sq.; Serving the world by writing, III, 127; Law of Church concerning, IV, 399 sqq.; Duty of civil authorities to forbid the sale of obscene, V, 120.
- Booksellers**, IV, 411.
- Bosco, Don**, On temptation, II, 46; On speaking ill of priests, II, 200; On hell, III, 17; Joy in the service of God, III, 19; A good rule with regard to amusements, III, 56.
- Bossuet**, On the theatre, III, 52.
- Bouquillon, Thos.**, I, 69.
- Breviary**, The, I, 166, IV, 115 sqq..
- Bribery of officials**, V, 446.
- Brokerage**, V, 287 sqq..
- Brothers and sisters**, Mutual duties of, V, 542 sq..
- Bucceroni, J. (S. J.)**, I, 70, I, 72.
- Bucket shops**, V, 341.
- Bullfights**, III, 61 sqq..
- Bula de Cruzada**, IV, 363.
- Bulot, A.**, I, 71.
- Burial of the dead**, V, 195; Honors of Christian, V, 196; Or cremation, V, 197 sqq..
- Busembaum, H. (S. J.)**, I, 58, IV, 342, V, 342.
- Business on Sunday**, IV, 333 sq..
- Busquet, J.**, I, 71.
- Buying and selling**, V, 276 sqq..
- Cajetan, Cardinal**, I, 225.
- Calixtus, Geo.**, I, 52.
- Calumny**, II, 78, II, 87, V, 103 sqq.; How repaired, V, 114 sqq..
- Calvinism**, I, 151, III, 51.
- Canisius, Peter, Bl.**, IV, 315.
- Capitalism**, Bound to pass over, V, 8; Genesis of, V, 306.
- Capital punishment**, A just punishment for cold-blooded murder, II, 88; Definition of, V, 146; Moral aspects of, V, 146 sqq.; Based on S. Scripture, V, 147 sq.; Not morally necessary, V, 148; Ecclesiastical tradition, V, 149; *Consensus gentium*, V, 150; Philosophical aspect of, V, 150 sq.; Right of the State to inflict, V, 151 sq.; Temporary abolition of, justifiable, V, 153 sq.; But right of inflicting remains to civil authority, V, 153 sq.; Not a violation of the 5th Commandment, V, 154; "Judicial murders" no argument against, V, 154 sq.; Conditions essential for the lawful infliction of, V, 155 sqq.; Will it ever become wholly unnecessary?, V, 158 sqq.; A criminal condemned to death should not be compelled to execute himself, V, 160.
- Capital sins**, II, 64 sq., II, 67 sqq..
- Capreolus**, II, 192.
- Caramuel, J.**, I, 224.
- Cardenas, J.**, I, 224.
- Cardinal Virtues**, I, 278.
- Card-playing**, III, 37, III, 41.
- Cards**, Abusive, immoral or frivolous, V, 103.
- Carelessness**, Criminal, I, 259.

Carletus, Angelus, Bl., I, 55.
Carnal sins, II, 54 sqq., II, 65.
Carnegie, Andrew, On inheritance tax, III, 158;
 Sunday observance, IV, 328 sq..
Carpzov, Benedict, IV, 299.
Cases of conscience, I, 37 sq., I, 218 sq..
Castration, Illicit, III, 84, V, 213.
Castropalao, F. de (S. J.), I, 58.
Casuistry, I, 3, I, 37 sq., I, 54, I, 72, I, 209.
Casum sentit dominus, V, 385.
Catechism, Roman, On the power of Satan, II, 40;
 On the effects of confession, II, 139; On contrition,
 II, 144; On vocation to the priesthood, II, 197; On
 capital punishment, V, 151 sq.; On fraud, V, 372;
 On usurious manipulation of the food supply, V,
 373 sq.; On abstinence from marital intercourse, V,
 479 sq.; On the indissolubility of marriage, V, 492
 sq..
Catholic Encyclopedia, III, 46 sq..
Cathrein, Victor (S. J.), On self-denial, III, 72; On
 stock companies, V, 333; On lotteries, V, 346; On
 the social position of woman, V, 500.
Causae occasionales peccati, II, 37.
Causes excusing from restitution, V, 416 sq..
Cautiousness, As a virtue, III, 109 sq..
Celibacy, I, 243, I, 246.
Censorship, Of motion pictures, III, 52 sqq.; Of
 books, IV, 399 sq..
Census, V, 293 sq..
Cephalotripsis, V, 219.
Ceremonial precepts of the Old Testament, I, 138.
Cesarian section, V, 220 sq..
Cessation of law, I, 180 sq..
Cession, V, 241 sq..
Chamberlain, H. S., I, 15.
Character-training, III, 37 sq., III, 105 sq..

Charity, I, 10, I, 13, I, 21 sq., I, 43, I, 142, I, 153, I,
 154, I, 165, I, 204 sqq., I, 208, I, 214, I, 244, I, 251,
 I, 279 sq., I, 283, II, 23, II, 78, II, 92, III, 1, III, 18,
 III, 35, III, 95, III, 108; Nature of, IV, 71 sqq.;
 Motive of, IV, 74; Object of, IV, 74 sqq.; Necessity
 of, IV, 77 sqq.; Fruits and effects of, IV, 85 sqq.;
 Sins against, IV, 91 sqq.; Works of, on Sunday, IV,
 334 sq.; As love of one's fellowmen, V, 15 sqq.;
 Definition, V, 15; As a duty, V, 15 sq.; The first and
 greatest law, V, 16; The rule of, V, 17; The qualities
 of, V, 17 sqq.; Ordinary signs of charity, V, 20, V,
 25; Extraordinary signs, V, 20, V, 25; Charity in our
 intercourse with others, V, 94 sq.; As exercised in
 almsgiving, see Almsgiving; Public administration
 of, V, 179 sq.; Abuse of, V, 187; As a sport, V, 187
 sq..
Charlemagne, Forbids the feeding of idlers, III, 141.
Chastity, Perpetual, I, 236 sqq.; Voluntary, I, 242, I,
 246 sqq.; Fruit of the Holy Ghost, I, 283; Flight,
 the means of overcoming temptations against, II,
 45; Sins against, II, 73 sq.; A virgin may risk death
 to preserve her, III, 87.
Chattels, Pawning of, V, 323 sq..
Childlessness, V, 484.
Children, Not bound by human laws, I, 175; Playing
 of, III, 37; How to be treated in making one's last
 will and testament, V, 240 sq.; Adulterine, V, 440
 sq.; Compensation due to, for compulsion
 exercised in the choice of a vocation or profession,
 V, 451 sq.; Home training of, V, 521 sqq.; Duties of,
 to their parents, V, 532 sqq.; Reverence, V, 533 sq.;
 Love, V, 534 sq.; Filial obedience, V, 535 sqq.;
 Enjoy freedom in the choice of a vocation or state
 of life, V, 537 sq..
Choice of a vocation, III, 112 sq..
Christ, I, 29, I, 81, I, 140, I, 141, I, 145, I, 146, I, 147,
 I, 148, I, 149, I, 150, I, 153, I, 156, I, 157, I, 207, I,
 238 sq., I, 245, I, 249, I, 251, I, 258, I, 261, I, 269,
 II, 14, II, 28, II, 37, II, 45, II, 52, II, 56, II, 78, II,
 111, II, 123, II, 127, II, 128, II, 131, II, 133, II, 135,
 II, 191, II, 210, III, 6, III, 7, III, 10, III, 12, III, 14,
 III, 16, III, 17, III, 19, III, 24, III, 25, III, 26, III, 40,
 III, 58 sqq., III, 96, III, 110, III, 116, III, 122, III,
 133, III, 135, III, 151, III, 152, III, 168, III, 169, III,
 172, III, 174, III, 175, V, 28.
"Christian Science," IV, 305 sq..

- Chrysostom, St. John, As a moralist**, I, 48 sq.;
Communitistic ideas in writings of, III, 150.
- Church**, The, I, 29 sq., I, 156, I, 157 sqq., I, 171, I, 206 sq., I, 208, I, 214, I, 267, I, 273.
- Cicero**, I, 14, I, 47, I, 124, I, 183, V, 24.
- Cinema peril**, The, III, 52 sqq..
- Circumstances**, Of an action, I, 271 sqq.; which shape the species of a sin, II, 155.
- Citizens**, Duties of, V, 563 sqq.; As voters, V, 571 sqq..
- Civics**, Community, III, 31 sqq..
- Civilization**, V, 552.
- Civil marriage**, II, 210.
- Clairvoyance**, IV, 291.
- Clavasio**, Angelo de, IV, 315.
- Cleanliness**, III, 68 sq..
- Clement of Alexandria**, I, 45, III, 29, III, 45, V, 23.
- Clement of Rome**, I, 43, V, 71.
- Clergy**, Garb of the, III, 29; Amusements forbidden to the, III, 36 sq.; Duty to sacrifice life, III, 86; Heroism of, III, 95 sq.; Their work indirectly "productive," III, 127.
- Clothing**, III, 27 sqq.; Immodest, V, 51.
- Codex Iuris Canonici**, I, 162, IV, 320, IV, 363, IV, 368, IV, 369, IV, 386, IV, 392, IV, 395, IV, 399, IV, 406.
- Cohabitation of the married**, V, 465 sqq..
- Collation**, Lenten, IV, 365.
- Collet, P.**, I, 226.
- Comforts**, III, 30, III, 32, III, 65, III, 68.
- Commandments**, The Ten, Gentiles observed essence of, I, 124; The basis of all ethical teaching, I, 137; No equivalent of, discovered among the remains of Ancient Babylonia, I, 141; The highest religious achievement of nations before Christ, I, 140; Not abrogated by Christ, as Luther asserts, I, 150; And justification, I, 152; All directed towards love, I, 153; How commandments differ from counsels, I, 237; If we love God we must keep His commandments, I, 251; Sins against the, II, 52 sq..
- Commandments**, Of the Church, II, 125 sq., II, 137 sq., II, 152; History of, IV, 313 sqq.; Object of, IV, 313 sq.; Number of, IV, 315 sqq.; Obligation of, IV, 319 sqq..
- Commercialism vs. peace**, V, 144.
- Commission**, Sins of, II, 53 sq..
- Communion**, Holy, II, 113, II, 116, II, 123 sqq.; Duty of receiving, II, 124 sqq.; Easter, II, 125 sq., IV, 388 sqq.; Preparation for, II, 126 sqq.; Thanksgiving after, II, 127; Frequent, II, 130 sqq., II, 193; First, IV, 391 sq..
- Communism in the primitive Church**, III, 146 sqq..
- Community sanitation**, III, 31 sq..
- "Company-keeping,"** II, 208 sq..
- Compensation**, See Restitution.
- Competition**, V, 353 sq., V, 452.
- Complimentary phrases**, V, 60.
- Compulsion**, *Actus imperati* performed under, I, 113 sq.; Fear does not exercise c., I, 116; To sin, V, 40.
- Compulsory school laws**, III, 104.
- Concina, D. (O.P.)**, I, 60, I, 225.
- Concupiscence**, I, 116 sq., I, 241, II, 37, II, 42, II, 43 sqq., II, 46, II, 55 sq., II, 65, II, 105, III, 10, III, 22, IV, 15.
- Conditional absolution**, II, 179 sq..
- Condoms**, V, 474.
- Condonation as a cause excusing from restitution**, V, 417 sq..
- Confession**, Scruples regarding a past, I, 201; Why number of grievous sins must be mentioned in, I, 273; Matter for, II, 29, II, 137; Benefits of, II, 139; Necessity of, II, 151 sqq.; Properties of a good, II, 153 sqq.; Necessary matter of, II, 156 sqq.; Form of, II, 160; Unworthy, II, 161; General, II, 161 sq., II, 208; The seal of, II, 113, II, 167 sqq., V, 75, V, 415; Violation of seal, II, 174 sqq.; Preceding Extreme Unction, II, 193; Annual, IV, 381 sqq..
- Confessor**, Must wean his penitents from venial sins, II, 28; Treatment of habitual and occasional sinners, II, 46; Distinguishing between private and public sinners, II, 113; Is the judge as to how often one may go to Communion, II, 132; Hearing confession through an interpreter, II, 153; Must not inquire for the name of accomplice, II, 158; Questioning and instructing penitents, II, 162 sqq.; Duty of preserving the seal, II, 169 sq.; Duty of imposing sacr. penance, II, 183; Must remind penitents of the duty of restitution, V, 402; Must make restitution himself if he has unduly released a penitent, V, 403; As agent in cases of restitution, V, 414 sq..
- Confidence**, As a quality of prayer, IV, 131 sq.; Mutual between men., V, 21 sq..

Confirmation, Habitual intention sufficient for, II, 116; Grace bestowed by, II, 121; Duty to receive, II, 121; Bishop's obligation to administer, II, 121 sq.; Sponsor, II, 122; No obligation to receive this Sacrament, II, 122.

Conflict of duties, I, 211 sq., I, 218 sq..

Congestion, Moral aspects of urban, III, 31 sq..

Connivance, Coöperation in sin by, II, 63.

Conscience, I, 128, I, 154, I, 164 sq., I, 166, I, 168, I, 182 sqq.; Existence of, I, 182 sqq.; Nature of, I, 186 sqq.; Not always "the voice of God," I, 186 sq.; Bad, I, 189 sq.; Antecedent and consequent, I, 190; No strict definition possible, I, 191 sq.; Approximate definition, I, 192; Requisites of a normal, I, 194 sqq.; Probable, I, 218 sqq., I, 227; Doubts of, regarding gravity of a sin, II, 32 sq.; Examination of, II, 53, II, 156; Liberty of, V, 4.

Consciousness, I, 182 sq..

Consecration, Completing the Mass after, II, 129.

Consent of the will to mortal sin, II, 31 sq., II, 40, II, 63, II, 74; To the sin of another, V, 396 sqq..

Consequences of an act, I, 262 sq..

Contemplation, IV, 148 sqq..

Contemplative life, III, 136 sq., III, 154.

Contempt of God, IV, 92; Of others, V, 25.

Contenson, I, 225.

Continence, V, 479 sq..

Contraceptives, V, 473 sqq..

Contracts, Nature of, V, 242; Conditions of validity, V, 242 sqq.; Parties to, V, 242; Matter of, V, 243; Immoral, V, 243 sq.; Consent of parties must be free and externally manifested, V, 245; Error, fear, and force in relation to, V, 245 sqq.; Division of, V, 247 sq.; The so-called gratuitous, V, 250 sqq.; Promises, V, 250 sq.; Gifts, V, 251 sqq.; Deposits, V, 253 sqq.; Sequestration, V, 256 sq.; Loans, V, 258 sqq.; "*Mutuum*," V, 260 sqq.; Onerous contracts, V, 264 sqq.; Exchange, V, 264; Leases, V, 264 sqq.; Wages, V, 268 sqq.; Buying and selling, V, 276 sqq.; Special kinds of sales contracts, V, 281 sqq.; *Retrovenditio*, V, 281 sq.; *Contractus mohatra*, V, 282; Auctions, V, 282 sqq.; Monopolies, V, 284 sqq.; Brokerage, V, 287 sqq.; Dealings in "futures," V, 289 sqq.; Money-changing, V, 295 sq.; Interest-taking, V, 297 sqq.; subsidiary contracts, V, 315 sqq.; Insurance contracts, V, 315 sqq.; Bail, V, 320 sq.; Pawn or pledge, V, 321 sqq.; Partnerships, V, 327 sqq.; Stock companies, V, 331 sqq.; Corporations, V, 333 sq.; Gaming and wagering contracts, V, 338 sqq..

Contractus mohatra, V, 282.

Contractus trinus, V, 306, V, 329 sq..

Contrition, Properties of, II, 142 sqq.; Perfect, II, 109 sq., II, 126, II, 143, II, 144.

Contumely, II, 61, V, 101 sqq..

Convulsions, V, 213.

Coöperation in injustice, II, 62 sqq.; In sins of others, V, 40 sqq.; Formal—Material, V, 41 sq.; Mediate—Immediate, V, 41 sq.; Entails restitution, V, 378, V, 392 sqq.; By counsel, V, 394 sqq.; Indirect or negative, V, 401 sqq..

Copyright, Laws of, binding in conscience, V, 234.

Coquetry, V, 436.

"Corners" in commodities, V, 287.

Corporations, V, 333 sq..

Counsel, Co-operation in evil by, V, 394 sqq..

Counsels, Evangelical, I, 236 sqq..

Counterfeiting, V, 369.

Country, Duty to serve one's, V, 446 sq..

Courtesy, V, 94.

Covetousness, II, 71 sqq..

Cranioclasia, V, 219.

Craniotomy, V, 216 sq., V, 219.

Credulity, III, 108, IV, 40 sq..

Creed, The, IV, 168 sqq..

Cremation, A pagan custom, V, 197 sq.; In the Old Testament, V, 198; In the New Testament, V, 198; In the primitive Church, V, 198 sq.; Minucius Felix on, V, 198 sq.; Objections to, V, 199 sqq.; May be justified in exceptional cases, V, 202; Attitude of the Church towards, V, 202 sqq.; Rules for the guidance of Catholics, V, 205 sq..

Criminals, Treatment of, V, 122 sq.; Moral defectives, V, 123; . Condemned to death, should be given time to repent, V, 157.

Crispin, St., I, 271.

Cross, Sign of the, As a sacramental, II, 213; As a symbol of joy, III, 14, III, 18 sq..

Cruelty, Lust and, II, 77; Unnatural, II, 87; To animals, III, 59 sq., IV, 75; Opposed to charity, V, 25; Forbidden, V, 212.

Culpa theologica, I, 165, I, 169, I, 259.

Culture, Moral benefits of, III, 105 sq.; Labor as a factor of, III, 137 sq.; Contained in the destiny of man, V, 552.

Cultus muliebris, III, 29.

Cursing, IV, 187 sq..

Custom, As a factor in cessation of law, I, 180; As a habit, I, 260 sq.; In regard to attire, III, 29.

Customs collectors., V, 446.

Cuthbert, Fr., V, 7 sq..

Cyprian, St., As a moralist, I, 46; On the sacrifice of Abel, I, 208; On virginity, I, 250; On the power of faith, IV, 24; On the necessity of prayer, IV, 107, IV, 130.

Cyril of Jerusalem, As a writer on moral topics, I, 49.

Damaging the property of others, V, 352 sqq., V, 378; Entails the duty of restitution, V, 392.

Damnation, Eternal, II, 31, II, 88.

Damnificatio, V, 352 sqq., V, 378, V, 392.

Damnum emergens, V, 303, V, 383, V, 426.

Dances for charitable purposes, V, 188.

Dancing, III, 36, III, 42 sq., III, 55.

D'Annibale, J., I, 70.

Dante, V, 579.

Dasbach, I, 269.

Daughters, Duty of parents to their unmarried, V, 517.

Days of fasting and abstinence, IV, 356 sqq..

Dead, Duties with regard to the mortal remains of the, V, 195 sqq.; (see Burial, Cremation).

Dealing in "futures,", V, 289 sqq..

Death, II, 14, II, 20, II, 22, II, 78, II, 124, II, 137, II, 181, II, 189, II, 190, II, 192, III, 16, III, 87 sq..

Debility, I, 215.

Debitum coniugale, Instruction on, in confession, II, 165, V, 468 sqq..

Debts, Gaming, V, 344 sq.; Duty of paying one's, V, 378; In what order, V, 410.

Deception, V, 60 sq., V, 278 sq.; (see Fraud).

Decree of Innocent XI, see Innocent XI.

Decretum peccandi, II, 61.

Defalcation, V, 371.

Defending evil, II, 64.

Defectives, Mental, Not bound by human law, I, 175.

Defects, Of property held for sale, V, 277 sqq..

Defrauding laborers of their just hire, II, 89 sq..

Deharbe's Catechism, IV, 317.

Delama, D., I, 71.

Delectatio morosa, II, 58 sq..

Delehay, H. (S.J.), I, 32.

Delivery, Premature, V, 219.

De Lugo, John (S.J.), I, 61, V, 241, V, 343, V, 358, V, 360.

Demonism, II, 96.

Demons, Man's relation to, IV, 294 sqq..

Denunciation, Of books, IV, 411 sq.; Of delinquents, V, 34 sq..

Departed, Souls of the, Superstition in regard to man's relation to, IV, 302 sq..

De Ponte, see Lapuente.

Depositary, Duties of, V, 254.

Deposits, V, 253 sqq..

Derision, V, 111 sq..

Derogation, As a means of annulling a law, I, 180.

Desertion (military), V, 89 sq..

Desires, Sinful, II, 60 sqq..

Despair, II, 94, IV, 66 sqq..

Determinism, I, 205.

Detraction, V, 105 sqq.; Material and formal, V, 108; How repaired, V, 116.

Devas, C. S., III, 18, III, 31, III, 128, III, 150.

Devil, The, As tempter, I, 150, II, 45; Not yet fully subdued, II, 11; Sin delivers man into his bondage, II, 14; Not merely a “symbol of evil,” II, 39; Limited in power, II, 40; Cannot read the souls of men or directly influence their will, II, 41; Not all temptations come from him, II, 42; Envy of, II, 78; Worship of the, II, 96.

Devil worship, II, 96.

Devotion in praying, IV, 127 sqq..

Diana, A., I, 224.

Dicastillo, John de (S.J.), I, 62.

Didaché, The, I, 42, IV, 355, IV, 357, IV, 367, IV, 368, V, 188.

“Difference transactions,”, V, 289 sq..

Dignities, III, 171.

Diognetus, Letter to, I, 44, I, 164.

Dionysius the Pseudo-Areopagite, I, 48.

Diplomacy, V, 132 sq..

Discord, Promoting, V, 111.

Discovery, As a title of ownership, V, 227, V, 228 sq..

Disease, I, 215, I, 216.

Disgust for morality and religion, II, 83 sq..

Disobedience, Sin an act of, II, 10; Therefore opposed to the sinner’s own welfare, II, 10 sq..

Dispensation, In relation to law, I, 180; From fasting, IV, 376 sq.; From restitution, V, 420 sq..

Disposition vs. habit, I, 275.

Distraction in praying, IV, 124 sqq..

Distributive justice, See Justice.

Distrust of strangers, V, 99 sq..

Dividends, V, 335 sq..

Divination, IV, 274 sqq., IV, 408.

Divining rod, The, IV, 300 sqq..

Division of Moral Theology, I, 74 sq..

Divorce, V, 495 sqq..

Doctor Navarrus, I, 62.

Doctors of the Church, I, 33 sq..

Dolus, I, 259 sq..

Dom, C. A. Wynschenk, I, 56.

Domestic thefts, V, 357, V, 444.

Domicile, I, 174.

Dominicans, I, 229, I, 231.

Dominic, St., IV, 165 sqq..

***Dominus incertus* in restitution**, V, 409.

Donatio inter vivos—mortis causa, V, 251 sqq..

Donatists, V, 37.

Double-dealing, V, 56.

Double standard of morals, I, 92.

Doubt, In matters of conscience, I, 196, I, 231; A sin against faith, IV, 27 sqq.; Opposed to confidence in prayer, IV, 132.

Doxology (“For Thine is the Kingdom”). An interpretation of ancient but uncertain origin, IV, 161.

Doyle, Sir Arthur Conan, And his “New Revelation,” IV, 283.

Drama, The Church and the, III, 51.

Drinking, III, 21 sq., III, 25 sq., V, 453.

Drunkenness, II, 79 sqq..

Duelling, Definition of, V, 221 sqq.; Is immoral, V, 222 sq.; Condemned by the Church, V, 223; Injury inflicted by, does not entail restitution, V, 427.

Duhr, B. (S.J.), V, 131.

Dullness, Intellectual, III, 108.

Duns Scotus, Basis of moral system of, I, 53; On Extreme Unction, II, 192.

Duty, Definition of, I, 203; Division of, I, 204; Motives of, I, 204 sqq.; Conflict of duties, I, 211 sqq., I, 240, I, 259, I, 261; Individual or personal duties, III, 2 sq.; Vocational, III, 112 sqq.; Man’s duties to himself, III; To God, IV; to his fellowmen, V; Individually, V, 1 sqq.; Collectively, Charity as a duty, V, 15 sq..

Dwellings, III, 30 sqq..

Dymond, On the power of example in regard to suicide, III, 81.

Easter Duty, I, 178, II, 125 sq., II, 152, IV, 346 sq..

Eating, I, 268, III, 21 sq., III, 24, III, 25 sq..

Ecclesia non sitit sanguinem, V, 148.

Ecclus. VIII, 15, IV, 135.

Eclecticism, IV, 35 sq..

Eddy, Mrs. Mary Baker, IV, 305.

Editors, Duties of, V, 36, V, 44.

Education, As a determinant of morality, I, 93; Duty of developing the mind, III, 101 sqq.; A parental duty, V, 513; Personal influence in, V, 524.

Egoism, I, 18 sqq., I, 86, I, 205, III, 6, III, 8, V, 12.

Elbel, Benj. (O. F. M.), I, 59, III, 99.

Electors, see Voters.

Elizalde, M. de, I, 225 sq..

- Elyot, Sir Thos., III, 44.
- Emancipation of woman, V, 500 sqq., V, 508.
- Emasculation, III, 84, V, 213.
- Ember days, II, 199, IV, 359 sqq..
- Embryotomy, V, 219.
- End of an action, I, 267 sq..
- Enemy, Love of, I, 13 sq.; The purest form of charity, V, 18 sq.; How we must love our enemies, V, 19 sqq.; Claims of, V, 24.
- Ennius, V, 24.
- Enos, IV, 97.
- Employment, Right to, V, 166 sqq.; (See Labor, Unemployment).
- Environment, Its influence on morality, I, 95, III, 104.
- Envy, II, 55, II, 65, II, 77 sqq., II, 94, V, 25.
- Ephraem, St., I, 49.
- Epicurus, III, 153.
- Epikia, I, 180 sq..
- Epilepsy, V, 213.
- Equilibrism, I, 109.
- Equivocation, V, 79 sqq..
- Error against the faith, IV, 31 sq., V, 454.
- Error iuris—facti*, I, 194.
- Esquirol, III, 79.
- Escobar, Ant. (S.J.), I, 58, I, 224, V, 131.
- Espionage, V, 136.
- Estrangement between married people, V, 481 sq..
- Eternity, III, 16.
- Ethics, I, 5, I, 7 sqq., I, 11 sqq., I, 23 sqq..
- Etiquette, III, 70 sq..
- Eucharist, The Holy, II, 123 sq..
- Eudæmonism, I, 17 sqq., I, 23.
- Eugenics, V, 529 sq..
- Eunuchs, I, 245 sq..
- Euthanasia, III, 91 sq..
- Evangelical counsels, see Counsels.
- Eve, II, 13.
- Evil, II, 4 sq., II, 27, II, 37, II, 81, IV, 105.
- Examination of conscience, see Conscience.
- Example, Duty of giving a good, V, 27 sqq.; Power of, V, 29 sq.; Especially important for children, V, 523 sq..
- Exceptio plurium*, V, 439.
- Excess, Of hope, IV, 58 sqq.; Of joy, V, 213.
- Exchange, V, 264.
- Excursions, III, 36.
- Exenteration, V, 219.
- Existence, Man's right to, V, 163 sqq..
- Exorcism, I, 200.
- Exposure of infants, V, 210.
- Extortion, V, 368 sq., V, 373.
- Extravagance, III, 66 sq., III, 68.
- Extreme Unction, II, 116, II, 188 sqq.; Subject of, II, 188 sq.; Duty of receiving, II, 192 sqq., III, 57; Duty of administering, II, 194 sqq..
- Fables, V, 59.
- Factories, Workers in, III, 33; Responsibility of owners of, V, 212.
- Failure, Profit by, III, 135.
- Fairs, IV, 333 sq..
- Faith, I, 43, I, 208, I, 216, I, 221, I, 279, I, 283, II, 92, II, 99, II, 105, II, 118, II, 121; Nature of, IV, 1 sqq.; Necessity, IV, 6 sqq.; Duty and extent of, IV, 9 sqq.; Qualities and fruits of, IV, 18 sq.; Sins against, IV, 27 sqq.; Without charity, V, 10.
- Faith-healing, IV, 305 sqq..
- Family, Duties within, I, 215; The home, III, 30 sq.; Secrets should not be revealed without necessity, V, 78; Living family wages, V, 271 sq.; The Christian, V, 463 sqq.; As a social community, V, 511; (see Parents, Children).
- Fanaticism, Religious, IV, 93 sqq..
- Färber, Wm., IV, 317.
- Fashion in clothing, III, 27, III, 29.
- Fast, Eucharistic, II, 128 sqq..
- Fasting, I, 156, I, 209, I, 219, I, 265, I, 266, IV, 348 sqq..
- Fathers, of the Church, Moral teaching of the, I, 42 sqq.; Teaching on war, V, 134.
- Faults, Revealing others', V, 109 sq..
- Favores ampliandi*, I, 178.
- Fear, As an obstacle to free-will, I, 116; Of God, I, 204 sqq.; Excessive, a danger to life and health, V, 213; In relation to contracts, V, 245 sq..
- Fellowmen, Sins against one's, II, 54; Duties to, V, 1 sqq..
- Fénelon, I, 20 sq..
- Ferreres, J. B. (S.J.), I, 70.

Feticide, V, 214 sqq..
Fetus, Baptism of, II, 120; Slaying of, V, 214 sqq.; Has the rights of a human being, V, 472 sq..
Feudalism, V, 8.
Fichte, I, 67.
Fidelity (faithfulness), Definition of, V, 85; How this duty originates, V, 85 sqq.; Opposite of, infidelity, V, 89; Duty of the married, V, 480 sq..
Fidelity to duty, III, 120; In regard to promises, V, 251.
Fides divina—theologica—catholica, IV, 4 sq.; *Implicita—explicita*, IV, 9; *Actualis—habitualis*, IV, 13 sq.; *Fides haereticis habenda*, V, 87 sq..
Filliucci, Vincent (S.J.), I, 58.
Films, III, 52 sqq..
Finder of lost articles, Duties of, V, 229 sqq..
First Communion, See Communion.
Fishing on Sunday, IV, 332; The right of, regulated by law, V, 227.
Fixtures, V, 267.
Flattery, II, 63, V, 62, V, 93 sqq., V, 398.
Flesh, Sins of the, II, 54 sqq., II, 64 sq.; Emancipation of the, III, 10, III, 66.
Food, III, 25 sq., III, 72.
Football, III, 44, III, 46.
Force, Use of, in self-defense, V, 124 sqq.; May be carried to the extreme of manslaughter, V, 127.
Forget, J., I, 281 sq..
Forging documents, V, 370.
Formalism, Ecclesiastical, I, 207.
Fornication, Guilt of, altered by circumstances, I, 272; A sin of the flesh, II, 55; *In ordine naturae*, II, 74; Duty of restitution arising from, V, 433 sqq..
Forty Hours' Devotion, II, 134.
Foster, S. C., III, 31.
Foundling asylums, V, 514 sq..
Francisco de Jesus-Maria, I, 59.
Francis de Sales, St., On the saints, I, 30 sq., I, 32; Authority of, I, 34; His *Traité de l'Amour de Dieu*, I, 67; On dancing, III, 42; On humility and love, III, 171.
Francis of Assisi, St., V, 324.
Francis Xavier, St., III, 141.
Fraternal correction, A grave obligation, V, 30 sq.; Under what conditions, V, 31; Manner of administering, V, 31 sq..
Fraud, V, 369 sqq..
Free love, V, 487 sq..
Freemasons, II, 112.
Free-will, I, 7, I, 79 sqq., I, 93, I, 94, I, 95, I, 98 sqq., I, 102 sqq., I, 108 sqq., I, 116, I, 184, I, 257, I, 261, I, 262, II, 7, II, 36, II, 104 sq..
Frequent Communion, see Communion.
Frick, II, 16.
Friday abstinence, IV, 362 sq..
Friedhoff, F., I, 69.
Friendship, Moral aspect of, V, 22 sqq.; Three kinds of, V, 23; Value of a true friend, V, 23 sq..
Frugality, III, 67.
Fruits, As food in Lent, IV, 371; Of a thing, natural, industrial, mixed, civil, V, 381 sqq.; Must be restored to the owner, V, 382 sqq..
Fuchs, B., I, 69.
Funk, F. X., V, 299, V, 306.
"Futures," Dealing in, III, 138, V, 289 sq..
Gambling, III, 41 sq., III, 138, V, 290 sqq., V, 340 sqq..
Gambling houses, V, 343.
Games, III, 36, III, 37, III, 41 sq..
Games of chance, III, 37, III, 41 sq., V, 342 sq.; See Gambling.
Gaming contracts, V, 341 sqq..
Garden city plan, III, 33.
Gatterer, H. (S.J.), I, 71.
Gaudé, L., I, 60.
Gaudium de peccato, II, 60.
Gazzaniga, P. M., I, 225.
Gelasius, Pope, IV, 360.
General confession, II, 161 sq., II, 208.
General vs. particular laws, I, 173 sq..
Geneva, Convention of 1864, V, 139.
Génicot, E., I, 72.
Gentleman, Newman's definition of a, III, 71.
Gerdil, H. S., I, 223.
Gerrard, Thos. J., V, 526, V, 529.
Gerson, John, I, 56.
Gibbons, Cardinal, III, 137.

- Gifts**, Of the Holy Ghost, I, 281 sq.; As a species of contract, V, 251 sq..
- Gladness**, III, 17 sq..
- Gluttony**, II, 55, II, 65, II, 79 sqq..
- God**, Cannot dispense from the moral law of nature, I, 130; All power from, I, 158; Duty spells accountability to the will of, I, 203; Fear of, I, 204; Love of, I, 251; Not the author of sin, II, 5 sq.; In how far He coöperates in sin, II, 7 sq..
- Goepfert, F. A.**, I, 70, I, 266, V, 34, V, 177.
- Goethe**, III, 15, V, 38, V, 497.
- Goltz**, Bogumil, IV, 330.
- Gonet, J. B.**, I, 225.
- González**, Thyrsus, I, 225, I, 229.
- Good intention**, I, 267 sq..
- Good name**, III, 165 sqq..
- Good things of nature**, III, 23 sq..
- Gospel**, I, 142 sqq., I, 146 sqq., I, 152, I, 206, I, 207, I, 237 sqq..
- Gounod**, Ch. F., I, 6.
- Gourmandise**, II, 79.
- Government**, V, 549 sq., V, 554 sqq..
- Goyau**, III, 76.
- Grace**, I, 148, I, 150, I, 185, I, 238, I, 252, II, 17, II, 27, II, 34, II, 44, II, 93, II, 95, II, 98 sqq., IV, 61 sq..
- Grace of healing**, IV, 308.
- Graft**, V, 560.
- Granada**, Luis de (O. P.), I, 64.
- Gratitude**, IV, 87 sq..
- Greed**, II, 55, II, 71 sq..
- Greeks**, I, 13 sq..
- Green**, Hetty, II, 72.
- Gregory of Nazianzus, St.**, I, 48, I, 228, I, 250.
- Gregory of Nyssa, St.**, I, 48.
- Gregory of Valentia (S. J.)**, I, 58, V, 131.
- Gregory the Great, St.**, I, 49, I, 208, II, 61, II, 68, III, 1, IV, 151 sq., V, 175, V, 188.
- Gregory the Seventh**, I, 167, IV, 360.
- Gretser**, V, 131.
- Guardians**, V, 539 sq..
- Guilt**, I, 165, I, 169, I, 259, I, 262.
- Gury, J. P. (S. J.)**, I, 70, I, 72, II, 28, V, 34, V, 360.
- Guyau**, V, 122.
- Gymnastics**, III, 43 sq..
- Habits**, I, 257, I, 260; Moral, I, 275 sqq.; Infused—acquired, I, 276 sq.; Sinful, II, 3, II, 9, II, 33, II, 67 sqq..
- Habitus clericalis**, III, 29.
- Habitus peccaminosi**, II, 3, II, 33, II, 67 sqq..
- Hail Mary**, The, IV, 161 sqq..
- Hales**, Alexander of, IV, 320.
- Hallucinations**, I, 261.
- Hammurapi**, I, 141.
- Happiness**, Desire for, I, 17 sqq., I, 102.
- Haringer, M.**, I, 60.
- Harnack**, Adolph, I, 32.
- Hatred**, Of God, I, 266, IV, 91 sq.; A sin of the mind, II, 55; A result of envy, II, 78; Of others, opposed to charity, V, 25.
- Haunold**, III, 99.
- Health**, Care of, III, 21 sq., III, 24 sqq., III, 29; Of factory-workers, III, 33; And recreation, III, 36; Recovery of, in sickness, III, 57; Sacrifice of, for the common welfare, III, 97 sq.; Duty of respecting the health of one's fellowmen, V, 118; Injuring another's health a violation of justice, V, 213.
- Hearing the word of God**, IV, 335 sq..
- Hebosteotomy**, V, 221.
- Hedonism**, I, 17 sqq..
- Hegel**, I, 139.
- Heilig, M.**, I, 60.
- Heli**, II, 63.
- Helvidius**, I, 251.
- Henriquez**, Hy. (S. J.), I, 58.
- Heredity**, V, 545.
- Heresy**, IV, 29 sqq..
- Heretics**, Promises made to, must be kept, V, 87 sq..
- Hermas**, Shepherd of, I, 44, IV, 353, IV, 357, V, 71.
- Heroism**, Moral, I, 240.
- Herolt**, John (O. P.), I, 206, I, 209, III, 141, IV, 17, IV, 130.
- Hesiod**, III, 139.
- Heteronomy**, see Autonomy.
- Hettinger**, F., III, 47.
- Hirscher, J. B.**, I, 68, II, 16.
- History of Moral Theology**, I, 41 sq.; Patristic period, I, 42 sqq.; Scholastic period, I, 51 sqq.; Modern period, I, 57 sqq..
- Hoensbroech, P. von**, I, 269.

Hogan, Abbé, I, 72 sq..
Holydays of obligation, IV, 325 sqq..
Holy Ghost, Law of the, I, 143, I, 153, I, 154; Gifts of the, I, 281 sq.; Fruits of the, I, 283; Sins against the, II, 18, II, 66, II, 82, II, 91 sqq..
Holy Hour, The, II, 134.
Holy Orders, II, 116, II, 197 sqq..
Holy Water, II, 213.
Holy Week, IV, 357.
Homer, III, 139, V, 518.
“Home, Sweet Home,”, III, 31.
Home training, Importance of, I, 93 sq., V, 521 sqq..
Homicide, (see **Manslaughter**), Accidental, V, 211 sq..
Honor, Relative notion of, I, 215; False notion of, III, 75; Duties in regard to, III, 164 sqq.; Of others, V, 91 sqq.; Sins against, V, 96 sqq..
Hope, As a theological virtue, I, 279 sq., II, 92, IV, 44 sqq.; Object of, IV, 48 sqq.; Necessity of, IV, 50 sq.; Qualities of, IV, 53 sq.; Fruits of, IV, 54 sqq.; Sins against, IV, 57 sqq..
Horse races, Betting on, V, 341.
Hostages, V, 138.
Hotelkeeper, Duties of, V, 258.
Housing, III, 30 sqq..
Hugh of St. Victor, I, 55.
Human acts, I, 253 sqq..
Humility, I, 209, II, 70 sq., III, 175, IV, 132 sq..
Hunolt, F. (S. J.), V, 30.
Hunting, V, 227.
Hurtado, Peter (S. J.), I, 62.
Hus, I, 167.
Husbands, Duties of, V, 463 sqq..
Hyperemesis gravidarum, V, 218.
Hypochondria, I, 261.
“Hymelstras,”, IV, 329 sq..
Hypnotism, IV, 278 sqq..
Hypocrisy, II, 70, V, 61 sq., V, 369.
Hysteria, I, 261 sq., V, 213, V, 218.
Idolatry, II, 6, II, 55.
Idols, Catholics may not make, V, 42.
Ientaculum, IV, 372 sq..
Ignatius of Antioch, St., I, 43.
Ignatius of Loyola, St., I, 206.
Ignorance, I, 114 sqq., I, 129, I, 258 sq., II, 30, II, 108, II, 164 sqq., IV, 32 sq..
Illness, Often a grace in disguise, III, 13; Implies dependence on others, III, 24 sq..
Illsung, III, 99.
Illusions, I, 261 sq..
Immorality, Right and duty of civil authorities to curb, V, 120.
Impediments, Marriage, II, 209, II, 215 sqq..
Impenitence, II, 92 sqq..
Imperialism, V, 567 sq..
Imprecations, IV, 187 sqq..
Imprimatur, IV, 403 sq..
Impurity, II, 73 sqq..
Imputability, I, 256 sqq., I, 261.
Inability to sin, I, 111 sq..
Inadvertence, I, 259 sq., I, 274.
Inbreeding, V, 545.
Incendiarism, V, 353, V, 390, V, 391, V, 445.
Incest, II, 74.
Income tax, III, 158 sq., V, 449 sq..
Index of Forbidden Books, IV, 42, IV, 415 sqq..
Indifference, Moral, I, 110, I, 266; To virtue, II, 83.
Indifferent acts, I, 109, I, 266.
Indifferentism, Theoretical and practical, IV, 35, V, 36 sq..
Indissolubility of marriage, V, 491 sqq..
Individualism, I, 24.
Individual vs. social ethics, I, 23 sqq..
Indolence, Moral, IV, 92 sq..
“*In dubio pars tutior sequenda*, ”, I, 196, I, 202, I, 219.
Indulgences, II, 186 sq., IV, 401, IV, 408.
Indults, Regarding abstinence, IV, 378 sqq..
Industrial hygiene, III, 33.
Industrial slavery, See **Slavery**.
Infancy, The will in, I, 86 sq..
Infanticide, III, 88, V, 210 sq..
Infants, When they should be baptized, II, 119; *In utero matris*, II, 119 sq.; Stillborn, II, 120.
Infidelity, IV, 7, IV, 33 sqq., IV, 271; (in the sense of perfidy), V, 89; Marital, V, 484.
Ingratitude, V, 540 sq..
Inheritance, Limitation of, III, 156 sq.; Law of, V, 238 sqq..
Inhumation, see **Burial**.

- Injury to life and health of others**, involves duty of restitution, V, 425 sqq..
- Injustice**, Notion of, V, 13; Opposed to charity, V, 25; Formal and material, V, 350; The source of many sins, V, 351.
- Innocent the Fourth**, IV, 363.
- Innocent the Fifth**, II, 192.
- Innocent the Eighth**, IV, 299 sqq..
- Innocent the Eleventh**, I, 166, I, 229 sq., II, 49, V, 164.
- Inoculation with virus**, when permissible, III, 98.
- Insane**, not bound by any human law, I, 175; Shall Extr. Uncion be administered to, II, 189.
- Insanity**, Not all forms of, destroy freedom of the will, I, 262; And suicide, III, 76 sqq..
- Instinct**, I, 102.
- Institoris**, Henry, IV, 300.
- Instructing**, Penitents, II, 164 sqq.; Duty of instructing others, V, 30 sq..
- Instruction**, Duty of parents to give children, III, 105; Duty of instructing others, V, 30 sq..
- Insults**, V, 101, V, 113 sq..
- Insurance contracts**, V, 315; Conditions of validity, V, 316; Special kinds of, V, 316 sq.; Social advantages of, V, 317; Life insurance, V, 317 sq.; Insurance against unemployment, V, 318 sqq.; Against the risks of childbirth, V, 320; Duty of restitution in connection with, V, 445.
- Intemperance**, II, 65, II, 76, II, 79 sqq., III, 26.
- Intention**, Defined, I, 267; Actual, virtual, habitual, I, 267; Good, I, 267 sq.; Influence of, on morality of acts, I, 268 sq.; Of the agent, may diminish sinfulness of an act, I, 270; A gravely sinful intention makes a venial sin mortal, II, 32; In Baptism, II, 115 sq..
- Intercession**, Prayer of, IV, 141 sqq..
- Interest-taking**, V, 263; In the Bible, V, 297 sq.; In the early Church, V, 299 sq.; In the Middle Ages, V, 303 sq.; St. Thomas on, V, 301 sq.; Principal “titles,” V, 303 sq.; In modern times, V, 305 sqq.; Benedict XIV’s bull “*Vix pervenit*,” V, 307, V, 310 sq.; Mitigation of ecclesiastical discipline, V, 307 sqq.; The New Code on, V, 308; Changed attitude of the Church justified, V, 308 sqq.; Fr. H. Pesch, S.J., on, V, 310; From the point of view of charity, V, 311 sq.; The lawful rate of interest, V, 312 sq.; Literature on, V, 313.
- Interior prayer**, IV, 146 sqq..
- Internationalism**, Christian, V, 570.
- International law on war**, V, 137 sq..
- Interpretation of law**, I, 177 sqq..
- Intimacy between men**, V, 22.
- Invalids**, Not obliged to keep the Eucharistic fast, II, 130.
- Irenaeus, St.**, V, 491.
- Irregularity for clerics who co-operate in inflicting capital punishment**, V, 148 sq..
- Irreverent use of the name of God**, IV, 185 sqq..
- Isaac**, V, 82.
- Isaias**, I, 146.
- Isidore of Seville, St.**, I, 51, IV, 133, IV, 134.
- Iudicium iuris—facti***, I, 188 sq..
- Ius gladii***, V, 147, V, 158 sq..
- Jacob**, V, 82.
- James, St.**, I, 146, I, 157, II, 21, II, 38, II, 43, II, 83, V, 52.
- Jansenists**, I, 223, I, 229, I, 234, II, 132, III, 49.
- Jealousy**, II, 88, V, 25, V, 482; National, V, 568.
- Jean Paul**, III, 171.
- Jerome, St.**, I, 250, III, 148 sq., IV, 361, V, 24, V, 189, V, 494.
- Jesuits**, I, 227, I, 229, I, 269, V, 130 sq..
- Jesus**, Praying in the name of, IV, 136 sq.; Mental reservation used by, V, 82 sq..
- Jews**, II, 82.
- Jingoism**, V, 144, V, 567 sq..
- Joachists**, I, 143.
- Job**, II, 39.
- Jocham, M.**, I, 69.
- Johannine age**, I, 143.
- John Damascene**, I, 51.
- John of Ravenna**, I, 49.
- John of the Cross, St.**, I, 65.
- John the Baptist, St.**, II, 81, V, 82, V, 102.
- John the Evangelist, St.**, I, 145, II, 43, V, 64.
- Journalism**, The vices of modern, V, 107; Yellow, a danger to international peace, V, 144.
- Journey undertaken in *fraudem legis***, I, 175.
- Jovinian**, I, 251.
- Joy**, III, 14, III, 15, III, 16, III, 17 sq., III, 135, IV, 85 sqq., V, 213.
- Jubilee indulgence**, II, 187.

Judas, II, 8, II, 36, II, 39.
Judgment, I, 256 sq..
Judgment, Last, I, 147.
Judgments, Rash, V, 97 sqq..
Judges, Duties of, V, 561 sq..
"Judicial murder", No argument against capital punishment, V, 154 sq..
Judicial precepts of the O.T., I, 138 sq..
Jurisprudence, The science of "rights," V, 14.
Justice, Duties of, I, 204; Precede those of charity, I, 214; Definition of, V, 10; Different kinds of, V, 10 sqq.; Legal, V, 11; Distributive, V, 11; Commutative, V, 11 sq.; Vindictive, V, 11; Justice a general virtue, V, 12 sq.; Notion of injustice, V, 13 sq..
Justification, I, 8, I, 151, I, 154, I, 238, II, 102 sqq., IV, 65.
Justin Martyr, St., IV, 24, V, 71.
Kant, Immanuel, I, 18 sq., I, 67, I, 139, V, 142.
Kellner, IV, 359.
Kenrick, F. P., I, 71, IV, 395, V, 424.
Keppler, P. W. von, I, 15, III, 14 sq., III, 123, IV, 85, IV, 329.
Kern, Jos. (S.J.), II, 191.
Kleutgen, Jos. (S.J.), II, 16.
Knowledge, Duty of acquiring, III, 102 sqq.; Application of, to conduct, III, 106 sq..
Konings, A. (C.SS.R.), I, 70.
Kresslinger, M. (O.F.M.), I, 59.
Krieg, C., II, 168.
Kuper, H. (C.SS.R.), I, 70.
Labor, A natural necessity, III, 125 sqq.; Manual, III, 125 sq.; Mental, III, 126; A moral obligation, III, 130 sqq.; A religious duty, III, 132 sqq.; Servile, IV, 326 sqq., IV, 330 sq.; Necessity of, to make a living, V, 163 sq.; The right to, V, 165 sqq.; As an original title of ownership, V, 233 sq.; In relation to wages, V, 268 sqq.; Conditions of, V, 274 sqq..
Laborers, Defrauding of just wage, II, 89; Right to a living wage, V, 268 sqq.; May quit work and strike, V, 274 sqq.; Insurance of, against unemployment, V, 318 sqq..
Lacordaire, I, 35.
Lacroix, Claude (S.J.), I, 58, III, 99.
Lactantius, III, 147 sq..
Landlords, Duties of, V, 265 sq..
Language, Abuse of, V, 64 sq..
Lapiente, Luis de, I, 66.
Last will and testament, V, 238 sqq..
Lateran, Fourth Council of the, II, 125; Fifth Council, V, 324 sq..
Laurentius, Jos. (S.J.), III, 19.
Laveleye, E. de, III, 64.
Law, The concept of, I, 119 sqq.; Eternal, I, 120; Temporal, I, 120; Moral, I, 120, I, 122 sqq.; Ecclesiastical, I, 121, I, 157 sq., I, 161 sq.; Human, I, 155; Properties of human, I, 160 sqq.; Interpretation of, I, 177 sqq.; Cessation of, I, 180 sqq.; Transgression of divine law, II, 1 sqq.; Are there purely penal laws?, V, 448; The Church as authorized interpreter of the natural law, V, 551.
Lawyers, V, 333.
Lax conscience, I, 197 sq..
Laxism, I, 219, I, 223, II, 27, II, 132.
Laymann, Paul (S.J.), I, 58.
Leases, V, 264 sqq..
Legalism, I, 206.
Legends of the Saints, I, 30 sqq..
Legislators, Bound to observe the laws they have made, I, 176; Other duties of, V, 573 sq..
Lehmkuhl, Aug. (S.J.), I, 70, I, 72, III, 99.
Leibnitz, I, 67.
Lender, Duties of, V, 255 sqq..
Lending, As a social function, V, 259 sq..
Lenocinium, V, 439.
Lent, IV, 356 sqq..
Leo, St., IV, 353, IV, 358, IV, 359, IV, 360.
Leo the Tenth, V, 324.
Leo the Thirteenth, III, 30, III, 84, III, 137, III, 145, III, 160, V, 6 sq., V, 270, V, 312, V, 549 sq., V, 555 sq., V, 557, V, 577.
Lessees, Duties of, V, 266.
Lessing, G. E., III, 120, V, 518.
Lessius, Leonard (S.J.), I, 62, V, 131.
Letters, Opening private, V, 77, V, 78.
Lettres à un Provincial, I, 63, I, 229.
Lewis, D., I, 65.
Lex aeterna, II, 2.
Liars, Journalistic, V, 108.
Liberalism, III, 19 sq..
Libertas contradictionis, etc., I, 109 sq..

- Libertas virtutis s. gratiae*, I, 110 sq..
- Liberty**, I, 8, I, 109 sqq., I, 149, I, 215, I, 219, I, 223, I, 224, I, 226, I, 231 sqq., I, 257, V, 118 sq., V, 550 sq..
- Libraries**, Public, III, 46 sq..
- Libri Poenitentiales*, I, 51.
- Libri Sententiarum*, I, 51.
- License**, I, 149.
- Lies (see Lying)**, Definition of, V, 58 sqq.; Intention of deceiving others, V, 59 sqq.; Division of, V, 61 sqq.; Sinfulness of, V, 63 sqq.; Verbal or by signs, V, 61; Jocose, V, 62, V, 67; Officious, V, 62 sq.; Not every lie a mortal sin, V, 67; "Little white lies" of social intercourse, V, 67 sq., V, 81 sq.; Criminal circumstances of, V, 70.
- Life**, Man not allowed to commit a sin to save his, I, 215; A blessing, III, 11, III, 16; A pilgrimage, III, 11 sq.; Duty of cherishing it, III, 12 sqq.; Duty of giving it up, III, 86 sqq.; The right to, V, 118 sqq.; Imprisonment for life, V, 123; Man's right to the necessities of life, V, 163 sqq.; Duties with regard to the life of others, V, 206 sqq.; The dignity of human, even in its incipient stages, V, 213 sq.; Life insurance, V, 317 sqq..
- Liljencrants, J.**, IV, 282.
- Limitations of free-will**, I, 81 sqq..
- Linsenmann, F. X.**, I, 69, I, 217, II, 16, II, 166, II, 168, II, 200, IV, 351, V, 87 sq., V, 89, V, 177, V, 248, V, 249, V, 294, V, 317, V, 367, V, 477 sq., V, 504 sq..
- Liquids**, And the fast, IV, 364 sq., IV, 370 sq..
- Litanies**, IV, 172 sqq..
- Literature of Moral Theology**, I, 41 sqq..
- Liturgical books**, IV, 408.
- Living wage**. See Wages.
- "Loan sharks,"**, V, 325 sq..
- Loans**, Conditions of validity, V, 258 sqq..
- Lodge**, Oliver, IV, 283.
- Lombard**, Peter, IV, 17.
- Lombroso, C.**, I, 95.
- Lopez, Louis (O.P.)**, I, 62 sq..
- Lord's Prayer**, The, II, 18, IV, 156 sqq..
- Lost objects**, V, 229 sqq..
- Lotteries**, V, 345 sqq..
- Love**, Natural and supernatural, IV, 72 sqq.; Mutual, between married people, V, 482 sq.; Of children for their parents, V, 534 sq.; Of country (see Patriotism).
- Loyalty**, The basis of patriotism, V, 566.
- Lucifer**, II, 11.
- Lucrum cessans*, V, 303, V, 383, V, 426.
- Lucy, St.**, III, 87 sq..
- Lust**, II, 61, II, 65, II, 73 sqq., II, 80, II, 88 sq..
- Luther**, Martin, I, 150, II, 19, III, 51, V, 38, V, 305.
- Lutheranism**, I, 151.
- Luxury**, II, 55, II, 73 sqq., III, 32, III, 40, III, 64 sqq., V, 164.
- Lying**, I, 213, I, 265, I, 268, I, 274, V, 58 sqq.; Why impossible to God, V, 69 sq.; In war, V, 136.
- Lynching**, III, 62, V, 161 sq..
- Macarius, St.**, I, 49.
- Machiavelli**, V, 568.
- Machinery**, Dangerous, Should be guarded, III, 33.
- Macksey, Charles (S.J.)**, III, 45.
- Magic**, II, 96, IV, 276, IV, 408.
- Magic wand**, IV, 300 sqq..
- Magnetism**, IV, 278.
- Maigre strict*, IV, 368.
- Malediction**, Formal or material, IV, 188; Sinfulness of, IV, 188 sq..
- Malice**, Prepense, I, 259 sq.; Sins of, I, 273 sq.; What is done out of malice is mortally sinful, II, 25; Need not be explicitly reflected on, II, 30; Sins of word receive a specific malice from deeds, II, 61; Division of sins according to malice involved, II, 64 sqq.; Malice in murder, II, 87; Malice in sins against the Holy Ghost, II, 91 sq., II, 94.
- Malthus**, Thos. R., V, 477 sq..
- Malthusianism**, V, 477 sq..
- Malthusian law**, V, 477 sq..
- Maltreatment**, V, 212.
- Man**, The subject of morality, I, 79 sqq.; His duties to himself, III, 1 sqq.; to God, IV, 1 sqq.; to his fellowmen, V, 1 sqq..
- Manhood**, I, 87 sq..
- Manichaeans**, I, 48, V, 37.

- Manslaughter**, I, 266; When self-defense may be carried to the extreme of, V, 127 sq.; Usually committed in a moment of passion, V, 210; Against the unborn, V, 213.
- Marc, C.**, I, 70, V, 424.
- Marriage**, I, 242 sqq., I, 246, V, 463 sqq.; Unity of, V, 485 sqq.; Indissolubility of, V, 491 sqq.; Instruction before, V, 530.
- Mariana**, III, 52.
- Married**, Duties of the, V, 463 sqq.; Cohabitation, V, 465 sqq.; *Debitum conjugale*, V, 468 sqq.; Duty of moderation, V, 479 sq..
- Martin**, Conrad, I, 69, I, 216, I, 233, I, 249.
- Martin**, Michael (S.J.), IV, 379, V, 425.
- Mary**, Blessed Virgin, II, 44, II, 211, III, 40.
- Masochism**, II, 88.
- Mass**, Missing it on Sunday, I, 178, IV, 336 sq.; Perfect contrition not sufficient for saying, II, 109 sq.; When celebrant is overcome by sudden illness, II, 129; Duty of attending on Sundays, II, 133, IV, 336 sqq.; Duty of offering by pastors, II, 133; Centre of worship, IV, 195.
- Materia levis—gravis**, I, 170, I, 172, I, 204, I, 209 sqq., I, 266.
- Materialism**, III, 10.
- Matrimonial engagements**, Duty of restitution arising from broken, V, 429 sqq..
- Matrimony**, Requisites of valid administration, II, 109; May be administered to public sinners, II, 113; No obligation of receiving, II, 201 sqq.; Who is bound to marry, II, 203; Duties with regard to the reception of, II, 204 sqq..
- Mausbach**, Msgr. Jos., V, 506.
- Mayr**, Ant., I, 233.
- Mazotta, N. (S.J.)**, I, 58 sq..
- Means**, The end does not justify bad, I, 268 sqq..
- Medicine**, Duty of employing, III, 90.
- Medina, B. de**, I, 228.
- Meditation**, IV, 146 sqq..
- Melancholia**, I, 261, III, 77, III, 82.
- Melanchthon**, I, 150.
- Mendacity**, V, 71.
- Mendicant Orders**, III, 115.
- Menial tasks**, III, 131.
- Mental derangement**, Influence of, on imputability, I, 261 sq..
- Mental reservation**, V, 79 sqq..
- Mercenaries**, V, 140.
- Mercy**, Unknown among pagans, I, 13 sq.; Of God, IV, 68 sq.; Spiritual works of, V, 27 sqq.; The Church recommends mercy for condemned criminals, V, 148; Temporal works of, V, 175.
- Merits**, Supernatural, II, 98 sq..
- Methodius, St.**, I, 49, I, 250.
- Methods of Moral Theology**, I, 36 sqq.; Scholastic or speculative, I, 36 sq., I, 57 sq.; Practical or casuistic, I, 37 sq.; Ascetic, I, 38 sq..
- Meyenberg, A.**, V, 203 sq..
- Michel, P.**, I, 69.
- Midwives**, V, 211 sq..
- Milieu**, Relation between social environment and man's free acts, I, 95, III, 114.
- Military service**, V, 134.
- Milk and eggs**, As Lenten food, IV, 369.
- Mind**, Duty of cultivating the, III, 101 sqq..
- Mine operators**, V, 212.
- Minges**, Parthenius (O.F.M.), I, 53 sq..
- Minister**, Calling in a heretical, V, 42 sq..
- Minister of a Sacrament**, II, 108 sqq..
- Miracles**, Legendary, attributed to Saints, I, 31; Scientists and, IV, 36; Problem of, IV, 37.
- Miracle plays**, III, 49.
- Missing Mass on Sunday**, I, 178, IV, 336 sq..
- Missions**, Catholic foreign, I, 90.
- Mixed marriages**, II, 207.
- Mockery**, V, 111 sq..
- Moderamen inculpatæ tutelæ**, V, 124 sqq., V, 133, V, 136.
- Modesty**, I, 102 sq., III, 27, III, 29, III, 35, III, 69 sq..
- Molina, L. de (S.J.)**, I, 62, V, 343.
- Money**, As a medium of exchange, V, 261; Has become a *res fructuosa*, V, 262 sq.; As a commodity, V, 300; Nowadays an instrument of production, V, 309 sq..
- Money-changing**, V, 295 sq..
- Monogamy**, V, 485 sqq..
- Monopolies**, Capitalistic, A means of defrauding the poor, II, 89, III, 155; Definition of, V, 284 sq.; When permissible, V, 285; Advantages of, V, 285 sq.; When morally wrong, V, 286 sq..
- Monstra**, As to Baptism, II, 120.

Montanists, I, 143, V, 491.

Montes pietatis, V, 305, V, 324 sqq..

Moralists, Teaching of, a source of Moral Theology, I, 33 sqq..

Morality, Not confined to the sexual sphere, I, 2;
Outside the Christian religion, I, 13; Definition of, I, 26, I, 256; Subject of, I, 79 sqq.; Objective norm of, I, 119 sqq.; Ideal of, I, 132; First principle of, I, 192; Objective-subjective norm of (duty), I, 203 sqq.; No morality without legality, I, 207; Standard of, I, 244; Of human acts, I, 264 sqq.; Public, III, 30.

Moral law of nature, see Natural law.

Moral Theology, Definition of, I, 1 sq.; Scope, I, 2 sq.; Relation to Dogmatic Theology, I, 4 sqq.; to Protestant ethics, I, 7 sqq.; to moral philosophy, I, 11 sqq.; Object of, I, 17 sqq.; Division of, I, 74 sq..

Morbid fear, I, 261.

Mortal sins, II, 16 sqq..

Mortgages, V, 324.

Mortification, Definition of, III, 11; Christianity the religion of, III, 18 sq.; For the sake of higher blessings, III, 36; Excessive, III, 80.

Mosaic law, see Moses.

Moses, I, 136 sqq., I, 145, I, 146, I, 149.

Motherhood insurance, V, 515.

Mothers, Duties of, V, 513 sqq.; Unmarried, V, 515.

Mother's milk, V, 513.

Motion pictures, III, 52 sqq..

Motives of duty, I, 204 sqq..

Motus primo-primus, I, 105.

"Movies", III, 52 sqq..

Moya, M. de, I, 224.

Müller, E. M., I, 70.

Murder, Implies malice aforethought, I, 259 sq.; Its wickedness augmented by an apparently good purpose, I, 271; Connexion between lust and, II, 77; Inspired by envy, II, 78; Definition of, II, 87, V, 208 sq.; Direct or indirect, II, 87; Why a terrible crime, II, 87 sqq.; Kinds of, V, 209 sqq..

Mutilation, V, 120, V, 212 sqq..

Mutuum, V, 260 sqq.; *Titulus mutuo extrinsecus*, V, 303.

Mystery of iniquity, I, 6.

Mysticism, I, 38 sq., I, 49, I, 64 sqq., I, 151 sqq., I, 190 sqq.; Superstitious, IV, 309 sqq..

Mystic Theology, IV, 150.

Mystic union of the soul with God, IV, 149 sq..

Narcotics, V, 120.

Natalis, Alexander, I, 57, I, 225.

Nationality, I, 215, I, 216, V, 552 sq..

Natural law, Definition of, I, 122; Content of, I, 122 sq.; Existence of, I, 123 sq.; Author of, I, 125 sqq.; Universality of, I, 127 sqq.; Primary and secondary precepts of, I, 128 sqq.; Absolute or unchangeable, I, 130 sq.; Binding force of, I, 130 sq..

Nature, Man subject to, I, 84 sq..

Need, Stealing in extreme, V, 363 sqq., V, 444.

Needs of man, III, 23.

Neglect, III, 110 sq..

Negligence, In relation to moral imputability, I, 260.

Nemo ex re aliena locupletari potest, V, 380 sq..

Neo-Malthusianism, V, 478 sq..

Nepotism, IV, 238, V, 544.

Neurasthenia, III, 137.

Newman, J. H., III, 71.

Newspapers, And suicide, III, 81 sq.; Mendacity and detraction the primary vices of, V, 107; Conscienceless in fomenting war, V, 144.

New Testament, Moral law of the, I, 141 sqq., I, 145 sqq.; And the Decalogue, II, 53; On marriage and virginity, II, 202.

Nicholas the First, III, 69.

Nicholson, Prof., III, 128.

Nietzsche, F., I, 127, III, 15.

Noachian precepts, I, 136.

Noë, I, 136, II, 80, III, 59.

Noldin, H. (S.J.), I, 70 sq., III, 50, III, 142, IV, 63 sq., IV, 308, V, 169, V, 205, V, 241.

Non-combatants, To be spared in war, V, 137 sq..

Non-Intervention, The so-called principle of, V, 135 sq..

Nostalgia, Impedes the normal use of reason, V, 461 sq..

'Novels, V, 59 sq..

Nude in art, III, 48 sq..

Nuptial blessing, V, 491.

Nurses, V, 212.

Nursing infants, V, 513 sq..

Oath, Definition of, IV, 243; Division of, IV, 243 sqq.; Lawfulness of, IV, 246 sqq.; Conditions of validity and licitness, IV, 252 sqq.; Sins in connection with, IV, 263 sqq..

Obedience, I, 167 sq., I, 209, I, 236 sqq., I, 249, V, 483, V, 536, V, 563 sq..

Oberholtzer, Ellis P., III, 52, III, 54.

Oberrauch, A. N. (O.F.M.), I, 68.

Object, Of Moral Theology, I, 17 sqq.; Of morality, I, 265 sqq..

Obligation of law, I, 163 sqq..

Obscenity in art, III, 48 sq..

Obsession, I, 200.

Obstacles to voluntary action, I, 113 sqq..

Obstetrical operations, V, 219 sqq..

Obstraet, J., I, 223.

Occasions of sin, II, 46 sqq.; Proximate and remote, II, 47; Voluntary and necessary, II, 48; *Occasio quae est in esse* and *occasio quae non est in esse*, II, 48; How to avoid, II, 49 sq..

Occult compensation, V, 366 sq., V, 418 sqq., V, 444.

Occult remedies, IV, 276.

Occupancy, A title of ownership, V, 226 sqq..

Occupations, Church makes no distinction between, III, 116; Parasitical, III, 138; Dangerous, III, 93 sq.; Restitution for damage done in the choice of an, V, 450 sqq..

“Odiosa sunt restringenda,”, I, 178.

Odium generis humani, V, 106.

Offense, Sin an offense of God, II, 10.

Office, Divine, IV, 115 sqq..

Officials, Public; Not merely public servants, but masters, V, 557 sq.; Duties of, V, 554 sqq.; Knowledge, V, 558; Fidelity, conscientiousness, impartiality, V, 559; Justice, V, 560; Reverence owing to, V, 576 sq..

Old Testament, Positive law of the, I, 135 sqq., I, 146; And the Decalogue, II, 53.

O’Malley, Austin, V, 220 sq..

Omission, Sins of, I, 254, I, 257, I, 259, II, 53 sq..

Onanism, II, 74, V, 474 sq..

O’Neill, A. B. (C.S.C.), III, 71.

Opera forensia, IV, 333.

Opera liberalia, IV, 331.

Opera media, IV, 331.

Opera meliora, I, 238.

Opera omnia on the Index, IV, 417.

Operarii, IV, 379.

Operations, Surgical, III, 88, III, 90, III, 97, V, 120.

Oppression, Of the poor, II, 89.

“Options,”, V, 289 sq..

Oratio communis, IV, 171.

Ordeals, IV, 273 sq., V, 222.

Orders, Religious, I, 244 sq..

Ordo Divini Officii Recitandi, IV, 119.

Organ-Playing in a heretical church, V, 42.

Origen, I, 45, II, 81, IV, 355.

Original sin, I, 184, I, 276, II, 12.

Orphans, II, 89, V, 515.

Osee, I, 131.

Ouija board, IV, 285 sqq..

Ovaries, Excision of the, III, 84, V, 475.

Ownerless objects, V, 228, V, 409 sq..

Ownership, The right of private, V, 225; Original titles of, V, 226 sqq.; Occupancy, V, 226 sqq.; Most common kinds of, V, 227 sq.; Of lost articles, V, 229 sqq.; Accretion or production, as a title of, V, 232; Labor as a title of, V, 233 sq.; Derivative titles of, V, 235 sqq.; Prescription, V, 235 sqq.; Bequests, V, 238 sqq.; Sins against, V, 349 sqq..

Pacificus Novariensis, I, 55.

Pactum de peccato patrandu, V, 244 sq..

Paganism, I, 13, I, 44, I, 47.

Pain, May be rendered meritorious, III, 12 sq.; Christianity has no mission to eliminate, III, 18; False teaching of the “Christian Scientists,” IV, 305 sqq..

Palmieri, D. (S.J.), I, 70, V, 360.

Palmistry, IV, 275.

Parables, I, 29, I, 147.

Paramimia, III, 82.

Parents, Duties towards, I, 215 sq.; Duties of, with regard to Baptism, II, 118 sq.; Right of, to be consulted regarding First Communion of their children, II, 132; Rights of, in regard to marriage of children, II, 206; Duties of, towards children when engaged to marry, II, 209; May not force their children to steal, V, 40; Duties of, to their children, V, 511 sqq.; Education, V, 513; Support, V, 513 sq.; Choosing a vocation, V, 516, V, 520; Instruction, V, 519 sq.; Moral and religious training, V, 520 sqq.; Importance of home training, V, 521 sq.; Must punish children, V, 523; Must give them a good example, V, 523 sq.; Qualities of parental discipline, V, 524 sq.; Instruction in matters of sex, V, 525 sqq.; The duties of children to their, V, 532 sqq.; Limits of parental authority not easy to define, V, 545.

Parks, Public, III, 33.

Parrots, III, 64.

Parsimony, III, 67.

Partnership in crime, V, 400 sq..

Partnerships, V, 327 sqq..

Parvitas materiae, I, 172, I, 209, I, 273, II, 30, II, 32, II, 33, II, 73, II, 78, II, 168, II, 175, II, 185.

Pascal, B., I, 63, I, 229.

Pasqualigo Z., I, 224.

Passions, The, I, 103 sqq..

Pastor, Duty of supporting one's, IV, 393 sqq..

Patents, V, 234.

Paternity, Uncertainty as to, V, 438, V, 439, V, 440, V, 442.

Pater noster, The most beautiful and sacred of all prayers, IV, 156 sqq.; St. Thomas on, IV, 159 sq.; St. Augustine on, IV, 160; The petition for bread in the, IV, 160 sq.; The "public and common prayer of the faithful," IV, 161.

Patriotism, Can be demonstrated without war, V, 143; A form of charity, V, 565; St. Thomas on, V, 565 sq.; Dr. Ryan's analysis of, V, 566 sq.; Recrudescence of pagan, V, 568; Exploited by the capitalist class to counteract social justice, V, 569; The higher, V, 569 sq..

Patristic period in the history of Moral Theology, I, 42 sqq..

Patuzzi, J. V., I, 60, I, 225.

Paul, St., Prot. idea of morality pretends to be drawn from, I, 9; On the moral law of nature, I, 123; On the law of the spirit vs. sin and death, I, 142; On the moral of the N. T., I, 145, I, 146; "The law is good if a man use it lawfully," I, 152; On the end of law, I, 153; On the obligation of law, I, 163 sq.; On conscience as the rule of morality, I, 183; On supererogatory good works, I, 240; On virginity, I, 240 sqq.; On ignorance as diminishing responsibility, I, 258; On divine co-operation in sin, II, 6 sq.; Vocation of, II, 8, II, 36; On temptations, II, 37, II, 38; On the devil, II, 39; On how to combat temptations, II, 45 sq.; On mortification, II, 50; On the Ten Commandments, II, 52; On sins of the flesh and the spirit, II, 54; On the "works of the flesh," II, 55; On desiring the office of a bishop, II, 69; On avarice, II, 72; On impurity, II, 74 sq.; On gluttony, II, 79; On drunkenness, II, 81; Righteous anger of, II, 82; On Extr. Unction, II, 191; On marriage, II, 203, II, 209 sq.; On rejoicing in the Lord, II, 211; On the divorce law, III, 1; On personality, III, 7; On cherishing life, III, 12; On offering up tribulations, III, 13; On suffering as a source of joy, III, 14; On longing for death, III, 16; On preserving life and health, III, 21; "All things are yours," III, 23; "Make not provision for the flesh," III, 24; "Nothing is unclean of itself," III, 25; "Rejoice in the Lord," III, 45; "If any man know not, he shall not be known," III, 102; "Knowledge puffeth up," III, 108; "If any man will not work, neither let him eat," III, 121 sq.; On the poverty of Christ, III, 152; "They who serve at the altar, share with the altar," III, 153; On riches, III, 154; On moral worth, III, 169; "We labor, working with our own hands," III, 172; On being honored, III, 175 sq.; On the worthlessness of faith without charity, IV, 20; On the power of faith, IV, 23 sq.; Against heresy, IV, 32; Beautiful description of charity in 1 Corinthians, IV, 73; On prayer for specific objects, IV, 103; On the necessity of prayer, IV, 107; The "*stimulus carnis*," IV, 150 sqq.; Shore his head in pursuance of a vow, IV, 202; Applying his teaching to the law of fasting, IV, 366; On the duty of providing the means necessary for divine worship and the support of those engaged in it, IV, 393; On charity, V, 18; On the duty of giving a good example, V, 28 sq.; warns against uncharitable

- harshness toward the erring, V, 32 sq.; Warning to abstain from evil, V, 51; On lying, V, 53, V, 64; Censured the magistrates who thrust him into prison, V, 128; On the right of civil authority to wield the sword, V, 134; On capital punishment, V, 147; On the necessity of work, V, 163 sq.; On almsgiving, V, 174; On matrimonial cohabitation, V, 468; On the mutual love of the married, V, 482 sq.; On the indissolubility of marriage, V, 493; On the duties of parents, V, 512, V, 538; On the relation of parents to children, V, 516; On the source of civil power, V, 549; On obedience to civil authority, V, 563.
- Paullus, N.,** V, 38.
- Pauperism,** V, 518.
- Payne, J. H.,** III, 31.
- Pawn,** V, 321 sqq..
- Pawnbrokers,** V, 323.
- Pawntickets,** V, 323.
- Peabody,** III, 16.
- Peace,** Must be the foremost aim of every statesman, V, 142; Universal, V, 142 sq.; Commercialism vs. peace, V, 144; International, V, 570.
- Peccata mortalia ex toto genere suo—ex genere suo non toto—ex genere suo—per accidens,** II, 32.
- Peccatum irremissibile,** II, 93.
- Pederasty,** II, 74.
- Pelagianism,** I, 109, IV, 61 sqq., IV, 116 sq..
- Penal laws,** I, 169 sq..
- Penance,** I, 238, II, 108, II, 109, II, 110, II, 112, II, 113, II, 116; Necessity of, II, 135; Duty of receiving the Sacr., II, 136 sqq.; Requisites of worthy reception, II, 138 sqq.; Contrition, II, 140 sq.; Purpose of amendment, II, 146 sqq.; Confession, II, 151 sqq.; Questioning and instructing penitents, II, 162 sqq.; Seal of confession, II, 167 sqq.; Absolution, II, 177 sqq.; Satisfaction, II, 183 sqq..
- Penitence,** I, 154.
- Penitential books,** I, 51.
- Penitential discipline of the early Church,** II, 18.
- Penitents,** Duty of the confessor to question and instruct, II, 162 sqq.; Obligation of, to perform the penance imposed, II, 184 sq..
- Peraldus,** I, 52.
- Perault,** I, 52.
- Peregrini,** I, 174 sq..
- Perfection,** I, 10, I, 24 sq., I, 38, I, 236 sqq., I, 244, I, 252, III, 7, III, 18.
- Perfidy,** V, 89.
- Periculum sortis amittendae,** V, 303, V, 324.
- Periodical publications,** IV, 399 sq., IV, 403.
- Perjury,** An intrinsically bad act, I, 266; Does *simulatio* involve the guilt of?, IV, 256; Definition of, IV, 263; Moral guilt of, IV, 263 sq.; Simple and solemn, IV, 264; A mortal sin *ex toto genere suo*, IV, 264; All sins of, of the same moral species as the oaths themselves, IV, 264; Alarming increase of, IV, 265; As a reserved case, IV, 265; As perfidy, V, 89.
- Permission to read forbidden books,** IV, 410 sq..
- Perplexity of conscience,** I, 211 sqq..
- Perseverance in the chosen vocation,** III, 118 sqq..
- Pesch, Chr. (S.J.),** II, 16; Henry (S.J.), V, 310.
- Pessaries,** V, 474.
- Pessimism,** I, 23, V, 576.
- Peter, St.,** I, 43, I, 164, I, 258, II, 50, II, 82, III, 140, V, 30, V, 577.
- Peter Damian, St.,** I, 51.
- Peter de Palude,** II, 192.
- Peter Lombard,** I, 52 sq., II, 68, II, 92.
- Peterson, Dr.,** III, 82.
- Petition,** Prayer of, IV, 140 sq., IV, 193.
- Pharisaic ostentation,** V, 182.
- Pharisees,** I, 157, I, 199, I, 206, I, 207, II, 56, II, 81, V, 102.
- Philanthropy,** V, 15.
- Philip Neri, St.,** III, 19, IV, 129.
- Photography,** Not forbidden on Sunday except on the part of those who ply it as a trade, IV, 332.
- Phrenology,** Worthless for diagnosing character, IV, 275 sq..
- Pictures,** Sacred, Fall under ecclesiastical censorship, IV, 403; Forbidden if contrary to the mind of the Church, IV, 408.
- Physician,** Duty of sick persons to call a, III, 57; When bound to give his life or allow others to take it, III, 86; Patients bound to allow themselves to be operated upon if advised by a reputable, III, 90; Profession of, indirectly productive, III, 127; Responsibility for accidental homicide, V, 211.
- Pictures,** Obscene, V, 120.
- Piety,** Works of, permitted on Sunday, IV, 334.
- Piracy,** II, 87.

Pius the Ninth, I, 168, III, 19, V, 492.

Pius the Tenth, Recommends gymnastic exercises, III, 45; Condemns the custom of not admitting children to confession, or not absolving them when they have reached the age of discretion, IV, 382 sq..

Plagiarism, V, 367.

Plato, I, 278, III, 150.

Playing, Of children should be directed properly, III, 37 sqq.; Line of demarcation between work and, III, 128.

Playgrounds, Public, III, 33, III, 56.

Pleasure, Morose, II, 58 sq.; Must be sacrificed for higher blessings, III, 36; Complete abstention from, makes men dull, III, 39; A life devoted to bodily, degrades man to the level of the beast, III, 122.

Pleasure trips, Taken for recreation are morally licit, III, 49.

“Pledge,” The (to abstain from intoxicating drink), is merely a good resolution and does not oblige *sub gravi*, IV, 223.

Pledges, V, 321 sqq..

Poena conventionalis, V, 303 sq..

Pohle, Joseph, II, 38.

Poisoned weapons in war, V, 138.

Politeness, III, 70, V, 21, V, 93 sqq..

Politics, Woman in, V, 506 sqq.; To what extent a citizen is obliged to participate in, V, 564 sq.; Men vs. party, V, 574 sq.; Political organization, V, 576.

Polyandry, V, 485.

Polycarp, St., I, 43 sq., V, 102.

Polygamy, V, 485 sqq..

Pompey, I, 14.

Poor, Oppression of the, II, 89; Moral degradation of the, owing largely to lack of decent homes, III, 30; Obligation of the wealthy to share their wealth with the, III, 151; The law of fasting and the, IV, 354; Alms to the, V, 177 sqq.; Relief, V, 185, V, 190.

Porro’s operation, V, 221.

Possession, As a condition of prescription, V, 237.

Possessor bonae fidei, V, 385 sqq.; *Dubiae fidei*, V, 387 sq.; *Malae fidei*, V, 413.

Poulain, A., (S.J.), IV, 129 sq., IV, 153.

Poverty, Voluntary, I, 236 sq., I, 242 sq., I, 249, V, 193; Neither a virtue nor a source of virtue, but apt to become such, III, 151 sq..

Power, All from God, I, 158, I, 163; As distinct from habit, I, 275 sq..

Praise, As a means of co-operation in evil deeds, V, 398.

Prayer, In conflict of duties, I, 216; Inherent morality of, I, 265, I, 266; Becomes bad if done for a wicked purpose, I, 268; As a means of combating temptations, II, 45; As a means of converting a proximate into a remote occasion of sin, II, 50; Neglect of, II, 83; As a means of combating concupiscence, II, 105 sq.; As a means of atoning for sin, II, 185 sq.; Bodily rest can be made supernaturally meritorious by, III, 35; Work performed in the spirit of prayer has an eternal value, III, 123; Of petition, IV, 140 sq., IV, 193; Nature of, IV, 96 sqq.; Efficacy of, IV, 98 sqq.; Object of, IV, 103 sqq.; Necessity of, IV, 106 sqq.; Without ceasing, IV, 109 sqq.; Ejaculatory, IV, 111 sq.; Duty of praying, IV, 113 sq.; Qualities of, IV, 122 sqq.; Kinds of, IV, 139 sqq.; Form of, IV, 144 sqq.; Various forms of, IV, 156 sqq.; Sins opposed to, IV, 181 sqq.; The duty of praying for others, V, 27 sq..

Preaching, Duty of, IV, 335 sq..

Precepts, Of the moral law, I, 129 sq.; Positive divine, I, 135 sqq.; Intended as counsels, I, 236 sqq.; Difference between precept and counsel in the strict sense, I, 248 sqq..

Pregnancy, V, 214 sqq..

Premature delivery, When it may be induced, V, 219.

Preparations for war, V, 143 sq..

Prescription, As a title of ownership, V, 235; Conditions of, V, 236 sq.; Time required for, V, 237 sq.; As a cause excusing from restitution, V, 418.

Presence at Mass, Must be bodily, moral, and continuous, IV, 336 sqq..

Press, The periodical, V, 35 sq., V, 43 sq..

Presumption, II, 69, II, 94, IV, 58 sqq., V, 417 sq..

Price, In sales contracts, V, 276 sqq.; Must be reasonable, V, 279 sq.; Fancy, V, 281; Of ill-gotten goods, V, 383 sq..

Pride, II, 55, II, 56, II, 65, II, 68 sqq., III, 109, IV, 32 sq..

Prierias, Sylvester, I, 55.

Priesthood, Preparation for the, II, 198 sqq.; Freedom in the choice of, as a vocation, III, 114; The choice irrevocable, III, 118 sq..

Priests, Have full liberty of disposing of their property, but should favor the Church and the poor, V, 240; Should promote a fine sense of justice, V, 352; Must be careful in giving religious instruction, V, 456.

Prison discipline, V, 122 sq..

Prisoners, Maltreating, akin to murder, II, 87; Punishment of, should aim at reformation, V, 122 sq.; Danger of sentimentality in regard to treatment of, V, 122 sq.; Of war should be treated humanely, V, 138.

Private ownership, Definition, III, 143; When a duty, III, 143; Supreme title of ownership is labor, III, 143 sq.; Based on the rational nature of man, III, 144 sqq.; Were the early Christians Communists?, III, 146 sq.; Patristic teaching on, III, 147 sq.; Dr. Ryan on the teaching of St. Jerome, III, 148 sq..

Privilege, I, 180.

Probabiliorism, I, 224 sqq., I, 229, I, 234.

Probabilism, Explanation of, I, 218 sqq.; Scope of, I, 221 sq.; Teaching of, I, 226 sqq..

Probabilissima, I, 221, I, 223.

Probability, Kinds of, I, 220 sq..

Probst, Fr., I, 69.

Procuratio abortus, V, 214 sqq..

Profession, Religious, When it excuses from restitution, V, 419 sq..

Profiteering, II, 89 sq..

Prohibition of books, IV, 405 sqq..

Promise, As a species of contract, V, 250 sq.; Of marriage, V, 429 sqq..

Promise of marriage, II, 208.

Promises, Must be kept, V, 85 sqq..

Promulgation of law, I, 161 sq..

Properties of human law, I, 160 sqq..

Property, Sins against, II, 89, V, 349 sqq.; Right and duty of acquiring and possessing, III, 143 sqq.; Confiscation of, V, 7 sq.; Duty of restoring alien, V, 379 sqq..

Proselytism, Religious, V, 36.

Prostitution, II, 112, III, 138.

Protestant ethics, I, 7 sqq., I, 148 sq..

Protestantism, Essentially antinomian, I, 150 sq.; Its teaching that labor is a sacred office and a duty is essentially Catholic, III, 140 sq..

Protestants not bound by the laws of the Church, I, 173.

Provincialism, V, 568.

Provocation to sin, II, 63.

Prudence, III, 107 sqq..

Prüm, Regino of, IV, 363.

Pruner, J. E., I, 69.

Pseudo-mystics, I, 151 sqq..

Psychoses, V, 213.

Pubiotomy, V, 221.

Public dance halls, III, 55.

Publice indigni, II, 112.

Publishers, V, 44.

Punishment, And the law of nature, I, 156; Only free acts subject to, I, 257; Bodily, of children, V, 119; Corporal, for criminals, V, 121 sq.; Primarily and essentially retributive, V, 122; Corrective only in a secondary way, V, 122; Of children, V, 523.

“Pure” duties, I, 19 sq..

Puritans, Their unreasonable attitude towards the stage, III, 51.

Purpose of amendment, II, 146 sqq..

Pusillanimity, Sometimes a sin against hope, sometimes a mere mood, sometimes a temptation, IV, 66.

Pythagoras, I, 278.

Quadragesima, The forty days' fast, How it originated, IV, 358 sq..

Quakers, Attitude of, towards the theatre, III, 49.

Quasi-domicile, I, 174.

Questioning penitents, Duty of, II, 162 sqq..

Quietists, I, 20 sq..

Race-track gambling, V, 341.

Radulphus Ardens, III, 133.

Railroads, III, 33.

Rape, II, 77, V, 435, V, 438.

Rappenhöner, J., I, 69.

Rash judgments, V, 97 sqq..

Rassler, Chr., I, 233.

Ratherius of Verona, III, 140.

Ratio legis, I, 177 sq., I, 207.

Rationalism, I, 67.

Raupert, J. G., IV, 283, IV, 288, IV, 290.

Raymond of Pennafort, St., I, 54, II, 26.

Reason, A source of Moral Theology, I, 26 sqq.; The measure of the will, I, 119; The promulgator of the moral law of nature, I, 122; Not autonomous, I, 125; And conscience, I, 188 sq..

Reception of the Sacraments, Requisites of worthy, II, 115 sqq..

Reconciliation, Between enemies, V, 19 sqq..

Recovery of health in sickness, III, 57.

Recreation, Need of, III, 35; Bodily and mental, III, 35 sq.; Ethical aspect of amusements, III, 36; Not all suitable for all, III, 36; For children, III, 37 sqq.; Social intercourse, III, 39 sq.; Games and plays, III, 41; Dancing, III, 42 sq.; Bodily exercise, III, 43 sqq.; Reading, III, 46 sq.; Art, III, 47 sq.; Traveling, III, 49; The theatre, III, 49 sqq.; Picture shows, III, 52 sqq.; Public dance halls, III, 55; Public playgrounds, III, 56; Community festivals, III, 56 sq.; Sunday, a day of innocent, IV, 328 sqq..

Rekursus, As a means of cooperation in evil, V, 398 sq..

Red Cross, V, 139.

Redemptorists, I, 233.

Referee, V, 256 sq..

Regeneration, Moral, II, 98 sqq..

Regicide, V, 210.

Reginald, Valerius, I, 63.

Regnier de Marais, I, 66.

Reiffenstuel, Anacleto (O.F.M.), I, 59.

Relapse, Not always a sign that one's purpose of amendment lacked firmness, II, 148 sq..

Relatives, Mutual duties of, V, 543 sqq..

Religion, Duty of the State to foster, V, 556 sq..

Religious, Life of, III, 114; When bound to denounce delinquent brethren, V, 35; May not give alms from the common property without permission, V, 181; Vow of poverty, V, 193; Profession, when it excuses from restitution, V, 419 sq.; No one may be restrained by force or fraud from entering a religious order, V, 455; Duties of, in regard to admission of novices, V, 455.

Remarriage of either party after the death of the other, V, 489 sqq..

Remission as a cause excusing from restitution, V, 417 sq..

Rentes, V, 293 sqq., V, 305.

Reparation, see Restitution.

Reputation, III, 165 sqq..

"Rerum novarum," Encyclical, III, 145.

Res clamat domino, V, 380, V, 385.

Res fructificat domino, V, 380, V, 384.

Res naturaliter perit domino, V, 380, V, 385, V, 386.

Reserve, Prudent, V, 21 sq..

Resistance to authority, Passive, I, 166; Active, I, 167 sq..

Resisting the known Christian truth, II, 94.

Resolutions, Good, II, 146 sqq..

Respect, A duty men owe to one another, V, 1 sqq.; The foundation of, charity, V, 2; How violated, V, 4 sqq..

Responsibility, I, 256, I, 261, I, 262.

Rest, see Recreation.

Restitution, In case of simony, IV, 239 sqq.; Duty of, arising from scandal, V, 51; From calumny and detraction, V, 113 sqq.; Definition of, V, 375; Necessity of, V, 376 sqq.; *In re* and *in voto*, V, 377 sq.; The "roots" of, V, 378 sqq.; The duty of restoring property belonging to others, V, 379 sqq.; Rules for, V, 379 sqq.; Restoring the fruits of an ill-gotten object, V, 381 sqq.; The duty of repairing unjust damage or loss inflicted on others, V, 389 sqq.; For sins of co-operation, V, 392 sqq.; The circumstances of, V, 403 sqq.; Who must make, V, 404 sqq.; What and how much, V, 406; To whom, V, 406 sqq.; When, V, 410 sqq.; Where, V, 412 sq.; In what manner, V, 413 sqq.; Causes which excuse from, V, 416 sqq.; Condonation or remission, V, 417 sq.; Presumption, V, 417 sq.; Legal prescription, V, 418; Occult compensation, V, 418 sqq.; Religious profession, V, 419 sq.; Papal dispensation, V, 420 sq.; Temporary postponement justified by physical or moral disability, V, 421 sq.; And by bankruptcy, V, 422 sqq.; Of damage caused to life and limb, V, 425 sqq.; Duty of, arising from broken matrimonial engagements, V, 429 sqq.; Duty of, arising from fornication and adultery, V, 433 sqq.; For damage done to property of others, V, 443 sqq.; For damage done in the choice of a vocation or an occupation, V, 450 sqq.; For spiritual damage, V, 453 sqq..

Restrictio stricte mentalis, V, 79 sqq..

Retention of ill-gotten goods, V, 354, V, 378.

Retraction, V, 114 sqq..

Retribution, V, 128.

- Retrovenditio**, V, 281 sq..
- Reuter**, John (S.J.), I, 58.
- Revealing one's secret faults**, III, 177.
- Revelation as a source of Moral Theology**, I, 27 sqq..
- Revelations**, Private, IV, 149 sq., IV, 153 sqq., IV, 311, IV, 407.
- Revenge**, II, 78, II, 88.
- Reverence**, a duty of children toward their parents, V, 533 sq..
- Revolution**, Against legitimate government is forbidden, I, 168.
- Richard a Mediavilla**, II, 192.
- Richard of St. Victor**, I, 55, IV, 152.
- Rickaby**, Jos. (S.J.), I, 275, I, 276, I, 278, III, 104, V, 68, V, 158 sqq., V, 161.
- Ridicule**, as a means of co-operation in evil, V, 398.
- Rietter, A.**, I, 69.
- Right**, Notion of, V, 13 sq.; Appertains to jurisprudence, V, 14; Right to life, V, 118 sqq.; Right of self-defense, V, 124 sqq.; Man's right to the necessities of life, V, 163 sqq..
- Rigorism**, I, 38, I, 44, I, 219, I, 222 sqq., I, 234, I, 242, II, 27, II, 132.
- "Rings" in commodities**, V, 287.
- Rites, S. Congr. of**, IV, 402.
- Robbery**, V, 367 sqq..
- Robert of Flamesbury**, I, 54.
- Rodriguez**, Al. (S.J.), I, 65 sq..
- Rosary**, The, IV, 164 sqq..
- Roscher**, III, 67.
- Ross, J. E. (C.S.P.)**, V, 161 sq., V, 170, V, 177 sq., V, 347.
- Rottmanner**, Odilo (O.S.B.), III, 109.
- Rudeness**, V, 93.
- Rufinus**, IV, 363.
- Ruysbroeck, Bl. John of**, I, 56.
- Ryan**, John A., III, 148 sq., III, 155, III, 158, III, 159, III, 160, III, 161, V, 335, V, 566 sqq., V, 574, V, 576.
- Sa**, Emmanuel (S.J.), I, 63, III, 99, V, 131.
- Sabbath**, The sanctification of, I, 137 sq.; Precept does not bind *sub gravi incommodo*, I, 171 sq.; Servile labor permitted on the, to assist a fellowman in need, I, 213; It is not permitted to violate the truth in order to satisfy the obligation of sanctifying the, I, 214; Earthly and heavenly, III, 136.
- Sabetti, A. (S.J.)**, I, 70, IV, 396, IV, 397, V, 360, V, 424.
- Sacramentals**, II, 212 sqq..
- "Sacramenta propter homines"**, II, 111.
- Sacraments**, The, The Church attributes no magical effect to, I, 9; Supernatural aids to a moral life, I, 12; The *pars tutior* must always be chosen in the administration of, I, 221; Means of grace which man is in duty bound to use, II, 107; Requisites of valid administration, II, 108 sqq.; Of worthy reception, II, 115 sqq.; Baptism, II, 118 sqq.; Confirmation, II, 121 sqq.; Holy Eucharist, II, 123 sqq.; Penance, II, 135 sqq.; Extreme Unction, II, 188 sqq.; Holy Orders, II, 197 sqq.; Matrimony, II, 201 sqq.; Render the body a temple of the Holy Ghost, III, 10.
- Sacra Parallela**, I, 51.
- Sacrifice**, As a religious act, IV, 191 sqq.; Moral significance of, IV, 196 sq..
- Sacrificium intellectus**, IV, 41.
- Sacrilege**, To receive a Sacrament of the living in a state of mortal sin is a, II, 116; Unworthy reception of the Holy Eucharist the greatest of sacrileges, though not the most grievous sin a man may commit, II, 127; Definition of, IV, 231; Division of, IV, 231; Personal, IV, 231 sq.; Real and local, IV, 232; A mortal sin *ex genere suo*, IV, 233.
- Sadducees**, II, 81.
- Sadism**, II, 88.
- Sadness**, II, 77 sq..
- Sage**, Russell, II, 72.
- Sailer, J. M.**, I, 68, V, 117, V, 525.
- Saints**, The, A Protestant tribute to, I, 14; Eccentricities in the lives of, I, 29; Lives of, a source of Moral Theology, I, 30; Fictitious lives of, I, 31 sq.; Lives of the, are "the Gospel put into practice," I, 32 sq.; Belong to every age, clime, and condition, I, 88; Feasts of the, IV, 325.
- Sales contracts**, V, 276 sq..
- Saligia**, a memory word containing the Latin initials of the seven capital sins, II, 68.

- Salmanticenses**, I, 59.
- Saloon**, III, 30, III, 55.
- Salsmans, J. (S.J.)**, I, 72.
- Salvage**, The so-called right of, V, 228.
- “Salve Regina,”**, IV, 168.
- Samson**, III, 89.
- Sanchez, J.**, I, 224.
- Sanchez, Thos. (S.J.)**, I, 61, I, 224.
- Sancto Ignatio**, Henry a, I, 223.
- Satan**, Intercourse with, IV, 298 sq..
- Satisfaction**, Sacramental, An integral part of
Penance, II, 183; Duty of the confessor in regard to,
II, 183 sq.; Obligation of the penitent, II, 184 sqq.;
Penitent may ask to have it commuted, II, 184;
Failure to perform is a mortal sin, II, 185; Penitent
not free to substitute some other penance for the
one imposed, II, 185.
- Savages**, Use of in war, V, 139.
- Scandal**, A circumstance that may alter the moral
species of an act, I, 272; Necessary to tell in
confession to how many scandal was given, I, 274;
Grave scandal may render a sin mortal, II, 32; The
world is full of, II, 43; Drinking to excess may
become mortally sinful through scandal, II, 80;
Sacraments may not be administered to *publice
indigni* unless they have repaired the scandal given,
II, 112; Eucharistic fast does not bind when there
is danger of scandal, II, 129; What to do when one
has inadvertently given, III, 171 sq.; Definition of,
V, 44 sq.; Active and passive, V, 44 sq.; *Pharisaicum*,
V, 45, V, 49; Duties with regard to giving and
taking, V, 47 sqq.; *Pusillorum*, V, 49 sq.; Restitution
involved by, V, 454.
- Scaramelli, J. B. (S.J.)**, I, 67.
- Scavini, P.**, I, 70.
- Scepticism**, IV, 36.
- Scheicher, J.**, I, 69.
- Schell, H.**, II, 16, II, 24, IV, 5.
- Schenkl, M. von (O.S.B.)**, I, 68.
- Schiller**, III, 109, V, 24, V, 30.
- Schindler, F. M.**, I, 69.
- Scholastic period in the history of Moral
Theology**, I, 51 sqq..
- Schism**, IV, 38 sq..
- School**, A necessary means of education, I, 93;
Supplements and complements the training
received at home, I, 94; Its chief defect, I, 94 sq.;
The State and, III, 104; Parents have the right to
choose, V, 519 sq.; Education not for the school
alone, V, 521 sq..
- Schwane, J.**, I, 69.
- Scienti et volenti non fit iniuria***, V, 129.
- Scintilla animae***, I, 190 sqq..
- Scintilla Patrum***, I, 51.
- Scotus**, see Duns Scotus.
- Scrupulousness**, Defined, I, 199; Often simulated, I,
199; Sometimes mere hypocrisy, I, 199; How it can
be cured, I, 199 sqq..
- Sculptors**, IV, 332.
- Sculpoli, L.**, I, 65.
- Seal of Confession**, II, 113, II, 167 sqq., V, 415.
- Searle, G. M. (C.S.P.)**, IV, 307.
- Seasons**, Closed, During which the Church wishes
her children to eschew noisy festivities, IV, 346 sq..
- Second marriage**, V, 489 sqq..
- Secrets**, Definition of, V, 73; Kinds of, V, 73 sqq.;
Natural, V, 73, V, 75 sq.; Official or professional, V,
74, V, 76; Promised, V, 74 sq.; Sacramental, V, 75;
The duty of keeping, V, 75; When it ceases, V, 76
sq.; When it does not oblige, V, 77; Opening
letters, V, 77; Secret diplomacy, V, 77 sq.; The art of
keeping a secret, V, 78; Family secrets, V, 78;
Means of keeping a secret, V, 79; amphiboly or
equivocation, V, 79; Mental reservation, V, 79 sqq..
- Seduction**, II, 74, V, 50, V, 434, V, 436, V, 439, V, 454.
- Self-defamation**, Is it permitted?, III, 176.
- Self-defense**, Right of, V, 124 sqq..
- Self-denial**, I, 153, III, 72 sq., III, 117.
- Self-government**, Duties resulting from, V, 571 sqq..
- Selfishness**, As a motive, I, 19 sqq.; The ultimate
cause of all sin, II, 25; Sadness combined with,
always sinful because directly opposed to charity,
II, 78; As opposed to Christian self-love, III, 6, III,
8; No admixture of in love of one's enemies, V, 18.
- Self-love**, I, 22; Infatuation of, resulting from
covetousness, II, 72; Duty of Christian, III, 4 sqq..
- Self-mutilation**, III, 83 sq..
- Self-preservation**, III, 5, III, 21, III, 76.
- Self-respect**, III, 7.
- Self-restraint in the married state**, V, 477 sq..

Selling, V, 276 sqq..
Seminaries, II, 199.
Seneca, I, 83, III, 7, III, 76, III, 153, IV, 152, V, 29, V, 187.
Sensationalism of the press, V, 144 sq..
Sensuality, III, 25, III, 66.
Sentimentalism, III, 60.
Separation a mensa et toro, V, 443, V, 467, V, 495, V, 496.
Sequestration, V, 256 sq..
Sermon on the Mount, I, 147, I, 282.
Sermons, Duty of hearing, on Sundays, IV, 335; How to hear, IV, 335 sq.; Never neglected by the Church, IV, 336.
Servants, Duties of, V, 88; May not give alms from the property of their masters, V, 181; Theft by, V, 357, V, 444; Bound to prevent damage to the property of their masters, V, 401 sq.; Relations of, to their masters, V, 546 sq..
Servitude, see Slavery.
Sex, A determinant of free-will, I, 91 sqq.; Advantages and defects of the two, I, 91 sq.; The same law binds both, I, 92; Double standard of morals un-Christian, I, 92; Unequality of the two sexes, V, 503 sqq.; Instruction in matters of, V, 525 sqq..
Sexten, Hilarius à, see Gatterer.
Sharing in unjustly acquired goods, II, 64.
Shea, J. G., I, 66.
Shepherd of Hermas, I, 44, I, 250.
Shiftlessness, II, 83.
Shops, Should be properly aired, lighted, and heated, III, 33.
Sickness, II, 22, III, 13, III, 24 sq., III, 57.
Sidgwick, H., III, 128.
Signa contritionis, II, 141.
Signs of charity, Ordinary and extraordinary, V, 20.
Sigwart, Chas., I, 227.
Silence, As a means of becoming accessory to the sins of others, II, 63; When indicated, V, 78.
Simar, Th. H., I, 69, I, 232, I, 233.
Simony, Definition of, IV, 235; Conventional and real, IV, 236 sq.; A grave sin, IV, 237; Effects of, IV, 237 sq.; Confidential, IV, 239; Duty of restitution implied by, IV, 239 sqq..
Simulatio sacramenti, II, 113.

Simulation, V, 61 sq..
Sin, To be able to, not a proof of liberty, I, 111; Inability to, constitutes true liberty, I, 111; Definition of, I, 119; Impairs the knowledge of the primary principles of the natural law, I, 128; Often committed without a knowledge of the secondary principles of the law of nature, I, 129; Protestant theory of, I, 148; The law is for those that live in, I, 154; Every just law obliges under pain of, I, 165; Meaning of the phrase, "*Ad peccatum obligare*," I, 167; To act against the dictates of conscience is a sin, I, 192; No transgression is a mortal sin, if the matter is unimportant, provided the will of the transgressor be not positively evil, I, 210; Man may never commit a grievous, in order to avoid a venial sin, I, 213; Man may not commit a, in order to save his life, I, 215; Consideration of, in cases of conscience, I, 218 sq.; Duty of abstaining from sins of the flesh, I, 240; Evangelical Counsels directly opposed to the three principal agencies of, I, 241; To choose the less perfect means for attaining a good end is no, I, 248 sq.; Man is never allowed to commit, that good may come, I, 269; Circumstances that alter the moral species of, I, 272 sqq.; Sins are multiplied according to the number of those affected by them, I, 274; Nature of, II, 1 sqq.; Characteristic notes, II, 3 sqq.; Origin of, II, 11 sqq.; Mortal and venial, II, 16 sqq.; Serious and light, II, 29 sqq.; Philosophical and theological, II, 30 sq.; Principal kinds of, II, 52 sqq.; Against the Ten Commandments, II, 52 sq.; Of commission and omission, II, 53 sqq.; Against God, oneself and one's fellowmen, II, 54; Of the spirit and of the flesh, II, 54 sqq.; Of thought, word, and deed, II, 57 sqq.; According to, and against, nature, II, 74 sqq.; Sins that cry to Heaven for vengeance, II, 85 sqq., V, 104; Sins against the spiritual welfare of others, V, 39 sqq.; Cooperation in, V, 40 sqq.; *Cooperatio ad pravas ephemerides*, V, 43 sq.; In regard to scandal, V, 47 sqq.; When we may reveal the sins of others, V, 109 sq..
Singing in a heretical church, V, 42.
Single tax, III, 34.
Sixtus the Fifth, I, 64.
Slander, II, 78, II, 87, V, 108 sq..
Slater, Thos. (S.J.), I, 269, II, 60 sq., II, 63, III, 41, III, 92, IV, 301, IV, 332, IV, 397, V, 102, V, 335 sq., V, 340, V, 342, V, 358, V, 360, V, 393, V, 424.

- Slavery**, Maltreating of slaves akin to murder, II, 87;
Slavery a sin against respect, V, 5; By its very nature immoral, V, 5; Modern industrial, V, 5 sqq.; Leo XIII on, V, 6 sq..
- Sloth**, II, 65, II, 83 sq..
- Slums**, III, 30.
- Smart-money**, V, 426.
- Smiles**, Sam, III, 67.
- Smith**, John Talbot, III, 51.
- Sociability**, III, 36, III, 39 sqq..
- Social intercourse**, III, 39 sqq..
- Socialism**, V, 7 sq..
- Social question**, V, 6 sqq..
- Societies for the prevention of cruelty to animals**, III, 61.
- Society**, A Determinant of morality, I, 95 sqq.; Civil or the State, divinely instituted, I, 158; Definition of, V, 457 sq.; Principal requirements of, V, 458 sq.; Authority, V, 459; Division of, V, 459 sqq.; Perfect and imperfect, V, 459 sq.; Natural and free, V, 460 sq.; General and particular, V, 461; Public and private, V, 461 sq..
- Socinianism**, I, 151.
- Socrates**, I, 278, III, 24, III, 99.
- Sodomy**, II, 74, II, 85, II, 88 sq..
- Soldiers**, **St. Augustine on the Christian, of Rome**, I, 165; Soldiers must obey human laws even at the risk of death, I, 171; May esteem honor higher than liberty, nay life, I, 215; Bound to sacrifice life and health in their vocation, III, 86; Duty of fidelity, V, 89 sq.; Why the Fathers object to Christians serving as, V, 134; May not slay and rob without authority, V, 137; Wounded, should be protected, V, 138; Mercenaries, V, 140; Volunteers, V, 139 sq..
- Solicitation**, II, 158.
- Solicitude**, Warning of Christ against undue, III, 109 sq..
- Sorcery**, II, 96, IV, 296.
- Sorrow**, Christianity the religion of, III, 18.
- Soto**, Peter (O.P.), I, 57, I, 62, V, 329.
- Sources**, Of Moral Theology, I, 26 sqq.; Of morality, I, 264.
- Sovereign**, Subject to his own laws, I, 175.
- Spalding**, Archbishop J. L., On the political emancipation of women, V, 506 sq.; On education, V, 517, V, 524; On patriotism, V, 569 sq..
- Speculation in stocks and bonds**, V, 288 sq..
- Spee**, Friedrich von, IV, 298 sqq..
- Spencer**, Herbert, III, 149.
- Spirit**, Sins of the, II, 54 sqq..
- Spiritism**, Definition of, IV, 280; Phenomena of, IV, 280 sq.; Physical phenomena, IV, 281 sq.; Psychical, IV, 282; Some of them undoubtedly genuine, IV, 282 sq.; Diabolic influence in, IV, 283; Evil tendency of modern, IV, 284; Condemned by the Church, IV, 285; Basic malice of, IV, 285.
- Spiritualism**, False, III, 9.
- Spiritual life**, Brother Azarias on the, III, 111.
- Sponsors**, Duties of, II, 121, II, 122, V, 540.
- Spontaneous actions**, Definition of, I, 98.
- Sporer**, Patrick (O.F.M.), I, 59.
- Sports**, III, 36, III, 43 sq., III, 141 sq..
- Sprenger**, James, IV, 300.
- Stage**, Ethical aspects of the, III, 49 sqq..
- Standard of morals**, I, 244.
- Standard of living**, III, 128.
- Stapf, J. A.**, I, 68.
- State**, The Christian; Nature and Purpose of, V, 548 sqq.; Justice the foundation of, V, 560 sq.; Laws of, acknowledged by Christ, I, 156 sq.; Power of, is from God, I, 157; Divinely instituted, I, 158; Supreme authority through the will of the people, I, 159; Penal laws made by the, I, 169; And marriage, II, 210; Rights of in regard to education, III, 103 sqq..
- Station in life**, No one obliged to lose his, in order to prolong the life of another, V, 177 sq..
- Stations of the Cross**, IV, 176 sq..
- Statistics**, Criminal, I, 95 sq..
- Stattler**, Benedict (S.J.), I, 68.
- Stealing**, Morality of, I, 265; *Materia gravis*, I, 273; Definition of, V, 355; Various kinds of, V, 356; Degree of sinfulness, V, 356 sq.; Domestic, V, 357; By servants, V, 357, V, 444; How much is required to make a mortal sin?, V, 358 sqq.; In extreme need, V, 163 sq.; The sin of concealing or sheltering a thief or stolen property, V, 398 sq..
- Stephen, St.**, II, 82.
- Sterility**, Operations sinful if performed for the sole purpose of superinducing, III, 84.
- Steyaert, M.**, I, 223.

Stock companies, Defined, V, 331; Advantages and disadvantages of, V, 331 sqq..

Stock exchange, V, 288 sq., V, 291.

Stock-watering, V, 334 sqq..

Stoics and Stoicism, I, 18 sq., I, 108, III, 39, III, 77, IV, 101.

Stolz, Alban, II, 150.

“Story hours” for children, III, 46.

Strangers, Are bound to obey the laws of the territory in which they sojourn, I, 174; Distrust of, allowable, V, 99 sq..

Stratagems in war, V, 136.

Street cars, III, 33.

Streets, III, 32 sq..

Strikes, V, 272 sqq..

Suarez, Francis (S.J.), I, 57, I, 61.

Subjects of human law, I, 173 sqq..

Successio ab intestato, V, 238 sq..

Suffering, A life of, not necessarily useless, III, 12 sq.; And Christian asceticism, III, 18.

Suffrage for women, V, 506 sqq..

Suicide, II, 76, II, 87, III, 12, III, 74 sqq., III, 99.

Suicidia martyrum, III, 89.

Summa Astesana (or Astensis), I, 54.

Summae Confessorum, I, 54.

Summae Scholasticae, I, 52.

Summa Pisana (or Pisanella), I, 54 sq..

Summa Raimundiana, I, 54.

Summa Rosella, I, 55.

Summa Summarum (or Silvestrina), I, 55.

Sum required for a grave sin of theft, V, 358 sqq..

Sunday, Observance of, IV, 322 sqq.; Meaning of the Commandment, IV, 322 sq.; An essential part of divine worship, IV, 323 sq.; Takes the place of the Jewish sabbath, IV, 324 sq.; In what Sunday observance consists, IV, 326 sqq.; Sunday not only a day of prayer, but also of rest, IV, 327 sqq.; A day of recreation and innocent amusement, IV, 328 sqq.; Andrew Carnegie on, IV, 328 sq.; Bp. v. Keppler on, IV, 329; Bogumil Goltz on, IV, 330; Servile labor forbidden on, IV, 330 sqq.; *Opera liberalia* permitted, IV, 331 sqq.; Causes which excuse from the law forbidding servile labor on, IV, 332; Business and court proceedings forbidden on, IV, 333 sq.; Fairs, theatrical performances, baseball and similar games permissible, IV, 333 sq.; Prohibition of servile labor obliges under pain of mortal sin but admits of *parvitas materiae*, IV, 334; Works of piety and charity implied in the religious observance of, IV, 334 sq.; Duty of hearing the word of God on, IV, 335 sq.; Duty of hearing Mass on, IV, 336 sqq.; Guilt of those who come late to Mass, IV, 337 sq.; Duty of hearing Mass implies bodily presence, IV, 338 sq.; Mass must be heard with a right intention and due attention, IV, 340 sq.; Reasons excusing men from attending Mass on Sunday, IV, 342 sqq..

Superman, The natural law recognizes no, I, 127.

Superstition, A moral defect, III, 108; Definition of, IV, 269 sq.; Nature of, IV, 270 sq.; In the natural order, IV, 273 sqq.; In the preternatural order, IV, 294 sqq.; In the supernatural order, IV, 304 sqq.; Forbidden books on, IV, 408.

Supporting church and pastor, Duty of, IV, 393 sq..

Supremus debendi titulus, III, 1.

Surety, Giving, V, 320 sq..

Surgeons, Responsibility of, in case of accidental homicide, V, 211; See Physician.

Suso, Henry, Bl., I, 56.

Suspicion, Groundless, V, 97 sqq..

Sum cuique, V, 12.

Συνειδήσις, I, 183.

Surgery, I, 221.

Sybaritism, II, 79, III, 25.

Sympathetic cures, IV, 276 sq..

Symphyseotomy, V, 221.

Synagogue, I, 157.

Synteresis, I, 188.

Table, Pleasures of the, III, 40.

Tacitus, I, 14.

Tale-bearing, V, 111.

Talent, Definition of, I, 89; One of the individual determinants of free-will, I, 89 sq.; Good health a condition for the development of, III, 24 sq.; Given to men for the purpose of being developed for the benefit of society, III, 102.

Tamburini, Thos., I, 224.

Tanner, Adam, I, 57.

Tanqueray, Ad., I, 71, V, 576.

Tariff duties, V, 450.

Tauler, John, I, 55.

Taxation, Reform of, III, 34; Application of Catholic moral principles to, V, 449 sq..

Tax collectors, V, 446 sqq..

Taxes, payment of, V, 447 sqq..

Teachers, Their work indirectly productive, III, 127; Must be careful in giving religious instruction, V, 456; Take the place of parents, V, 539; Pupils owe gratitude to their, V, 540 sq..

Tears of contrition, II, 141 sq..

Temperament, A determinant of free-will, I, 88.

Temperance, Definition of, III, 72; In eating and drinking, III, 72; Not inborn, but acquired, III, 72 sq..

Temptation, I, 150, I, 184, II, 36 sqq., II, 44, III, 90.

Tepe, G. B. (S.J.), I, 70.

Teresa, St., I, 65.

Tertullian, I, 46, I, 143, I, 165, IV, 357, IV, 361, V, 491.

Testamentum aeternum, I, 143.

Thanksgiving, Prayer of, IV, 140; Sacrifices of, IV, 193.

Theatre, III, 49 sqq., IV, 333 sq.; And charity, V, 188.

Theft, V, 355 sqq.; (see Stealing).

Theological virtues, I, 279 sq..

Theologumena, IV, 13.

Theology and science, IV, 37 sq..

Theophilus, V, 491.

Thinking evil of others, V, 96 sqq..

Thomas à Kempis, I, 56, I, 64, I, 66, II, 77, II, 150, III, 17, III, 46, III, 57.

Thomas Aquinas, St., High Authority in Moral

Theology, I, 33 sq.; Not sufficient to appeal to his authority without regard to the arguments on which he bases his opinion, I, 34 sq.; Employs all three methods in Moral Theology, I, 39; The real founder of Moral Theology as a science, I, 52 sq.; For a while universally followed by moralists, I, 57; On the legal precepts of the Old Law, I, 138; On the modes of deriving human laws from the law of nature, I, 155 sq.; Unjust laws do not bind in conscience, I, 166, I, 168; A sovereign is above the law, but should keep it voluntarily, I, 175; On conscience, I, 184, I, 187; On Christian perfection, I, 206; On the moral virtues, I, 278 sq.; On the gifts of the Holy Ghost, I, 281; On the nature of sin, II, 2, II, 3, II, 4; God does not will sin, II, 6, II, 8; God not the cause of sin, II, 9; On the distinction between mortal and venial sin, II, 21 sq., II, 26; Man's will the cause of sin, II, 36; The devil a cause of sin by persuasion, II, 41; On sins of the spirit, II, 55; On sins of thought, word, and deed, II, 57; On anger, II, 81, II, 82; On the *lumen intelligibile* of reason, II, 98 sq.; On fasting in the administration of Confirmation, II, 122; On Extreme Unction, II, 192 sq.; On charity, III, 1; Selfishness the cause of all sin, III, 5; Dumb animals created for the use of man, III, 59 sq.; Hence he may kill them, III, 63; On prudence, III, 106 sq.; A voluptuous life is a bestial life, III, 122; On manual labor, III, 125 sq., III, 132, III, 133; On the active and the contemplative life, III, 136 sq.; On the right of property, III, 145, III, 147; Ownership is stewardship, III, 159 sq.; On honor, III, 166; On faith, IV, 17, IV, 18 sq., IV, 20; On presumption, IV, 63; On whether a man "can know he has grace," IV, 65; On charity as the mother of all virtues, IV, 73; On the efficacy of prayer, IV, 101 sq.; Our prayer must be continuous, IV, 111; Effect of prayer depends chiefly on devotion, IV, 131; On the Lord's Prayer, IV, 159 sq.; On blasphemy, IV, 183; On man's need of sacrifice, IV, 192 sq.; On Christ as priest and victim, IV, 195; On the juridical obligation of fasting, IV, 320 sq.; On the quantity of food that constitutes a collation, IV, 365; On what constitutes a lie, V, 60 sq.; Legend of the flying ox, V, 66; On suspicion, V, 98 sq.; On respect of persons in judgment, V, 156 sq.; On the inviolability of the dignity of manhood, V, 160; On

- almsgiving by wives, V, 181; On usury, V, 261 sq., V, 301 sq.; On stealing in extreme need, V, 363 sq.; On occult compensation, V, 366 sq.; On fraud, V, 370; On restitution, V, 410 sq.; On the relation of parents to children, V, 516; On patriotism, V, 565 sq..
- Thomasius**, IV, 299.
- Thought**, Sins of, II, 57 sqq..
- Thrift**, III, 67.
- Thucydides**, II, 21.
- Thurston**, Herbert (S.J.), On the Bull “*Summis desiderantes*” of Innocent the Eighth, IV, 299 sq..
- Time required for prescription**, V, 237 sq..
- “**Time bargains**, ”, V, 289.
- Timor filialis**, I, 205 sq..
- Tithes**, Origin of the custom of paying, IV, 394; The tithe as a legal tax, IV, 394; Still enforced in some countries, IV, 395; The new Code on, IV, 395.
- Titulus legis civilis**, V, 307 sq..
- Toadyism**, V, 93.
- Tobias**, III, 8.
- Toilet**, Arts of the, III, 28 sq..
- Tolerance**, In religious matters, V, 36 sqq..
- Toletus**, Fr. de (S.J.), I, 62.
- Tongue**, Duty of guarding the, V, 55.
- Torres**, Louis (S.J.), I, 58.
- Tradition**, I, 27, I, 29 sq..
- Traveling**, III, 36, III, 49, IV, 333.
- Treason**, V, 89 sq..
- Treasures**, lost and found, V, 229 sqq..
- Trent**, Council of, Man is free to do good for the sake of a reward, I, 17 sq.; General development of theology after the, I, 57; On Christ as a legislator, I, 148; On man’s duty to obey the commandments of God and the Church, I, 152; God does not work evil, II, 8, II, 10; Slight offenses do not destroy sanctifying grace, II, 14; Cooperating with grace, II, 106; On the Easter duty, II, 125; On the Holy Eucharist, II, 130; On contrition, II, 140; On the form of sacramental confession, II, 160; On Extreme Unction, II, 191 sq.; On the amusements of clerics, III, 36; . (See also Catechism, Roman.).
- Trovamala**, J. B., I, 55.
- Truth**, A precious gift, III, 102; Prudence manifests itself in love of, III, 107.
- Truck system**, II, 90.
- Trust**, Mutual, V, 21 sq..
- Trusts**, II, 89.
- Truth**, see Veracity.
- Tutorism**, I, 222 sq., I, 225, I, 232.
- Tyrannicide**, V, 129 sqq..
- Tyrants**, Lawfulness of killing, V, 129 sqq..
- “*Ultra posse nemo tenetur*, ”, I, 166.
- Unbelief**, Impurity leads to, II, 76.
- Unborn**, Crimes against the, V, 213 sqq..
- Unchastity**, As a species of concupiscence of the flesh, II, 65; A crime directed against the preservation of the human race, II, 88.
- Uncleanness**, III, 28.
- Underhill**, Evelyn, I, 56.
- Unearned increment tax**, III, 34.
- Unemployment**, A frequently recurring social symptom, V, 165 sqq.; Security against, V, 166 sq.; Duties of the State, V, 167, V, 170; Individual responsibility, V, 171; Insurance against, V, 318 sqq..
- Unfair competition**, V, 353 sq..
- Unica comestio**, IV, 372.
- Unity of marriage**, V, 485 sqq..
- Usury**, As a form of oppressing the poor, II, 89 sq., V, 371 sq.; An unproductive and anti-social occupation, III, 138; Definition of, V, 261; St. Thomas on, V, 301 sq.; Economic, V, 372 sq.; Usurious manipulation of the food supply, V, 373 sq.; A sin that cries to Heaven for vengeance, V, 373 sq..
- Usus matrimonii**, V, 471 sqq..
- Uterus**, Excision of the, not permitted for the sole purpose of inducing sterility, III, 84, V, 475.
- Vagabondage**, V, 180.
- Vain repetitions in prayer**, IV, 135 sq..
- Vanity**, II, 68 sq., III, 27 sq., III, 29, III, 108.
- Van Kasteren**, I, 282.
- Vasectomy**, III, 84.
- Vasquez**, Gabriel (S.J.), I, 57.
- Vegetarianism**, III, 27.
- Venatorius**, Th., I, 52.
- Veneric diseases**, V, 529.
- Vengeance**, II, 81, II, 85 sq..
- Vengefulness**, V, 25.
- Venial sins**, II, 14, II, 16 sqq., II, 145.

- Veracity**, Definition of, V, 52; A social necessity, V, 53; A duty, V, 53 sqq.; Positive, V, 54; Negative, V, 54 sq.; Sins against, V, 58 sqq..
- Viaticum**, II, 124, II, 129, II, 196, III, 57.
- Victoria**, Fr. de (O.P.), III, 99.
- Vigilantius**, I, 251, IV, 361.
- Vigil fasts**, IV, 361 sqq..
- Villada**, P., I, 72.
- Villien**, A., IV, 315, IV, 361, IV, 368, IV, 391, IV, 395.
- Vincent de Paul**, St., I, 59, II, 200, III, 19.
- Vindictive justice**, see Justice.
- Violation of the seal of the confessional**, II, 174 sqq..
- Violence**, As an obstacle to free-will, I, 113 sq.; Unjust laws do not bind because they are acts of, rather than laws, I, 166; Anger grievously sinful when it leads to acts of, II, 82.
- Virginity (see Chastity)**, II, 201 sq..
- Virtue**, Definition of, I, 277; Moral virtues, I, 277 sq.; Cardinal, I, 278; Infused or acquired, natural or supernatural, I, 278 sq.; Theological, I, 279 sq., II, 92; Gifts of the Holy Ghost, I, 281; When knowledge becomes transmuted into, III, 106 sq..
- Visions**, As an accompaniment of extraordinary contemplation, IV, 149 sq.; Rules for those who believe they have, IV, 153 sq.; Private, need not be received with divine or theological faith, IV, 311; Books describing new, forbidden if published without canonical approbation, IV, 407.
- Vives**, J. C., I, 71, V, 190.
- Vivisection**, III, 63.
- Vocation**, Duties of, I, 214; To the clerical state, II, 197; Choice of a, III, 112 sqq.; Fidelity in, III, 118 sqq.; Sins against, III, 121 sqq.; Restitution for damage done in the choice of a, V, 450 sqq.; Parents must aid their children in choosing a, V, 516; Parents should encourage a vocation for the priesthood or the religious life in their children, V, 520.
- Voit**, Edmund (S.J.), I, 59.
- Volenti non fit iniuria**, V, 129.
- Voluntarium**, I, 98 sqq., I, 104, I, 195, I, 254.
- Voluntary acts**, I, 98 sqq..
- Voters**, Duties of, V, 571 sqq..
- Vow**, Definition of, IV, 199 sq.; Religious and moral character of, IV, 201 sq.; Division of, IV, 204 sqq.; Object of, IV, 208 sqq.; Conditions of validity, IV, 212 sqq.; Obligation of, IV, 217 sqq.; Interpretation of, IV, 222 sq.; Commutation of, IV, 226 sqq.; Dispensation from, IV, 229 sq..
- Wage system**, Advisability of abolishing the, III, 159; The heart of the trouble, V, 8.
- Wages**, V, 268 sqq.; What is a fair wage, V, 270 sq.; A living wage, V, 271 sq.; A living family wage, V, 271 sq..
- Waldensians**, On capital punishment, V, 149.
- Walsh**, James J., On athletics and character, etc., III, 45; On suicide, III, 77.
- War**, Waging, without sufficient reason is murder, II, 87; When it is permitted to volunteer one's services in, and to risk one's life, III, 94; The moral principles involved in, V, 132 sqq.; Lawfulness of, V, 133 sqq.; And the *moderamen inculpatæ tutelæ*, V, 136; Illicit means of warfare, V, 136; Licit means of warfare, V, 136; Laws of, V, 137 sq.; Prisoners of, should be treated humanely, V, 138; Voluntary participation in an unjust war, sinful, V, 139; A terrible scourge, V, 142; Traders, V, 143 sq..
- Wastefulness**, III, 23 sq., III, 28.
- Way of the Cross**, IV, 176 sq..
- Wealth**, Craving for, as a motive of suicide, III, 75; Restless pursuit of, condemned by Christ, III, 137 sq.; Rules for guidance in regard to, III, 151 sqq.; Concentration of, a bad social symptom, III, 154 sqq.; Duty of distributing superfluous, III, 159 sqq..
- Wedding celebration**, Should take place *in facie Ecclesiae*, II, 210 sq..
- Weiss**, Albert M. (O.P.), I, 244 sq., IV, 86.
- Wells**, Poisoning of, V, 138.
- When a law must be observed**, I, 178.
- White slave traffic**, V, 39.
- Wiclif**, I, 167.
- Widows**, Oppression of, a dastardly crime, II, 89; For many it is better to marry again, II, 203, V, 489 sqq..
- Will**, Human, II, 2, II, 25, II, 31 sq., II, 36 sq., II, 41, II, 54, II, 56, II, 99, II, 104, II, 141, II, 149.
- Wirceburgenses**, I, 60 sq..
- Wisdom**, III, 107.

Witchcraft, One of the chief sins of the flesh, II, 55;
 May imply a compact with the devil, IV, 296; If the compact is express, it always involves mortal sin, IV, 296 sq.; Belief in malevolent, IV, 297; Epidemic occurrence of, IV, 297 sq.; Possibility of human intercourse with Satan, IV, 298; Principal opponent of, was a Catholic and a Jesuit (Spee), IV, 298 sq.; Bull of Innocent VIII not responsible for the witch mania, IV, 299 sq.; Fr. Thurston on the Bull "*Summis desiderantes affectibus*," IV, 300; The so-called magic wand, IV, 300 sq..

Wives, Duties of, V, 463 sqq..

Wolff, I, 67.

Woman, The social position of, V, 499 sqq.; Duties of, as wife, V, 463 sqq.; Is man's true helpmate, V, 500; Her status under paganism and Christianity, V, 500 sq.; Modern emancipation movement, V, 502 sq.; Two groups of emancipationists, V, 503 sqq.; Position of the radical group, V, 503 sqq.; Position of the conservative group, V, 505 sqq.; Wages of, V, 505; Political emancipation of, V, 506 sqq.; New professions and occupations of, V, 508 sqq..

Word, Sins of, II, 57 sqq..

Work, III, 117, III, 123, V, 163 sq.; (see also Labor);
 The right to, V, 165 sqq.; Procuring work for the unemployed an effective method of relief, V, 185; Overburdening laborers with, V, 212.

Workingmen, III, 30 sq.; Unemployment of, V, 166 sqq.; Arbitrary dismissal of, V, 168 sq.; Inefficient or idle, V, 168; Duties of, V, 168 sq..

Works of mercy, see Mercy.

Works of supererogation, I, 238 sqq., I, 250.

Works of the flesh, I, 283.

World, The, as a source of sin, II, 42 sq..

Worry, Warning against undue, III, 109 sq..

Xenophon, I, 278.

Zeal for the cause of God, IV, 88 sq..

Zealotry, IV, 93 sq..

Zerbolt, Gerard, I, 56.

Ziegler, I, 240.

Zoölatry, III, 60.

Zwingli, V, 305.

The numbers are the printed pages, marked in the margin of the text above; on the library's site each is a link to the passage it cites.