THEOLOGIA MORALIS SANCTI ALPHONSI

Reduced into a Compendium, and Adapted to the Use of the Venerable American Clergy

by Anthony Konings, C.SS.R.

VOLUME II

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Title Pages (Volume II)

MORAL THEOLOGY

OF ST. ALPHONSUS

REDUCED INTO A COMPENDIUM.

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BY VERY REV. E. F. SCHAUER, PROVINCIAL, C.SS.R.

TREATISE ON THE SACRAMENTS IN GENERAL

We must treat concerning the Sacraments: 1° their nature and division; 2° matter and form; 3° the Minister; 4° the subject.

CHAPTER I: ON THE DEFINITION, NUMBER, AND DIVISION OF THE SACRAMENTS

1206. - I. Definition. A Sacrament is a sensible sign instituted by Christ for signifying and conferring grace.

Hence three things are necessarily required in every Sacrament, namely: 1° a sensible sign; 2° divine institution; 3° the power of producing the grace promised by Christ.

All Sacraments are perfected by three things: 1° by things as matter; 2° by words as form; 3° by the person of the Minister confecting the Sacrament with the intention of doing what the Church does. - This is clear from the Council of Florence in the Decree of Union.

Sacraments, besides sanctifying grace, produce grace which is called sacramental, i.e. they confer, if due conditions are not lacking, helps for obtaining the special end for which each Sacrament was instituted. Sacraments operate *ex opere operato*, i.e. by force of the divine institution independently of the work of the one operating, namely of the Minister and subject of the Sacraments.

1207. - II. Number. The Sacraments are seven, as is clear from Trent:[1] If anyone shall have said that the Sacraments of the New Law were not all instituted by our Lord Jesus Christ, or that there are more or fewer than seven, namely Baptism, Confirmation, Eucharist, Penance, Extreme Unction, Order, and Matrimony; or that even some one of these seven is not truly and properly a Sacrament, let him be anathema.

III. Division. Sacraments according to various properties are thus distinguished:

1° **Necessary**, or **not necessary**. Again, necessary Sacraments are necessary either by necessity of means, or by necessity of precept. By necessity of means, at least in implicit vow, Baptism is necessary, which is the gate of the Church and of the kingdom of heaven; Penance is necessary for those who have fallen into mortal sin after Baptism; and, according to St. Alphonsus,[1] probably also the Eucharist, both on account of the words of Christ:[2] Unless you shall have eaten, etc., you shall not have life in you; and because the Eucharist is the end of all the Sacraments. - By necessity of precept all the others are necessary, with the last two excepted, which are not necessary for private persons, but only for the community.

2° **Imprinting**, or **not imprinting**, character in the soul. Baptism, Confirmation, and Order imprint character; the others do not imprint. - Trent.[3]

3° **Formed**, or **unformed**, according as they produce grace while they are received, or, with an obstacle intervening, suspend their effect until the obstacle is removed.

4° Sacraments **of the living** or **of the dead**, according as they already suppose sanctifying, or first, grace, and only increase it; or, from their primary institution, confer that same grace.

Notes to n. 1207 - note sequence 1. (1) Session 7, Canon 1. Notes to n. 1207 - note sequence 2. (1) L. VI. 192. (2) John 6. 54. (3) Session 7, Canon 9.

1208. Questions. - Query 1° Can the Sacraments of the dead confer second grace?

Resp. Affirmatively. But this can happen in a twofold case: 1° when venial sins alone are subjected to the keys, which frequently

happens; 2° when a penitent, guilty of mortal sin, approaches the Sacrament of Penance with perfect contrition; because perfect contrition with the vow of the Sacrament, even before reception of the same, justifies a man: therefore then the Sacrament confers not first grace, but second grace only.

Query 2° Can Sacraments of the living sometimes avail to confer first grace?

Resp. Affirmatively, more probably; not indeed *per se*, as is clear from their institution, but *per accidens*, or by means of Charity infused by force of the Sacrament in a subject not voluntarily opposing an obstacle. The case would be if someone of good faith, about to approach a Sacrament of the living, approaches in mortal sin, either because he is ignorant of this, or because he thinks himself contrite, or because he thinks that he approaches licitly in that state; now, in these circumstances the Sacrament of the living infuses grace into the soul, and therefore blots out the sin. For Sacraments always confer grace on those not placing an obstacle.[1] But an obstacle is not placed by him who approaches thus in good faith.[2]

1209. - Query 3° Is attrition required or does it suffice, that Sacraments of the living may confer first grace?

Resp. Affirmatively to each: 1° indeed it is required, because first grace cannot be infused except by the destruction of mortal sin; but the destruction of mortal sin cannot happen without detestation of the same, namely without contrition or at least attrition; 2° it suffices, because from the things said Sacraments of the living can sometimes confer first grace: but this could not happen if attrition did not suffice, since a sinner justified by perfect contrition would always approach the Sacrament.[3]

Query 4° Is original sin blotted out in Baptism valid indeed, but unformed because of defect of disposition in the adult baptized?

Resp. Negatively. The reason is, because no sin dissolving from the friendship of God is forgiven except through reconciliation with God, i.e. through justification. But this cannot happen unless first grace is infused; but this first grace is not infused if dispositions are lacking. Therefore. But once the obstacle has been removed, whether by perfect contrition with the vow of the Sacrament, or by the Sacrament with attrition, the sacramental grace of Baptism revives, or its suspension ceases, and it blots out original sin, and at the same time all actual sins committed before Baptism. But the Sacrament of Penance blots out sins committed after Baptism, and, according to the sentence which St. Alphonsus[1] calls most common, but whose foundation does not seem convincing to him, the sin of fiction, or of depraved disposition, with which the Sacrament of Baptism was received. Yet insofar as this depraved disposition persevered after Baptism, it is certainly blotted out through the Sacrament of Penance.

Notes to n. 1209 - note sequence 1. (1) Trent, Session 7, Canon 6. (2) L. VI. 6. 269. St. Thomas, Part 3, q. 72, a. 7 ad 2; q. 79, a. 3. (3) L. VI. 6. Notes to n. 1209 - note sequence 2. (1) L. VI. 142. ## CHAPTER II.

ON THE MATTER AND FORM OF THE SACRAMENTS.

I. On the Nature and Union of Matter and Form.

1210. - Definitions. Matter is a sensible thing to be determined to the notion of a Sacrament through form. Hence matter is that which in the Sacrament is more indifferent, and has a less perfect signification; and therefore it must be determined through another thing for signifying.

Matter is twofold: one remote, and another proximate. The former is the sensible thing itself, which is employed in the Sacrament, or the thing about which the sacramental action is exercised. The latter is the very application, or use, of the remote matter in the sacramental action. Thus in Baptism water is the remote matter, ablution the proximate matter.

But form is the part of the Sacrament which determines the matter for effecting the Sacrament, and which ordinarily (n. 1554. II.) consists in words uttered by the Minister.

1211. Principles. - I. Matter and form are altogether necessary for the validity of a Sacrament; therefore, with either one lacking, Sacraments cannot be confected. The reason is, because a Sacrament cannot be confected except in that mode in which Christ instituted it, who alone is the author of the Sacraments. It is of faith. It is clear besides from dogmatic definitions, especially from the Council of Florence in the Decree of Union, etc.[1]

II. In confecting a Sacrament, outside the case of necessity, matter and form ought to be employed morally certain. The reason is, because, unless necessity urges, it is not lawful to use probability which does not remove the danger of invalidity. Cf. n. 60. I.

III. Matter and form ought to be united, or applied, by the same Minister and toward the same subject. "The reason is, because if one should place the matter, and another the form, the words of the form would not be verified; for the Minister, who, for example, should say: I baptize thee, while another pours out the water, would utter what is false, since he himself would not baptize.

IV. That a Sacrament be valid, there ought to be so great a conjunction or simultaneity between matter and form that one affects the other. The reason is, because otherwise the words would not fall upon such a thing, nor therefore with it constitute one total sign.

1. In the Eucharist physical simultaneity is required between matter and form; for the demonstrative pronoun THIS and HERE cannot be verified unless the matter is present.
2. In the other Sacraments moral simultaneity suffices, and that diverse according to the diverse nature of the individual Sacraments. Hence:

a) In Penance absolution can be deferred for some little time, for example for an hour; for it was instituted in the manner of a forensic judgment, in which sentence is not always immediately pronounced.

b) In Matrimony the consent of one party can follow the consent of the other for as long as this is morally judged to endure, as happens in contracts, whose nature Matrimony imitates.

c) In the other Sacraments, for validity, it suffices that the matter be applied immediately (i.e. within a space less than one *Pater*) before the form is pronounced, or immediately after it has been uttered. - In practice, however, as safer, the sentence of Cajetan is to be advised, which requires that the form be begun before the application of the matter is completed, or conversely.[1]

Notes to n. 1211 - note sequence 1. (1) L. VI. 427. Notes to n. 1211 - note sequence 2. (1) L. VI. 9.

II. On the Change of Matter and Form.

1212. - There is given a twofold change both in matter and in form, namely substantial and accidental.

The change will be substantial in matter, if according to the use and estimation of men this cannot be called the same as that which was determined by Christ, as if in Baptism you should employ wine instead of water; but in form, if the sense of the words intended by Christ is changed into another, as if in Baptism you should say: I anoint thee in the name, etc. But the change is called accidental which is concerned only with the qualities of the thing, as if you baptize with water not blessed; or which does not change the sense of the words, as if in place of: I baptize, you should say: I wash. [1]

Principles. - I. Every substantial change in the matter and form of a Sacrament invalidates the Sacrament, because it is no longer the rite instituted by Christ; and, if it is voluntary, constitutes grave sin, because it inflicts grave injury upon the author of the rite.

II. No accidental change in the matter and form invalidates a Sacrament; yet it induces grave or light sin, according as it is, or is not, notable.

The form of the Sacraments can be changed substantially in many ways:

1° By subtraction of an essential syllable or words, as if you say: I baptize, omitting that word thee; but not of accidental words, as if in Latin you say: I baptize thee, omitting that word I.

2° By addition, by which the truth of the Sacrament is taken away, as: I baptize thee in the name of the greater Father, of the lesser Son; but not by that addition by which only the error of the Minister is expressed, in a separate proposition, and not as an explicit or implicit condition, as: by the authority conferred upon me by Calvin, I, etc.

3° By variation of words through others not synonymous, as if in place of: I absolve, you say: I change.

4° By transposition of words, which ordinarily is only accidental, as: Thee I baptize.

5° By corruption of the same, for example by changing letters, which will more easily be substantial at the beginning than at the end of the words; because more easily for hearers the sense will be changed, for example in "in the name of the mother" for "of the father," than in "of the chalice" for "of the cup."

6° By interruption, by which the unity of the sentence is taken away, as if, after having said: This is, you should recite a Psalm or delay long; but not if, after having said: I thee, you should cough, impose silence, saying: Be silent, chatterers, and then at once conclude: baptize, etc.

Notes to n. 1212. (1) L. VI. 11.

III. On the Repetition of the Sacraments in Doubt Concerning the Valid Application of Matter and Form.

1213. - A threefold rule must be established:

I. Sacraments can be repeated whenever there is a prudent doubt concerning their value. The reason is, because if perchance the Sacrament were not valid, those who approach to receive it would be deprived of its fruit. But that a prudent fear of so great an inconvenience is a sufficient reason why

the Sacrament should be repeated is clear from the very well-known axiom: Sacraments are on account of men.

II. Sacraments generally cannot be repeated without grave sin, when there is no prudent doubt concerning their value. The reason is, because without cause they would be repeated, and therefore a grave injury would be inflicted upon them.

III. Sacraments ought to be repeated whenever, a prudent doubt concerning their value having arisen, charity, justice, or religion demands this; that is, whenever from justice, charity, or religion they ought to have been confected or administered. The reason is, because the nullity of the Sacrament, if perchance it were present, would turn to the harm of the neighbor, and sometimes to contempt or irreverence of Religion. But then they are to be repeated only conditionally, that reverence for the Sacrament may be provided for.[1]

Notes to n. 1213. (1) L. VI. 27 sq.

1214. Resolves. - 1° The Sacraments more necessary, and those which are conferred only once, namely Baptism and Order, are more easily to be repeated, even if a much greater probability makes for the value of the Sacrament against doubtful or only slightly probable reasons in the opposite direction. - Thus commonly.

2° Absolution is to be repeated with a penitent guilty of mortal sin, if there is prudent doubt concerning the due utterance of the form. But if the penitent is not in the state of mortal sin, it will not be necessary to repeat the form, since Communion can be permitted to him even without absolution.

3° The Minister who doubts lightly, and does not know why he fears, or only does not reflexively remember that he pronounced the words of the form, sins mortally *per se* if he repeats the form, or even one word three or four times. The reason is, because he changes the form, and introduces a new rite concerning the gravest action of all. Moreover he exhibits Christ, whom he represents, as speaking ridiculously. In practice, however, the scrupulous who repeat the form are for the most part excused from mortal sin, indeed often also from venial sin, because, too much agitated by scruples, from perplexity or without advertence, they act so foolishly. - Thus Voit.[1]

4° If in Mass after the Consecration a doubt arises for you concerning the due utterance of the form, or concerning its total omission, you ought not, nor can you, repeat anything, since otherwise you are not accustomed to omit these things; for one must judge from things commonly occurring, unless nevertheless you doubt very probably, as the Rubric speaks. - See St. Alphonsus.[2]

Notes to n. 1214. (1) P. 2. n. 27. 31. (2) L. VI. 224.

CHAPTER III: ON THE MINISTER OF THE SACRAMENTS

The Minister of the Sacraments is he who, in the name of Christ, whose place he bears, performs the sacramental action.

We must treat: 1° of the requisites in the Minister for conferring the Sacraments; 2° of the office of the Minister in the administration of the Sacraments.

ARTICLE I: ON THE REQUISITES FOR THE ADMINISTRATION OF THE SACRAMENTS, OR ON THE ATTENTION, INTENTION, FAITH, AND PROBITY OF THE MINISTER

§ I. On the Attention of the Minister

1215. - Definition. Attention is the application of the mind to the things which are being done, or it is an act of the intellect by which a man considers that which he is doing.

Division. Attention is distinguished as twofold: one internal, which consists in the advertence itself of the mind to that which is being done; another external, which excludes every action physically incompatible with internal attention. - See the things said at n. 402.

Principles. - I. For the validity of the conferral of Sacraments no other attention is required except that which is found in every truly human act. Therefore Sacraments can be validly ministered even by a distracted Minister, or one thinking at the same time about other affairs. The reason is, because in order that an act be and be considered human, what is looked to is not actual attention, but the procession of the act itself from an act of the rational will. Moreover attention often does not depend upon the will of man; but Christ could not require in the Minister of the Sacraments a condition which is sometimes impossible.[1]

II. For the licit conferral of Sacraments attention is required, so that every voluntary distraction be absent. The reason is, because the reverence due to the Sacrament demands that it be treated diligently, and that the danger of erring be avoided. Nevertheless, according to the common sentence of theologians, voluntary distraction ordinarily does not exceed venial sin, unless one exposes himself to a danger of gravely erring in the form.[2]

They except the Eucharist, i.e. the canon, and especially the Consecration and Communion, during which every notable voluntary distraction, on account of the greatest dignity of the Sacrament, is probably mortal. Others, however, deny this. St. Alphonsus adheres rather to the former sentence.[3]

Notes to n. 1215. (1) Ib. (2) Ib. (3) Ib. and n. 410. Dub. 5. Exam. Ord. n. 125.

§ II. On the Intention of the Minister

1216. - Definition. Intention is an act of the will tending toward some end, or an act of the will by which one intends to do or omit something.

Division. It is manifold, namely: 1° actual, virtual, habitual, and interpretative (n. 5. 4°); 2° internal or true, or external, which regards only the external act; 3° determinate or indeterminate, or in a

confused way; 4° absolute or conditionated.

Principles. - I. For the validity of a Sacrament there is required in the Minister some true and serious will at least of doing that which the Church does. - It is clear from Trent.[1]

II. Nevertheless an actual intention is not required, but a virtual one suffices. The reason is, because actual intention, although best and desirable, is sometimes morally impossible; but a virtual intention sufficiently flows into the action of the Minister, so that this can be called truly human and deliberate. - Thus all.

III. A habitual intention does not suffice, nor an interpretative one; not the first, because it is neither actually elicited by the will, nor, although sometimes elicited, does it endure in some effect or in a series of actions; not the second, because it is neither actually elicited, nor was it ever actually elicited, but it would only be elicited if the mind were thinking about the thing to be done (n. 5. 4°).

Notes to n. 1216. (1) Session 7, Canon 11.

1217. Questions. - Query 1° Is an internal intention required?

Resp. Affirmatively; because, if the Minister should intend only the external act, that act - for example, ablution, which can be referred both to cleansing stains and to baptizing - would not be determined to its being.[1]

Query 2° Is there required in the Minister the intention of doing what the Roman Church does?

Resp. Negatively, provided he has the intention, at least implicit, of doing that which the true Church does, even if from error he should think his own heterodox church to be the true Church.[2]

Query 3° Is there required in the Minister the intention of confecting a Sacrament?[3]

Resp. Negatively, at least explicitly, provided this intention is not excluded. For it suffices that he intend in general and implicitly to do what the Church does.[4]

Notes to n. 1217. (1) L. VI. 16. (2) Ib. 20. (3) Ib. 21. (4) Ib. 22.

1218. - Query 4° Must the intention of the Minister be determined to a certain matter and person?

Resp. Affirmatively. The reason is: 1° as regards the matter, because, as was said above in q. 1°, otherwise it would remain in a state of indifference; for it cannot be drawn from that state and determined to the Sacrament except through the intention of the Minister; 2° as regards the person, because the effect of the Sacrament cannot be applied in general, but to some subject; otherwise no application would be made. - Nevertheless an error in the person does not stand in the way of the validity of the Sacrament, except in Matrimony, or unless the Minister should bind his intention exclusively to a certain person. But even in this case he would validly administer the Eucharist, as is clear.[1]

Query 5° Is a Sacrament valid when conferred with a conditionated intention?

Resp. 1° With Matrimony excepted, as being a contract (concerning which later), negatively, if the condition added is either concerning an impossible thing and is seriously added, as: I absolve thee, if thou hast touched heaven with thy finger, because then no intention of absolving is present; or concerning a future contingent thing, because such a condition suspends the intention of the Minister, and prevents the form here and now from being applied to the matter; nor afterward can it

be applied, the condition having been verified, since then the matter and form have already ceased to be present.

Resp. 2° Affirmatively, if the condition is either concerning a future necessary thing, and the suspension of the Sacrament is not really intended, because the intention under such a condition passes over into an absolute intention; or concerning a past or present thing, and in fact this exists, because even then a conditionated intention passes over into an absolute intention; but if the condition is not verified, then there is no intention, since it has been restricted to a non-existing condition.[2]

Notes to n. 1218. (1) Ib. 19. (2) L. VI. 26.

1219. - Query 6° Is it lawful to confer Sacraments with a conditionated intention, in doubt whether they have been validly conferred?

Resp. 1° As regards Sacraments imprinting character, it is certain that this is lawful. For it is established by Canon Law, where in doubt of Baptism this form is indicated: If thou hast not yet been baptized, I baptize thee, etc.[1]

Resp. 2° Also as regards other Sacraments it is lawful, if a sufficient cause adds the condition. The reason is, because Sacraments are on account of men, and, by adding a condition, reverence due to the Sacrament is sufficiently preserved, provided also that the consultation of the Sacrament itself be looked after as much as can be done, and with the good of those who receive the Sacrament, if perhaps they are capable of it, and with reverence toward the Sacrament. - Thus more commonly with St. Alphonsus, against some.[2] But it is certain that in extreme necessity, where nothing is present except doubtful matter, the Minister not only can, but also is held under grave obligation, to minister the Sacrament conditionally.[3]

Query 7° Must the condition be expressed in words?

Resp. Negatively. The reason is, because it is enough for reverence toward the Sacrament if it is conceived in the mind. Indeed Gobat thinks that it is not necessary for him who administers the work to have the condition explicitly and formally in mind, but it is enough if it is held implicitly and virtually, as he who wishes to hear Confessions according to the institution of Christ or the intention of the Church has it; because thus also reverence due to the Sacrament is sufficiently preserved. Yet it is to be added by mouth also where the Rubric prescribes this, as in conditionated Baptism, especially if it is conferred publicly, lest, namely, bystanders believe Baptism to be repeated absolutely, and, on account of the sentence, although little probable (and contrary to the Rubric of the Missal), of those who hold that the value of a Sacrament does not depend on the intention of the Minister, but only on the serious conferral of it, it is more right to express the condition also in words.[4]

Note. - 1° More rightly, according to St. Alphonsus, it is held that Sacraments are invalidated by a condition humanly unknowable. - 2° If the Minister has two intentions contrary to each other, and at the same time, the predominant one prevails; and so, whatever uniting incompatibles may have been chosen beforehand, if neither is predominant, the Sacrament does not subsist. - But if they have been successive, the later one prevails, unless the first, not revoked, had virtually excluded any subsequent one beforehand. - If doubt remains, the Sacrament will be doubtful.[5]

Notes to n. 1219. (1) Decr. L. III. T. XLII. c. 2. (2) L. VI. 27. 28. (3) L. VI. 29. H. A. Tr. XIV. 8. Quaest. Retr. Rec. n. 17. Miss. de def. V. 2. (4) L. VI. 24. 26. (5) Session 7, Canon 12 on Sacraments in general, and Canon 4 on Baptism.

§ III. On the Faith and Probity of the Minister

1220. Principles. - I. For the value of the Sacraments neither faith, nor probity, or state of grace, is required in the Minister. It is clear: 1° from the perpetual practice and tradition of the Church, which has never wished those baptized by heretics and the wicked to be rebaptized. It is clear: 2° from the definition of the Church. - Trent.[1]

II. For the licit administration of the Sacraments, however, faith and probity are required in the Minister, at least if he has been consecrated for conferring Sacraments, and confects solemnly, i.e. with the whole rite prescribed by the Church. Therefore he sins gravely who ministers Sacraments in mortal sin; for a Minister destitute of faith, or unworthy, inflicts grave injury on God and Christ, by treating sacred things unworthily, and, as much as is in him, by contaminating them. Moreover, since the Minister of the Sacraments represents Christ, the primary Minister, who is the Saint of saints, and bears his person, it is necessary that he himself also be holy.

Notes to n. 1220. (1) Session 7, Canon 12 on Sacraments in general, and Canon 4 on Baptism.

1221. Questions. - Query 1° Does a Minister sin gravely who confers a Sacrament in mortal sin, in a case in which he has not been specially ordained or consecrated for this, for example, if a woman ministers Baptism in the state of sin?

Resp. Negatively, probably; because the obligation of having holiness in a Minister does not arise precisely from the very holiness of Christ and of the Sacrament according to itself, but from the consecration of the Minister for conferring the very holiness of Christ and of the Sacrament. - Billuart,[1] St. Thomas,[2] and many others.

Yet not a few others affirm, both on account of the reason diametrically opposed to the negative sentence, namely on account of reverence due to Christ, whose minister also in this case is a lay person, although he is not a minister of the Church, and on account of the Sacrament, since here too sacred things, and indeed in a grave matter under grave obligation, are being handled. Thus Collet, Lacroix, Lugo, etc. - St. Alphonsus adheres to the affirmative sentence as intrinsically and by far more probable.[3]

Query 2° Does a priest, or consecrated Minister, sin gravely when he ministers indeed a Sacrament in mortal sin, but not solemnly, for example, Baptism without ceremonies in a case of necessity?

Resp. It is disputed, as in the preceding question; but St. Alphonsus adheres to the affirmative.[4]

Query 3° Does a Minister sin gravely in mortal sin, if grave necessity urges?

Resp. Negatively, speaking rigorously, namely if the danger is so urgent that no time is allowed for an act of contrition to be elicited by him. But this hypothesis must generally be denied. Moreover, a Minister conscious of mortal sin is not excused who can foresee such a case of necessity, as a Pastor and others (for example, priests exercising the care of souls subsidiarily, or ministering in large hospitals or in camps), who by office are bound to minister the Sacraments, and by an almost special obligation are held to remain habitually in the state of grace.[5] Resolve the same concerning midwives.

Notes to n. 1221. (1) Diss. 5. a. 4. (2) Part 3, q. 64, a. 6; and in 4 Dist. 5, q. 2, a. 2. (3) L. VI. 32 and Retract. 61. Conf. diretto per le genti di campagna, cap. 17. n. 7. Vind. p. 928. 2. Ed. 2a. T. II. p. 587. LXXXIII. (2). (4) L. VI. 32. (5) L. III. 27.

1222. - Query 4° Does he sin who, outside the celebration of Mass, ministers the Eucharist in mortal sin?

Resp. Affirmatively, probably. The reason is, because grave injury is done to the Most Holy Eucharist. For although he does not act as an efficient cause in confecting the Sacrament, nevertheless he is its dispenser, and for this is specially consecrated, and he undertakes a ministry by which he cooperates immediately in sanctification (n. 219. § Otherwise).[1]

Query 5° Do they sin who in mortal sin touch or carry the Most Holy Eucharist, whether mediately or immediately?

Resp. It is disputed. There is a threefold probable sentence:

I. It affirms in each case, because the thing is most holy, or the Body of Christ, which they handle unworthily. St. Alphonsus calls this very probable.[2]

II. It denies, because here there is no administration of a Sacrament, nor does matter so grave appear that it would induce mortal sin. - Thus Lacroix,[3] Salmant.,[4] Busemb.,[5] and St. Alphonsus says that this is not improbable.[6]

III. It thus distinguishes: They who immediately touch the Most Holy Eucharist in mortal sin do indeed sin gravely, but not they who touch mediately. The reason is repeated from the very diverse grade of irreverence between the first and second case. - Thus Billuart.

Notes to n. 1222. (1) L. VI. 38 and Retr. 62. (2) L. VI. 35. (3) L. VI. 35. (4) n. 101. (5) Tr. I. c. 7, p. 11. n. 106. (6) L. VI. 37.

1223. - Query 6° Do they sin gravely who exercise other sacred functions in mortal sin?

Resp. Negatively; because all other exercises of Orders besides the confection and administration of Sacraments do not seem to require holiness under grave obligation, since they are not proximately ordered to the sanctification of the soul. - Thus more commonly and more probably Salm., Mazzotta, and St. Alphonsus says that this is sufficiently probable.[1] - Nevertheless a preacher exercising from office is with difficulty excused from mortal sin, who from office preaches, and inveighs against that very vice of which he is publicly defamed, since the scandal impedes the fruit of doctrine.[2]

Query 7° Is a Minister confecting a Sacrament held to confess beforehand, if he is guilty of mortal sin?

Resp. 1° Affirmatively, if there is question of the celebration of Mass, and the availability of a confessor is not lacking to him; because all the faithful who are guilty of mortal sin and about to communicate must first make Confession, from the Decree of Trent.[3]

Resp. 2° But negatively, more probably, if there is question of other Sacraments; because by no law is he obliged to Confession; and therefore it suffices that he elicit an act of contrition.[4]

1224. - Query 8° Does he sin gravely who hears Confession in mortal sin, but does not absolve, or with the purpose of eliciting contrition before he absolves?

Resp. Negatively, more probably; because a confessor, by hearing Confession, does not confect the Sacrament.[5]

Query 9° How many sins does a confessor commit by absolving several penitents successively in mortal sin?

See the response at n. 219.

Notes to n. 1224. (1) L. VI. 41. (2) L. VI. 41. (3) Session 13, cap. 7. (4) L. VI. 34. (5) L. VI. 36.

ARTICLE II: ON THE OFFICE OF THE MINISTER

1° As regards the obligation of ministering Sacraments; 2° as regards the obligation of sometimes denying them; 3° as regards the mode of conferring them.

§ I. On the Obligation of Ministering Sacraments

1225. Principles. - I. Those who have the care of souls are held under grave obligation from justice to minister the Sacraments to their subjects reasonably asking. For by taking up the care of souls they have obliged themselves to this by a tacit contract entered into with the subjects, from whom they receive support or at least honor.

Therefore they are held if the common precept of receiving them urges, or if the private necessity or utility of the one asking demands the administration, for example, if the one asking foresees some danger, or is placed in temptation and needs the grace of the Sacrament, or if he wishes to exercise a devotion suitable to his state, or to gain an Indulgence, etc.

II. Others not having the care of souls are not held to minister Sacraments from justice; yet sometimes they are held from charity, namely in a grave necessity of the neighbor.[1]

1226. Questions. - Query 1° Who are considered to have the care of souls?

Resp. All those who from office, or by a special title of spiritual jurisdiction or delegation, ought to feed or care for some part of the fold of Christ. Therefore such are Bishops, Pastors, and whoever have subsidiary care of souls from a commission or public office, as among us are quasi-pastors and their coadjutors. Likewise, with respect to Regulars, their own Prelates or Superiors.[2]

Query 2° Which Sacraments are to be ministered in necessity, even with danger of death, whether by those having the care of souls or by others?

Resp. 1° Those who do not bear the care of souls certainly are held only to minister the Sacraments absolutely necessary for salvation, namely Baptism and Penance, or Extreme Unction when someone can in no way confess, and is more probably known to be in mortal sin. The reason is, because they are held only from charity alone to assist the neighbor in the gravest danger of salvation. But only the aforesaid Sacraments are necessary for salvation. Therefore, etc. - Thus most commonly theologians with St. Alphonsus.[3]

Resp. 2° Even those bearing the care of souls are very probably held to minister only the aforesaid Sacraments with any danger whatsoever. The reason is, because the other Sacraments are not of such necessity that one is held to confer them with grave danger of life. - Thus St. Alphonsus,[4] relying on the Declaration of Gregory XIII (12 Oct. 1576), and the Declaration of the S. C. C. approved by the same Pontiff. (O) p. 399. Nevertheless those who bear the care of souls are held to expose life not only in extreme necessity, but also in grave necessity, while other Ministers are obliged to this only in extreme necessity.[5] Cf. the things said at n. 279. 3rd Rule.

Query 3° Is one held to expose life for ministering the aforesaid Sacraments with probability only of success or of necessity?

Resp. It seems it must be denied, because it is too hard to exact so heroic an act for aiding the neighbor, unless there is morally certain hope of success and the necessity is sufficiently certain. Hence you are not held to expose life in order to baptize or absolve someone, if you probably must perish before you can fulfill this, or if you legitimately presume that he is baptized, or is not placed in the state of mortal sin, or even that he can easily assist himself by an act of perfect contrition.[1] Cf. n. 279. 2nd Rule.

Notes to n. 1226 - note sequence 1. (1) L. VI. 58. (2) Ib. (3) H. A. Tr. VII. 28. L. VI. 58, 233, 729. (4) L. VI. 233. (5) L. III. 27. Notes to n. 1226 - note sequence 2. (1) L. III. 27. Appendix annotation (omicron), to n. 1226. q. 2°. R. 2°. p. 10. col. 2. Benedict XIV speaks otherwise in de Syn., L. XIII. c. 19, not mentioning the Decree of S. C. Conc. of the year 1576 approved by Gregory XIII, by which it is declared: "that the Pastor is held to minister to his parishioners laboring under plague only the Sacraments necessary for salvation, namely Baptism and Penance." But he adduces the Response to the postulate of the Vicar Apostolic of Julia Caesarea (Algiers), by which Viaticum also and Extreme Unction are declared to be ministered by them in time of plague. l. c. n. 1. 10.

1227. Resolves. - 1° Those having the care of souls sin gravely not only if they deny their ministry without reason, but also if they often show themselves morose and difficult; because thus they deter the faithful from the Sacraments, and the matter falls back to the same as if they denied the Sacraments.

2° Nevertheless it is not mortal to deny the Sacrament of Penance or of the Eucharist to one or another, or to the same person once or twice, asking without necessity; because the harm can easily be repaired, nor is the subject therefore judged to be gravely unwilling. Yet Confession is rarely deferred for men, especially those rarely confessing, particularly today, without grave danger to the soul.

3° If subjects ask irrationally, there is no sin. Hence the pastor is not held daily to spend time with a scrupulous person or little devout souls, nor is this expedient for them.

4° If the pastor has suitable coadjutors, he will not be held so rigorously to receive the Confessions of his subjects; yet he ought to satisfy the faithful who request him by name, unless either he is impeded, or the penitents are readily going to approach another confessor.

5° Generally speaking, those bearing the care of souls sin gravely who do not wish to receive the Confessions of their subjects except on a few determined days within the month; because they are the cause that the faithful remain long in the state of sin and are kept away from receiving the Sacraments.[1]

See more where the individual Sacraments are treated; and recall the things said concerning the office of Pastors in the Treatise on States, n. 1141. IV.

Notes to n. 1227. (1) L. VI. 58.

§ II. On the Obligation of Denying Sacraments to the Unworthy Who Ask

1228. Principles. - I. The Minister is held under grave obligation, *per se* speaking, to deny Sacraments to the unworthy, because the natural law obliges a dispenser faithfully and according to his will to dispense the goods of the Lord; but the certain will of Christ is that Sacraments not be conferred upon the unworthy, according to that saying of Matthew:[1] Do not give the holy thing to dogs, nor cast your pearls before swine.

II. Sacraments, in which the Minister acts the part of dispenser alone, can be ministered to those asking without prior inquiry into their disposition, and can be denied only to those concerning whose unworthiness it is certain. The reason for the first is, because in these he does not act the part of judge, and therefore is not held to inquire. The reason for the second, because each one is presumed good until he is proved evil.

I said: 1° *in which the Minister acts the part of dispenser alone*. For it is otherwise if at the same time he ought to act the part of judge, and thus in Penance he is held to inquire concerning the acts of the penitent; in the Baptism of adults, concerning consent and dispositions; in Order, concerning the dignity of the one to be ordained; in Matrimony, concerning impediments. 2° *concerning whose unworthiness it is certain*. But it is certain if a) the crime is certain, or public suspicion concerning it is so vehement that it is equivalent to moral certitude, which cannot be laid aside by a probable reason; b) the penance is doubtful.[2]

Notes to n. 1228. (1) 7. 6. (2) L. VI. 43. 48.

1229. Special Rules. - I. A Sacrament is not to be ministered to a public sinner, even one asking secretly, not even from fear of death, as St. Alphonsus thinks; because no reason is present why an exception should be made to the general rule; indeed a grave scandal of the faithful would follow. - Except: 1° Penance, unless someone is prohibited from it, for example, on account of reserved censures;[1] 2° if someone has given a sufficient indication of conversion, such as is Confession made at least before several by one who is not notoriously placed in an occasion or in habitual scandal.[2]

II. To an occult sinner, asking secretly, the Sacrament is likewise to be denied;[3] because reverence toward the Sacrament and charity toward the neighbor in these circumstances entirely demand this.

III. To a truly occult sinner, asking publicly, the Sacrament is not to be denied. The reason is drawn from the inconveniences which would follow from the denial of the Sacrament; for scandals and disturbances would arise in the Church, and especially the faithful, having been led into suspicion, lest they be prohibited from the Sacraments, would withdraw from them. - Thus all with St. Thomas,[4] St. Alphonsus.[5]

Except nevertheless: 1° the Sacrament of Order, from which, on account of the public good, the unworthy man is to be repelled even with his own infamy, if he cannot otherwise be kept away, and this although the offense cannot be proved juridically. Nor is the Bishop obliged to the manifestation of the cause of the repulse, nor does an appeal belong to the one repelled, but only recourse to the Holy See.[6]

2° Matrimony, if the pastor outside Confession knows some impediment, or knows that the spouses are ignorant of the rudiments of the Faith, and this on account of protecting the legitimation and education of offspring.[7]

Notes to n. 1229. (1) Scav. T. III. n. 40. (2) L. VI. 44-49. q. Ref. 63. (3) L. VI. 50. St. Thomas, Part 3, q. 80, a. 6. (4) Part 3, q. 80, a. 6. (5) L. VI. 50. (6) Ib. 52. Benedict XIV, de Syn. L. XII. c. VIII. n. 3. 4. (7) L. VI. 54.

1230. Questions. - Query 1° When is a sinner considered public or notorious, or occult; or secretly asking for a Sacrament?

Resp. 1° That sinner is called public whose crime or very bad life is notorious, either by law, or by juridical proof or sentence, or by fact, as if the crime was committed in a public place, or by fame

among many, arising nevertheless from sufficient indications.[1]

Resp. 2° A sinner secretly asking is called one who is found alone with the Minister, or with a few others of whom deservedly no account is had, as are little children, etc. Otherwise he is considered to ask publicly. (X) p. 414.

Query 2° Is the Sacrament to be denied to an unworthy person asking publicly, whose crime is not simply public, but known nevertheless to most of those present, not to all?

Resp. Negatively, more probably; because he still possesses fame among those few who do not yet know his crime. Except if one or another upright person is ignorant, who is thought not likely to divulge it (n. 519. R. 3°).[2] - Hence only then is the Sacrament to be denied to an unworthy person publicly asking, when either his unworthiness is absolutely public (by fame, by law, or by fact), although perhaps known to none of those present; or respectively public, or known to all those present, which very rarely happens in great cities, especially ours, on account especially of the defect of personal knowledge; but it can happen more easily in small places.

Notes to n. 1230. (1) Ib. 44. (2) Ib. 45. Appendix annotation (X), to n. 1230. q. 19. p. 19. col. 1. Lest on account of notoriety, undeservedly judged to be such, a Sacrament be publicly denied, I have judged it useful to hand down a fuller exposition of notoriety. What the notorious is, in general, was said in n. 522, Resp. 2°. I say that something is notorious by law by juridical proof or sentence. Here proof is understood as full, such as that is called which produces as much faith as suffices for defining controversies; for example, the spontaneous Confession of the accused made in judgment and not revoked; the depositions of two witnesses greater than every exception, etc. - Sentence in this place is understood as definitive, or one which has passed into a thing judged. Something is notorious by fact when it is done so publicly that it cannot be concealed by any tergiversation. As that fact itself is, so this notorious is threefold: namely, notorious of a permanent fact, which continually presents itself to the sight of men, as the concubinage of one who is publicly seen retaining a concubine in his house; notorious of a fact immediately passing or momentary, as heresy publicly uttered; notorious of an interpolated fact, which is done publicly indeed, not continuously, but nevertheless is repeated rather often at intervals, as, for example, drunkenness by a drunkard. That something be notorious by fact, it is required that it be public by reason both of place, which must be public, for example a street, and not some private house; and of time, therefore not committed at night, unless on account of the multitude of those present in the public place where the crime is committed the night seems to be equated to day; and of the multitude of bystanders; for by defect of this the crime perpetrated by day and in a public place could be equated to one admitted at night. Fame, by reason of the notorious about which there is question here, is not that which is called fame of name, "reputation," and about which there was speech in n. 516, but fame among men, which is so called with respect not to the man made infamous, but to those among whom it prevails or is circulated, that which people say or tell; the common talk, report, saying. Therefore the notorious of fame is public insinuation or proclamation, from suspicion indeed alone, yet proceeding from a certain author; and this, in the present matter, not concerning the general quality of some man, that he is good or bad, but concerning some particular fact, for example, that Titius admitted such a crime. Fame of this kind, or fame arisen concerning some particular fact, by reason of its origin can still be distinguished in three ways: 1° As it is the vain voice of the populace and rumor among the people, which has no certain authors nor probable causes or reasons for believing thus, "rumor; hearsay"; 2° As it arises from some malicious, suspect persons, or those seeking their own advantage and utility. Neither the former nor the latter is to be attended to; 3° As it has drawn its origin from persons worthy of faith, grave, and concerning whose advantage there is no question, or, as St. Alphonsus says, from sufficient indications, so that it appears from what reason and cause the fame had its origin; and concerning this fame alone there is speech for the present. Fame accepted in such a way differs from rumor. For fame properly is when the whole city, or neighborhood, or the greater part of a community asserts something; but a community ought to consist of at least ten persons. But rumor is when some smaller part, for instance a half, a third, or a fourth part, speaks thus. Then fame proceeds from a certain author, for instance when it has arisen from certain and honest persons who said among the people that they had seen something and were present; but rumor proceeds from an uncertain author. Resolves. - 1° In order that some crime be held as notorious, and this, as is required in our matter, in the reason of crime or as formally criminal, it suffices, if there is question of the notorious by notoriety of fact, that the fact be permanent or even interpolated. But if the question is about a fact immediately passing or momentary, for example, someone publicly

utters heresy, from the very crime publicly perpetrated, from the very fact of heresy uttered, it is not yet established that he who perpetrated the crime, uttered the heresy, admitted the crime in the reason of crime, the heresy in the reason of heresy or as formally evil. Therefore in this case the Sacraments are not immediately to be denied, but inquiry must first be made whether, just as the fact itself, so also the formal malice of the fact is publicly certain. 2° In order that, on account of the notoriousness of an interpolated fact, for example in the case of a public customary sinner, a Sacrament can be publicly denied, it is required that perseverance in the evil custom be evident and publicly known. Wherefore the Sacrament is to be conferred if either the custom has been interrupted for a longer time, by the work of the customary sinner himself or even by some physical cause, for example illness, or nothing more has been publicly heard about it for a longer time. 3° The notorious of fame, in order to the denial of a Sacrament, is not to be attended to unless the fame, that is, the public insinuation or proclamation itself, is uniform, solid, constant, and perpetual, that is, not vague, light, or contrary, or, as Canonists have it, shaken by contrary allegations. It can be proved by two witnesses greater than every exception, deposing that they have heard it said so publicly, and indeed by the greater part of the people; for it does not suffice to depose that they heard it said so publicly, since it can happen that one alone said this publicly. Besides, they must express the certain persons, at least two, from whom they heard it, so that it may be known whether these are such that faith can be had in them. Finally, they must assign the probable causes by which the people was induced to believe: for example, because those persons, to whom faith can be had and from whom they heard it, asserted that they had seen it thus with their own eyes. 4° Before how many persons a crime ought to have been committed in order to be notorious by fact, and by how many, especially in a more populous community, it ought to be publicly insinuated or proclaimed in order to be notorious by fame, is defined rather by the judgment of a prudent man than by some general rule; compare nn. 522, 1564. But since this matter in practice is not without difficulty, and the judgment concerning the requisites for the notorious both of fact and of fame is also often arduous, in a matter of as much importance as the public denial of a Sacrament, the Ordinary is to be consulted if time permits; but if time does not permit this and the notoriety is doubtful, the Sacrament is not to be publicly refused. > Notes to appendix annotation - note sequence 1. > > 1 Reiffenstuel, L. 2. T. 19. n. 11. | 2 An apt, legitimate witness greater than every exception is one who can be repelled by no legitimate exception; and if anything differs here from those, it differs only as the comparative from the positive. Reiffenstuel, L. 2. T. 20. n. 7-11. But exception is the same as exclusion, for example of a witness, judge, etc. Id. T. 25. n. 1-5; and it is called legitimate if it is granted by law. | > Notes to appendix annotation - note sequence 2. > > 1 A sentence is said to have passed into a thing judged when it has not been appealed from. Reiffenstuel, L. 2. T. 27. n. 2 sq. | 2 Cf. Schmalzgrueber, T. 10. P. 1. Tit. 1. § 1. | > Notes to appendix annotation - note sequence 3. > > 1 Lib. VI. 44. | 2 Reiffenstuel, Lib. 2. T. 20. n. 387 sq.

1231. - Query 3° Is the Sacrament to be denied to a sinner when his crime is not public where he asks, but is public elsewhere?

Resp. Negatively, at least more probably; because on the one hand, by ministering the Sacraments to him, there is no scandal of others, and on the other hand, if they were denied, those inconveniences and harms would arise which proceed from denial made to an occult sinner. - But one must say otherwise if knowledge of that crime is easily about to come into that place.[1]

Query 4° How ought Pastors to conduct themselves in the celebration of Matrimony of those who notoriously have incurred ecclesiastical censures?

Resp. The Sacred Penitentiary, 10 Dec. 1860, dub. 10: "Care is to be taken with all strength that those bound by ecclesiastical censures be reconciled with the Church in the due manner; but if they refuse to be reconciled, and unless the marriage is celebrated, grave harms seem to be imminent therefrom, the Pastor should consult the Ordinary, who, having considered the account of things and circumstances and weighed all things which are handed down by approved authors, and especially by St. Alphonsus (L. VI. 54), should declare those things which he shall have judged more expedient in the Lord." Namely, according to the Holy Doctor, the Pastor will be able to assist "in order to avoid death, or other graver evils of the community, or of the contracting parties themselves, for example, lest they themselves persevere in sin."

Query 5° Is it lawful to simulate the administration of a Sacrament, lest it be conferred on an unworthy person?

Resp. Theologians distinguish a twofold simulation: one formal, by which the Minister directly intends to deceive; another material, by which someone does not directly intend to deceive, but from another motive is induced to simulate, for example, if he is compelled by grave fear, etc.

I say: It is never lawful, not even materially, to simulate a Sacrament. The reason is, because every simulation is an injury and grave irreverence toward Christ, whom the Minister mocks by abusing sacred things instituted by him.

1232. - Query 6° In what precisely does simulation of a Sacrament consist?

Resp. Theologians do not agree. Some say that generally it consists in this, that it can lead those receiving or others into error. More probably, according to the common sentence, it seems to be present only when something is put fictively which pertains to the essence of the Sacrament, so that the neighbor is necessarily deceived; and thus they distinguish simulation from dissimulation, which is had when the fiction or defect is exterior and, *per se* speaking, can be recognized, as, for example, if in the confection matter or form is not placed, but something else is substituted in its place, so that something other than the Sacrament is done. This dissimulation is lawful from a licit cause, since thus truth alone is hidden, and the Sacrament is not treated irreverently, scandal, contempt, intention of deceiving, etc., being excluded. (Cf. the number immediately following, 1233. 6° and 8°.) Hence the C. S. O., if ever it happened that infidel parents offered infants for Baptism, not so that they might become Christians, but so that they might be preserved from certain diseases, never permitted the pouring of water without the utterance of the form, so that the parents might thus desist from importunate prayers, since "Baptism is the gate of all the Sacraments and the profession of the Faith, and can in no way be feigned."[1]

1233. Resolves. - 1° Among those who, as publicly unworthy, are to be kept away from Communion, the Roman Ritual enumerates excommunicates, interdicted persons, and the manifestly infamous, as harlots, concubinaries, usurers (at least public by law, or condemned by sentence of a judge), magicians, sorcerers (among whom fortune-tellers also are to be held), blasphemers (as also are to be held those who by writings or words are accustomed to assail God, or the Saints, or Religion and the Church with calumnies). "But as often," says Kenrick,[2] "as the exterior composition of the body denotes a humble soul, it can be had as a retraction of those things which one has contumeliously uttered"), and other public sinners of this kind, such as public customary impenitents, those publicly known as enrolled in some condemned society, actors and actresses exhibiting impious or base plays. - "Public sinners," says Kenrick,[3] "who resist the legitimate authority of their prelates, or behave badly with grave offense of the faithful, are unworthy to be admitted to the Eucharist; but whenever the manner of acting, even if unjust, can be extenuated from error of mind or some other reason, it is better to repel no one approaching, but to leave him to the judgment of God and of the confessor." - Nor are all those to be barred who have publicly committed some grave sin, since scandal is regularly removed by Confession made or presumed. Yet, as is clear *per se*, those are to be barred who are publicly and actually in sin, for example, those manifestly and here and now drunk, or women so immodestly denuded that the denudation is mortal *per se* (n. 295. 11°).

2° To a public sinner, even one dying but nevertheless still master of himself, the Sacraments are to be denied, unless he repents not only before God, or in Confession, but also before men, unless perhaps the matter has been erased by oblivion. But this penitence before men ought to be exhibited outside Confession, and in such a way (for example, before witnesses), that it can come to the knowledge of others. Cf. Rit. Rom. on the Communion of the sick.

3° If Sacraments are to be denied publicly, let them be denied in a prudent manner. Hence all those things must be guarded against by the Minister by which either he would become liable to laws punishing defamation, or a greater impediment would be put in the way of the conversion of the unworthy person. Hence the motives of the refusal are not to be publicly exposed; and the priest, as he is assisting at the Sacred Table with others, should pass by without signifying anything either by words or by a nod. But if he comes alone during Mass, the priest will remain at the altar, announcing to the unworthy person through another that he may go away, but not why.

4° A priest would sin most gravely who in Mass should pronounce the consecratory words over bread and wine while excluding the intention of consecrating. Nor can those be excused by good faith who, laboring under crass ignorance and celebrating in mortal sin, simulate Consecration lest they become guilty of sacrilege, even if they omit the words of Consecration altogether.

5° A confessor would sin gravely who should utter the words of absolution without the mind of absolving, even if he were doing this in order to free himself more easily from an indisposed penitent instantly and importunately asking absolution, or even exacting it by most grave threats. - Several say that in this case a confessor can say: I do not absolve thee..., pronouncing the word *not* so softly that it is not heard by the penitent. St. Alphonsus does not judge this improbable;[4] but the confessor could more easily pronounce other words or prayers rather than the form of absolution; moreover this case seems to be almost chimerical.

6° A confessor, however, does not simulate the Sacrament of Penance when he recites prayers over an indisposed penitent, lest bystanders perceive that he is dismissed without absolution; for it is established among all that penitents are often dismissed by only a blessing, and sometimes without the intention of confessing or completing the confession they approach the sacred tribunal.[5]

7° A priest sins gravely who offers a host not consecrated for a consecrated one, even to a person knowing and consenting, as sometimes happens to miserable priests when an accomplice, who is a woman, comes to the Sacred Table to save reputation. The reason is, because thus a host not consecrated is exposed to adoration both by bystanders and by the one receiving herself knowingly with external reverence, which constitutes external and material idolatry, and therefore something intrinsically evil.[6]

8° Yet according to the common sentence they do not sin, at least not gravely, who from grave fear simulate entering Matrimony. The reason is, because since voluntary consent is lacking, according to the sentence now certain, which holds that spouses themselves are the ministers of this Sacrament, matter and form are lacking, and therefore there is no simulation of the Sacrament, but only of the matrimonial contract. Otherwise the error could be sufficiently perceived from the circumstances, and thus deception would not necessarily be present.

Notes to n. 1233. (1) Anal. J. P. Ser. 2. col. 1807. (2) Tr. XVII. 37. (3) Tr. XVII. 37. (4) L. VI. 59. (5) Ib. (6) Ib. n. 61.

§ III. On the Mode of Conferring Sacraments

1234. - It is not enough if the minister diligently observes those things which regard the matter and form; but he ought carefully to keep all the laws of the Holy Church concerning the administration of the Sacraments. Hence the Minister sins who contemns them, omits them without sufficient cause, or changes them;[1] and this according to the gravity of the matter, and therefore gravely, if either he neglects integral ceremonies (namely those which complete the sacramental action and indicate its effects more clearly, as exorcisms in Baptism), or even accidental ceremonies (which pertain to the ornament and decorum of the act, as genuflections), in great quantity, or with grave scandal, or from contempt.

1235. Questions. - Query 1° Is the use of the Roman Ritual of precept in the administration of the Sacraments?

Resp. Affirmatively, as regards our Provinces, yet with the modifications conceded by the Holy See,[2] it being forbidden:

1° That priests depart from it "under the pretext of custom or any other pretext whatsoever."[3]

2° That "if they have judged it expedient, for the sake of explanation, to add a version in the vernacular language of those things which" in administering the Sacraments and in the burial of the dead they recite in the Latin language, "they use any other than that which shall have been sanctioned by the Ordinary."[4]

3° That the Latin form of the prayers never be omitted.[5] (I) p. 400.

I said: affirmatively as regards our Provinces; but whether the use of the Roman Ritual in the administration of the Sacraments is of precept everywhere, disputed on each side, see, if you please, in De Herdt.[6]

Appendix annotation (pi), to n. 1235. 3°. p. 14, col. 2. In a Capuchin case it was asked: "Whether the custom of saying Agnus Dei and Domine non sum dignus in the vernacular language is to be eliminated." ...? And S. R. C. responded: "The custom is to be eliminated," May 23, 1835, ad 5, n. 4748. - And most recently as regards the aforesaid custom S. R. C., in a Ratisbon case, April 15, 1880, ad 6, declared: "The formulae which pertain to the administration of the Sacraments must be expressed altogether in the Latin language, except the responses of the godfather and godmother in the Sacrament of Baptism, and the words of consent of spouses in the Sacrament of Matrimony." I believe the priest must recite in the Latin language, but the recipients can recite in the vernacular, as the same De Herdt notes, Pr. Rit. Rom. p. 32 under 9, from Martinucci.

1236. - Query 2° What sacred vestments are required for the administration of the Sacraments?

Resp. With the case of urgent necessity excluded, a stole and surplice are generally required. - It is said, *surplice*; for "the rochet is not a sacred vestment to be employed in the administration of the Sacraments, and therefore for administering them the surplice must necessarily be used."[7]

But the stole ought not to be worn except in the confection of Sacraments and Sacramentals, and in the act of preaching where custom prevails, and also in certain other functions, as is prescribed in the Roman Ritual. But the use of wearing the stole as a sign of jurisdiction and preeminence is reprobated as an abuse.[8]

More things concerning the mode of administering Sacraments will be treated where the individual Sacraments in particular are considered. - Generally let the following admonition of the Second

Plenary Council of Baltimore be kept before the eyes:[1] "While they minister Sacraments, let the words be pronounced distinctly and articulately; let their approach, countenance, motions of the body, and modulation of the voice express consciousness of the most holy thing which is being done, and excite the faithful to firm faith and inward devotion. Moreover, according to their strength and the circumstances of things, let priests take care that those things which are required for the dispensation of the Sacraments be clean and becoming. Let Pastors instruct the flock committed to them concerning the Sacraments and the religious preparation to be put before these, as often as occasion is offered."

Notes to n. 1236 - note sequence 1. (1) Trent, Session 7, on the Sacraments, Canon 13. (2) Conc. Plen. Balt. II. a. 210-212. (3) Ib. a. 213. (4) Ib. a. 214, 215. (5) Ib. a. 215. (6) S. Lit. Prax. T. III. p. 369. ed. 1870. (7) S. R. C. 10 Jan. 1852. n. 5165. (8) S. R. C. 7 Sept. 1816; 11 Sept. 1847; 7 Sept. 1850. n. 4524. 5107. Notes to n. 1236 - note sequence 2. (1) a. 208.

CHAPTER IV: ON THE SUBJECT OF THE SACRAMENTS

1237. - The subject of a Sacrament is called he who receives the Sacrament, and is capable of the effect of the Sacrament.

The subject of the Sacraments is man alone as a wayfarer; because, as is clear from Sacred Scriptures and tradition, the Sacraments were instituted for wayfaring men alone. Yet not all men are capable of all the Sacraments. For neither can women receive the Sacrament of Order, nor can children not yet using reason receive the Sacraments of Penance and Extreme Unction.

The reason *a priori* why man alone as a wayfarer is capable of the Sacraments is the will of Christ the Lord, the institutor of the Sacraments. But the reason of fittingness is, because, according to the order of the present Providence, man alone as a wayfarer is capable of first grace or of the increase of grace; but the Blessed or souls detained in purgatory are not of this kind, since for them there has already been determined a measure of glory corresponding to the grace which they had in mortal life. Much less are the damned capable of grace, as being now separated from God for eternity.

These things having been posited, we must treat of the requisites both for the valid and for the licit reception of the Sacraments.

ARTICLE I: ON THE REQUISITES FOR THE VALID RECEPTION OF THE SACRAMENTS

1238. Principles. - I. For validly receiving the Sacraments no probity is required, nor properly Faith in the subject, if you except the Sacrament of Penance. This is clear from the practice of the Church, which has never permitted heretics and wicked men, duly baptized and ordained, to be baptized or ordained again. It is also clear, as regards Faith, from the express definition of the Council of Trent[1] concerning the Baptism of infants.

II. In infants or perpetually insane persons no disposition is required, nor intention, so that they may validly receive the Sacraments of which they are capable, namely Baptism, Confirmation, Order, and the Eucharist, which formerly was ministered to them. This is clear from the practice of the Church, and from the common sentence, etc.

III. In adults, for the valid reception of Sacraments, some intention is required; because it is not fitting that an adult be sanctified unless he wills it. Hence a neutral intention does not suffice, by which someone is so disposed in mind that he neither consents nor dissents.[2] For of such a one it cannot be said that he wills to receive the Sacrament. But for most Sacraments a habitual intention suffices, even sometimes one only confused, or implicit, with the nature of each Sacrament considered; because the conferral of Sacraments is a certain donation and benefit, for accepting which habitual intention suffices. I say: 1° *for most Sacraments*: on account of the exceptions concerning which n. 1240. I say: 2° *implicit*: i.e. contained in the will to live, or at least to die, as becomes a Catholic, and, as regards Baptism, in the will of doing all things necessary for salvation, but according to the things to be said at n. 1240. R. 1°.

IV. For validly receiving the other Sacraments, reception of Baptism is pre-required; therefore an unbaptized man is in no way capable of the other Sacraments.

The reason is, because the other Sacraments were instituted for the Church alone; but through Baptism alone men become members of the Church. Therefore, etc. Thus Eugene IV defined in the Decree for the Armenians.

Notes to n. 1238. (1) Session 7, on Baptism, Canon 13. (2) L. VI. 81 from St. Thomas, Part 3, q. 68, a. 7, c.

1239. Questions. - Query 1° Is attention required in the adult subject, that he may validly receive a Sacrament?

Resp. Absolutely negatively. For intention suffices, as has already been explained, even in Sacraments which require a virtual intention; the reason is, because a human act does not proceed from attention, but from the will or from intention. - Besides, most Sacraments, as was said, do not require even a virtual intention; therefore *a fortiori* they do not require attention on the part of the subject. Moreover attention is not required in the Minister for confecting a Sacrament, as is clear from the things said above at n. 1215; therefore *a fortiori* it is not required in the subject.[1]

Hence penitents are sometimes tormented by scruples in vain from this, that they suffered distractions while they were being absolved, or that they were absolved without having noticed this.

Notes to n. 1239. (1) Sporer, n. 157.

1240. - Query 2° What intention is required in adults for the individual Sacraments to be received?

Resp. 1° For validly receiving Baptism in adults, there is required an intention at least habitual, which has been expressed beforehand and never retracted. Yet some say that an implicit will of Baptism suffices, such as would be in him who would have the will of doing all things necessary for salvation, provided nevertheless that this implicit will in an unbeliever is not likewise implicitly excluded through gravely culpable ignorance of the true Faith.[1]

2° For Confirmation an interpretative will suffices. Thus it can be conferred upon a dying person deprived of his senses. - The same will suffices in one receiving the Eucharist.[2]

3° For Penance there is required either an actual intention, or at least a virtual one; and therefore a habitual intention does not suffice, at least in practice.[3]

4° For Extreme Unction there suffices a habitual, or implicit, or interpretative intention, as theologians commonly say, and as is clear from the Roman Ritual, where concerning it it is said: "This Sacrament is to be supplied to those deprived of their senses, who beforehand asked for it, or likely would have asked for it;"[1] "and the same," says St. Alphonsus,[2] "Lugo, etc., say concerning the Sacrament of the Eucharist."

5° For Order, certainly in an adult an interpretative intention does not suffice, because without an explicit will no adult can undergo the gravest obligation of the Clerical State. Yet a habitual intention suffices. But in practice, in one receiving Order, there will always be an actual intention, or at least a virtual one.[3]

6° For Matrimony there is required an intention at least virtual, because Matrimony is perfected by a contract, for which deliberation and full will are necessary.[4] (p) p. 400.

Notes to n. 1240 - note sequence 1. (1) L. VI. 82. (2) L. VI. 82. (3) Ib. Notes to n. 1240 - note sequence 2. (1) L. VI. 82. (2) Ib. (3) Ib. (4) Ib. (5) Ib. 86. Appendix annotation (rho), to n. 1240. 6°. p. 16, col. 2. To the question: Of what Sacraments, and of which ones, are deaf-mutes capable? Craisson responds, Manuale, n. 3239-3241. "Either they have been taught according to modern methods, or not; if the former, they can validly receive all the Sacraments just like other men, indeed also licitly receive them (Order excepted), provided no other impediments are present. "If the latter, the Sacrament of Baptism can validly and licitly be conferred on them" and Confirmation, "at least if, insofar as can be done, they are taught Christian doctrine. "As regards the other Sacraments: concerning Matrimony Innocent III speaks thus (cap. Cum apud sedem 23 de spons.): 'If such a person wishes to contract, it cannot or ought not be denied to him, since what he cannot declare by words, he can declare by signs.' "It is also supposed by most Doctors that other Sacraments can be administered to the deaf and mute, if in them the required dispositions appear, or nothing appears from which they are to be judged indisposed; but almost all those Doctors wrote before the time in which the modern method of teaching the deaf and mute was invented. Moreover, by many experiments it seems to be established that the deaf and mute who are not taught by this new method have no true knowledge of God and of the rules of morals, and a fortiori do not arrive at the knowledge of the mysteries and supernatural truths; consequently they cannot have any human will of receiving the Sacraments, nor the dispositions necessary for receiving them with fruit (see Montaigne, Recherches sur les sourds et les muets). Nevertheless the Ritual of Belley, at the end of the first volume, thinks that the Sacraments of Confirmation and the Eucharist can be conferred on them, since these were administered of old (and still today in the Eastern Church) to children; but it says that Penance and Extreme Unction can be conferred on them under condition; as regards Matrimony, that the question was solved by Innocent III above reported; but that it is not lawful to admit them to Orders, because they are irregular. "Although we would not wish to reject those who think the aforesaid solutions are to be embraced, nevertheless in practice we would not dare, especially, to join in Matrimony mutes and deaf persons not taught according to modern methods. For although Innocent III says that they ought not to be repelled from Matrimony, if they wish to contract, nevertheless the Pontiff supposes or requires that they wish to contract; but in this, today especially, is the difficulty: since, as we have already said, from many experiments it seems to be established that such deaf and mute persons, not taught, do not have a moral will, on account of defect of moral cognitions; but the contract of Matrimony is a human and moral act, for which true human will is required." (Yet not all agree with Montaigne. See Philosophia Christ. of Sanseverino, reduced into compendium, T. I. n. 82. 3°.) "Whatever may be the case concerning Matrimony, Penance and Extreme Unction are not to be administered to deaf and mute persons not taught except under condition."

ARTICLE II: ON THE REQUISITES FOR THE LICIT RECEPTION OF THE SACRAMENTS

1241. Principles. - I. For receiving Sacraments of the living licitly and fruitfully, besides the intention of receiving them, the state of grace is pre-required. For these, from their primary institution by Christ, are ordered not to conferring first grace, but its increase, since they suppose first grace already in the subject. Hence they sin gravely who knowingly receive Sacraments of the living in the state of mortal sin, and indeed more gravely than those who unworthily minister or confect them.[1] But the state of grace must be procured through Confession, if one is to approach the Eucharist; or at least through perfect contrition, if there is question of other Sacraments, as was said above concerning the Minister. Yet it is safer, as much as can be done, always to put Confession before the reception also of other Sacraments.

I said: *for receiving Sacraments of the living licitly and fruitfully*, etc. For although in a case of grave necessity they more commonly assert that it is lawful to receive Sacraments of the living in the state of mortal sin even without contrition, when time for eliciting it is not available, nevertheless thus no fruit would be perceived from it. This would happen, for example, if a layman kneeling at the bench of communicants suddenly remembered a mortal sin not yet blotted out.[2] But the case, as it is posited, will be very rare, either because time remains for eliciting contrition, or because the sin has already been indirectly blotted out through Confession.

II. For Sacraments of the dead to be received licitly by adults, there are required acts at least implicit of Faith and Hope, according to the things said by the Apostle:[3] He who comes to God must believe that he is, and that he is a rewarder to those who seek him. Cf. the things said at nn. 257-261, 270. Moreover an act of sorrow concerning sins is required, because remission of sins is given to no one without retraction or sorrow for sins committed. But these things in the Sacrament of Penance are necessary also for validity, because they pertain to the disposition of the penitent.[4] But attrition suffices, as will be said in its own place.

Notes to n. 1241. (1) L. VI. 86. (2) Ib. (3) Heb. 11. 6. (4) Trent, Session 14, on Penance, c. 4. St. Alph. L. VI. 86.

1242. Questions. - Query 1° Do Sacraments received validly but illicitly, the obstacle having been removed, revive, or produce the graces proper to them?

Resp. Affirmatively, at least for most Sacraments. The reason is, because it happens only *per accidens* that they do not produce their proper effects, namely on account of the obstacle; and therefore those effects indeed remain suspended while the obstacle remains; nevertheless, once this has been removed, they ought to be applied to the soul. This is admitted as certain for Sacraments imprinting character. The same must more truly be said also of the Sacrament of Penance (as will be said at n. 1348, q. 7°), and *a fortiori* of Extreme Unction (at least if the obstacle was involuntary) and Matrimony, which cannot be repeated in the same illness or the same marriage.[1]

Query 2° What disposition is required in the subject, that an unformed Sacrament may revive?

Resp. This general rule is commonly established: that disposition is required which was lacking, and whose absence caused the obstacle to the effect of the Sacrament, or precisely that must be placed which was necessarily required in the reception of the Sacrament. Hence *per se* attrition suffices for the reviviscence of Baptism, Penance, and Extreme Unction. But perfect contrition, or attrition with Confession, is required for the other Sacraments, namely for Confirmation, Order, and Matrimony. - Likewise if Baptism was unformed on account of the defect of Faith alone, it will revive through an act of Faith with attrition for the sin of unbelief. The reason is, because, just as the obstacle was induced because of the lack of some required disposition, so it is removed through the placing of the same: for no reason then remains why the effect of the Sacrament should remain suspended. - Thus St. Thomas (for Baptism),[2] Lugo,[3] Lacroix.[4] But the Eucharist does not revive, unless perhaps while the obstacle is removed before the species are consumed. Otherwise, the more frequently someone had communicated sacrilegiously, so much more abundantly would he be enriched with graces when he became contrite, or, being attrite, confessed.[5]

Query 3° Does attrition suffice that unformed Baptism may revive, if the one receiving has committed other grave sins after Baptism?

Resp. Negatively; because sins committed after Baptism are the necessary matter of the Sacrament of Penance, and therefore cannot be remitted except through that Sacrament, or through perfect contrition with the vow of the Sacrament of Penance included in it. - Lugo,[6] Lacroix.[7]

Notes to n. 1242. (1) L. VI. 6. 87. 444. 707. Exam. Ord. n. 4. (2) Part 3, q. 69, a. 10. (3) D. 9. n. 50 sq. (4) n. 207. (5) L. VI. 87. (6) D. 9. n. 55 sq. (7) n. 207.

1243. - Query 4° Is it lawful to ask for a Sacrament from an unworthy Minister?

Resp. 1° It is not lawful without cause; because thus without reason an unworthy Minister would be induced to sin gravely. But this is illicit *per se*, because charity demands that we impede the sin of the neighbor which we can easily impede.[1]

Resp. 2° But it is lawful if the Sacrament cannot easily be asked from another priest, nor can its reception easily be deferred; for no one is held, with great inconvenience, to yield his right for impeding the free sin of another. Therefore then the one asking for the Sacrament simply permits the sin, but is not the cause of the sin. But a sufficient cause would be necessity or notable utility of the Sacrament, which will be present more easily in the Eucharist and in Penance, and a lesser cause suffices if it is asked from one prepared, or from a pastor.[2]

Note. - The faithful a) are not held to inquire concerning the dignity of the Minister; b) outside the case of danger of seduction, they can always ask Sacraments from a priest who is not certainly known to be unworthy, and who, with the Bishop knowing and approving, performs the functions of the sacred Ministry; nor c) are they held to abstain from asking precisely because they know that the Minister not long before fell into mortal sin; for it can be presumed (not, however, against the truth) that it was blotted out by penitence. See L. VI. 89. § fin.

Query 5° Is it lawful to ask for a Sacrament from a Minister unworthy on account of some censure or canonical inability?

Resp. Distinguish. Either there is question of ecclesiastical right alone, or of divine right. In the former case, subdistinguish. - If he has been publicly and by name censured or rendered unable, it will not be lawful except in extreme or very grave necessity, as if there is question of Baptism; of Penance; of Viaticum; of Extreme Unction, in the case in which the sick person could not receive another Sacrament; of Order, if the community needed priests; of Matrimony, if it were necessary either for the spiritual salvation of one dying, or for a great temporal utility of children. - If not publicly and by name, it is more truly lawful, because the Council of Constance absolutely conceded to the faithful communion with those tolerated.[1] (Which persons today are to be called tolerated, see n. 1673. § But.) Yet it is supposed that the Minister is not unworthy on account of sin, in which case the resolution handed down in the immediately preceding question holds.

If there is question of divine right, it must be said that ordinarily it is prohibited to receive Sacraments publicly from a Minister, even one tolerated, at least on account of the contempt and disdain of censures which would proceed from this. - This is to be extended by a stronger right to those excommunicated who are enrolled in some heretical or schismatic sect. For although it cannot be doubted that these same persons commonly ought to be numbered among the tolerated, nevertheless the Church has always judged communication in divine things with them illicit in general; since through it divine or natural right is almost always harmed, on account of the danger of perversion or participation in a heretical or schismatic rite, or on account of the danger and occasion of scandal.[2]

Notes to n. 1243 - note sequence 1. (1) L. VI. 89. (2) L. III. 79. L. VI. 89. Notes to n. 1243 - note sequence 2. (1) L. VI. 88. (2) Gury, Edit. in Germ. 4a P. II. n. 964 (1).

APPENDIX: ON SACRAMENTALS

"Besides the Sacraments properly so called, the Church also has other sacred things, which formerly, indeed in a broader and less proper sense, were also called Sacraments. But for many centuries it has come into usage that they be called Sacramentals."[1]

1244. Various Species of Sacramentals. - Universally they are: 1. Rites and ceremonies which the Church uses in the administration of the Sacraments. 2. Blessings and Exorcisms outside the dispensation of the Sacraments. 3. Sacred things, to which, either from divine institution - as to the Most Holy Name of Jesus and to the Sign of the Cross - or from the blessing of the Church, as to lustral water, some salutary power is annexed. 4. Certain pious exercises, as the Lord's Prayer, striking of the breast, the *Confiteor*, almsgiving.

1245. The Power and Efficacy of Sacramentals. - "The origin of the name" of Sacramentals, says the Second Plenary Council of Baltimore,[2] "is from this, that although they are far inferior to the Sacraments in power and merits, nevertheless in effects they imitate them in a certain way."

It is said: 1° "they imitate them in EFFECTS." For a), like Sacraments of the living, they confer grace, namely actual grace and an increase of habitual grace; b), like Sacraments of the dead, they remit sins, especially light ones; c), like Sacraments imprinting character, so some Sacramentals constitute things strictly sacred.

It is said: 2° they imitate them in effects IN A CERTAIN WAY. For according to the more common sentence, and, according to St. Alphonsus,[3] the truer one, they cause their effects, i.e. remission of sins and temporal benefits which we expect from them, not *ex opere operato*; and therefore not infallibly, but by way of impetration, i.e. on account of the prayers and blessings by which the Church obtains, for those using Sacramentals, pious motions of sorrow or charity, through which sins are remitted, and benefits, even temporal ones; but these only insofar as they are salutary for us.[4]

Notes to n. 1245. (1) Conc. Pl. Balt. II. a. 341. (2) Ib. (3) L. VI. 92. (4) St. Thomas, Part 3, q. 87, a. 3, c.

1246. Administration of Sacramentals. - 1. The obligation of ministering them, according to Suarez,[1] is present "on the supposition of the necessity of a man possessed by a demon, or another similar necessity, ... because" the Ministers of the Church "are held to assist the necessities of their faithful by suitable remedies, and those instituted by the Church." Possevin also suitably admonishes:[2] "In remedies for the good of the people, for example against hailstorms, locusts laying waste the crops, not only should" the priest "be readily available, but even of himself, without being asked, he should propose them. Let him do the same in the mortality of animals and in like things; not because he is held to these things from precept, but because by acting thus he will acquire the benevolence of the people and will increase its devotion, and will merit by an act of charity."

2. They are to be ministered with faith and confidence; with a clean heart and pure intention; worthily and devoutly; lest the mockeries of unbelievers either be feared, or be provoked by an unbecoming mode of administering.

3. "Let preachers and rulers of souls especially take care that they explain to the faithful, and more often inculcate, the nature, signification, and right use of these things. Let them

persuade those who lean too much on their own wisdom and ability that these things, although they seem light and minute, are not to be contemned, since they profit not a little for living piously and obtaining salvation. But let them again and again warn the ruder common people, who are carried away by the contrary error, lest they attribute too much efficacy to the things themselves, and keep them with a certain blind and immoderate confidence, and pursue them with superstitious veneration, as if they could do very much of themselves, without a pious disposition of mind. But let them most sharply rebuke those who have sacred things of this kind, as will be the custom among the Heathen, almost in place of amulets, which would keep them, even when involved in the most foul mire of vices, immune from the anger of God and vengeance."[3]

Notes to n. 1246. (1) De Rel. Tr. V. L. IV. c. IV. n. 5. (2) Praxis Curae Past. c. XII. n. 47. (3) Conc. Pl. Balt. II. a. 350.

1247. - Exorcisms hold the principal place among Sacramentals; these were treated at nn. 375-377; and Blessings. Of these, some are private, which are given also by lay persons, for example, by parents to children; others are liturgical, which are given by Ministers deputed for this. These are divided in various ways.

I. By Reason of Effects. Some blessings are invocative, namely of the benignity of God upon persons - for example, upon a woman after childbirth - or upon things - for example, upon foods - and are counted among transitory Sacramentals, because persons or things blessed in this way do not change their state, or from profane things do not become strictly sacred, and therefore can be applied to profane yet honorable uses, as before the blessing, as foods and drinks, a house, a ship, etc.; likewise, according to St. Alphonsus,[1] blessed water and blessed candles (I think, outside the day of Purification?) - others are constitutive or consecrative, which are numbered among permanent Sacramentals, because persons or things blessed in this way change their state and from profane things become strictly sacred, nor can they any longer be applied to profane uses, even honorable ones, as chalices, vestments, altar stones, Agnus Dei, etc.

Note. - Missals and Sacred Bibles, as also sacred images, ought not to be applied to a profane use; but one must say otherwise concerning other papers on which sacred names are incidentally and accessorily inscribed.[2]

II. By Reason of Rite. Some are verbal, in which anointing is not employed; others real, in which it is employed.

III. By Reason of Objects. Some are of persons, as of an Abbot; others of things, as of a Church.

IV. By Reason of the Minister.

A. Some are Papal, as the blessing of the Agnus Dei, of the Pallium, etc.

B. Others pertain to Bishops, and to them alone, and indeed in such a way that without Pontifical Indult they cannot be delegated to simple priests; but things which had been blessed with a faculty delegated without an indult of this kind ought to be blessed anew before use, if this can be done without scandal.[3] They are real blessings, and are found only in the Pontifical. Of this sort are the consecration of a chalice, of an altar, of a bell. Which of these our Bishops can delegate, see p. LXXIII. n. 6. 12; and which things, when the See is vacant and in a case of necessity, are delegated to the administrator, p. LXXII. n. 28.

C. Others pertain to Bishops, but in such a way that they can be done also by others having the faculty. They are found in the Ritual and Missal under the title: "Blessings to be done by Bishops or by others having the faculty." They are the following:

1. Blessings of sacerdotal garments, of cloths and corporals, under which also are palls; of the tabernacle, i.e. the pyx and lunula (but by the rite of the Ritual, not of the Pontifical. S. R. C. 16 March 1876. Acta, t. 13. p. 33); of a solemn cross or images, which is done publicly, with a concourse of the people, with solemnity, chant, several ministers, etc.; but not the private blessing, which is done without the said apparatus by one priest with one minister.
2. The blessing and reconciliation of a church not yet consecrated, and of a public oratory and cemetery, and also the blessing of the first stone.

Note. - a) It is certain that a Bishop by his own right can delegate even a simple priest for the blessings enumerated under 2), because this faculty of delegating is specially expressed in the Ritual. But whether he can also delegate those which are listed under 1) is disputed;[4] yet our Bishops have an Apostolic indult for this (see p. LXXI. n. 13).

b) By the Superiors of those religious Institutes which communicate in privileges with the Mendicants, the blessings concerning which under C. can be done, provided there is not question of churches, oratories, or cemeteries belonging to others, nor of garments, vestments, or vessels for the use of churches belonging to others, nor of crosses or images to be blessed solemnly in places not subject to them.

D. Others pertain to simple priests, which nevertheless again are of a twofold kind; for:

1° Every priest can give certain ones, namely those which in the Missal or Ritual are prescribed to be done by "a priest," with no addition. Yet a simple priest will not be able to impart these: 1) in another's church, or in chapels or oratories annexed to a church, against the will or contradiction of the pastor or rector; 2) publicly and solemnly in places of another's jurisdiction; 3) if in favor of the pastor there stand an immemorial custom, or a synodal law, or an agreement.

2° Certain ones only a pastor, or one delegated by him, can give, namely those which are marked in the Ritual as to be done by the Pastor, or by another priest; for then it is understood: by another priest with the permission of the Pastor.[5] But by the right of the Pastor are: the blessing of houses on Holy Saturday; the common blessing over crops and fields, at least if it is done solemnly; likewise perhaps the blessing of houses to be done at another time outside Holy Saturday, because in the Ritual for this blessing mention is made of the Pastor; nevertheless Cavalieri denies this;[6] finally the blessing of the baptismal font, of nuptials, and, except in the case of a legitimate contrary custom, of women after childbirth. - Moreover the distinction between parochial and non-parochial blessings can scarcely be of use here. Yet see n. 1138.

V. Finally, by Reason of Necessity, blessings are divided into prescribed and non-prescribed.

To the prescribed pertain:

a) Episcopal blessings of each kind (see under IV. B. C.), except the blessing of a cemetery - since the blessing of the place or sepulcher suffices - and the solemn blessing of crosses or images. - From sacerdotal garments and vestments:

1° The purificator, veil, and burse are not necessarily to be blessed.[7] 2° Probably the cincture and pall are to be blessed.[8] 3° But certainly the corporal, amice, alb, maniple, stole, chasuble, and cloths.[9] 4° The pyx and lunula ought not to be consecrated, but nevertheless probably to be blessed. The monstrance is laudably blessed.[10]

b) Parochial blessings, except the blessings of a woman after childbirth, of fields, of fruits, and of houses.

c) Those which according to the Rubrics are prescribed on certain days of the year, for example on the day of Purification, or on Sundays before the principal Mass (concerning which see De Herdt[11] or our Ceremonial[12]).

Notes to n. 1247. (1) L. VI. 94. (2) Benger. Comp. der Past. Theol. p. 498. (3) Decr. 22 Sept. 1703. 3. (4) L. VI. 378. Dub. 4. De Herdt. T. III. n. 129. (5) Scav. T. IV. n. 350. Gury, Ed. in Germ. 4a, p. II. n. 233. (4). (6) De Herdt. T. III. n. 129. (7) S. R. C. 7 Sept. 1816. n. 26. L. VI. 389. (8) L. VI. 376. 388. (9) Ib. 384. 385. De Herdt. T. I. n. 173. 2°. (10) T. III. n. 184 sq. (11) T. III. n. 134 sq. (12) P. II. ch. VII. p. 122. Ed. 1875.

1248. With What Rite Blessings Are to Be Done. - Blessings which either from precept, or publicly in churches or public oratories before the people gathered for this, are done outside Mass, are to be given with surplice and stole according to the reason of the season,[1] standing and with head uncovered, hands joined, with a minister carrying the vessel of blessed water and the sprinkler, and with the formula prescribed in the Missal or Roman Ritual or approved by the S. C. Rit. - For blessing those things for which a special blessing is not had, the Blessing for all things can be used (see *Exc. ex R. R.*, Ed. 1872, p. 260; Ed. 1874, p. 252), or the Sign of the Cross is to be made over the thing to be blessed with the formula: In the name of the Father, etc.; then the thing itself is sprinkled with blessed water.[2]

If the cross has the image of the Crucified, the blessing for images is to be employed. Craisson, *Elem. Jur. Can.*[3] If the blessing is done at the altar, all things are recited at the Epistle corner, and the priest uses a cope. The things to be blessed, if they are sacerdotal vestments, can be placed upon the altar; but otherwise, if they are candles and other things of this kind, which are to be placed upon a table before the altar, or at the Epistle corner.[4] - The church is the more proper place of blessings, although not necessarily of all; for the blessings of certain things, as of water, sacerdotal vestments, and the like, can from a reasonable cause be done in a profane or honorable place.[5]

Notes to n. 1248. (1) i.e. with a stole of the color of the office of the day, unless otherwise in the proper places of the liturgical books something is noted as regards the color. De Herdt, Pr. Rit. Rom. C. 10. § 3. n. 2. (2) Scav. T. IV. n. 344. 356. (3) n. 703. (4) Ib. n. 705. (5) De Herdt, l. c. n. 1.

TREATISE ON BAPTISM

We must treat: 1° of the nature, properties, and necessity of Baptism; 2° of the matter and form; 3° of the Minister; 4° of the subject and accessory solemnities.

CHAPTER I: ON THE NATURE, PROPERTIES, AND NECESSITY OF BAPTISM

1249. - The word Baptism or Baptisma signifies the same as immersion and washing; hence Baptism is also called a washing, because it wipes away sins.

Baptism is defined: the Sacrament of regeneration through water in the word. Thus the Roman Catechism; or: It is the first Sacrament of the New Law, and the one most necessary, instituted by Christ for the spiritual regeneration of man.

From the Baptism of water, which is called *fluminis*, there is distinguished the Baptism *flaminis* and of blood, by which Baptism properly so called can be supplied, if this is impossible. The former is an ardent desire, at least implicit, of receiving Baptism of water with full conversion to God, namely with contrition or perfect charity. The latter is the shedding of blood, or death borne for the Faith, or for another Christian virtue, in adults probably with contrition or perfect charity. But only Baptism of water is properly called Baptism in reality. Baptism *flaminis* and of blood are called Baptisms in vow. Yet Baptism of blood is more excellent than Baptism *flaminis*, because 1° this latter does not always, as the former does, take away every debt of punishment, and because 2° the former produces its effect almost *ex opere operato*, i.e. although not so strictly as the Sacraments, nevertheless from a certain privilege by reason of the imitation of the Passion of Christ; for otherwise it would not have profited the Holy Innocents, whom nevertheless the Church honors as martyrs.[1] But only Baptism *fluminis* imprints character, and renders man capable of receiving the other Sacraments.

1250. - The principal effects of Baptism are numbered as three, namely: 1° remission of original sin and of actual sins, if there are any, through the infusion of sanctifying grace, to which is added the habit of all the virtues;[2] 2° total remission of eternal punishment and temporal punishment due for sins, but not liberation from the penalties of the present life, which nevertheless by virtue of Baptism will be taken away from the just in the Resurrection, when this mortal thing will put on immortality;[3] 3° the impression of character, by which the baptized person is marked as a son of God and coheir of Christ, and is rendered incapable of receiving Baptism again. It is clear as regards the first from Trent, Session 5, in the Decree on original sin; as regards the second from Trent in the same place, and from the Council of Florence in the Decree for the Armenians; as regards the third, from the Council of Florence in the same place, and from Trent, Session 7, on Baptism.

Therefore Baptism is as the gate of the Church and of the kingdom of heaven. Hence if someone has not been validly baptized, he can validly receive no other Sacrament.

Baptism of water in reality or in vow, at least implicit, from divine institution is altogether necessary for salvation by necessity of means. It is clear from the words of Christ:[4] Unless a man has been born again of water and the Holy Spirit, he cannot enter into the kingdom of God. - And from Trent.[5]

Notes to n. 1250. (1) L. VI. 95-100. (2) Catech. Conc. Trid. on Baptism, q. 42. Conc. Trid. Sess. 6. cap. 7. (3) St. Thomas, Part 3, q. 69, a. 3. (4) John 3. 5. (5) Session 7, canon 5, on Baptism.

CHAPTER II: ON THE MATTER AND FORM OF BAPTISM

ARTICLE I: ON BOTH THE REMOTE AND PROXIMATE MATTER OF BAPTISM

§ I. On the Remote Matter of Baptism

1251. Principles. - I. The valid matter of Baptism is natural water alone, or elementary water, apt for washing. It is of Faith. It is clear 1° from the words of Christ:[1] Unless a man has been born again of water, etc. - It is clear 2° from the Councils, especially from Florence in the Decree for the Armenians, and from Trent.[2] - "But what true and natural water is, although with the help of chemical analysis, confirmed by synthesis, it is sufficiently known to those skilled in natural science, nevertheless for theologians (on account especially of the difficulties which occur everywhere in defining the nature of mixtures) it seems that in place of a principle the admonition of the illustrious Author *De re Sacrament*. Tom. I. must rather be held, that concerning true and natural water judgment must be made from the common use of men, not from the disputes of philosophers."[3] (W) p. 416.

II. The licit matter of Baptism, outside the case of necessity, is blessed or consecrated water alone, and mixed with chrism according to the rite of the Church, at least for solemn Baptism. This is clear from Canon Law (see below concerning the Ceremonies of Baptism). But he certainly sins gravely by the sin of sacrilege who without grave necessity uses impure, turbid, or foul water, although this is valid matter.[4] (co) p. 401.

It is said: 1° *outside the case of necessity*, which case sometimes occurs in Missions. Concerning this the S. C. de P. F. wrote in 1806 to the Apostolic Vicar of Tonkin: "Where to preserve water blessed according to the prescribed rite would be of grave inconvenience or danger, in that case it will be lawful for Missionaries or anyone else who, according to the opportunity of things, is apt for conferring this Sacrament, to use common water, especially if it has been blessed,"[5] for water of the baptismal font, which cannot be had except with grave inconvenience or danger.[6]

It is said: 2° *according to the rite of the Church*. - Concerning this, note that although water, as our Councils admonish,[7] is to be blessed by the form in the Roman Ritual, if water thus blessed, because of the absence of a baptismal font in places where Baptisms are rare, is lacking, or has failed, or has been corrupted, it can also be blessed by that shorter formula which was approved for the use of our Missionaries by Pius VIII, and is found in the little book *Excerpta ex Rit.*,[8] etc.

It is said: 3° *impure, turbid, or foul water*. - On this matter note the response of the S. C. Ing., Feria IV, 17 April 1839: "Baptisms conferred with" blessed "corrupted water were valid, although illicit outside the case of necessity; and in a case of necessity natural water is to be preferred; but provision must be made for the renewal of the water of the baptismal font, according to the Roman Ritual."[9]

III. In danger of death, if certainly valid matter cannot be had, doubtful matter ought to be used under this condition: If this matter is sufficient.... Then even a slight probability concerning the value of the matter suffices, because in necessity one must assist the neighbor in the best way in which it can be done. But if one baptized thus has survived, once there is availability of certainly valid matter,

he ought to be baptized again under this condition: If thou art not baptized, I baptize thee, etc. - Common.

Appendix annotation (Psi), to n. 1251. I. p. 23. col. 1. The common sense of the faithful in matters of Faith and morals, furnished with the required conditions, constitutes the passive infallibility, or the infallibility of the learning Church. - The common practice of the faithful, that is, legitimate custom, moderates the laws of the Church, n. 186. - The common use or estimation of men: 1° interprets ecclesiastical laws, as custom does, and this not rarely against the opinions of physiologists; as when, in interpreting the law of ecclesiastical fast, it holds beer, which for physiologists is food, as drink, or when, in interpreting the law of the natural fast to be observed before the reception of the Eucharist, it does not care about the drawing in of the fumes of foods in a kitchen; 2° sometimes also interprets the divine laws of the Sacraments, insofar as it shows in what signification the matter of some Sacrament is to be taken, for example water in Baptism, n. 1251. I, or wine in the Eucharist. For although some artificial wine perhaps may be true wine for physiologists, nevertheless wine from the vine, even granted that the Church had defined nothing about this matter, would be pronounced by the common estimation or use of men to be understood by the word wine. For Christ is to be judged to have used words in that sense in which the common use of men understands them. Let that text be an example, John 12. 24: "Unless the grain of wheat, falling into the earth, has died." Linz. Past. Bl. Appendix annotation (sigma), to n. 1251. II. p. 28. col. 1. Wherefore a physician and a midwife, in the case in which they are compelled to administer Baptism, are bound under grave obligation beforehand, insofar as it can be done, to cleanse the hands from blood and other filth, or to pour clean water from some vessel. Capellmann, Past.-Med., p. 138.

1252. Resolves. - 1° Valid matter is: 1) water of springs, wells, rivers, the sea, pools, marshes, lakes, cisterns; 2) water dissolved from ice, snow, or hail, because it preserves the same substance, although it has been accidentally changed as regards color, taste, or odor; 3) sulphurous or mineral water, water collected from vapor, dew, or flowing in stormy weather from a wall, leaves, etc.; 4) water simply distilled with roses or other flowers, yet not licit *per se*; 5) turbid water mixed with another substance, provided water is the truly and certainly predominant matter, so that according to the use or estimation of men it can still be called water.[10]

2° Invalid matter is: 1) milk, blood, tears, sweat, saliva, spittle, urine; 2) wine, oil, beer, thick broth from fat, etc.; 3) mud, ink. (2) p. 416.

3° Doubtful matter is: 1) very thin broth, lye, thin beer (water from dissolved salt?); 2) liquid flowing from a vine and other plants; 3) snow, ice, hoarfrost, and other similar things not yet dissolved,[1] coffee, tea.

Notes to n. 1252 - note sequence 1. (1) John 3. 5. (2) Session 7, canon 2. (3) Gury, Ed. Rom. 1873. P. II. n. 236. (4) L. VI. 102. (5) Ib. (6) Anal. I. P. Ser. 8. col. 1571. n. 95. (7) Conc. Pl. Balt. II. a. 234. (8) p. 239. Ed. 1872; p. 231. Ed. 1874. (9) Anal. I. P. Ser. 8. col. 1571. n. 95. (10) L. VI. 103. 104. Notes to n. 1252 - note sequence 2. (1) 5. 26. Appendix annotation (Omega), to n. 1252. p. 24. col. 1; n. 1254. q. 4°. p. 24. col. 2. Scented waters in which the very substance of the water has been changed are not valid matter of Baptism. Nevertheless dying infants in the case in which, on account of the resistance of unbelieving parents, etc., they cannot be baptized in another way, can and must be baptized with water varied even as to color by some mixture, which nevertheless does not change the substance of the water, by way of washing, "douche," cleansing, remedy, etc., in such a way, however, that at least part of the water flows over the head, or, if this is absolutely impossible, over some principal member of the infant. But if the matter, whether remote or proximate, which was used in the case of necessity, was doubtful, the infant, if perhaps he has recovered, should again be baptized under condition and instructed in whatever better way can be done. S. C. S. Officii, Collect. p. 116 n. 181. - The same is to be resolved if someone baptized a dying infant by wiping his forehead with his hand dipped in natural water, or with a finger or cloth similarly wet, without the water flowing or running down. Ib. p. 117 n. 182.

§ II. On the Proximate Matter of Baptism

1253. - The proximate matter of Baptism is ablution, which can be done in three ways, namely by immersion, sprinkling, and pouring, according to the practice of diverse Churches (which practice, namely of pouring among us, must be observed under grave obligation), so that by the moral judgment of men the baptized person is judged to have been washed. This is clear from the words of the form, and from the perpetual practice of the Church, and also from Paul, Eph.:[1] Cleansing by the laver of water in the word of life.

Notes to n. 1253. (1) L. VI. 103. 104.

1254. Questions. - Query 1° Can a child in the womb of the mother validly be baptized?

Resp. Affirmatively, sufficiently probably, if the child in the womb is reached by water by means of some instrument; because, since the infant already exists as a wayfaring man, he can validly be baptized. It stands in the way that the child is still enveloped in the afterbirth, whose exterior membrane is part of the mother. But more recently an instrument has been invented by which the afterbirth is cut open; and thus water, another instrument being employed, can come to touch immediately the body itself of the fetus. Yet he is to be baptized under condition, because it is not certainly established whether Baptism conferred in this way is valid. Therefore, if the child "has put forth the head" from the womb "and danger of death is imminent," or if he is born, he is to be baptized again under condition. - "But if he has put forth another member which indicates vital motion, let him be baptized in that member if danger threatens; and then, if he is born alive, he will have to be baptized under condition."[1] - But the Baptism of one not yet perfectly born, for the sake of decency, is to be conferred by a lay person, and, unless others are lacking, not by a priest.

Query 2° Is Baptism valid if the water only touches the garments or hairs of the one to be baptized?

Resp. 1° If the water touches only the garments, Baptism is certainly invalid; because thus no one would say that the man is washed. 2° But it is probably valid if the water touches the hairs. But in practice the safer part is to be followed.[1] - Hence if the one to be baptized is covered with hair, let the priest either divide his hair with the fingers of the left hand while with the right he pours water, or let him baptize him on the forehead.

Query 3° Is Baptism valid when conferred in another part than on the head?

Resp. Affirmatively, probably, especially if Baptism is conferred on some more principal part, for example on the breast, shoulders, etc. Nevertheless, if necessity has compelled this, afterward, if it can be done, Baptism would have to be repeated under condition.[2] Cf. the things said in this number, Query 1°.

Query 4° Does one or another drop of water suffice for baptizing?

Resp. Negatively, probably, especially if the water does not flow, because it cannot be called ablution, which is altogether required for Baptism. - Thus commonly. Nevertheless it is probably doubtful matter, which in a case of necessity would have to be employed. But they commonly say that the matter is then certain if the one baptizing with the motion of a moistened finger should wash a part of the body.[3] - But there is no doubt that it is certainly valid if water sprinkled in sufficient quantity truly flows down; since Baptism is validly conferred by sprinkling. (Q) p. 416.

Query 5° Is a threefold ablution required for Baptism?

Resp. 1° Certainly it is not required for validity; for one suffices, that someone be judged truly washed.

Resp. 2° But it is required for liceity, and indeed under grave obligation, where this threefold pouring of water is prescribed, as in the Roman Ritual.[4] Yet these things seem to be understood of solemn Baptism.

Notes to n. 1254 - note sequence 1. (1) L. VI. 107. S. C. C. 12 July 1794. Collect. p. 147. n. 248. Rit. Rom. De baptiz. parvulis. Notes to n. 1254 - note sequence 2. (1) L. VI. 107. q. 3. (2) Ib. q. 4. (3) Ib. q. 6. (4) Ib. q. 5.

ARTICLE II: ON THE FORM OF BAPTISM

1255. - The form of Baptism is: I baptize thee in the name of the Father and of the Son and of the Holy Spirit. Thus the Council of Trent defined, according to that saying of Matthew:[1] Go therefore, teach all nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit. But among the Greeks it is said: Let the servant of Christ be baptized in the name of the Father, etc.; or: The servant of Christ is baptized, etc. This form is valid from the instruction of Eugene IV to the Armenians; but it is licit only in the Greek Church.

Several theologians, among whom is St. Alphonsus (who nevertheless in the little work *Instr. al popolo*, P. II. C. II. n. 6, does not mention that word), judge that the omission of the word Amen at the end of the form of Baptism is venial; yet that word is not found in the Roman Ritual. Therefore it is asked whether it is to be used or omitted? Resp. S. C. Rit.: Let the Roman Ritual be strictly observed in the case (9 June 1853, Cochinchina, n. 5188).

This form can be vitiated in many ways, either accidentally or substantially, as was said above, n. 1212.

The omission of the word *I* in the form uttered in Latin, Italian, Spanish, but not in English, German, or French (since it would have the sense of the imperative), does not vitiate the essence of the form, nor would it exceed venial sin.[2] - The same seems to be said, at least probably, concerning the omission of the conjunction *and*, especially if it is omitted only once, and is placed before the third person. - The same also probably concerning the word *in*, although several grave theologians contradict this. Nevertheless the S. C. C. declared valid the form: "I baptize thee in the name of the Father and of the Son, Holy Spirit." Likewise it has often declared valid the form: "I baptize thee with the name, etc.," uttered in good faith and with right intention.[3] But the other words are altogether required for validity. - But it would be valid even if, in the plural number, the English *you*, the German *Sie* or *Euch*, the French *vous*, the Italian *vi*, were used, since by usage they also have the force of the singular number.

1256. Questions. - Query 1° Is the form of Baptism valid if it is said: I baptize thee in the name of the Most Holy Trinity, or in the name of Christ?

Resp. to the first: Negatively, at least probably, because in such a form the individual persons of the Holy Trinity are not expressed sufficiently distinctly; since the word Trinity signifies the persons only confusedly and implicitly; but Christ willed that they be expressed distinctly, as is clear from Matthew, the last chapter.[4] - Thus commonly.[5]

Resp. to the second: Negatively, at least *a fortiori*, because the Trinity is in no way expressed by the words *in the name of Christ*. - Thus all, at least now after St. Thomas,[6] and it is clear from Canon Law.[7] St. Alphonsus proves this from Acts 19. 2.[8]

Query 2° Is Baptism valid if to the customary form there is added: and in the name of the Blessed Virgin Mary?

Resp. A distinction must be made. It is not valid if someone doing this intends to confer Baptism in the name of the Blessed Virgin, namely by attributing to such names true efficacy for the value of Baptism. - But otherwise, if he does it from importunate devotion.[9]

Notes to n. 1256. (1) 28. 19. (2) L. VI. 112. (3) Anal. I. P. Ser. 8. col. 1608. n. 140, 141, 144, 145. (4) L. VI. 111. (5) Part 3, q. 66, a. 6. (6) c. 30. de Consecrat. Dist. 4. (7) L. VI. 112. (8) Ib. 111. (9) Ib. 111.

CHAPTER III: ON THE MINISTER OF BAPTISM

The Minister of Baptism is one thing when ordinary, another when extraordinary. Again the extraordinary Minister is twofold: namely the Minister of solemnity and of necessity.

1257. Principles. - I. Every priest, and only a priest, by force of his ordination, is the ordinary minister of Baptism. It is clear from various places of Canon Law and from the Council of Florence in the Decree of Union, and also from the universal practice of the Church.

II. A deacon is the extraordinary Minister and Minister of solemnity, i.e. able to baptize solemnly, but only from delegation and for a grave cause. It is clear from Canon Law and the Roman Pontifical, or from the instruction of the Bishop to Deacons in ordination, etc.

III. Any man whatsoever using reason, whether male or female, whether Catholic or heretic, whether believer or unbeliever, is an extraordinary Minister of Baptism, so that he can always baptize validly, and in necessity also licitly. It is drawn from the same sources and from what was said above in the first principle. - Hence "let priests take care that all the faithful, especially physicians, nurses, and midwives, rightly know the manner of conferring private Baptism."[1]

IV. Although every priest, by force of ordination, has the power of baptizing, nevertheless he cannot licitly use it, even privately, outside the case of necessity, unless he has ordinary or delegated jurisdiction. It is clear from Canon Law and from the Roman Ritual on Baptism. (1) p. 416.

Notes to n. 1257. (1) Conc. Pl. Balt. II. a. 228. Appendix annotation (1), to n. 1257. IV. p. 26. col. 1. A priest or deacon entangled in censure or irregularity, if he baptizes because of urgent necessity, is bound to do this, excepting the cases which theologians except, for example n. 1676. 1°. Excipe: b; n. 1688. 1°. Rule, in the manner of laymen.

1258. Resolves. - 1° Neither a Pastor nor a Bishop, without commission, licitly baptizes outside his own diocese or parish, or, within it, persons belonging to others. And therefore parents also sin who without permission of their own Prelate bring their offspring to another to be baptized, since they violate the right of the Pastor.[1]

2° Travelers, i.e. vagi, can be baptized in whatever Church they have chosen. If a woman by chance gives birth in a village not her own, the offspring is to be baptized by the Pastor of that village, unless perhaps the proper village is a little distant from there.[2]

3° According to the more common and more probable sentence,[3] all can receive Baptism and the other Sacraments from the Pastor of the place where they have already contracted quasi-domicile.[4]

4° But a stranger can be baptized with the permission, either express or reasonably presumed, of his own priest.[5]

5° Religious can baptize in a case of necessity, or with the permission of the same Pastor and of their own Superior, since this is prohibited by no law.[6]

6° Father and mother ought not to baptize their own offspring except in danger of death, when another who may baptize is not found. Rit. Rom. Cf. St. Alphonsus.[7]

Note. - The dispositions of law under 1°, among us, prescinding from diocesan statutes, are to be understood with the limitation which the Second Plenary Council of Baltimore[8] indicates in these

words: "Worthy of gravest reproof are priests who rashly baptize infants offered to them from another parish or diocese, when they could easily have been baptized by their own pastor."

Notes to n. 1258. (1) L. VI. 114. (2) Ib. 115. (3) Ib. (4) Ib. (5) Ib. (6) Ib. (7) Ib. 117. (8) a. 227.

1259. Questions. - Query 1° What order is to be observed among Ministers of Baptism?

Resp. In the Roman Ritual it is thus held: "If a priest is present, let him be preferred to a deacon; a deacon to a subdeacon; a cleric to a layman; and a man to a woman, unless for the sake of modesty it is fitting that a woman rather than a man baptize an infant not yet entirely born, or unless the woman should know better the form and mode of baptizing." See St. Alphonsus.[1]

Query 2° Does a layman sin mortally who, in necessity, with a priest present, baptizes?

Resp. Affirmatively, with the common sentence. The reason is, because then he truly usurps the right of the priest, to whom from the power of Order the office of baptizing has been committed. Therefore also the priest himself sins gravely if he yields the administration to a layman. Yet a layman is to be preferred to an excommunicated priest.[2]

Query 3° Does a layman sin gravely by baptizing before a deacon?

Resp. It is controverted. The first probable sentence affirms; because a deacon, by force of ordination, is deputed to baptizing, although from the actual practice of the Church he cannot solemnly baptize except for a grave cause and with the permission of the Pastor.

The second sentence, likewise probable, denies; because a deacon baptizing in a case of necessity without commission does not baptize from office, but in the same manner as an inferior cleric or layman. - St. Alphonsus[3] says that each sentence is probable.

Query 4° Is it lawful for a layman, with the permission of a priest or Bishop, to baptize infants, on account of the common dangers of life, where there is no availability of a priest?

Resp. Kenrick: "We judge that it must be denied; for both the testimonies of the Fathers speak of one in danger and about to perish, and the decrees of the Church plainly treat of the same necessity. Thus Eugene IV says: with danger of death imminent, let them be baptized even by a layman.... If therefore a priest is not going to return except after some months, not on that account will it be lawful to baptize infants who meanwhile are born without any danger, but only those who are placed in danger. We judge the same must be said, even if afterward no hope of sacred ministry should shine forth; for we have learned from no document of the Church that a layman can be deputed to baptize outside danger of death. But the less hope there is that a priest will come, we think the less danger suffices for a layman to baptize; nor is the hour of death to be awaited; but if the illness brings danger of death, Baptism is to be ministered."[4] - But when necessity urges, "if the weather is severe, and the journey long, or if the priest is infirm in health, or burdened with very many occupations of his sacred ministry" (I would add: which cannot be deferred), "he does not seem to sin by rejecting the burden of baptizing onto a layman who knows how to furnish it."[5] (2) p. 416.

Query 5° At what age of infants is this Sacrament to be conferred?

Resp. As soon as it can be done, although danger of death does not urge. Cf. Rit. Rom. - the Bull *Cantate* of Eugene IV, etc. - More specially the C. S. O. on 30 July 1771 established: "Pastors are obliged to baptize infants without any delay, if danger of death is imminent; but if danger is not

present, the administration of Baptism is not to be deferred beyond the third day after birth."[6] Moreover all agree that it is grave sin to wait for a long time. Yet St. Alphonsus[7] more probably denies that a delay which does not exceed 10 or 11 days is grave. - Kenrick observes:[8] "In most of the United States great neglect in this matter is found; for there are those who allow several months to pass before they fulfill this office. Theologians recognize grave sin in delay whenever there is availability of a priest and the infant can be brought without danger. Moreover the excessive cold of winter, length of the journey, contrary will of a non-Catholic father, and other excuses often occur; but the solicitude of priests is to be employed in this, that they be brought as soon as possible." Therefore the Fathers of the Second Plenary Council of Baltimore say:[9] "We will that pastors of souls most sharply and more often rebuke the detestable sloth of Catholic parents, who do not take care that the age of little children, exposed to so many dangers, be fortified at once by the Sacrament of Baptism."

Notes to n. 1259. (1) L. VI. 117. (2) Ib. (3) Ib. (4) Kenr. Tr. XV. 16. (5) Ib. n. 19. (6) Anal. J. P. Ser. 2. col. 1807. (7) L. VI. 118. Note 2. (8) Tr. XV. 21. (9) a. 225. Appendix annotation (2), to n. 1259. q. 4°. p. 27. col. 1. This seems to be opposed by the fact that S. C. de Prop. Fide, on 2 Feb. 1804, wrote back to the Vicar Apostolic of Cochin-China, namely: "The Sacred Congregation has most fully approved the custom of this Mission concerning Baptism, that, when the Priest is absent, it is immediately administered to infants by Catechists or other approved laymen, although they are enjoying good health, concerning which you doubted; for the life of men, especially of infants, is exposed to continual dangers." Collect. p. 121 n. 197. Perhaps, however, the peculiar circumstances of so widely extended a Vicariate had great weight in this response. Thus, for example, the Synod of Suchuen expressly mentions the danger imminent to infants in this Vicariate from the custom of parents placing those recently born in the same bed with themselves. Ib. p. 125 n. 207.

CHAPTER IV: ON THE SUBJECT OF BAPTISM

The subject of Baptism is every and only wayfaring man not yet baptized.

1260. Resolves. - 1° Infants are validly baptized, likewise the perpetually insane who have never used reason, and therefore are judged to be of the same condition as infants. But if they have ever used reason, Baptism more probably is not valid unless before the insanity they sought it. In practice, however, such persons should be baptized under condition, both because it is not plainly established that they did not seek Baptism, and also because according to several authors it is enough if someone had the will of receiving all things necessary for salvation. (Cf. nn. 1238, 1240.)

2° If there is doubt whether an infant lives, he is to be baptized under condition. But since today the opinion that the fetus is informed by a soul from the beginning of conception is common (n. 474), an abortive fetus, however small, if it has human form and gives a sign of life, is to be baptized absolutely. But if indications of humanity and life scarcely appear in it, it is to be baptized under the condition: *if thou art a man*. The same must be said concerning an unformed production - unless it already displays manifest signs of putrefaction, decomposition, or disorganization - and provided there appear the outlines proper to a human fetus, by which it is distinguished from a mole and other fruitless generations.[1] But if the fetus is still wrapped in the afterbirth, it is not to be baptized at least on the exterior membrane of this, since to experts today no doubt remains that it is part of the mother, not of the fetus.[2] Therefore in that case the afterbirth is to be cut open before Baptism is conferred.

3° Concerning monsters, note these things from the Roman Ritual: "In baptizing monsters ... great caution is to be employed: concerning this, if there is need, the Ordinary of the place, or other experts, are to be consulted, unless danger of death is imminent."

"A monster which does not bear before itself the human species ought not to be baptized; but if there is doubt concerning it, let it be baptized under this condition: If thou art a man, I baptize thee, etc." But it will have to be said to bear before itself the human species whenever it has a head, however deformed that may be. Thus experts today.[3]

"But that concerning which there is doubt whether there is one person or several persons is not to be baptized until this is discerned; but it can be discerned if it has one or several heads, one or several breasts; for then there will be as many distinct men, and ... each one separately is to be baptized." If there is danger in delay, let him wash each one with the form in the plural. "But when it is not certain that in the monster there are two persons, because it does not have two distinct heads and two distinct breasts, then one must first be baptized absolutely, and afterward the other under condition, in this way: If thou art not baptized," etc.

4° He is validly baptized whom the Minister thinks to be someone else; indeed even if it is a female whom he thinks to be male, because he intends to baptize the one present, and not another (n. 1218).

5° Several are validly baptized at the same time with this form: *I baptize you*, provided they are washed at the same time. But outside the case of necessity this is illicit.

6° Adults, although rude, who nevertheless are not altogether incapable, cannot be baptized unless according to their capacity they have been instructed at least in the things necessary by necessity of means, as are the principal mysteries of the Trinity and Incarnation. This also holds for dying persons of this sort, who therefore will have to be baptized without condition if the one baptizing prudently judges that the sick person sufficiently knows the aforesaid mysteries according to his capacity, truly gives faith to them, and sincerely promises that he will satisfy the duties of a Christian man; otherwise they either ought not to be baptized, if the contrary is morally certainly established, or under condition, if these necessary dispositions are doubtful, Baptism cannot be deferred, and otherwise nothing stands in the way of the conferral of this Sacrament. - Nor is it lawful to leave an adult baptized or to be baptized in good faith as regards the precepts of positive law (not even as regards those things which perhaps he will obey with difficulty), but all the precepts of positive law ought to be intimated to him. - Thus from very many decisions of the Congregation of the Holy Office, especially to questions of Missionaries.[4]

Notes to n. 1260. (1) Scav. T. III. n. 74. Anal. J. P. Ser. 5. col. 1112 sq.; Ser. 6. col. 1280 sq. (2) Capellm. p. 139. (3) Capellm. p. 143. (4) Anal. J. P. Ser. 2. col. 1804. 1805. Benedict XIV, c. Postremo, 28 Feb. 1747. Conc. Pl. Balt. II. a. 230.

1261. Questions. - Query 1° Can the children of non-Catholics licitly be baptized against the will of their parents?

Resp. Distinguish. For they either certainly have the use of reason, or doubtfully have it, or certainly do not have it.

If the first, asking and sufficiently instructed, the danger of perversion having been guarded against, they both can be baptized, and, every fear of evil having been set aside, ought to be baptized. - They can; for one certainly having the use of reason (which each one is regularly judged to have when the seventh year has been completed)[1] "already, as regards those things which are of divine or natural right, begins to be of his own power."[2] - Every fear of evil having been set aside, they OUGHT. For they have a strict right to the aids of salvation, which the Ministers of the Church are held from divine mandate to furnish; wherefore "it is not lawful to reject them, if they earnestly ask, from fear of the offense of parents, or of public hatred, or of another inconvenience.... Prudence indeed is necessary," - and hence "the consent of the parents is to be sought by the children themselves," if they are still minors, but not by the priest, and, insofar as can be done, all things are to be done with their peace - but not that "prudence which places the advantages of this world before the salvation of souls."[3]

If the second, St. Alphonsus[4] with Benedict XIV and Lugo holds that before the seventh year Baptism is to be deferred until it is established concerning the perfect use of reason. The Instruction of the S. C. de P. F. to the Prefect of the Missions of Tripoli is consonant.[5]

If the third, subdistinguish. - It will be lawful in the cases in which the danger of perversion ceases, namely, if either the parents are slaves of some Catholic; or the offspring has been placed outside the care of the parents (for example, if exposed and taken up by Catholics), without fear that it will return to them; or it is perpetually insane; or it is placed in the article, or morally certain danger, of death. Except, nevertheless, if, although it is placed in the article of death, scandal is to be feared, because, for example, some greater hatred against the Catholic Religion and savagery against Catholics would be stirred up.[6] For the common good is to be preferred to a private good.

Outside these cases it will not be lawful, whether there is question of the children of unbelievers, or among us of heretical parents. For there stand in the way, even as regards the children of heretics among us, the danger of perversion and the reason of scandal, or of graver evils. - I said: *even as regards the children of heretics among us*. For although the right of baptizing infant children of heretics belongs to the Church, and of preventing them from being imbued with the errors of their parents, nevertheless this right of hers cannot be executed among us. Hence absolutely no deference is to be shown to nurses, if they bring infants to the church to be baptized, while the heretical parents suspect nothing.[7]

Notes to n. 1261. (1) S. C. O. 16 July 1639. (2) St. Thomas, Part 3, q. 68, a. 10. (3) Kenr. Tr. XV. 31. (4) L. VI. 128. (5) apud Gury, Ed. Rom. 1873. T. II. p. 646. n. II. 6. L. VI. 129. 130, and Instr. cit. S. C. de P. F. apud Gury, Ed. Rom. 1873. t. II. p. 646. n. VI. 7. L. VI. 126. 127. 132, and Instr. citata, n. IX.

1262. - Query 2° Whether and when can infants of consenting non-Catholics licitly be baptized?

Resp. Affirmatively, if there shines forth a probable hope of their Catholic education, care nevertheless having been taken that a sponsor, male or female, and these Catholic, be had.[1] The reason is, because then the danger both of perversion and of scandal is absent.

But practically that hope is to be said to shine forth:

a) If the parents are persuaded that the Catholic Faith is true, and have the intention of embracing it, or at least seem somewhat disposed toward embracing it.

b) If they permit to a Catholic godfather or godmother the instruction of the child in matters of Faith, and promise that they will place no obstacle to the children professing the Faith.

c) The same seems to be said if one or the other parent is so disposed.

d) "As often as one or the other parent professes the Faith, although the other pursues it with more than Vatinian hatred, the infant can be baptized, with the Catholic parent being admonished to put forth every effort in its Catholic instruction. But if he grows so sluggish that he cares nothing about this, or if he has already bound himself to the spouse to permit to him the education of the child in heresy, it will not be lawful to baptize the infant with that condition, with manifest and certain danger of apostasy. For the most part, indeed, it is to be hoped that the Catholic spouse will sometime be recalled to a sense of Religion, and will be solicitous concerning the right instruction of the children, unless he plainly fosters the contrary purpose."[2] These things are similar to those which were decreed concerning Christian women of Turks asking that their children be baptized.[3] (3) p. 417.

"But if the parents, as sometimes happens, ask for priestly ministry from a cause of opportunity alone, or because they believe Baptism to be necessary, while they reject most of the other dogmas of the Faith, and wish to educate the children in heresy, or to keep them until mature age without any document of religion, so that they may judge more freely and more maturely concerning matters of Faith, and choose a sect at will, we do not think it lawful to baptize the infants, since the Sacrament is profaned by heretical instruction, or by infidelity, which is so likely to follow. The S. C. Ing. in the month of September 1827, having weighed those things which seemed to import a moderation of the decrees concerning this matter in the diocese of Bardstown, judged that there was no departure to be made from the decrees."[4]

Notes to n. 1262. (1) Kenr. Tr. XV. 28. Conc. Pl. Balt. II. a. 229. (2) Kenr. Tr. XV. 30. (3) Benedict XIV, Ep. to the Archbishop of Tarsus. (4) Kenr. Tr. XV. n. 29. Appendix annotation (3), to n. 1262. p. 29. col. 2. S. C. de Prop. Fide on 29 Nov. 1672 declared "that it is lawful for the Pastor to baptize a child, with one of the Catholic parents consenting, even if he certainly knows that the other afterward will take care that the infant be baptized by a heretical minister; but the Catholic spouse is bound to warn the heretical spouse that the child has already been legitimately baptized." Collect. p. 122 n. 209.

1263. - Query 3° Can or ought Baptism ever be repeated?

Resp. It can and ought to be repeated under condition, whenever concerning its value there is some doubt not to be despised; otherwise it cannot be repeated without grave sin, because an attempt of ministering a Sacrament to an incapable subject is sacrilege. (Cf. n. 1213). But a doubt is to be despised if either 1° one witness (although a woman, concerning whom nevertheless no suspicion occurs) testifies concerning his own fact especially;[1] or 2° there is question of adults who were born of Catholic parents and educated among the faithful, although testimony is not had of Baptism received, provided grave reasons on the contrary side do not occur.[2]

Query 4° Are exposed infants to be baptized?

Resp. Affirmatively, if they have been exposed without testimony of Baptism conferred, unless from elsewhere it is established that they have been duly baptized. But if they have been exposed with a little note attesting that they have been baptized, it is controverted. The more common and truer sentence, which a decision of the S. C. C.[1] confirms, teaches that all these are to be baptized under condition, unless such a little note is of such a kind that it begets certitude, for example, because it was signed by a known priest.[2]

Query 5° Are infants to be rebaptized who have been baptized either by midwives or by lay persons?

Resp. Negatively, unless there is present a probable suspicion of error in the Baptism conferred. - Thus the most common and true sentence, says St. Alphonsus,[3] who recalls a decision of the S. Congregation.

Notes to n. 1263 - note sequence 1. (1) Benedict XIV, de Syn. L. VII. c. VI. n. 2 sq. Inst. 8 sub fine. (2) L. VI. 134. Note II.
Notes to n. 1263 - note sequence 2. (1) Benedict XIV, Inst. 8. § Evenit quoque. (2) L. VI. 135. (3) Ib. 136.

1264. - Query 6° What things are to be observed in the reception of Neo-converts?

Resp. Concerning these see the Roman Ritual, Ratisbon edition 1882, Supplement for the American Provinces of the United States, p. 1.

Nevertheless note the following:

It is said in the Instruction of the Holy Office, whose tenor is reported in the cited place:

I. Baptism, if it is repeated under condition, is to be repeated according to the order of the Baptism of adults. But the Fathers of the Second Plenary Council of Baltimore[1] petitioned that the faculty of using in the Baptism of adults the shorter formula established for little children, which until the year 1870 had been conceded for certain dioceses (not, however, prescribed), the Supreme Pontiff would deign to extend to all for ten or twenty years. Moreover the Sacred Congregation judged that Bishops ought to recur when the time of the last concession had been completed.[2] Therefore let each one see whether that shorter formula has been conceded in his diocese. But it is usually conceded, with the Bishop admonished that he take care to introduce gradually the formula prescribed for adults, and to guard lest the shorter one pass into custom. - But to the postulate of the Fathers that it be conceded

to them what was conceded to the English, namely to baptize under condition privately, with lustral water only, and without ceremonies, adults converted from heresy, the Sacred Congregation responded: for the present it is not expedient.[3] (4) p. 417.

II. If a Neo-convert, whose Baptism has been judged valid, greatly desires that the rites formerly omitted in his Baptism be supplied, the priest is indeed free to comply with this pious wish of his. Yet in such a case he will have to employ the order of the Baptism of adults, and to change the things to be changed on account of Baptism already validly received. Thus the aforesaid Instruction.[4]

III. "In the conversion of heretics" (supposing that the fact of Baptism conferred is established) "one must first inquire concerning the validity of the Baptism received in heresy." Today indeed, universally, one can prudently doubt concerning it; for "heretics" for the most part, "since they think rather incorrectly concerning Baptism, and hold it in the place of a mere ceremony which helps nothing toward obtaining the salvation of the soul, are most often accustomed to neglect certain rites which are of the greatest moment, and without which the nature of the Sacrament by no means subsists."[1] I said: *universally*; for the reason given only founds a presumption; but presumption ought to yield to truth; therefore by force of the same it will not be lawful to act unless diligence for discovering the truth has been employed in vain. Therefore the S. C. of the Holy Office rightly declared that "one must first inquire" concerning "the validity of Baptism received in heresy," and indeed "with a diligent examination having been instituted." But of this examination:

A) The objects are: the very fact of Baptism conferred or not conferred; then, if the fact is established, the mode and time in which, the sect in which, and the place where someone was baptized.

I said: a) the very fact of Baptism conferred or not conferred; for 1) Socinians and Quakers are not baptized; 2) Baptists, not before adult age; 3) Congregationalists, Unitarians, and Universalists judge Baptism free; 4) many other non-Catholic parents do not take care concerning Baptism to be conferred on their offspring, or procure it for only one or another of their infants, whence it happens that, the parents being dead, there is often no one who can testify concerning the fact of Baptism conferred, especially among us.

I said: b) the mode and sect. Thus Baptism "sometimes becomes doubtful from a slight reason, because ministers of the sects, especially Presbyterians and Methodists, sprinkle those to be baptized, and very often several at the same time, with a sprinkler; but" probably "the skin ought to be touched by the water and to flow."[2]

"Since the custom of the Baptists leaves no room of doubting concerning the abundance of water, and they pronounce the due form, certain words being premised, which do not vitiate it: *that I may obey the Lord Jesus Christ* or *that I may obey thy command*, the sole reason of doubting concerning the value of Baptism conferred by them would be taken from the separation of the ablution from the form; for this is pronounced entire before the immersion; or from defect of intention, namely because they believe Baptism to be the same as that by which John washed Christ. Therefore for converts from that sect, who all received Baptism in adult age and therefore can give certain testimony concerning it received, it does not seem that Baptism is to be repeated, not even with a condition added. Moreover an entirely close conjunction" (or one which the delay of one *Pater* does not interrupt) "ought to exist between form and matter, on which account we leave the matter to the judgment of the wiser." Thus

Kenrick.[3] Practically, Baptism will for the most part have to be repeated under condition, at least as it seems to me.

Among Anglicans (Episcopalians), the Baptism of Ritualists is presumed to have been duly conferred; most of the other Anglicans, and generally heretics, even today attribute no force to the rite.

Congregationalists, Unitarians, Universalists, as I said above, universally judge Baptism free.

Therefore the Baptism of all these is rightly presumed doubtful.

On the contrary, Baptism conferred by the Greek schismatics, by Eutychians, Nestorians, and other Eastern heretics, and also in the Gallican Sect which is called *La petite Eglise*, is to be held as certainly valid.

I said: c) *time*. Namely, at the beginning of this century, Rationalism not yet ruling among Protestants, Baptism was for the most part administered with greater care than today.

I said: d) *place*. Formerly especially, there were certain regions in Northern Europe which the same Rationalism had not yet invaded, while others already were plainly infected with it.

B) The manner of examination. Those are to be interrogated concerning the aforesaid things, and notably concerning the mode, both the one whose Baptism is doubted, who will be able to bear almost undoubted testimony if he was baptized in adult age, and others, if they can easily be had, who perhaps were present at his Baptism, or know in what way the rite was customarily performed in the region in which and at the time when he was baptized. "Nor is it generally to be demanded from converts that they receive Baptism again, if they themselves, well conscious of the morals of the sect to which they adhered, are persuaded that they were duly baptized." Thus Kenrick,[4] whose sentence nevertheless is not altogether approved by others.

Once the examination has been completed in the way in which it can be done, today there will for the most part remain doubt about Baptism conferred by heretics. Wherefore it is universally repeated under condition, not only among us, but also in England, France, Germany, Belgium, Holland, and, Perrone testifying, even Rome.[5]

IV. "A threefold method of proceeding is distinguished in reconciling heretics:

"1) If Baptism is conferred absolutely, no Abjuration follows, nor Absolution, because the Sacrament of Regeneration washes away all things." - "Wherefore," says Kenrick,[1] "the custom of exacting it," i.e. Confession, "so that the soul may be disposed to the grace of Baptism, is altogether to be disapproved, as Cardinal Consalvi, Pro-Prefect of the S. Congregation de Propaganda Fide, responded to me when I consulted him, on 31 May in the year 1823, ... lest a graver burden be imposed on those wishing to approach Baptism, by which they may be frightened away; or the error creep in, that their sins must necessarily be declared; or they themselves, hindered by shame, conceal some things contrary to the dictate of conscience, and thus approach not rightly disposed. To those wishing to confess, it can be indulged, according to St. Thomas:[2] 'If, however, some to be baptized from their devotion should wish to confess their sins, their Confession would have to be heard, not for this, that satisfaction should be imposed on them, but for this, that spiritual information of life should be handed down to them against accustomed sins.'"

In which case they are to be instructed concerning this end of their Confession and concerning its non-obligation, lest they sin against conscience while they conceal certain things.

"2) If Baptism is to be repeated under condition, one must proceed in this order:

"A) Abjuration, or Profession of Faith.

"B) Conditionated Baptism.

"C) Sacramental Confession with conditionated Absolution.

"3) But when Baptism has been judged valid, only Abjuration, or Profession of Faith, is received, which Absolution from censures follows."

Concerning abjuration note: a) according to Kenrick,[3] that it is done by the Piana Profession of Faith; but today that is to be used which the Roman Ritual exhibits, Ratisbon edition 1882, Suppl. p. 2. b) From Scavini, that it is to be done also by a material heretic. c) Perhaps by epikeia that formula can be omitted when there is question of persons of color, or other rude persons, to be received, who are able neither to recite nor to understand it. Also the priest can read it beforehand to women (or others) of more timid disposition, who will signify their assent at the end. Moreover the journal *Pastoral-Blatt fuer Nord-America* admonishes[4] that two suitable witnesses are to be employed for the Profession of Faith, and this even then when for just causes it seems it must be received secretly, for example, in the sacristy.

Absolution from censures is to be given both to those for whom Baptism is repeated under condition, and to those for whom it is not repeated; but "in grave or light doubt whether the penitent incurred excommunication through heresy perhaps professed only materially, the priest here" (i.e. after the words "of excommunication, which") "should insert the word: perhaps."[5]

V. There is scarcely need to say that he is not to be admitted to Baptism who doubts concerning some doctrine of Faith, and that a man cannot be baptized who indeed acknowledges Baptism to be necessary, but rejects other dogmas. The same holds concerning him who in mind is not prepared to keep the mandates of God and the Church.[6] Therefore it is altogether clear that the practice of some is to be disapproved, who formerly, lest they be compelled to obtain a dispensation in the impediment of disparity of cult, or I know not from what other cause, conferred Baptism upon an unbeliever about to enter Matrimony with a Catholic, not taking care concerning the Faith and concerning his will of living as a Christian. All these things are to be understood concerning ordinary cases; for:

VI. If there is question of a dying non-Catholic, who manifests a desire of embracing the Catholic Faith either by himself or, when he is no longer able to do this, through others, or formerly manifested it, the examination concerning the value of Baptism received in heresy ordinarily will not be able to be instituted on account of the circumstances, and the Sacrament under condition (or, if it is established that he was never baptized, absolutely), by a threefold or even one pouring of water, with all things to be done before Baptism omitted, is to be conferred by a priest vested in a white stole. Afterward, if time is available and he has Chrism with him, let him anoint him on the crown of the head, and impose the white linen cloth, and hand to him the lighted candle, as is handed down in the Order of baptizing.[7] Baptism having been conferred under condition, the Confession of the dying person, in the manner in which it can be done, is received; but in every case absolution is given

(under condition) from censures and sins. Then, if time permits and there is question of a dying person master of himself and sufficiently instructed, Viaticum will be ministered.[8] Finally Extreme Unction is conferred, since an interpretative intention suffices for receiving it.[9] But if the dying person is still master of his mind, the priest will take care that he express before witnesses his will of embracing the Catholic Faith and of dying in it, lest otherwise a place be given to inconveniences.

Notes to n. 1264 - note sequence 1. (1) a. 243. (2) Conc. Pl. Balt. II. p. CXLIV. IV. 3. Conc. Pl. Balt. II. a. 244, note 5. 4. Excerpta ex Rituali Romano, Balt. 1872, p. 271. III. Ed. 1874, p. 263. III, or the Roman Ritual itself, Balt. 1873, p. 423. III. Notes to n. 1264 - note sequence 2. (1) Conc. Pl. Balt. II. a. 240. (2) Kenr. Th. Dogm. de Bapt. 81. (3) Ib. 119. (4) Kenr. Tr. XV. 41. (5) Tr. de Bapt. c. V. n. 133, Note. Cf. Brownson's Review, 1873, p. 562 and 1874, pp. 245, 389. Notes to n. 1264 - note sequence 3. (1) Tr. XV. 33. (2) Part 3, q. 68, art. VI. Resp. 3. Tr. XV. 35. 4. (3) Jahrg. S. 40. 5. Excerpta ex Rit. p. 280. 6. Kenr. Tr. XV. 34. 7. Conc. Plen. Balt. II. a. 238. 8. Kenr. Tr. XVII. 41. 9. L. VI. 82.

CHAPTER V: ON THE ACCESSORY SOLEMNITIES OF BAPTISM, NAMELY ON PATRONS AND CEREMONIES

ARTICLE I: ON PATRONS

Patrons are, as it were, spiritual fathers, who lift the baptized person from the sacred font, and, in default of the parents, undertake care of him.

1265. Principles. - I. In solemn Baptism there must, under grave obligation, be employed at least one patron, whether he be a man or a woman; nor can more than two licitly be employed. Thus Trent established.[1] But if a Parish Priest were to admit more patrons than two, he would sin gravely, because he would violate the precept of the Church imposed under grave obligation, lest relationships be multiplied.[2]

II. In order that someone be truly a patron, the following conditions are required: 1° that he have the use of reason, and himself be baptized; 2° that he have been designated by the parents, or justly by the Parish Priest; 3° that he touch the one to be baptized, by himself or at least through another, and indeed physically (which more probably also holds as regards adults to be baptized[3]), and in the ablution itself, so that it does not suffice if it is done among the ceremonies;[4] 4° that he have the true intention of carrying out the office of a patron.[5]

Notes to n. 1265. (1) Sess. 24, c. 2, Ref. Matrim. (2) L. VI. 154 in fine. (3) Ib. 148. (4) Anal. J. P. Ser. 8, col. 1736, n. 221, etc. (5) Gury, Ed. Rom. 1873, T. II, p. 452 ().

1266. Questions. - Query 1° What are the obligations of patrons?

Resp. They are held to fulfill the office of teacher in a case of necessity, or when the parents of the little child are lacking. Hence they are held to instruct the baptized person concerning Faith, morals, various obligations, etc. But they are released from every obligation when they can prudently presume that the baptized person is diligently instructed by the parents.[6]

Consequently the priest, after Baptism has been conferred, must warn the patrons concerning the obligations undertaken, and besides concerning the spiritual relationship contracted. - But concerning that relationship contracted through Baptism we shall speak where we treat of the impediments of Matrimony.

Query 2° In private Baptism must a patron necessarily be employed?

Resp. Negatively, because he does not seem to be required by the Church except for solemn Baptism. Nevertheless also in private Baptism he can be employed, and more laudably is employed. - Thus commonly with St. Alphonsus.[7] But if he is employed and lifts the infant with the intention of a patron, he contracts relationship.[8]

Query 3° Can the patrons be two males, or two females?

Resp. Negatively, because Trent established that at most two patrons can be employed, namely a man and a woman. But it is probable that it is only venial, if it is done thus. Several, however, with Bonacina, think that it is mortal. - "This seems truer," says St. Alphonsus,[1] "if the patrons were of a

different sex from the infant, because thus the relationships would be multiplied, which Trent wished to prohibit; otherwise if they were of the same sex."

Query 4° Must the patron of a male, if he is the only one, be male, and of a female, female?

Resp. More probably, negatively; because Trent says: "Whether man, or woman"; therefore a man or a woman can be employed indiscriminately.[2]

Query 5° Who are prohibited from being patrons?

Resp. Validly indeed, but illicitly, the following are patrons: 1° an Abbot and Monk, or a Religious and Nun of any Order in which solemn vows are emitted (or of any religious Institute whatever, in whose Rule this is prohibited), and this whether by himself or by procurator; 2° spouses with respect to spouses, and parents with respect to children; 3° all who are of depraved morals and lost reputation, as heretics, unbelievers, those publicly excommunicated or interdicted, those who are not of sound mind, those who are ignorant of the rudiments of the faith. - Therefore those notoriously enrolled in condemned societies, public concubinarians, and other public criminals are to be kept away. - Besides, "it is most fitting that patrons be at least in the age of puberty, and marked with the Sacrament of Confirmation." - Concerning a heretical patron Kenrick warns:[4] "To avoid grave offense, sometimes a heretic who presents himself as sponsor is not openly repelled: nevertheless he is never to be admitted as sponsor, but the parents are to be warned that only a Catholic can perform that office: wherefore the custom of some persons everywhere receiving heretics for that office is altogether to be disapproved, being satisfied if one or the other sponsor is Catholic."

Notes to n. 1266 - note sequence 1. (6) L. VI. 146. (7) Ib. 147. (8) S. C. C. 17 Apr. 1603 and 5 Mar. 1678. Notes to n. 1266 - note sequence 2. (1) L. VI. 155. (2) Ib. Cf. Gury, Ed. Ratisb. 1874, P. II, n. 962 (3). (3) Ib. 156 and Rit. Rom. (4) Tr. XV. 47.

ARTICLE II: ON THE CEREMONIES OF BAPTISM

It is mortal, without grave cause, for example urgent necessity, to omit all the ceremonies of Baptism, or some notable one from them, because thus a grave precept of the Church is violated.[1]

1267. Resolves. - 1° Necessity being excluded, it is mortal to baptize without the anointing of Chrism, because this has a special and grave signification.[2]

2° Outside a case of necessity, it is mortal to baptize solemnly with non-consecrated water, because an omission of this sort in the ceremonies of Baptism is very grave. Probably there will be no sin, if there is question of private Baptism.[3]

3° It is mortal without necessity to baptize outside the Church, unless there is imminent proximate danger of death, or some other great inconvenience is present.[4] Wherefore the Fathers of the Second Plenary Council of Baltimore[5] command "that priests never dare to confer this Sacrament outside the church" (not even in the sacristy without a reasonable cause to be approved by the Bishop. S. C. R. 16 Mar. 1861) "except in an imminent case of death, in cities having one or more churches. Those who live in the country, or in villages and little towns, where there is no church, should bring infants to the nearer church or station, in which the Holy Sacrifice is usually offered, to be baptized. But if because of intemperate weather, difficulty of the journey, poverty of the parents, or other grave causes this cannot be done, then they leave it to the prudence of the Missionary," and, as the S. C. de P. F. also commanded on 21 Jan. 1739, "that they baptize them at home" and "with all the ceremonies of

the Church." - Concerning the place in which the children of kings or great princes can be baptized, see, if you wish, St. Alphonsus.[6] (7) p. 401.

4° It is mortal to omit the anointing of the Oil of Catechumens, or other similar things; because it is grave matter, at least from the end of the Church, just as the commingling of water with wine in the Sacrament of the Most Holy Eucharist.[7]

Notes to n. 1267. (1) L. VI. 141. 144. (2) Ib. 141. (3) H. A. Tr. XIV. 8. (4) L. VI. 142. (5) a. 237. (6) L. VI. 118, Not. 3. Cf. Rit. Rom. and Clem., L. III, T. XV, c. unic.; De Herdt, Pr. Rit. p. 22. (7) L. VI. 141. H. A. Tr. XIV. 29. Appendix annotation (4), to n. 1267. p. 34. col. 1. The S. J. Missionaries in China had asked: "Whether all the Sacramentals are to be employed in the Baptism of adult women? The reason for doubting is the incredible modesty, zeal, and praiseworthy flight among Chinese women from all meeting with men, and not only meeting, but even sight; in which matter, unless great caution is employed by the Missionaries, enormous scandal is given to the Chinese, with the most evident danger of exposing the Christian Religion to persecution." Resp. "For a grave cause Sacramentals can be omitted in the Baptism of women. This response, however, is to be observed according to the things asked, the circumstances, and all the things expressed in them." S. C. S. O., 13 Nov. 1669, Collect. ib. n. 279 and n. 281. And thus it is easily reconciled with other Responses altogether contrary, since they were given for cases in which the circumstances set forth in the alleged doubt were not verified. Appendix annotation (tau), to n. 1267. 3°. p. 34. col. 1. "In necessity," says De Herdt, Prax. Rit. Rom., p. 36, "if a layman or a cleric inferior to a deacon baptizes, he must abstain from all the ceremonies. But if a priest or deacon baptizes, then, if the infant brought to the church is so gravely sick that danger threatens lest he die before Baptism is completed, he must only ask, if time is given, whether anything has been attempted concerning Baptism, and immediately, all other things omitted, baptize him absolutely or conditionally in baptismal water, and, if this has not been prepared, in common water, pouring water three times, or even once if necessity urges, upon the head in the form of a cross. Then, if the infant survives, he anoints him with chrism on the crown, imposes the white garment, and gives the lighted candle, as otherwise. When these things have been done, if he is still living, the ceremonies which precede Baptism are to be supplied; but the two omitted infusions are not to be repeated, if Baptism was conferred by one infusion. But the priest must beware of saying or doing anything when he has seen that the infant is entirely dead, because the ceremonies of Baptism were instituted for the living only, and not for the dead. "If a priest in necessity baptizes outside the church, he must omit all the ceremonies which precede Baptism, even if the infant seems about to live so long; but when Baptism has been conferred as above, he anoints the infant on the crown with chrism, if he has it, imposes the white garment, and gives the lighted candle. But when the infant has recovered, he is to be presented in the church; and there, and never outside the church, the omitted ceremonies which precede Baptism are to be supplied." S. R. C., 23 Sept. 1820, n. 4422. 4572; Baruffaldus, tit. 11. n. 59.

1268. Questions. - Query 1° Is it ever lawful to defer the ceremonies for a time?

Resp. Negatively, unless with the license of the Ordinary, where it can conveniently be had (De Herdt, Pr. R. R. c. 2. § 12. n. 1), and for a grave cause, lacking which Baptism is to be deferred until the ceremonies can be completed.[2]

Query 2° If Baptism solemnly conferred is found to be invalid, are the ceremonies also to be repeated?

Resp. It is controverted. There is a twofold probable sentence. Hence the ceremonies are not necessarily to be repeated: nevertheless it is to be advised that they be repeated, if it can be done without scandal or infamy.[3]

Query 3° Are omitted ceremonies afterward to be supplied?

Resp. Affirmatively, and that as soon as possible and under grave obligation, unless nevertheless as regards heretics validly baptized and returning to the Catholic Church, "for a reasonable cause it should seem otherwise to the Bishop." See nevertheless what has been said in n. 1264. II. - If there is question of a "Catholic adult validly baptized after birth, ... the ceremonies and prayers are to be observed ... for the Baptism of infants."[4]

Query 4° What does the Second Plenary Council of Baltimore specifically command concerning the names which are imposed upon those to be baptized?

Resp. "When various names, both of Saints and of family, are bestowed upon infants in Baptism, if the priest has judged it expedient, in the first interrogation let him express all the names; but in the following forms and prayers let him repeat only the names commonly called Christian. But in the book of Baptisms let all the names be recorded."[5]

Query 5° What likewise concerning the Baptismal font?

Resp. "Care is to be taken that baptismal fonts under key be erected as soon as possible in each church" (not in the sacristy. Gardell. in S. R. C. 16 Dec. 1826. III. ad V. 1), where the Sacrament of Baptism is ordinarily ministered; "near these let all things which pertain to the administration of this Sacrament be kept cleanly."[5]

Query 6° How is the prohibition of using old Chrism, or that of another year, to be understood?

Resp. 1° It is to be taken rigorously, when new Chrism is had. Therefore the priest would sin gravely who, the recent Chrism being available, used the old.

Resp. 2° If the new is not had in due time, this happens either fortuitously (because, for example, he who was to bring it came late), or regularly (for example, on account of the great distance of the parish from the episcopal city). - In the latter case the blessing of the Font is to be celebrated with the infusion of the Oils of the preceding year, and the new ones are to be employed in the blessing of the Font, which, the contrary custom having been eliminated since it is an abuse, ought to be done (S. R. C. 7 Dec. 1844 in Urbevet.) on the Vigil of Pentecost. - In the former case the Font is blessed on Holy Saturday, without the old Oils being infused (unless, nevertheless, it is foreseen that Baptism is to be solemnly ministered immediately after the blessing of the Font). But the new Oils, as soon as they have been received, are to be infused into the Font blessed without Oils, privately (i.e. without solemnity) and separately by a priest vested in surplice and stole, the rite of the Missal being observed. But if before they have been received an infant to be baptized is brought, his Baptism is not to be deferred until they are received, but, with the old Oils infused into the Font, it is to be conferred solemnly, and in this case the new ones are infused on the Vigil of Pentecost. - S. R. C. 12 Apr. 1755 in Lucan. ad 3.; 23 Sept. 1837 in Oriol. ad 1. 2. 3. 4.; 12 Aug. 1854 in Lucion. ad 79. 80.[1]

Query 7° What does the Second Plenary Council of Baltimore warn concerning the blessing of a woman after childbirth?

Resp. "Let pastors commend that pious rite. The prelates desire, ... that the blessing ... not be conferred in future promiscuously, and with no account had of the disposition of the woman after childbirth, nor outside the church or the place where the Holy Sacrifice is offered."[2] (a), p. 393.

Notes to n. 1268 - note sequence 1. (1) L. VI. 144. Kenr. Tr. XV. 61. (2) L. VI. 144. (3) Rit. Rom.; Gardell. ad Decr. S. R. C. 27 Aug. 1836, in Rhedon.; L. VI. 144; Benedict XIV, C. Inter omnigenas, 2 Feb. 1744. (4) a. 233. (5) a. 234. Cf. De Herdt, Pr. Rit. p. 23. Notes to n. 1268 - note sequence 2. (1) Linz. P. Bl. 1881, p. 560. 762. (2) a. 245. 246. Appendix annotation (alpha), to n. 1268. q. 7°, p. 35, col. 1. "Only women who have given birth from legitimate Matrimony have a right to the blessing after childbirth," responded S. C. C. in Wratislavia, June 18, 1859.(1) "From this response of S. C.," add the Acta, (2) "by which any distinction is cut away, one would not rightly deduce that pastors are prohibited from blessing the women of whom there is question" (those, namely, who have given birth from illegitimate intercourse). "For it is inferred only that the aforesaid women cannot demand the said blessing by right, according to that which was posited in the question." Therefore, scandal arising by reason of a notoriously illegitimate birth being set aside, an exception can be made

as regards those women who secretly, and especially being deceived, yielded to human weakness. Nor do those have a right to that blessing who with public scandal entered Matrimony before a civil Magistrate or a little minister, unless by penance they have repaired the scandal. Resolve the same concerning those concerning whom it is notorious that they never approach the church and do not satisfy the Paschal precept."(3) To the question: "Women after childbirth are accustomed to present themselves before the priest for receiving the blessing, even if the offspring has sometimes died without Baptism. In that case, however, the words of the prayers of the Roman Ritual now in force in this Diocese cannot be verified, and on the other hand the blessing would not be omitted without some wonder of the people, and without aggravation of the grief of women of this kind. It is asked what is to be done, and whether it is lawful, after removing those things which are not verified after the woman has been introduced into the church, some prayer from those which are contained in the Missal being substituted, to impart the blessing as in the Ritual?" Resp. "The Roman Ritual must be entirely observed." To this Resp. the Past. Bl. für N. Amer.(1) observes that in the case concerning which the question is asked the blessing can be given, since its primary end is the postpartum woman herself, and the offspring is only secondary. It is clear per se that the blessing is not to be imparted unless the (living) offspring has previously been baptized. > Notes to appendix annotation - note sequence 1. > > 1 Acta, T. I. p. 347. | 2 Ib. p. 349. | 3 Past. Bl. für N. Amer. 10th year, p. 8. > Notes to appendix annotation - note sequence 2. > > 1 10th year, p. 8.

APPENDIX: ON THE CAESAREAN OPERATION IN ORDER TO BAPTIZING AN INFANT NOT YET BORN

The operation or Caesarean section consists in this, that the womb of the pregnant mother is opened, so that the fetus may be extracted. A twofold principal question occurs, namely whether, or when, it can be done, or ought to be done.

1269. Questions. - Query 1° Whether, or when, can it be done?

Resp. The following rules seem to have to be established:

Rule I. When the mother is dead, it is certain that the Caesarean operation can be done, and indeed immediately, as soon as her death is established. Nevertheless he whom it concerns by law is to be warned, lest perhaps the author of the operation be made liable to penalties. - But the reason why it can be done is evident: for if anything stood in the way, it would be danger to the mother; but from the hypothesis her death is certainly established; and from another side the spiritual, indeed perhaps also temporal, life of the infant can be saved. - See Cangiamila in the work whose title is: *Sacred Embryology*.

Rule II. While the mother is living, the Caesarean operation can never licitly be done, as often as there is present a proximate or probable danger of the mother's death to follow from it, although, if it is not done, the mother and the offspring are certainly going to perish. The reason is, because this would be just the same as directly to kill the mother, which is never lawful. - Thus St. Thomas, who says: "A man ought not to kill the mother, in order that he may baptize the child."[1] Hence the operation cannot be done when a very skilled surgeon is lacking, nor when the mother is so weakened by disease that the operation, otherwise not dangerous, would from the circumstances induce proximate danger of death, etc.

Rule III. While the mother is living, the Caesarean operation can licitly be done in these circumstances, namely 1° if by no other licit means the living offspring can be extracted, or the mother is going to die before she gives birth, with the greatest danger of the infant's death before he can be baptized; 2° if, by the judgment of a skilled surgeon, proximate danger of the mother's death is absent. But such danger can be absent if the mother is robust, as is established from innumerable examples, and from the more common opinion of physicians and surgeons, whose art, especially in our times, has become much more advanced and perfect. - See *Sacred Embryology*,[2] Elbel,[3] etc. - The reason is plain; for there is no danger,

or at least it is very slight and remote, and thus, if perhaps death follows, it will seem to follow only accidentally.

Query 2° Whether, or when, ought it to be done?

Resp. 1° When the mother is dead it is certainly to be done *under grave obligation*, even against the will or resistance of parents or relatives, if it can be done; because by the law of charity, with every care and labor, the eternal salvation of the infant must be procured. - Thus St. Thomas.[1] Thus also the Roman Ritual, On Baptism, establishes.

Nevertheless there must be present hope of extracting the infant alive, which hope is scarcely present in the first months of pregnancy; but, unless some special grave reason suggests that he has already died before the mother or together with her, after the fourth month of gestation this hope seems to be present (Capellmann, *Med. Past.* p. 23. 24). In doubt concerning the life of the infant it is always to be done. See Marc,[2] and cf. n. 474, I.

Furthermore diligent care is to be employed that the region of the womb of the deceased woman be kept warm until the operation has been done; otherwise the infant would more easily depart from life before he could be baptized.

Resp. 2° The operation is to be done also while the mother is living, if by the judgment of experts the infant cannot otherwise be baptized. But the mother is held, *per se* and speaking speculatively, under grave obligation to suffer it, if it can be done without proximate danger of death. The reason is, because she is held to suffer any temporal inconvenience whatever for preserving the spiritual and eternal life of the infant. This follows from the general law of charity. - Thus commonly with Elbel,[3] St. Alphonsus,[4] *Sacred Embryology*.[5]

I said: *per se* and speaking speculatively; for in practice the confessor must beware lest he urge the mother under grave obligation, on account of too great danger, lest by denying consent she die in the state of mortal sin; and thus, while he wishes to save the spiritual life of the infant, the mother herself be damned. Therefore it will be enough to exhort her to consent to the incision.

Besides, since it is established that the fetus very often survives the deceased mother, great hope shines forth of baptizing him after she is dead, and therefore a lesser obligation of incision presses.

The mother is not held to undergo the operation if, the operation being omitted, she alone is judged to be going to perish; because no one is held to preserve life by extraordinary and such arduous means. - But if there were only a slight hope of saving the offspring, the mother could indeed, but would not be held to, undergo the operation, because charity does not urge to such a degree in so great uncertainty of the outcome. - Thus commonly with St. Alphonsus.[1]

Query 3° Is a girl, dishonestly and secretly pregnant, and near to death, if on account of advanced pregnancy it is probable that Baptism can be conferred upon the fetus, to be obligated to disclose her state outside Confession, so that the operation may be done when she is dead?

Resp. Distinguish. Negatively, if she is living in good faith, nor is fruit hoped for from an admonition. Otherwise, affirmatively; for the eternal life of the fetus is to be preferred to the reputation of the mother.

Query 4° Is a priest held to perform the operation on a dead mother, if there is lacking someone who is willing or able to perform it?

Resp. It is controverted. See the arguments of those disputing at Marc.[2] It is certain that one must abstain from it if damage to Religion is to be feared from it, lest "while we seek a few, we lose many:"[3] likewise, as is plain, if the relatives dissent. But the damage to be feared for Religion must be judged especially from the circumstances of various places. - Nevertheless then let him at least strive to obtain that Baptism be conferred within the mother's womb by someone through an instrument.

Query 5° In what manner is that operation to be performed?

Resp. 1° Let the section be made from the navel down to the pudendum or pubic bone; but lest the intestines be injured, let this caution be employed: after a small opening has been made, the one operating immediately inserts into it the index finger placed under the back of the scalpel or knife, and in the aforesaid way cuts first the skin, then the other coverings which cover the intestines. When this has been done, the womb, if the pregnancy is more advanced, will appear of itself; otherwise it will be found behind, after the bladder. If this is filled with urine, and impedes the finding of the womb, let it be compressed by the hand and emptied.

2° When the womb has been found, it is immediately cut, proceeding from the upper and anterior part to the lower; then also the membranes of the afterbirth, by which the fetus is enveloped, are cut or ruptured.

3° The infant or fetus is extracted, and if certain or doubtful signs of life appear, he is to be baptized without delay. But if it is thought or feared that danger of death is present, the fetus is to be baptized before he is extracted.

4° After Baptism has been conferred, if certainly or probably the infant still survives, the umbilical cord is cut at the distance of two or three inches from the belly, and is tightly tied with a thread at the distance of one inch from the same belly; when these things have been done, he is handed over to be nourished.

Notes to n. 1269 - note sequence 1. (1) P. III, q. 68, a. 11, ad 3. S. Alph. L. VI. 106. (2) P. III, c. IX. 3. n. 60. Capell., De occis. foet. c. 3. Notes to n. 1269 - note sequence 2. (1) P. III, q. 68, a. 11, ad 3. (2) p. 391, n. 283. (3) n. 60. (4) L. VI. 106. (5) L. III, c. IV. Notes to n. 1269 - note sequence 3. (1) L. VI. 106. Notes to n. 1269 - note sequence 4. (2) p. 392, n. 284. (3) Collect. p. 125, n. 208.

TREATISE ON CONFIRMATION

Confirmation is defined: a Sacrament of the new law, by which, through an anointing of Chrism, under a certain form of words, there is given to the baptized the fullness of the Holy Spirit for believing firmly, and for confessing the Faith intrepidly.

We must treat: 1° of the matter and form of Confirmation; 2° of its Minister; 3° of its subject.

CHAPTER I: ON THE MATTER AND FORM OF CONFIRMATION

ARTICLE I: ON THE MATTER OF CONFIRMATION

1270. - I. The remote matter of Confirmation is Chrism compounded from olive oil and balsam, and blessed by a Bishop. - Thus commonly, and it is established from the Council of Florence in the Decree concerning the Sacraments. It can also be said that the partial remote matter is the hand of the Bishop as *formally* such, namely insofar as the imposition of the hand is the partial proximate matter, as will be said presently.

II. The proximate matter is the anointing of Chrism applied to those to be confirmed by the Minister of this Sacrament through the imposition of the hand. It is established from the declaration of Benedict XIV, encyclical letter *Ex quo primum*, 1 Mar. 1756, § 52, where he has this: "Therefore let that be said which is beyond controversy: namely, that in the Latin Church the Sacrament of Confirmation is conferred by employing Sacred Chrism, or olive oil mixed with balsam and blessed by a Bishop, and by the Sign of the Cross being drawn by the Minister of the Sacrament on the forehead of the one receiving it, while the same Minister pronounces the words of the form."

Therefore the proximate matter of Confirmation does not consist partially, as several formerly wished, in the general imposition of the hand made by the Bishop upon all those to be confirmed.[1]

1271. Questions. - Query 1° Is balsam required by necessity of the Sacrament?

Resp. More probably affirmatively, as it seems, from the Decree of Eugene IV for the Armenians, where he says that the matter of Confirmation is Chrism made from oil and balsam. But balsam of any region whatever suffices, and in that quantity alone which is enough that it can give its odor; nor is it necessary that it be mixed with all parts of the oil.[2]

Query 2° Must Chrism necessarily be blessed?

Resp. 1° It must be answered absolutely in the affirmative, if the question is of necessity of precept. - Thus all with St. Alphonsus.[3]

Resp. 2° It seems it must be answered in the affirmative also if the question is of necessity of the Sacrament. For the constant practice of the Church, and the Decree of Eugene IV, in which it is read that the matter of Confirmation is blessed Chrism, persuades this. - Thus commonly with St. Alphonsus.[4] - But whether Chrism must necessarily be blessed by a Bishop will be said below, where we treat of the Minister.

Query 3° Must Chrism necessarily be of that year?

Resp. This is not required by necessity of the Sacrament, because whether it is old or new, the matter is not changed; but it is required from the precept of the Church. Hence the Bishop who confirmed with old Chrism would sin gravely. For to this end new Chrism is consecrated on the Supper of the Lord, the old having been burned.[1]

Query 4° For the value of the Sacrament, must the oil necessarily be olive oil?

Resp. Affirmatively. The reason is that this is properly called oil. Hence oil made from another matter, for example from nuts, is not valid matter, because it does not come simply under the name of oil. - Thus commonly with St. Thomas[2] and St. Alphonsus.[3]

Query 5° How must the anointing be made?

Resp. It must be made with the right thumb of the Bishop, in the manner of a cross, on the forehead of the one to be confirmed. Nevertheless the anointing would be valid if it were done with another finger of the Bishop, and even if it were a finger of the left hand, because it would truly be done through the imposition of an Episcopal hand. Nevertheless the Bishop who did this without necessity would sin, because he would depart from the practice of the universal Church; although it does not appear that the inversion of the aforesaid ceremony reaches to grave fault.[4]

Query 6° Can the anointing validly be made by means of an instrument?

Resp. Negatively. The reason is because there would be lacking the immediate imposition of the hand of the Minister, which from what has been said is altogether required. Nor should you say that Extreme Unction is validly ministered by means of an instrument; for in that Sacrament the imposition of the hand is not required for validity, as in Confirmation.[5]

Notes to n. 1271 - note sequence 1. (1) L. VI. 164. (2) Ib. 162. (3) Ib. 163. (4) Ib. 163. Notes to n. 1271 - note sequence 2. (1) L. VI. 163. Notes to n. 1271 - note sequence 3. (2) P. III, q. 72, a. 2. (3) L. VI. 162. (4) L. VI. 165. (5) Ib. 166.

ARTICLE II: ON THE FORM OF CONFIRMATION

1272. - The form of the Sacrament of Confirmation consists in these words: *I sign thee with the Sign of the Cross, and I confirm thee with the Chrism of salvation, in the name of the Father and of the Son and of the Holy Spirit*. - Thus Eugene IV defined in the cited Decree. - It is also established from the constant practice of the Church.

1273. - Query. Which words of this form are essential?

Resp. For validity the following are altogether essential: 1° the word *I confirm*, unless it is supplied by another synonymous word; 2° the expression of the Most Holy Trinity, as in Baptism; 3° the word *thee*, by which the subject of the Sacrament is designated; 4° the words *I sign thee with the Sign of the Cross*, and also the words *with the Chrism of salvation*. But to say *I strengthen* for *I confirm*, or *of sanctification* for *of salvation*, would be only an accidental change.[1]

Notes to n. 1273. (1) L. VI. 168.

CHAPTER II: ON THE MINISTER OF CONFIRMATION

1274. - I. The Bishop alone is the ordinary Minister of this Sacrament. Thus Innocent III and the Council of Trent declared.[2]

II. A simple priest can confirm as extraordinary Minister by special delegation of the Supreme Pontiff. It is established from the practice of the Church, and from the Bull of Benedict XIV, *Eo quamvis tempore*. - See St. Alphonsus.[3] - But the priest must use Chrism blessed by a Bishop. It is established from the Decree of Eugene IV, where the matter of Confirmation is said to be Chrism blessed by a Bishop.

1275. Questions. - Query 1° Can the Pope delegate even to a simple priest the power of making Chrism?

Resp. It is controverted. St. Alphonsus affirms.[4]

Query 2° Can a Bishop confirm faithful persons not subject to him?

Resp. 1° As regards validity, he can confirm all, as follows from the power of Orders.

Resp. 2° As regards lawfulness, he cannot confirm except those who are found in his diocese; and he would sin gravely by confirming even his own subjects in another diocese, because Confirmation is an exercise of jurisdiction of the external forum, which cannot be performed without the license of the Ordinary of the place.

But he can confirm outsiders in his own diocese, because, unless the contrary is established, the tacit consent of other Bishops is always presumed. - Thus more probably and more commonly.[5]

Query 3° When is a Bishop held to confirm?

Resp. 1° He is held to confirm those asking, as often as he conveniently can, if he cannot defer to another proximate time.

Resp. 2° He is also held sometimes to offer his subjects an opportunity of receiving this Sacrament. Hence he would sin gravely if for a long time he abstained from conferring Confirmation, for example for eight or ten years, and did not go around the diocese, at least through the principal places, unless he were excused by moral impossibility.[1]

Query 4° Does a Bishop sin gravely by omitting to confirm a dying person asking for the Sacrament?

Resp. Negatively, at least probably. The reason is because, since this Sacrament is not necessary for salvation, the inconvenience of going to the sick lying in their own homes excuses. This is also confirmed by common practice.[2]

Notes to n. 1275 - note sequence 1. (2) Sess. 7, Can. 3, de Confirm. (3) L. VI. 170. (4) Ib. 163. 170. (5) Ib. 171 sq. Notes to n. 1275 - note sequence 2. (1) L. VI. 175. (2) Ib.

CHAPTER III: ON THE SUBJECT OF CONFIRMATION

1276. - The subject of the Sacrament of Confirmation is every and only baptized man not yet confirmed, although lacking the use of reason. For Confirmation perfects the spiritual life which is received in Baptism, and it was instituted for all, as was Baptism.

Nevertheless, from the practice generally prevailing in the Church, children who have not yet obtained the use of reason are not to be confirmed, except for peculiar reasons, for example in danger of death.[3]

1277. Questions. - Query 1° Whether, or of what kind, is the obligation of receiving the Sacrament of Confirmation?

Resp. 1° There is no obligation by necessity of means. For even through Baptism alone remission of sins and eternal life can be had.

Resp. 2° According to St. Alphonsus[4] there is an obligation binding under grave sin from divine precept, at least in the course of life, and when a suitable occasion is given; and he proves this from the Declaration of Benedict XIV in the Bull *Etsi pastoralis* concerning the rites and dogmas of the Greeks, where[5] he says: "They are to be warned" (those who are not confirmed) "by the Ordinaries of places, that they are held guilty of grave sin if, when they can approach Confirmation, they refuse and neglect it."

Query 2° What must be done in doubt whether someone has been confirmed?

Resp. He can be confirmed again under condition, as is clear from what has been said in n. 1213. But one is not held to this, if he truly probably believes that he has received this Sacrament.[1]

Query 3° What dispositions are required in those to be confirmed?

Resp. There is required: 1° the baptismal character for the validity of the Sacrament, and moreover in an adult the intention of receiving the Sacrament, as is established from what has been said in n. 1238. III. 1240. R. 2°.

2° The state of grace, because Confirmation is a Sacrament of the living. Wherefore he who is conscious of mortal sin must have recourse to the Sacrament of Penance, unless he is perfectly contrite.

3° That the one to be confirmed be imbued with the rudiments of Christian doctrine, especially those which are of necessity of means, and which regard the Sacraments of Penance and Confirmation.

4° That he have a Patron. Concerning this note these hortatory words of the Second Plenary Council of Baltimore:[2] "The Bishops will move every stone, so that discipline of this kind" (namely of employing Patrons in Confirmation), "already introduced in some dioceses of these Provinces, be introduced everywhere. But those confirmed shall each have individual Patrons, nor, however, shall males perform the office of Patron for females, nor females for males. But if this altogether cannot be done, at least two Patrons are to be employed for boys, and two Matrons for girls." The journal *Pastoral-Blatt fuer Nordamerika*[3] thinks that one male or one female can be employed for both sexes,

where two cannot be found. Besides, Patrons for Confirmation must have the same qualities as Patrons for Baptism.[4]

But "the Patron places the right hand upon the right shoulder of the one to be confirmed, which custom is different from that which is prescribed in the Pontifical, but has been approved by the S. C. R. on 20 Sept. 1749." Cf. L. VI. 187, § fin.[1]

5° "Whenever Confirmation is administered to many, we establish," say the Fathers of the Second Plenary Council of Baltimore,[3] "that slips, on which the names of those who are to be confirmed are inscribed, are to be given by the pastor to each one, which they are to exhibit to the Bishop about to administer the Sacrament."

Query 4° Must the one to be confirmed be fasting?

Resp. Negatively, considering the custom of today, and the same holds concerning the one confirming. For the canonical laws which prescribed fasting for receiving Confirmation have gone into desuetude. Therefore also the practice of conferring this Sacrament in the evening time has prevailed; but it can be conferred on any day.[1]

Notes to n. 1277 - note sequence 1. (3) Conc. Pl. Balt. II. a. 252. (4) L. VI. 181. 182. H. A. Tr. XIV. 47. Oper. Dogm., Sess. 7. 17. Martinet, Theol. Sacram. L. II, a. 8, § 3. Vind. Alph. p. 930, n. 89. Ed. 2a. T. II, p. 589. LXXXIX. 5. § 3, n. 4. Notes to n. 1277 - note sequence 2. (1) H. A. Tr. XIV. 48. Notes to n. 1277 - note sequence 3. (2) a. 253 and p. CXXXIX, n. 119. (3) Jahrg. V. S. 21. (4) And besides he must be confirmed. Notes to n. 1277 - note sequence 4. (1) 4205 in Laurin. (2) Kenr. Tr. XVI. 10. Notes to n. 1277 - note sequence 5. (3) a. 252. Notes to n. 1277 - note sequence 6. (1) L. VI. 184.

TREATISE ON THE EUCHARIST

The Eucharist can be considered either as Sacrament, or as Sacrifice. Hence there is a twofold part of the present Treatise.

FIRST PART: ON THE EUCHARIST AS SACRAMENT

We must treat: 1° of the nature and efficacy; 2° of the matter and form; 3° of the Minister; 4° of the subject of the Eucharist.

CHAPTER I: ON THE NATURE AND EFFICACY OF THE EUCHARIST

The Eucharist is defined: The Sacrament of the Body and Blood of Christ, under the species of bread and wine, for the spiritual refreshment of souls. It is established from Trent.[1]

1278. Questions. - Query 1° How long does Christ remain really present in the Eucharist?

Resp. He remains as long as the species remain entire; but he ceases to be present under them immediately when the species are so corrupted that, according to the estimation of men, they no longer seem to be bread and wine. - Then, by the law established by God in the institution of this Sacrament, there is substituted for the species the same matter which would succeed to the corrupted bread and wine.[2]

Query 2° How long are the sacred species thought to remain entire, i.e. not corrupted, after the taking of the Sacrament?

Resp. It is not established. The mechanical dissolution of the species is carefully to be distinguished from their corruption or chemical change. The former is not considered here, since it does not remove the real presence. The latter is a little slower or quicker according to the different digestive power of different men and the different circumstances of the same man, both internal (for example, the condition of the stomach) and external (for example, the temperature of the sky). Hence an absolutely universal answer can scarcely be handed down. Capellmann the physician[1] thinks that with those things which are vomited before a half-hour has elapsed after Communion, even of lay persons, the same thing should be done which the Church prescribes must be done with species not yet corrupted. But this certainly must be done when the species are still discerned, although several hours after Communion have elapsed.

Query 3° What are the effects of the Sacrament of the Eucharist in the soul?

Resp. The principal ones are the following, namely: 1° an increase of sanctifying grace, which constitutes the principal effect of the Eucharist. For, according to the words of Christ:[2] *My flesh is truly food*, this Sacrament was instituted as spiritual nourishment; and nourishment supposes life in him who receives it; hence it comes to pass that through this nourishment the very life of the soul, which consists chiefly in sanctifying grace, is strengthened and increased; 2° the obtaining of eternal glory; for Christ promises this: *If anyone shall eat of this bread, he shall live forever*;[3] 3° a most abundant bestowal of actual graces, which flow from habitual grace and infused habits;

4° weakening of evil habits and amendment of vices, especially of lust; 5° remission of venial sins: this is established from Trent,[1] where the Eucharist is called an antidote, by which we are freed from daily faults, and are preserved from mortal sins; 6° remission of the temporal punishment due to sin; not indeed of all of it, but according to the mode of devotion and fervor, as St. Thomas says;[2] 7° special union with Christ and with his members, as is clear from John:[3] *He who eats my flesh and drinks my blood, abides in me and I in him*; 8° preservation from future sins, both because, charity being increased through this food, the soul becomes stronger against corrupt nature, and because it is an efficacious memory of the Lord's Passion, through which the demons have been conquered.[4]

Query 4° Can the Eucharist ever blot out mortal sin?

Resp. More probably affirmatively. See n. 1208, Q. 2°.

Notes to n. 1278 - note sequence 1. (1) Sess. 13, c. 2. 3. (2) L. VI. 225. Lugo, D. 10, n. 36. Lacroix, n. 474. Rev. Theol. T. X, p. 394 deserves to be read. (1) p. 157. Notes to n. 1278 - note sequence 2. (2) John 6. 56. (3) John 6. 52 sq. (1) Sess. 13, c. 2. (2) P. III, q. 79, a. 5. 3. 6. 57. 4. L. VI. 269. H. A. Tr. XV. 5.

CHAPTER II: ON THE MATTER AND FORM OF THE EUCHARIST

We must treat: 1° of the matter; 2° of the form of the Eucharist.

ARTICLE I: ON THE MATTER OF THE EUCHARIST

I. On The Remote Matter.

1279. Principles. - I. Bread and wine are the remote matter of the Sacrament of the Eucharist. It is established: 1° from the institution itself of this Sacrament; for Christ in the Last Supper took bread and wine, and consecrated them into his Body and Blood; 2° from the definition of the Church in the Lateran Council, chapter *Firmiter*;[5] in the Council of Florence, in the Decree of union; and in Trent, Session 13, in almost all the chapters. - To all these is added the unanimous tradition of both Churches, Latin and Greek.

II. Only wheaten bread, and only wine from the vine, whether foreign or native, white or red,[1] are valid matter of the Sacrament of the Eucharist. It is established from the Council of Florence in the Decree cited above, where it is said: *The third is the Sacrament of the Eucharist, whose matter is WHEATEN BREAD AND WINE FROM THE VINE.* - The perpetual tradition and practice of each Church, Latin and Greek, also agree.

Bread must be made with water; hence bread kneaded with another liquid, for example with milk, butter, etc., is not apt matter, or at least is very doubtful.[2]

Must may be employed in general only when necessity makes it lawful; but juice from grapes altogether unripe is unfit matter.[3]

Generally, however, a slight admixture of unfit matter does not dissolve the species.[4]

III. A very small quantity of water must be mixed with the wine, and this not by necessity of the Sacrament, but by ecclesiastical precept.

The first proposition is drawn: 1° from the perpetual practice of the Church and the universal tradition of the Fathers; 2° from the Declaration of the Councils, and especially of Florence - which declares that the matter of the chalice is wine from the vine, with which a very small quantity of water must be mixed - and of Trent.[5]

The second proposition is drawn from this, that Christ, in the institution of this Sacrament, designated only wine, and the Councils, in making mention of this mixture, speak of precept alone, as Trent does in the cited place; there is added the doctrine of the Catechism of the same Council, which, after it taught that this mixture cannot be omitted without mortal sin, adds: Yet if this (water) is lacking, the Sacrament can stand.

1280. Questions. - Query 1° Is bread made from rye or secale valid matter?

Resp. It is controverted. Some affirm, because rye, they say, seems to be of the same species as wheat, although it is of different quality. - But others, much more commonly and more probably, deny; because rye bread is of a different species. Therefore in practice this matter is prohibited under grave obligation.[6] (5) p. 417.

Query 2° Is bread made from far or spelt (in English: spelt) valid matter?

Resp. It is likewise controverted as concerning rye. Hence that matter also is to be held as doubtful, and therefore as gravely illicit.[1] - Nevertheless one must note that in various regions there are given different species of true wheat, which come under the name of spelt. Hence it seems that attention must be paid to the common estimation of men.

Query 3° Is bread, both unleavened and leavened, valid and lawful matter of the Eucharist?

Resp. 1° As regards validity, affirmatively. The reason is because each is true bread, and is also called simply bread in Scripture; and each is made from wheaten flour and natural water. It is also established from the definition of the Church. For thus the Council of Florence in the Decree of union: *We define that the Body of Christ is confected in unleavened or in leavened wheaten bread.*

Resp. 2° As regards lawfulness, Latins are held under grave obligation to consecrate in unleavened bread, and Greeks in leavened bread, each according to the rite of his own Church. It is established: 1° from the practice of each Church; 2° from the Council of Florence in the cited Decree, where it is added: *And priests must confect the very Body of the Lord in either one, each one namely according to the custom of his Church, whether Western or Eastern.* - But a Latin priest, passing through the regions of the Greeks, in which no church of his own rite is present, can consecrate in leavened bread; likewise conversely.[2]

Query 4° Does a priest consecrating in wine turning sour sin gravely?

Resp. Affirmatively, although that wine is still valid matter of the Sacrament. Indeed mortal sin is committed, not only if the wine is near to vinegar, but also if it certainly begins to turn sour and be corrupted, because even so grave irreverence seems to be brought upon the Sacrament. - It is established from the Rubric, tit. 4, n. 2, where it is said thus: *If the wine has begun to turn sour, or to be corrupted, or has become somewhat sharp, ... the Sacrament is confected, but the one confecting sins gravely*.

Nevertheless Gobat, Sporer, and Lacroix probably say that, if other wine is lacking, it is lawful without scruple, as upright men are accustomed, to employ wine turning a little sour, or not notably acid; and Sporer and Mazzotta add that, in urgent necessity, it is lawful to use wine even notably turning sour, provided that it is certainly wine. - Hence the Rubric does not seem to be accepted with such rigor that it comprehends even all the first degrees of sharpness, but only those which proximately begin to constitute wine turning sour.[1]

Query 5° Is frozen wine valid matter?

Resp. It is controverted. More probably affirmatively, although it is illicit. The reason is: 1° because it remains substantially wine, since it retains the same color, taste, and odor; 2° because from the Rubric of the Missal the species of frozen wine after Consecration must be liquefied by applying heated cloths, and then taken, inasmuch as it is a true Sacrament (Rubr. de defect. § 10, n. 11). Therefore it supposes that the species of frozen wine retains the Blood of Christ; therefore the sacred species are not changed substantially through freezing after Consecration; therefore neither before it. - Thus St. Alphonsus,[2] where he says that it is the truer sentence because of the reason drawn from the cited Rubric.

Query 6° What quantity of water is to be mixed in the chalice?

Resp. A very small quantity of water suffices, as the Council of Florence says above, n. 1279. Probably water can be poured in up to an eighth part of the wine, indeed up to a fifth part according to Lugo.[3] Busembaum adds that it suffices that the water not exceed a third part. But in practice this last sentence is not to be admitted, although a third part does not corrupt the wine, if it is generous. Generally one must counsel that the priest not exceed eight or ten little drops. But if by chance he has poured in too great a quantity of water, some quantity of wine can again be added.[4]

Notes to n. 1280 - note sequence 1. (5) L. I, Decr. T. I, c. 1. (1) L. VI. 207. Linz. P. Bl. 1881, p. 34. (2) Ib. 198. 199. (3) Ib. 206. 207. St. Thomas, P. III, q. 74, a. 5, ad 2 and 3. (4) St. Thomas, P. III, q. 74, a. 3, ad 3. (5) Sess. 22, c. 7. (6) L. VI. 200. Notes to n. 1280 - note sequence 1. (1) L. VI. 200. (2) Ib. 203, Dub. I. Notes to n. 1280 - note sequence 2. (1) L. VI. 207, quer. I. Exam. ordin., n. 98. (2) L. VI. 207, quer. II. 3. D. 4, n. 38. 4. L. VI. 210.

II. On The Proximate Matter, Or On The Use Of The Matter Required In The Consecration.

1281. Principles. - I. For valid Consecration, besides apt matter, it is required: 1° that the matter to be consecrated be physically present; because the demonstrative pronouns of the form, *this*, *here*, necessarily require this; otherwise the form would be false, because that which was not present would be demonstrated as present; 2° that it be determined in the individual by the intention of the Minister; because just as the Minister does not consecrate unless he intends to consecrate, so neither does he consecrate this matter unless he determinately intends to consecrate it. Nevertheless actual determination is not required, but virtual suffices.[1]

II. For lawful Consecration it is required: 1° that the priest in no way depart from the use of the Church, especially that determined by the Rubrics of the Roman Missal: hence first of all it is necessary that the matter to be consecrated be decent and clean, on account of the reverence due to so great a Sacrament; likewise, from the prescription or use of the Latin Church, that the host be of round, thin, whole, and fresh form. Cf. St. Alphonsus;[2] 2° that it be placed on the altar and on the corporal, indeed also on the sacred stone; 3° that the ciborium or chalice to be consecrated be uncovered; 4° that it be done at the time prescribed by the Rubric of the Canon.[3]

Notes to nn. 1281-1283 - note sequence 1. (1) L. VI. 211-214. (2) Ib. 205. (3) Ib. 218. 219. (4) Ib. 212. (5) Ib. 216. Notes to nn. 1281-1283 - note sequence 2. (1) L. VI. 216. 217. (2) Ib. 215. (3) Ib. 217. IV. Exam. Ord. 99. (4) Ib. 196.

1282. Resolves. - 1° Hosts hidden under others, or otherwise covered, are validly consecrated. Likewise wine is validly consecrated in a chalice covered with a veil, pall, or in any way whatever; because it suffices for the true presence of the matter that it can be demonstrated by the pronouns *this* or *here*.[4]

2° The Consecration is valid if the priest thinks that only one or two hosts to be consecrated are present, although there are several placed either by him or by another; the reason is because the priest is always presumed to wish to consecrate whatever is decently consecrable. Hence if the celebrant notices after Consecration that two Hosts are joined together, let him take each as consecrated according to the Rubric of the Missal. But if before Consecration, after he has offered, he notices this, let him set one aside, and after Mass let him or another consume it as blessed bread. But if in some case unconsecrated hosts are mixed with consecrated ones, the whole mass is to be consecrated under condition, if they are not consecrated.[5]

3° The same must be said if someone has brought several hosts to the altar to be consecrated, or before the Sacrifice he has been warned concerning hosts to be consecrated already placed upon the altar, or he has noticed that they are brought by another that they may be consecrated, even if, while he consecrates, he does not so expressly remember them, or even has not uncovered them at the oblation, provided that they are present on the corporal; because the preceding intention virtually perseveres.[1]

4° Hosts would not be consecrated, if the priest did not know of them, even placed on the corporal, but separated from the heap, because the wholly unaware priest did not have the intention of consecrating them.[2]

5° If small hosts for communicating the people are brought to the priest a little after the oblation has been made, he will be able lawfully to consecrate them, the oblation being supplied mentally. "And this, even if the Canon has been begun, ... when several would remain without Communion." ... But if only one remained, rather a part of the large Host is to be given to him, "or a smaller Host is to be divided. And it suffices for a cause if the one about to communicate would have to wait a long time," or if he is a grave or noble person, or, among us, a person of principal standing.[3]

6° It is never lawful to consecrate only one species. Nevertheless such a Consecration is more probably valid, even if the priest had a positive intention of not consecrating the other species.[4]

1283. Questions. - Query 1° Is a ciborium left outside the corporal or the stone through forgetfulness to be judged consecrated?

Resp. There is no difficulty if there is question of a ciborium placed indeed outside the stone, but nevertheless on the corporal, and with this extended over the stone; for in this case it is morally found on the stone. Otherwise it is controverted. The first sentence, probable, affirms, because the will of consecrating had at the beginning of Mass was not retracted.

The second sentence, common and more probable according to St. Alphonsus, denies. The reason is because that intention of consecrating outside the corporal would have been a grave sin, and was not necessary for the Sacrifice, and therefore the priest is not presumed to have had it.

But since it is illicit to administer Sacraments with doubtful matter, in practice that ciborium will have to be consecrated again under condition in another Mass, if the particles cannot easily be consumed. Otherwise they must be consumed after each Communion and ablution - because the remains of the Blood are certainly a Sacrament, but those hosts in the ciborium are only doubtful - and before purification. I said: *must*; because while they can be consumed, a sufficient cause is lacking for consecrating them under condition.[1]

Query 2° Is a ciborium placed indeed on the corporal, but which through forgetfulness remained closed at the time of Consecration, judged consecrated?

Resp. Affirmatively. The reason is: 1° because certainly hosts can be validly consecrated in a closed ciborium, as was said above; 2° because the priest is always judged to have the absolute intention of consecrating whatever, with his knowledge, is above the corporal, is honestly consecrable, and is held by way of one continuous whole.

Query 3° Are drops of wine adhering to the chalice, whether exteriorly or interiorly, judged consecrated?

Resp. 1° Drops adhering exteriorly are never judged consecrated. The reason is because the intention of the priest is deservedly presumed to be to consecrate that one thing which is lawfully consecrable; but those little drops would be consecrated illicitly and irreverently, and without any utility. Therefore ... Thus all.

Resp. 2° More probably, neither are drops adhering interiorly judged consecrated, when they are altogether separated from the greater quantity, or are not next to the bottom. The reason is because it seems to be the intention of the Church, and therefore of the priest, not to consecrate except wine which is drinkable by way of one whole, and is found gathered together in the chalice.[3]

Query 4° What kind of sin is it to consecrate a broken or stained host?

Resp. Scandal being excluded, and without a reasonable cause, it is venial, unless the stain or fracture is enormous. But if some fracture or even notable stain is discovered in the host after the oblation, outside the case in which scandal of the people is feared, such a host will lawfully be consecrated, because through the oblation it has already been in some way dedicated and sanctified to God.[4]

Notes to n. 1283 - note sequence 2. (1) L. VI. 217. Exam. Ord. n. 99. Cf. Vind. p. 379. Ed. 2a. I, p. 429. (2) L. VI. 215. (3) Ib. and Exam. Ord. n. 99. (4) L. VI. 204.

ARTICLE II: ON THE FORM OF THE SACRAMENT OF THE EUCHARIST

Just as in the Sacrament of the Eucharist there is a twofold distinct matter, so also there is a twofold form of Consecration, one of bread and the other of wine.

1284. Principles. - I. The form for the Consecration of bread consists in these words: *For this is my Body.* But these words, or equivalent ones, are altogether essential to the form, if you except the word *for*.

It is established: 1° from the universal practice of the Church, and from her precept in the Roman Missal; 2° from the Council of Florence in the Decree of union, and from Trent;[1] 3° from the divine institution itself; for Christ transubstantiated bread into his Body by pronouncing the aforesaid words.

II. The form for the Consecration of wine is this: *For this is the Chalice of my Blood, of the new and eternal Testament, the mystery of Faith, which shall be poured out for you and for many unto the remission of sins.*

It is established likewise: 1° from the practice and prescription of the Church; 2° from the various Evangelists, who, although they do not report altogether the same words, nevertheless agree perfectly as regards this sense.

Appendix annotation (5), to n. 1284. q. 3°. p. 42. col. 2. The controversy seems to some to be a dispute about a name, which owes its origin to the double signification of the word siligo. For the most ancient signification of this word denotes wheat of the first note, and St. Thomas seems to have had this signification before his eyes, P. III. q. 74. a. 3 ad 2, where he pronounces the validity of this matter as undoubted. But siligo, which is sometimes also called secale, also signifies that which the English call rye, the French seigle, the Germans Roggen or Korn, the Italians segala; and siligo taken in this sense is invalid matter. - Linz. P. Bl.

1285. Resolves. - 1° Valid, but illicit, is the Consecration if the one consecrating says: *This food is my Body*; *this chalice is my Blood*. - Likewise if you pronounce: *Colpui* for *Corpus*; *meus* for *meum*; *es* for *est*; *calis* for *calix*; *Sanguis* for *Sanguinis*, etc.[2]

2° The Consecration will be invalid if you say: *Here* (adverbially) *is my Body*; *This Body is mine*; or *Here is my Blood*: because these words do not have a sense by which they signify that which they ought to effect.[3]

3° The Consecration is doubtful if you say: *This is my Flesh*: which, nevertheless, Laymann thinks to be valid.[4]

4° The words of the form must be pronounced in the person of Christ formally and assertively, or recitatively and at the same time significatively, but not merely historically: namely, the words of Christ are to be pronounced by applying their signification to the present matter, so that this may be transubstantiated into the Body and Blood of Christ. Nevertheless no scruple is to be had whether the words are pronounced in the due sense; for any priest is presumed to have the intention of doing what Christ did and instituted, and thus he sufficiently intends to pronounce the consecratory words in each aforesaid sense. - Elbel,[1] St. Alphonsus.[2]

Notes to n. 1285. (1) Sess. 13, c. 1. (2) L. VI. 221. (3) Ib. (4) Ib.

1286. Questions. - Query 1° Is the omission of the word *for* in the form of Consecration grave?

Resp. It is controverted. The first sentence denies, because that word is not found in the words pronounced by Christ in the Consecration of the bread, and from another side, as regards the precept of the Church, it does not seem to constitute grave matter. - Thus Busembaum.[3]

The second sentence affirms, and St. Alphonsus[4] says that this is not improbable. The reason is because in so grave a matter there does not seem to be light matter in any deliberate change whatever.

Query 2° In Consecration are required, as essential, those antecedent words: *Who the day before he suffered*, etc. ... *In like manner*, etc.?

Resp. Negatively, with the common sentence, which St. Alphonsus holds as most probable. The reason is because these words are pronounced only historically, and do not seem to have any sacramental efficacy. Nevertheless he does not dare to say that the opposite sentence is improbable, all the more because, if because of a doubtful Consecration the form must be repeated, according to the Rubrics one must begin from the words: *Who the day before*, and *In like manner*.[5] (v) p. 401.

Query 3° In the Consecration of the chalice are these words alone: *THIS IS THE CHALICE OF MY BLOOD* ... of the essence of the form?

Resp. The affirmative sentence is more common than the negative, but each is speculatively probable on account of the reasons which are to be seen among the Dogmaticians or at St. Alphonsus.[6] But in practice it is certain that it would be grave sin if all the words which are had in the Consecration of the chalice were not pronounced, and, if perhaps only the first words were said, the whole form must be repeated.

Query 4° Is the form valid if it is said: *HOC ENIM CORPUS MEUM*, by understanding *EST*, as in the Latin language this frequently is customarily done?

Resp. Negatively. For although in continuous speech the substantive verb *is* can easily be understood, nevertheless in the present case this cannot be done; both because continuous speech is not had, and

especially because in the matter of which we are treating, the form has not only an assertory sense, as in common speech, but also a force effecting transubstantiation.[1]

Notes to n. 1286 - note sequence 1. (1) n. 34. (2) L. VI. 220. (3) Ib. (4) Ib. (5) Ib. 222. (6) Ib. 223. Notes to n. 1286 - note sequence 2. (1) Ib. 223. Appendix annotation (upsilon), to n. 1286. q. 2°. p. 47. col. 1. In the Brief to the Patriarch of Antioch of the Melchite Greeks, dated 8 May 1822, Pius VII forbids anyone, whether publicly or privately, to defend or maintain the opinion of the schismatics which teaches that the form of the Eucharist "does not consist in the words of Jesus Christ alone." Bullar. S. C. de Prop. Fide, T. IV. p. 388 sq.

CHAPTER III: ON THE MINISTER OF THE EUCHARIST

It must be treated 1° of the power of the Minister; 2° of his obligation; 3° of the requisites for ministering rightly; 4° of the manner of ministering the Holy Eucharist to the sick; 5° of the manner of reserving it.

ARTICLE I: ON THE POWER OF THE MINISTER OF THE EUCHARIST

The Minister of the Eucharist is twofold, namely one of Consecration, the other of distribution.

1287. Principles. - I. Every priest, and only a priest, is the Minister of confecting the Eucharist. It is established 1° from Scripture: for Christ, instituting the Sacrament, said to all and only the Apostles reclining with him, and therefore to all and only those who were to succeed them in the priesthood: *Do this in commemoration of me*;[2] therefore all and only priests received this power from Christ; 2° from Trent;[3] 3° finally from the universal and perpetual tradition of the Church.

II. Priests alone, or presbyters, are the ordinary Ministers of the distribution of the Eucharist. It is established 1° from Trent,[4] where it is said: "It has always been the custom in the Church of God, that laymen should receive Communion from priests, but priests celebrating should communicate themselves"; 2° from the universal practice of the Church.

III. Deacons, by force of their ordination, are extraordinary Ministers of the Eucharist, so that the distribution of this Sacrament can be committed to them from a sufficient cause; which commission, at least tacit, is certainly altogether necessary for the lawfulness of this act outside the case of extreme necessity, and indeed for public and solemn administration. It is established 1° from the practice of the first centuries, in which deacons everywhere, by commission of Bishops or presbyters, whether general or particular, ministered the Eucharist; 2° from various Councils, e.g. Nicaea I, general, Carthage IV, etc.[1]

IV. By ordinary right the Pastor alone, or his Superior, can distribute the Eucharist. For jurisdiction is required for this, not indeed for the validity of the act, as in absolution, but for due order in ministering. It is established 1° from the Councils, especially Carthage I,[2] and Milevis,[3] etc.; ... 2° from the universal practice of the Church. Hence he who without the license, at least presumed, of the Pastor ministers the Eucharist, violates his right in a grave matter, and therefore sins gravely. Nevertheless, when the Pastor grants to others license of celebrating in his Church, he is always judged to grant license also of ministering the Eucharist, unless he express the contrary; this also is confirmed by common practice.[4]

Nevertheless license is not so easily to be presumed, if there is question of receiving the Eucharist from obligation.[5] Wherefore as regards Paschal Communion, custom will have to be observed; likewise to minister Viaticum outside the case of necessity without the license of the Pastor is illicit.

But the First Communion of children is not of parochial right. Nevertheless diocesan statutes will have to be observed, or also legitimate custom, if perhaps somewhere it has the force of law.[6]

The aforesaid dispositions of common law concerning parochial rights do not pertain to us, except insofar as the statute of the Bishop or prudence prescribes them. See n. 1138.

Notes to nn. 1287-1288 - note sequence 1. (2) Luke 22. 19. (3) Sess. 22. Can. 2. (4) Sess. 13. c. 8. Notes to nn. 1287-1288 - note sequence 2. (1) L. VI. 237. (2) Can. 7. (3) Can. 18. (4) L. VI. 230. sq. (5) L. VI. 235. (6) Bouix, de jure Regul. T. II. P. V. Sect. 3. c. 2. q. 12. Notes to nn. 1287-1288 - note sequence 3. (1) L. VI. 237.

1288. Questions. - Query 1° In order that a deacon may minister, must the necessity be extreme?

Resp. Negatively, with the common sentence; but grave necessity suffices, namely when no priest is present who can conveniently minister the Eucharist. And in extreme necessity, when a priest is absent, he is held to minister Viaticum.[1]

Query 2° Whether, or in what circumstances, Religious can minister the most holy Eucharist?

Resp. See n. 1200. E). F).

ARTICLE II: ON THE OBLIGATION OF DISTRIBUTING THE EUCHARIST

1289. Principles. - I. The Pastor, or any priest having care of souls, is held from justice to minister the Eucharist to his subjects not only at Easter and in death, but also as often as they reasonably ask, excluding, however, a legitimate cause of impediment. The reason is because it pertains to the Pastor, from a quasi-contract, to provide not only that the faithful fulfill the precepts, but also that they not lack the helps which very much profit spiritual advancement.[2]

II. Any priest, whether secular or regular, is held, if the Pastor is lacking, to minister the Eucharist to one about to die; otherwise in other cases. The reason of the first is because anyone from charity is held to succor his neighbor placed in so great an extremity by this salutary and most efficacious remedy. The reason of the second is clear.

III. To one dying, especially not yet confessed, Viaticum must be brought, even if therefore the people would have to lack Mass of precept, as is clear.

1290. Questions. - Query 1° Is the Pastor held also to investigate sick persons not asking for the Eucharist, that he may minister it to them?

Resp. Affirmatively, at least if they are in grave danger of death. The reason is because it is the office of a good Pastor to take care that to his sheep, placed in so great a danger, so salutary a remedy be supplied. It is gathered besides from Canon Law.[3]

Query 2° Is the Pastor held to minister the Eucharist to his subjects by himself?

Resp. Negatively. For it suffices if he provide that whoever opportunely asks or needs it not be defrauded of it. Therefore he can fulfill the obligation even through others. Nevertheless he must take care lest he seem idle and careless, if he habitually fulfills his offices through others.

Query 3° Does the Pastor sin gravely as often as he denies the Eucharist to one reasonably asking?

Resp. Negatively; for if he does this rarely, e.g. toward one or another, scandal or grave sadness of the asker being excluded, he will sin only venially. The reason is because neither grave injury nor grave damage is thus inflicted, and, if damage is present, it can easily be repaired. - Thus all. - Recall what was said n. 1227. 2°.

Query 4° Is the Pastor held to minister the Eucharist even with danger of life, e.g. in time of plague or contagious disease?

Resp. Negatively, very probably with St. Alphonsus.[1] - See what was said n. 1227. q. 2°. Resp. 2°.

Query 5° When is the Pastor judged to be excused from ministering the Eucharist to subjects asking?

Resp. He is legitimately excused, 1° when the subjects, on account of some circumstances, do not ask reasonably, e.g. if they ask before Mass when they can easily wait, etc.; 2° if the Pastor himself is impeded by infirmity or other necessary occupations, etc. - Nevertheless one must act cautiously, because in these matters the faithful can easily take scandal and be kept from receiving the Sacraments more often. - Thus all.

Notes to n. 1290. (2) H. A. Tr. XV. 8. (3) L. III. Decr. T. XLI. c. 1. (1) L. VI. 233.

ARTICLE III: ON THE REQUISITES FOR THE LAWFUL DISTRIBUTION OF THE HOLY EUCHARIST

1291. Principles. - I. Besides jurisdiction (cf. n. 1287. IV.), it is required that the Minister be free from every excommunication, interdict, and suspension from Sacred Orders; for otherwise he would sin gravely and contract irregularity.

II. It is required that the Minister be in the state of grace, because the most august and most holy Body of Christ ought not to be handled by impure hands. Hence the priest sins as often as, guilty of mortal sin and not contrite, he distributes Communion, although probably he does not commit as many sins as there are persons communicating in the same distribution of the Eucharist.[1] - Cf. n. 219.

III. It is required that the Minister distribute the Eucharist according to the rite customary in the Church. Hence, generally speaking, the administration of this Sacrament is to be omitted when it cannot be done in the manner prescribed by the Roman Ritual or by the custom of the place.[2]

Notes to nn. 1291-1297 - note sequence 1. (1) L. VI. 30. sq. (2) Ib. 241. sq. (3) Ib. 241. 245. (4) Ib. 241. (5) Ib. (6) n. 168. (7) L. VI. 244. Notes to nn. 1291-1297 - note sequence 2. (1) L. VI. 250. (2) Ib. (3) De Sacr. Missae. L. III. c. 20, n. 7. (4) L. VI. 252. (5) Ib. Notes to nn. 1291-1299 - note sequence 1. (1) L. VI. 241. (2) Ib. (3) Ib. 242. (4) Ib. 244. Notes to nn. 1291-1297 - note sequence 3. (1) L. VI. 252. and S. R. C. 22 Mar. 1806 in Tiph. n. 4499. (2) Ben. XIV. c. Magno. § 24. 2 June 1751. 3. 7 Dec. 1844 in Januen. n. 4984. Notes to nn. 1291-1297 - note sequence 4. (1) De Herdt. T. I. n. 275. - Benger. Comp. p. 365. 4). (2) C. 4. art. 2. (3) n. 212. Notes to nn. 1291-1297 - note sequence 5. (1) n. 498. (2) L. VI. 243. Notes to nn. 1291-1299 - note sequence 2. (1) S. C. R. 5 Mar. 1635; 23 Aug. 1695; 23 Jan. 1700. ad 1. n. 3368. 3544. (2) S. C. R. 23 May 1846. n. 5036. (3) De Herdt, T. I. n. 161, 2°. (4) H. A. Tr. XV. 12. 5. 23 Jan. 1740. in Laudensi n. 4100. 6. L. VI. 243. 7. Ib. 285. 8. L. VII. c. XII. n. 4. Notes to nn. 1291-1299 - note sequence 3. (1) L. VII. 5. (2) T. III. n. 118. (3) n. 235. (4) L. VI. 285. Dub. 1. (5) n. 235. (6) L. VI. 61.

1292. Resolves. - 1° The Eucharist is not to be ministered except with decent habit, that is, with stole, surplice, and light.

2° According to the common sentence, he sins gravely who, outside the case of necessity, distributes Communion without any sacred vestment; because this is very indecent and contrary to a grave precept of the Church.[3] - If, however, only the stole is omitted, it seems to several and grave Theologians to be only venial, which seems sufficiently probable.[4]

3° It is reputed only venial to minister the Eucharist without light, or without the usual confession premised, the *Confiteor*, etc.[5] - Similarly it is held only venial to transfer the Eucharist without sacred vestments from place to place, e.g. from one altar to another. - Reuter,[6] Mazzotta.

1293. Questions. - Query 1° Can a priest laboring under an infirmity in the thumb and forefinger minister the Eucharist with other fingers?[7]

Resp. It seems one must deny, at least more probably, excluding the case of gravest necessity.[7] - The reason is because, although the whole hand is consecrated, nevertheless the forefinger and thumb from the rite of the Church are specially destined for exercising this office.

Query 2° What must be done if the Host falls to the ground?

Resp. The place onto which the holy Host fell is immediately to be covered with some clean thing, and afterwards washed. If it falls onto the cloth, or small linen, with which the hands of the communicant are covered, the place is to be marked and afterwards washed in like manner. Thus the Rubric, which nevertheless, according to the common sentence, does not oblige under grave sin; nevertheless it would oblige gravely to wash the place onto which the sacred species of wine had fallen, since this is absorbed; yet there is no need to burn them, i.e. the object onto which they fell.[1]

Query 3° What must be done if the Host falls onto the face, beard, or garments of the communicant?

Resp. In the aforesaid cases purification is to be omitted; because it is better to avoid wonder, disturbance, or offense of the people, than to observe the Rubric, which obliges only under light sin.[2]

Query 4° What must be done if the Host falls into the bosom or within the garments of a woman?

Resp. The woman herself must draw out the Host, and she herself must bring it to her mouth with her own hands. Thus Benedict XIV.[3] But the fingers of the woman are to be washed, and the ablution is to be cast into the piscina. If the woman cannot easily draw out the Host there, let her withdraw apart, e.g. into some chapel, or into the sacristy, etc.

1294. Query 5° At what hour can Communion be distributed?

Resp. Regularly it ought to be ministered at the hours at which Mass, whether from custom or from a particular Indult, may be celebrated. But commonly with St. Alphonsus it is taught that it can be ministered at any hour of the day, except nevertheless the extreme part of the day, i.e. toward night. The reason is because there exists no prohibition concerning this matter.[4] Nor does there stand in the way the Decree of the Sacred Congregation of Rites given in Dec. 1816, permitting the administration of Communion from time to time at which Masses are celebrated in any church on a day of great concourse. For that Decree is not exclusive, since the Sacred Congregation gave the response according to the petition, in which there was question precisely of a day of great concourse for gaining a plenary Indulgence or Jubilee.

It must be added here that, from a decree of the Sacred Congregation of Rites of the year 1641, Communion is not to be given (unless by force of privilege) in the Mass of the Nativity of the Lord, which is celebrated at midnight. At St. Alphonsus,[5] and at Gardellini n. 1319.

Query 6° At what time and place can Communion not be given?

Resp. to the 1st. In the time of local interdict, and in the time from the reposition of the Most Holy Sacrament on Thursday of the Greater Week until the solemn Mass on Holy Saturday, within which, as today is certain, all the faithful are permitted to receive the Sacred Eucharist.[1]

Resp. to the 2nd. Outside Churches or public oratories. But in private ones it can be given by license of the Bishop,[2] and, among us, wherever Mass is celebrated.

But at the altar on which the Most Holy Sacrament is exposed, it is not to be distributed (S. R. C. 12 Nov. 1831), unless because of the lack of another altar (S. R. C. 26 Sept. 1868).

1295. Query 7° Can Communion be given outside Mass?

Resp. It is to be given, generally speaking, insofar as it can be done, after the Communion of the Priest. Thus from the Roman Ritual. Yet by received usage Communion can easily be given before or after Mass, or even at any other time at which, as was said above (n. 1294. q. 5°), it can be ministered. Indeed, where there is a great influx of communicants, it is expedient to defer Communion until the Sacrifice has been completed, lest those who assist at Mass be detained in Church longer than is fitting and be affected with tedium. - Nay rather, it must be held as certain that, on account of the custom which has prevailed everywhere, and which cannot be abrogated by Pastors, there exists no precept by force of which Communion must be distributed only within Mass. - Thus the Sacred Congregation of Rites.[3]

Query 8° Can Communion be given with black vestments immediately before or after Masses of the dead?

Resp. 1° After Mass it can be given, if the priest has not yet withdrawn from the altar on which he celebrated; but then he does not give the blessing to those who have communicated. - Thus from the Decree of the Sacred Congregation of Rites confirmed by Our Most Holy Lord Pope Pius IX, 23 July 1868.

Resp. 2° According to the same Decree, Communion can also be given before Mass, if a reasonable cause is present, the blessing nevertheless being omitted. But a reasonable cause is never lacking if some then ask Communion. For very often it happens that among those asking some are present who otherwise either would depart without Communion, or, by remaining longer, would necessarily undergo no light inconvenience, whether in domestic matters or in business to be transacted.

Query 9° Can Communion be given with black vestments *within* a Mass of Requiem?

Resp. Affirmatively, both if Communion is given with only Hosts consecrated in the same Mass, and if it is given from preconsecrated Hosts which are reserved in the tabernacle. Thus the Decree of the Sacred Congregation of Rites cited above.

1296. Query 10° Can Communion be given with violet vestments, even before or after Masses of the dead?

Resp. On this question there could long be controversy, especially on account of a Response which was reported from the Sacred Congregation of Rites in the year 1670. But now there is no doubt, after the aforesaid decree of the Sacred Congregation, by which it is established that in Masses of the dead violet vestments cannot be used unless in some Church, on November 2. The Eucharistic Sacrament is publicly exposed for the solemn Prayer of Forty Hours.

Query 11° How is Communion to be ministered outside Mass?

Resp. 1° If Communion is to be ministered immediately before or after Mass, it must be done as in Mass itself; but the priest, standing at the altar, can say: *O sacred banquet*, etc. Vers. *Bread*, etc. (in

Paschal time is added: *Alleluia*); then he says: *Lord, hear*, etc., *The Lord be with you*, etc., with the Prayer: *O God, who*, etc. (in Paschal time: *Pour forth upon us*, etc.); finally, with his fingers washed and the Sacred Ciborium replaced in the tabernacle, he blesses those who communicated with the formula: *The blessing of almighty God, Father*, etc. - Roman Ritual and Sacred Congregation of Rites, 24 Sept. 1842.[6] p. 417.

Resp. 2° If it is distributed at another time, two candles are to be lit according to the Roman Ritual. But if time urges and two candles cannot easily be lit, one will suffice; 2° the priest, with hands washed, vested in surplice and stole of the color suitable to the Office of that day, ministers, as above, and having returned to the altar he proceeds with the remainder as above; finally he gives the blessing with the hand raised, but not with the pyx, except over the sick.

But the versicles *Lord, hear*, etc., *The Lord be with you*, etc., with the proper Prayer, according to some, as connected with the antiphon *O Sacred*, etc., can be omitted; according to others they are of precept, as is the antiphon itself.[1] - But such prayers seem to be said with a voice at least moderately raised, since they must be answered by the minister. (z) p. 417.

Appendix annotation (6), to n. 1296. q. 11°. R. 1°. p. 51. col. 1. When the Sacrament of the Most Holy Eucharist must be administered in Paschal time, before or after a Mass of Requiem, Alleluia is not to be added to the versicles. S. R. C. Jan. 29, 1712, in Senen. Acta, T. I. p. 4. Appendix annotation (7), to n. 1296. q. 11°. R. 2°. p. 51. col. 2. It is said in the Response that a stole of the color suited to the Office of that day is to be used. Wherefore, if the Mass does not agree with the Office, not the color of the former but of the latter is to be used in the administration of the Eucharist, which does not take place within, or before or after, Mass. The case can be given on Thursday in the Lord's Supper, and when, according to the Rubrics, the Office is celebrated of the Octave and the Mass of the Vigil or Feria. Where the custom prevails of administering the Most Holy Eucharist with white stoles to the faithful fulfilling the Paschal precept, it is to be tolerated. S. R. C. Venet., 11 Aug. 1877. Acta, T. XIII. p. 430.

1297. Query 12° What must be done if the minister is lacking for the priest: can a man about to communicate, or a woman, supply?

Resp. 1° Certainly any man about to communicate, if he is a man, can serve the priest; or even the priest himself can supply, by saying the *Confiteor* and answering *Amen*.

Resp. 2° A woman cannot supply, unless she is a Nun who, according to received custom, answers within the cloister; then the priest himself must by himself perform everything. Nor do you say that in necessity a woman can respond at Mass, provided she stands at a distance; for in Mass the priest alone can answer everything. - Thus commonly, Bouvier,[2] Gousset.[3]

Query 13° Can several particles be given to one communicant, or one larger one by cutting it, etc.?

Resp. Negatively. For this was expressly prohibited by a Decree of the Sacred Congregation of the Council, approved by Innocent XI on 12 February 1679. The words, as Benedict XIV[3] reports, are these: "Bishops, Pastors, or confessors should warn that several forms of the Eucharist, or particles, are to be handed to no one, nor larger ones, but the customary ones."

Query 14° Can particles be broken if they are deficient; and what must be done if there is no tabernacle in which they can be replaced?

Resp. to the 1st. Affirmatively, from the common sentence and general practice, provided there is a just cause, e.g. if Masses or the faithful cannot wait. Indeed, when the question had been proposed to the Sacred Congregation of Rites, "Whether it is safe to follow the Rule of the Parisian Ritual, thus

expressed: If, when Communion is to be given, a sufficient number of Hosts has not been found, can some Host be divided into several particles, which are distributed to individuals?" the Sacred Congregation responded: "Let the custom of dividing consecrated ones be observed, if necessity is present." On 16 March 1833, n. 4707. Nevertheless the priest then must divide Hosts only into two or at most three parts, because otherwise Communion could scarcely be given with due reverence. - Lacroix.[1] Cf. what was said n. 1282. 5°.

Resp. to the 2nd. They are to be consumed by the celebrant before the ablutions, if this can easily be done. Otherwise they would have to be carried to the nearest tabernacle with the customary rite; and it must not be done that several Hosts be ministered to the faithful.

Query 15° For communicating the faithful, when smaller Hosts are lacking, can the priest detach a part of the larger one to be consumed by himself?

Resp. 1° Affirmatively in the case of carrying Viaticum to one dying, by reason of urgent necessity. - Thus all. - 2° Affirmatively also if one or another of the faithful were about to communicate, who otherwise would have to wait for Communion not without inconvenience.[2] Cf. what was said n. 1282. 5°.

ARTICLE IV: ON THE MANNER OF MINISTERING THE EUCHARIST TO THE SICK

1298. The Roman Ritual Establishes The Following. - I. Let the Pastor admonish that the sick person's room be cleansed, and in it a table be prepared covered with a clean cloth, on which the Most Holy Sacrament may decently be set down. Let two candles at least be prepared, two small vessels, one with wine, the other with water, so that either may serve the priest for washing the fingers, and the sick person for swallowing the Sacred Host after Communion (therefore it suffices to prepare either one); besides, a clean linen is to be placed before the breast of the communicant. Often a vessel of holy water is added, as often as it is not accustomed to be carried with the Most Holy Sacrament.

II. The Eucharist must be carried from the Church to the private homes of the sick with decent habit, a clean veil placed over it, manifestly and honorably, with all reverence, always with light and with a little bell being continually rung before it. But the priest, vested in surplice and stole, and first having placed from both shoulders a becoming oblong veil, should receive with both hands the vessel with the Most Holy Sacrament, to be carried before the breast, and then should go under the baldachin, or umbrella, if it can be had, and proceed with uncovered head. But in going he says the *Miserere* and other Psalms, and in returning *Praise the Lord from the heavens*, and other Psalms and Hymns, but these are only of counsel.

III. The priest, entering the room of the sick person, says: *Peace be to this house*, Resp.: *And to all dwelling in it*. Then he adores the Most Holy Sacrament placed upon the table; he sprinkles the sick person and the room with holy water, saying: *Thou shalt sprinkle me*, etc., and the other prayers placed in the Roman Ritual. Afterwards, the sick person having been questioned and exhorted, he gives the Most Holy Eucharist in the usual manner. But if there is question of Viaticum, he does not say: *The Body of the Lord*, etc.; but: *Receive, brother, the viaticum of the Body of Our Lord Jesus Christ*, etc., as in the Ritual. (y) p. 401.

IV. When death is imminent, most of the prayers, or even all, are omitted. The priest, with fingers washed, and the prayers completed, if particles remain, blesses the sick person with the ciborium, saying nothing. From the Roman Ritual the ablutions must be given to the sick person, but if he is unwilling or unable to take them, they are cast into the fire in the sick person's own house, or, which is more fitting, into the Sacrarium. (x) p. 401. - The priest, having returned to the Church, with the ciborium placed upon the altar, recites the versicle and prayer concerning the Most Holy Sacrament, and with the Sacrament makes the Sign of the Cross over the people, saying nothing.

Appendix annotation (phi), to n. 1298. III. p. 52. col. 2. "If," says De Herdt, Prax. Rit. Rom., p. 80, "the Most Holy Sacrament is to be administered at the same time to several sick persons in the same place, whether as Viaticum or from devotion, as can happen rather often in hospitals and in contagious diseases, then the antiphon Asperges me is said only once, and meanwhile the sick are sprinkled; likewise the verse Adjutorium, the prayer Exaudi, the Confiteor, Misereatur, Indulgentiam, and Ecce Agnus Dei are recited once, just as these also are said only once in church, however many there are to be communicated; then, under the respective form, Holy Communion is given to each sick person; and finally the prayer Domine sancte is recited once, and the blessing is given once." It is said: in the same place; for the things said do not hold if the sick are separated by intervals of places, even of the same house, in such a way that, precisely by reason of the interval, by no external sense can they - I do not say perceive - but be able to perceive the prayers and actions of the minister, and according to the common estimation of men the minister would not be judged to be acting with them. The case would be if different sick persons were lying in different stories of the same building, or even in the same story indeed, but in rooms so separated from one another that one could in no way be judged joined with the other. Thus Past.-Bl. für Nord Amer., 12th year, p. 22. 23. > Notes to appendix annotation - note sequence 8. > > 1 In the plural: vestri, vestrorum, etc. | 2 fratribus, etc., in place of fratri. Appendix annotation (chi), to n. 1298. IV. p. 52. col. 2. To give the ablutions is not the office of the priest, but of the sick person or of another. - To avoid the difficulty joined with throwing the ablutions into the fire or into the sacrarium of the church, the following seems to be an easy method of washing the fingers: the purificator is placed beside the little vessel of water; the thumb and index finger of the right hand are held over the purificator beside the same little vessel; with the fingers of the left hand water is sprinkled upon the index finger and thumb of the right hand, as much as is sufficient to wash them, and then the index finger and thumb are immediately wiped with the purificator. If this method is observed, nothing is to be cared about the remaining water or wine left in the little vessel. See Baruffaldus, tit. 26. n. 186. De Herdt, Pr. Rit., p. 75.

1299. Questions. - Query 1° Can the Eucharist be carried to the sick at night?

Resp. Negatively. For this is expressly prohibited, except in a case of necessity. For thus the Roman Ritual: "But at night this Sacrament must not be carried, unless necessity urges." But when necessity urges, it is to be carried at any hour of the night; but without noise and sound of the little bell. But the cited words of the Ritual do not regard Communities which reserve the Most Holy Eucharist in a domestic Chapel, because the danger of irreverence, on account of which the law was passed, is then absent.

Query 2° Can the Eucharist be carried to the sick secretly?

Resp. Negatively, generally speaking. It is established from the Roman Ritual, where it is said: "This Holy Sacrament must be carried manifestly and honorably." Nevertheless some circumstances are excepted, e.g. places of heretics, where it cannot be carried manifestly. Likewise sometimes even in Catholic places, if otherwise Holy Viaticum (but not Communion from devotion[2]) cannot be carried to the sick person without some inconvenience, for example because impious relatives absolutely do not wish any religious ceremony to be celebrated in their house, although they tolerate that the priest approach the sick person. Nevertheless this must not be done without license of the Bishop, where he can be consulted.

Query 3° Can a priest, when necessity urges, minister Viaticum without any sacred vestment?

Resp. Affirmatively. The reason is because it is not to be presumed that the Church, which is so benign a mother, wished those rites to be observed in the administration of Viaticum with detriment to the dying. For the Sacraments have been instituted primarily for the salvation of souls.[2]

Query 4° When necessity urges, in carrying Viaticum is it lawful to run?

Resp. Affirmatively, probably. The reason is because urgent necessity of carrying Viaticum to one dying can excuse from greater decency in walking.[3]

Query 5° Is it lawful in time of plague to offer the Eucharist by some instrument, for instance in a spoon, on a paten, or in another clean vessel?

Resp. Affirmatively, not improbably, because so great a necessity seems to excuse from the customary rite of the Church.[4]

Query 6° Is it lawful to carry the Eucharist with the head covered on the way?

Resp. Negatively, on account of the reverence due to the Sacrament, except nevertheless in the singular case of necessity - of a brief infirmity, not however a lasting one - and provided that another priest cannot be had. - Likewise if a legitimate custom on account of a most grave cause, e.g. on account of excessively cold air, prevails somewhere. Therefore in carrying the Most Holy Sacrament to the sick, whether this is done by day or by night, neither on the pretext of any infirmity nor on any other pretext can the biretta or even a small cap be used.[1]

Wherefore a priest laboring under a cold or another infirmity must abstain from carrying the Most Holy Sacrament, or commit that office to another, or nevertheless proceed with uncovered head, unless the use of the little cap has been granted to him.[2] Yet the use of the little cap is not granted with so much difficulty on a journey; with more difficulty within a city or town. According to several, the Bishop can grant license of carrying a little cap on a journey; but the faculty of using a little cap through a city or town is of Apostolic right.[3] The Holy See granted a dispensation from that law for the diocese of Cologne, especially in winter weather, on 3 Nov. 1862. - St. Alphonsus has this: "Pasqual probably says that the Bishop can dispense that Viaticum be carried with a little cap on the head, when one must proceed far and through villages."[4]

Query 7° Can a priest carry the Holy Eucharist riding on a horse?

Resp. Affirmatively, if it must be carried to a sick person far distant, or through a difficult road, or if there is danger in delay. But the horse must be gentle, so that danger of falling and irreverence is absent. But it is never lawful to give the pyx to be carried by a layman, however much the priest may be tired; but then he must carry it in a burse hung from the neck. It is established from the Roman Ritual on the Eucharist, and also from a decision of the Sacred Congregation of Rites. And beforehand, "that Viaticum, on account of distance of places, difficulty of journeys, roughness of roads, can be carried by the Pastor while riding," the Sacred Congregation of Rites "grants," nevertheless with the consent of the Bishop.[6]

Query 8° Can the Eucharist be carried several times to the sick who are not fasting, or by way of Viaticum?

Resp. Affirmatively, and not only if a new danger of death recurs, but also if the same one perseveres. - Thus the common and true sentence, says St. Alphonsus.[7] It is confirmed by the authority of

Benedict XIV, who, in the work *On the Synod*,[8] testifies that no Theologian of any name denies this sentence; and he adds,[1] "The Bishop should suggest to Pastors that Viaticum can and ought to be administered again and a third time in the same infirmity, especially if the sick person requests it; and, if he wishes, he should decree a penalty against Pastors who decline to carry the Eucharist again and a third time to sick persons devoutly asking, under false pretexts." But Communion in this case, according to Scavini,[2] is to be given with the usual formula: *May the Body of Our Lord Jesus Christ preserve*, etc. "Likewise in this case," says de Herdt,[3] "*Have mercy* and *Indulgence* are said in the plural: *your*, *your sins*."

Query 9° Can the Eucharist be carried frequently to the bedridden?

Resp. Affirmatively, of itself. Nevertheless this depends on the circumstances, namely on their particular disposition and necessity. Indeed, not improbably, "a sick person accustomed to communicate more often from devotion" will be able "already on another day immediately after Viaticum ... to receive Communion not fasting. And Pal. and Arm. and Dic. apud Croix admit this on individual days, and Tamb. thinks it probable."[4] The Pastor must, as far as it is in him, exhort the sick to frequent Communion. - Gousset.[5]

Query 10° What must a priest do if, coming to a sick person with the Most Holy Sacrament, and hearing his Confession, he finds him indisposed?

Resp. First of all the confessor must labor, as best he can, to bring the penitent to better fruit. If the matter does not succeed, and e.g. the sick person does not promise either to break off the proximate occasion of sin, or to make a grave and certainly owed restitution, he surely cannot be absolved. But what of Communion? The penitent must be earnestly induced that, the Confession having been completed, he declare publicly that he does not yet wish to receive the Holy Eucharist. But if he gives this declaration, the difficulty now vanishes; for it is clear that the Eucharist is not to be ministered to him. But if he refuses to declare this, and wishes to communicate, the Eucharist must be ministered to him, although he is indisposed, or an agreement must be made with him that you say over him "The Body of Our Lord Jesus Christ," etc., without offering the Body.[6]

ARTICLE V: ON THE MANNER OF RESERVING THE HOLY EUCHARIST

1300. - I. "The most ancient custom," says the Second Plenary Council of Baltimore,[1] "of reserving the Sacred Eucharist in churches, as altogether salutary and necessary to be retained, the Council of Trent decreed.[2] It must be preserved in the Cathedral church and in any parish church, so that it can be carried to the sick when occasion is given. But in many other churches or chapels it can be preserved either by law," as in the churches of Regulars strictly so called, and of those who communicate with them in privileges, as also of Nuns who emit solemn vows and live in enclosure, "or by Pontifical indult," as in the chapels of the other religious communities of the Province of Baltimore and Philadelphia (25 July 1858), at the prayers of the Fathers of the Ninth Provincial Council of Baltimore (Second Plenary Council of Baltimore[3]), and in certain other dioceses.

II. "The Most Holy Sacrament is to be reserved in only one place of any church in which it can, is accustomed, or ought to be kept."[4] But it is to be kept over a corporal in a tabernacle decently adorned, locked with a key,[5] which key must always be kept by the priest who has care of the church or chapel.[6] "The tabernacle covered decently with a conopaeum," the Ritual wills.[7] (8) p. 417. The

custom of "placing upon it Sacred Relics (even of the Most Holy Cross, or Instruments of the Lord's Passion), and painted images, so that the tabernacle serves as a base," while the Most Holy is reserved in it, the Congregation of Rites disapproved,[8] and decreed that neither can "vases of flowers, or anything similar, be retained before the little door."[9] "The tabernacle regularly ought to be wooden, gilded outside, but covered decently within with some silken cloth."[10] In it let the Sacred Eucharist be preserved in a pyx, or ciborium, "of solid and decent material; and with its own lid well closed, covered with a white veil."[1] "Vessels of the Holy Oils, Relics, or anything else,"[2] it is not lawful to place in it. But "the abuse which has crept in somewhere, of living or sleeping in that part of a religious house which is situated above the altar, is not to be tolerated further, but is altogether to be eliminated."[3]

III. "Before the Most Holy let a lamp always be kept burning, nourished with olive oil," which, where it "cannot be had," is remitted "to the prudence of the Bishops, that" it be nourished "from other oils, vegetable insofar as it can be done."[4] Therefore petroleum the Bishop cannot permit outside necessity; nor without true necessity is one to use the privilege (p. LXXII. n. 24), "of retaining it without light," if any has been granted. (w) p. 402.

IV. "The Roman Ritual commands that particles of the Most Holy Eucharist be frequently renewed; and the Ceremonial of Bishops prescribes that this be done at least once a week.[5] This rule, which the Sacred Congregation of Rites not only often confirmed,[6] but declared to oblige 'strictly and rigorously,'[7] we seriously inculcate to be faithfully observed by all priests. 'Where the priest has consecrated new hosts, let him first distribute, or consume, the old ones,'[8] but by no means preserve them in the tabernacle. Let him take care besides that the particles to be consecrated be fresh."

V. "The solemn Exposition and Benediction of the Most Holy Sacrament," decree the Fathers of the Second Plenary Council of Baltimore,[9] "the customary rite being strictly observed, in all churches of our jurisdiction and in the chapels of monasteries and religious communities, at least whenever it can be done with due solemnity, on each Lord's Day of the whole year, and on feasts of precept, or also on feasts of the first and second class not of precept, can be given once only in the day. But through the Octave of Corpus Christi it will be lawful that it be done solemnly both in solemn Mass and in Vespers, Benediction being given again. It will be lawful besides to give solemn Benediction twice in the week during the time of Lent, likewise on each day in the time of Sacred Missions, on the feast of the Most Holy Heart of Jesus, and wherever the devotion of Forty Hours is made; and on other days designated by the Ordinary. But if the Holy See has granted something further to some religious Order or Society, we will that that remain altogether inviolate. But outside such privilege, of which certain document should be shown to the Ordinary, we will that Benediction not be given or Exposition be made, except, as above, by express leave of the Ordinary, the decrees of the Sacred Congregation of Rites also being preserved in all things in this matter."

Notes to nn. 1300-1301 - note sequence 1. (1) n. 265. sq. (2) Sess. 13. c. 6. (3) p. 326. XXIII. 4. S. C. Ep. 13 Oct. 1620. 5. Rit. Rom. de Euch. 6. See Pontifical Indults, passim. 7. De Sacr. Euch. 8. S. R. C. 31 Mar. 1821 and 12 Mar. 1836. 9. 22 Jan. 1701. n. 3575. 10. Or gilded, S. R. C. Urgel. 7 Aug. 1871 ad 7 and 8. Notes to nn. 1300-1301 - note sequence 2. (1) Rit. Rom. de Sacr. Euch. S. C. Episc. 26 July 1588 issued this decree: "The Most Holy Sacrament must not be kept in ivory little vessels, but in a silver pyx gilded within." (2) S. Cong. Episc. 3 May 1693. (3) S. R. C. 11 May 1641, 26 Apr. 1834, 12 Mar. 1836. n. 1325. 4770. (4) S. R. C. (Acta, T. I. p. 38. T. XI. p. 320). (5) Lib. I. Cap. 6, § 2. S. R. C. 7 Sept. 1850. 6. 5 Apr. 1573; 3 Sept. 1672; 16 Dec. 1826. 7. 7 Sept. 1850. 8. S. R. C. 3 Sept. 1672. n. 2602. Rit. Rom. 9. a. 379. Notes to nn. 1300-1301 - note sequence 3. (1) L. VI. 248. (2) Ib. (3) Tit. 7. n. 2. de def. (4) L. VI. 251. (5) L. III. c. XVII. n. 2. sq. (6) L. VI. 251. Notes to nn. 1300-1301 - note sequence 4. (1) L. VI. 251. (2) Tit. 7. n. 3. de def. (3) L. VI. 217. Notes to nn. 1300-1301 -

note sequence 5. (1) n. 167. (2) n. 232. (3) n. 77. (4) n. 491. (5) n. 492. (6) Ib. (7) n. 77. (8) c. 2. n. 35. 9. 16 Dec. 1826. Appendix annotation (8), to n. 1300. p. 54. col. 2. That canopy can be made from cloth, whether of cotton, wool, or hemp, and from whatever woven fabric; of a color either white or fitting to the character of the time and feast. But if it is not white, in obsequies or Masses of Requiem let it be of black or violet color. S. R. C. Appendix annotation (psi), to n. 1300. III. p. 55. col. 1. "This lamp is to be kept not above the doors of the church, nor in a side place, but before the tabernacle, or in the middle before it, so that those entering may notice where they must adore." De Herdt, Prax. Rit. Rom., p. 60. S. C. R., 22 Aug. 1699. n. 3376. 3825. "If several lamps are hung, it is fitting that they be of an odd number, as is prescribed in the Ceremonial of Bishops." Id. ib., p. 61.

1301. Questions. - Query 1° Does he sin gravely who neglects to preserve a light before the Most Holy Sacrament?

Resp. Affirmatively, of itself, if the time is notable. - Thus commonly with St. Alphonsus.[1] Indeed several say that the time is *notable* if this is done for a whole day or some whole nights. Thus Busembaum, whose words St. Alphonsus reports and implicitly approves.[2]

Query 2° What must be done concerning fragments of Hosts which are found?

Resp. 1° If the priest finds fragments of his present Sacrifice, he must consume them, even after the ablutions, whether they are small or large, because they pertain to the same Sacrifice. Thus from the Rubric of the Missal.[3] But this is to be observed not only immediately after Mass, but also if the priest is in the sacristy, still nevertheless vested in the sacred vestments. - Thus commonly St. Alphonsus,[4] after Benedict XIV, *On the Sacrifice of the Mass*.[5]

But if the priest has already been divested of the sacred vestments, he must replace the fragments in the tabernacle, if it is present, or reserve them for another priest about to celebrate on the same morning. If neither can be done, let him consume them himself.[6]

Resp. 2° But if the remains were consecrated in another Mass, they are not to be consumed after the ablutions, but must be placed in a decent place. The reason is because the Rubric permits a priest not fasting only to consume those remains which pertain to the same Sacrifice. If nevertheless this cannot be done, and grave danger of irreverence is present, then the priest should consume them. - Thus commonly.[1]

Resp. 3° If a layman finds fragments, let him warn a priest as soon as possible, if one is nearby, or summon him, if he can be found. But the priest, reverently collecting the fragment, will replace it in the ciborium, or in a decent and safe place, if the tabernacle is lacking, so that it can be consumed in the next Mass. But if a priest cannot be had, let the fragment be collected reverently by the layman himself in paper or a clean little linen, by means of a little thorn, and be placed within the corporal, or in a decent vessel, until the priest arrives.

Query 3° What must be done if a Host certainly or doubtfully consecrated is found on the altar, or elsewhere?

Resp. 1° If the Host is believed certainly consecrated, and otherwise seems clean and recently consecrated, it is to be replaced with the others in the ciborium. It can also be consumed by the celebrant before the ablutions. But if it is not clean, or if it has been drawn from a place not clean, or is not recently consecrated, it is not to be mixed with the others, but the celebrant can consume it before the ablution; but if he experiences too great a repugnance, he will place the Host separately in

the tabernacle in a clean vessel, until it is corrupted, and, corrupted, it is cast into the sacrarium. Thus from the Rubric of the Missal.[2]

Resp. 2° If it is doubtfully consecrated, it is to be consumed by the priest in Mass after the ablution, but before the purification, because the remains of the Blood are certainly a Sacrament, but that host doubtfully;[3] but if it provokes too great nausea for him, it is to be placed separately in the tabernacle, until it has been corrupted, as was just said.

Query 4° What must be done if a sick person has rejected the sacred species?

Resp. 1° If they appear, they must be carefully collected in a clean vessel, carried to the Church, and preserved in a safe and well-closed place until they are altogether corrupted, so that they can be cast into the sacrarium without irreverence.

Resp. 2° If they cannot be discerned, as being altogether mixed with impurities, the mouth indeed of the sick person is to be cleansed; but whatever has been rejected is to be collected with tow; then, the tow having been burned, the ashes are to be thrown into the sacrarium. Reuter,[1] Gousset.[2] Cf. nevertheless n. 1278. q. 2°.

Query 5° How is the ciborium to be renewed?

Resp. The renewal of the ciborium is to be made in the Sacrifice of the Mass itself. The celebrant, the most Precious Blood having been consumed, consumes the old Hosts, although they are many; but he can consume 20 or 30 Hosts thus, according to Elbel;[3] 60 or even more (Lacroix[4]). But it will rarely happen that there are more, because not more should be consecrated than seems sufficient. But if at some time a much greater quantity of Hosts had to be consumed, the priest can consume them divided among several Masses, or even several priests celebrating successively can consume them.

But the smaller particles found in the ciborium the priest will cast into the chalice, and, wine having been poured over them, he will consume them, and will place the new Hosts in the entirely empty ciborium. He can also pour wine into the ciborium for collecting the smallest particles. Nevertheless the wine will not be drunk from the ciborium, but poured back into the chalice. - Lacroix.[5]

If the priest by inadvertence had first consumed the ablution, he could still purify the ciborium and consume the remains, because for the consumption it is morally reputed one. - Thus Lacroix,[6] Elbel,[7] Tamburini, on Communion.[8] But St. Alphonsus otherwise here, n. q. 2°. Resp. 2°.

Particles to be consecrated ought to be fresh. Negligence of Pastors and others in this matter can constitute grave sin. - Gardellini. - The custom of consecrating Hosts made three months before in winter, or six months before in summer, is an enormous abuse altogether to be removed. But if the Pastor, his Vicars, or other priests seem to tolerate an abuse of this kind, they cannot use those Hosts. - Sacred Congregation of Rites.[9]

LITTLE APPENDIX: ON THE MANNER IN WHICH THE EUCHARIST IS TO BE MINISTERED TO THE SICK IN THESE PROVINCES, AND ON THE METHOD OF RESERVING IT

Among the faculties of Form I, which are customarily communicated to our priests by the Bishops, the 24th (p. LXXII.) reads: "Of carrying the Most Holy Sacrament secretly to the sick without light, and of retaining it without the same for the same sick, in a decent place nevertheless, if there is danger of sacrilege from heretics or infidels."

Lest in the use of this faculty abuses creep in or even persevere, the things which follow are to be well noted by priests.

A. As regards the manner of ministering the Eucharist to the sick.

1302. - 1° The faculty is given for the case in which "there is danger of sacrilege from heretics or infidels." This danger must be said to be present scarcely not everywhere among us. Nevertheless in this region also there are certain wholly Catholic places in the country, in which, when the sick person is not far distant from the churches, that danger is in no way to be feared; in which case the Eucharist will have to be carried in the manner prescribed by the Church. The Encyclical Letter of the Sacred Congregation de Propaganda Fide, given on 25 Feb. 1859 to our Bishops, not obscurely suggests this; in it, among other things, these things are read: "The Sacred Congregation further willed that the individual Prelates be urged, as by the tenor of the present letters they are urged, to keep the common discipline of the Church in this matter, as far as circumstances of time and places, and also the account of introduced customs, allow."[2]

2° "While they carry the Most Holy, let them avoid vain and useless conversations; rather let them give themselves to pious contemplation or prayers."[3] In agreement with this admonition of the Plenary Council, pastors will repeatedly teach the people what is to be prepared in the house of the sick person, and that, while they are companions to the priest carrying the Eucharist to the sick person, they abstain from every useless conversation. "But on a journey," says Kenrick,[4] "which requires several days" (which nevertheless today is more rarely necessary than formerly), "and where some persons met on the way occur, one cannot abstain from conversation; although speech is to be had sparingly and cautiously and with the utility of the hearers. For he sins gravely who, carrying so great a Sacrament, mingles idle conversations."

3° "The carrying of the Most Holy Sacrament is restricted to urgent causes only, and to the actual exercise of the priestly ministry."[1] But what is an urgent cause will have to be judged from the circumstances of place, time, and others.[2] Meanwhile it is certain that it is not lawful for a priest to carry the Most Holy Sacrament with himself from morning until evening for the sole cause that perhaps he could come upon some sick person.[3]

4° "A strict obligation is imposed on priests always in these cases of carrying the Holy Host upon the breast."[4] "Never, unless in extreme necessity, should they touch either the Host itself or the sacred vessel in which it is preserved, unless they are vested at least in a stole. When they draw the Most Holy from the tabernacle in the church, let them always be vested in surplice and stole. Ministering

the Sacred Eucharist to the sick, let them most diligently observe the prescriptions of the Roman Ritual, insofar as the circumstances of things permit."[5]

5° What was said above n. 1299. q. 4° and 7° concerning a priest carrying the Eucharist while riding or running will be lawful for Missionaries carrying it privately and secretly from a lighter cause.[6]

Notes to nn. 1302-1303 - note sequence 1. (1) Cf. Past.-Blatt fuer Nord America. V. Jahrg. S. 39. (2) Conc. Pl. Balt. II. p. 297. (3) Ib. a. 264. (4) Tr. XVII. n. 26. Notes to nn. 1302-1303 - note sequence 2. (1) Ex Litt. Encycl. cit. Conc. Pl. Balt. II. p. 298. (2) Conc. Pl. Balt. II. a. 264. (3) Ex iisd. Litt. ib. p. 297. (4) Ib. p. 298. (5) Conc. Pl. Balt. a. 264. (6) Kenr. Tr. XVII. n. 27. (7) Past.-Blatt fuer N. Amer. V. Jahrg. S. 49.

B. On the manner of reserving the Holy Eucharist.

1303. - In rural churches, near which no priest resides, it is not lawful to reserve the Holy Eucharist, and it is to be consumed by the priest before he departs. Resolve the same concerning a single priest residing near a church, but departing beyond eight days (after which namely the sacred species are to be renewed), or not residing so near it that in case of fire he could remove the Most Holy Sacrament from it in time, or prevent other irreverences.[7]

CHAPTER IV: ON THE SUBJECT OF THE EUCHARIST

Only a baptized man can receive the Eucharist sacramentally; because only the baptized is capable of the Sacraments. Hence an unbeliever receiving the Eucharist would indeed receive it truly, but only materially, not however sacramentally. But a baptized man who is indisposed receives indeed sacramentally, but not spiritually, i.e. he receives, but without fruit. But a baptized man who is disposed receives both sacramentally and spiritually, or with fruit. - Trent.[1]

It must be treated 1° of the obligation of receiving the Eucharist; 2° of the disposition required for receiving it worthily.

ARTICLE I: ON THE OBLIGATION OF RECEIVING THE EUCHARIST

1304. Principles. - I. The real reception of the Eucharist is necessary neither for children nor for adults by necessity of means unto salvation. It is established 1° from the universal practice of the Church, which gives Communion neither to little children, nor to adults impeded by infirmity, e.g. those prone to vomiting, the delirious, etc.; 2° from the definition of the Church at least as regards little children, Trent.[2]

II. The reception of the Eucharist is necessary by necessity of divine precept. It is drawn from the words of Christ: *Unless you shall eat the Flesh of the Son of man, and drink his Blood, you shall not have life in you*.[3] But whether, and by what necessity of means, it is necessary, see above n. 1207. III. 1°.

III. The reception of the Eucharist is necessary also from a precept of the Church. It is proved from the Fourth Lateran Council,[4] where it is said: "Every faithful person of either sex, after he has reached the years of discretion, should confess at least once in the year, ... receiving reverently, at least at Easter, the Sacrament of the Eucharist, unless perhaps, by the counsel of his own priest, he should judge that he must abstain from such reception for some reasonable cause." It is established also from Trent.[1]

IV. The reception of the Eucharist is not necessary under both species, except for priests alone in the act of the celebration of Mass. It is proved from Trent.[2] It is established also from the universal practice of the Church, although in earlier centuries it was different.

Notes to nn. 1304-1305 - note sequence 1. (1) Sess. 13. c. 8. (2) Sess. 21. Can. 4. (3) John 6. 54. L. VI. 295. (4) L. V. Decr. T. XXXVIII. c. 12. Notes to nn. 1304-1305 - note sequence 2. (1) Sess. 13. Can. 9. (2) Sess. 21. Can. 1. (3) L. VI. 295. (4) L. VI. 295. (5) Ib. Notes to nn. 1304-1305 - note sequence 3. (1) D. 16. n. 39. sq. (2) L. VI. 285. Dub. 2. (3) L. VI. 285. Dub. 3. Quest. Retr. 66. Notes to nn. 1304-1305 - note sequence 4. (1) L. VI. 292. (2) Ib. (3) L. VI. 301. Dub. 2. and Conc. Pl. Balt. II. a. 261. (4) Kenr. Tr. XVII. 41. (5) St. Thomas, P. III, q. 80. a. 9. Catechism of the Council of Trent. St. Alphonsus, L. VI. 302. Notes to nn. 1304-1305 - note sequence 5. (1) L. VI. 303. (2) Ib. 302. (3) n. 232. (4) L. VI. 303. (5) L. VI. 303. (6) Ib. (7) Ib. Notes to nn. 1304-1305 - note sequence 6. (1) De Syn. L. VII. c. XI. n. 8. (2) L. VI. 303. Notes to nn. 1304-1307 - note sequence 1. (1) 1 Cor. 11. 28. 29. (2) Sess. 13. c. 7. (3) L. VI. 256. sq. Notes to nn. 1304-1307 - note sequence 2. (1) L. VI. 264. (2) Ib. (3) Ib. 257. Notes to nn. 1304-1307 - note sequence 3. (1) H. A. Tr. XV. 23. (2) Sess. 13. c. 7. (3) L. VI. 268. (4) Ib. 266. Notes to nn. 1304-1309 - note sequence 1. (1) De defect. disp. corp. n. 3. (2) L. VI. 279. (3) De defect. disp. corp. n. 3. (4) L. VI. 279. (5) Ib. 280. Dub. 1. (6) Ib. 280. Dub. 2. 1. L. VI. 280. Dub. 3. 2. Ib. 282. in fine, and L. I. 89. H. A. Tr. XV. 35. 3. Ib. 280. 4. Ib. Notes to nn. 1304-1313 - note sequence 1. (4) Sess. 22. c. 6. Notes to nn. 1304-1307 - note sequence 4. (1) L. VI. 267. coll. n. 257 and H. A. Tr. XV. 23. (2) L. VI. 266. (3) Ib. 270. (4) Sess. 13. Notes to nn. 1304-1307 - note sequence 5. (1) L. VI. 279. (2) Ib. 280. Dub. 1. (3) P. III. q. 80. a. 8. (4) L. VI. 281.

(5) Acta. T. VII. p. 399. (6) De defect. Tit. IX. n. 3. Notes to nn. 1304-1313 - note sequence 2. (1) Conc. Pl. Balt. II. p. 294. (2) Praxis conf. n. 149-155. (3) Ib. 149. (4) Ib. 150. 153. Notes to nn. 1304-1309 - note sequence 2. (1) L. VI. 284, 286 sq. (2) H. A. Tr. XV. 46. (3) L. VI. 285. Dub. 3. (4) p. 90. Notes to nn. 1304-1313 - note sequence 3. (1) Praxis conf. n. 149. (2) Ib. 150. 152.

1305. Questions. - Query 1° At what time does the divine precept of communicating urge?

Resp. 1° It obliges of itself in the article or proximate danger of death, and indeed under grave sin. The reason is because the Eucharist was instituted as a viaticum strengthening against the enemies of salvation.[3]

Resp. 2° It obliges of itself also several times in life. It is established from the fact that the Eucharist was instituted by way of spiritual food, by which the soul is nourished and strengthened; but food must be taken several times. It is also drawn from Sacred Scripture cited above, and also from the Councils just mentioned. Nevertheless Christ did not determine how often this Sacrament is to be approached, but left this to be established by his Church. But the Church established annual Communion in Paschal time. Hence by Communion received once in the year at that time, both the divine and ecclesiastical precept are satisfied.[4]

Resp. 3° This precept obliges accidentally sometimes, and perhaps even several times in the year, if the Eucharist is necessary for overcoming some grave temptation. Nevertheless this, says Suarez, happens most rarely, since other means can suffice for this, prayers, penances, etc. But he who in that case neglected Communion would not sin against this precept, but against the virtue against which he is tempted.[5]

Query 2° Is someone held to receive sacred Viaticum, when danger of death is imminent, if a few days before he communicated from devotion?

Resp. Affirmatively, more probably. The reason is because this precept, by interpretation of the Church, urges in danger of death, that we may be fortified against spiritual enemies by this divine help. Therefore it is not fulfilled by Communion made before the illness; because, although someone has fulfilled the prescribed work, nevertheless he has not fulfilled it at the time at which he was held.

Nevertheless several deny with Lugo.[1] Their reason is because the precept of Communion has already been fulfilled in substance. - St. Alphonsus says that this sentence is sufficiently probable, at least if the danger of death occurs naturally, because through that brief preceding time it has already morally begun to be imminent, although it had been unknown.[2]

Query 3° Is he who communicated in the morning from devotion held, or can he, when danger of death urges, receive Viaticum?

Resp. There is a fourfold sentence.

The first affirms that he is held, because then Viaticum must be received in order to fulfill the divine precept, which, since it was not yet urging at the time at which Communion was received, therefore could not be fulfilled by that reception.

The second says that he is not held, but can communicate: 1° indeed he is not held, because the time at which he communicated is morally the same, since it is the same day; 2° he can, because although strictly he does not seem to be held, nevertheless he is not for that reason prohibited; since favors are to be enlarged.

The third contends that he is neither held, nor can communicate. The reason is because the precept obliges from the intention of the Church, and the practice of the Church is that no one communicate twice in a day; nor is there a reason why this case should be excepted.

The fourth, which to St. Alphonsus[3] seems more probable, distinguishes between a natural illness, as sudden apoplexy is also reputed, and a violent one, for example from a wound, or if someone has fallen from a height. In the latter case he is held to communicate, because in truth he did not receive Viaticum as constituted in the article of death.[3]

Query 4° Can the Eucharist be given to a sick person who suffers from a cough?

Resp. Affirmatively, because the danger lest the sacred species be rejected together with phlegm is for the most part absent. And the reason is because the way through which spittle is expelled by coughing is not the esophagus, i.e. the way through which food and drink are conveyed into the stomach, but is the rough artery, through which respiration extends even to the lungs. If nevertheless the cough is so continual that it impedes the host from being conveyed into the stomach, then Communion must be abstained from. - Thus the Roman Ritual. (w) p. 402.

But when the sick person labors under continual vomiting, he cannot communicate, unless perhaps he has been free from vomiting for at least six hours. But in doubt whether the sick person will vomit back the sacred particle, it must not be given to him.[2] (A) p. 402.

Query 5° In danger of death, is Communion to be given to children who have not yet been admitted to the sacred Synaxis?

Resp. 1° Negatively, if they have not yet obtained the use of reason. The reason is because this is against the present discipline of the Church.

Resp. 2° Affirmatively as regards children who are possessed of reason. Indeed not only can Communion be given to them, but it also ought to be. The reason is because, on the one hand, children constituted in such danger are held from divine precept to communicate, even if the precept of Paschal Communion did not yet oblige them; and on the other hand the utility of the Eucharist then does not demand a greater disposition. Therefore Pastors gravely err who do not wish to administer Viaticum to children of this kind.[3]

Query 6° Is Viaticum to be given to those recently converted to the faith?

Resp. Affirmatively, "if they have the faith by which Baptism can be ministered to them, together with some knowledge" of the Eucharist; ... otherwise, if Baptism is ministered to them when they have not been sufficiently instructed, or are doubtfully disposed, so that, insofar as it can be done, provision may be made for them.[4]

Query 7° In danger of death, is Communion to be given to the insane, the half-witted, the delirious, and those destitute of the senses?

Resp. 1° As regards the insane: 1) If they have been perpetually insane, Communion is never to be given to them. Thus from the Roman Ritual on the Eucharist. - 2) If they sometimes have lucid intervals, and have manifested the desire of communicating, at least implicitly, Communion can be given to them; indeed it ought to be, danger of irreverence being excluded.[5] (B) p. 402.

Resp. 2° As regards the half-witted: Communion is to be given to them when they have sufficient discretion to distinguish this heavenly food from others; but rarely, namely only in the article of death, and where the strict precept of communicating urges.[1] (I) p. 403.

Resp. 3° As regards the delirious: Communion can be given to them if they can communicate, danger of irreverence being excluded. But the best practice is that beforehand a non-consecrated particle be given to the sick person, and thus it appear whether he can communicate decently.[2] (A) p. 403.

Resp. 4° As regards those destitute of the senses: they certainly do not sin when they do not receive Communion, since they are capable of observing no law. But the Pastor is not for that reason dispensed from the obligation of ministering the Eucharist to them, if before the loss of reason they were disposed. For the Sacraments operate *ex opere operato* in those who desired to receive them before they lost the use of reason. Except, however, if danger of irreverence is present, or if it is feared that they cannot swallow the Host. - Thus commonly. - Gousset.[3] (A) p. 403.

Query 8° Is Communion to be given to the deaf-mute, the possessed, and epileptics?

Resp. 1° As regards the deaf-mute: Affirmatively, if from signs it is established that they have discretion and are sufficiently instructed. But if they enjoy not merely some discretion, but sufficient discretion, they will be able to communicate more often.[4]

Resp. 2° As regards the possessed, one must distinguish: Communion is to be denied to them when they are not in control of themselves; otherwise it is to be granted. Indeed it is expedient that such persons communicate more often according to the prudence of the confessor, since the Eucharist is a special remedy for warding off demons.[5]

Resp. 3° As regards epileptics: Communion cannot be given to them when they are in an actual paroxysm, on account of the proximate danger of irreverence; but at other times it is not to be denied.[6] (E) p. 403.

Note. - To those who are deaf-mute and at the same time blind from birth, Communion is to be denied.[7]

Query 9° Ought Communion to be given to those condemned to death?

Resp. Affirmatively. Benedict XIV indeed teaches that "that custom is to be followed which is known respectively to exist in each place";[1] but he calls the usage of ministering the Most Holy Eucharist to them "more conformable to Christian piety." But St. Alphonsus teaches absolutely that it is to be given to them, as they are constituted in the article of death; nevertheless Communion should precede the execution by one hour. And indeed it can be given to one not fasting;[2] for it is administered by way of Viaticum, as is clear from the Response of the particular Sacred Congregation de Propaganda Fide concerning Chinese matters, 5 July 1841.

Appendix annotation (omega), to n. 1305. q. 4°. p. 59. col. 2. If the cough were so vehement that it seemed about to excite vomiting, Communion, as is clear of itself, would have to be abstained from, or at least deferred until that more vehement cough has ceased. Capellmann, Past.-Med., p. 154. Appendix annotation (Alpha), to n. 1305. q. 4°. p. 59. col. 2. The distinguished Capellmann, Past.-Med., p. 154 sq., judges that case must be distinguished from case. In place of a rule he has these things: If the sick person has suffered much more frequent vomitings through shorter intervals of time, and then after a longer space of time, which according to the circumstances can be shorter even than six hours, has been free from vomiting, in doubt it can be presumed that the stomach, now somewhat settled, will not at once again be excited to vomiting from the slight irritation through the Sacred Species. Thus those who are laid low by cholera are very frequently

accustomed to vomit; but if these have been free from vomiting for 2, 4, or certainly for 6 hours, it will be a sign that the condition of the sick has been so changed that the danger of vomiting is much less to be feared. On the contrary, if vomiting has taken place through irregular intervals, now longer, now shorter, and the general condition of the sick person has not been changed, Holy Communion cannot be given to him, even if he has been free from vomiting for the space of six hours. Thus, for example, they would have to be free from vomiting at least for 12 hours who have strangulated hernia, or who labor under cerebral diseases, or who are laid low from a wound of the brain, or from a disease of the kidneys, or from peritonitis, that is, inflammation of the bowels. Say the same of pregnant women while they suffer the vomiting proper to them. In particular cases the physician, if he can be had, should be consulted; or, when Viaticum is in question, some solid or liquid food, or even water, should be given by way of experiment to the sick person who has taken absolutely nothing after the last vomiting. After Communion has been administered in these circumstances, let the sick person remain quiet and drink nothing, or, if he must drink something to swallow the Sacred Species, let him drink a little. Cold water will be best, or, if it can be had, water cooled with ice. Ice itself especially is an excellent remedy against vomiting, and one so harmless that, even without consulting a physician, it can be used for this end. But the most advisable thing in this case will be that the sick person swallow ice in little pieces which scarcely exceed the size of a hazelnut. Concerning the so-called morning vomiting, the same author, p. 156, remarks these things. It arises from chronic catarrh of the stomach or throat. Those who are affected by it, and drinkers are affected before others, in the morning, after they have risen from bed or have thrown something into the stomach, are tormented as though by no slight suffocation; and, when the stomach is empty or almost empty, they vomit a certain quantity of phlegm with some remains of food. To these, indeed, if outside the case of Viaticum they are to communicate, nothing remains except that they rise very early in the morning and not approach the church before they have freed themselves by their vomiting. Pregnant women also are accustomed to be tormented by morning vomiting, whether fasting or after the first food has been thrown into the stomach, and this in the first and second, or even the third or fourth, month of gestation. These, as is clear of itself, outside the case of Viaticum, must defer Communion until the danger of vomiting has ceased. Appendix annotation (Beta), to n. 1305. q. 7°. R. 1°. p. 59. col. 2. What if someone had fallen into madness while he was existing in mortal sin? A case could be if someone, having contracted delirium tremens from long-protracted drunkenness, entirely deprived of reason, without a lucid interval, had been reduced to extremities. St. Alphonsus answers, L. VI. 302, that Communion cannot be administered to this man if it is certainly presumed that he fell into madness utterly impenitent, that is, not even attrite. Appendix annotation (Gamma), to n. 1305. q. 7°. R. 2°. p. 60. col. 1. Yet it must be seen in what degree the semi-fatuous are; for there are some who can be equated with those deaf-mutes who, as St. Alphonsus says, L. VI. 303, with Holzmann, are not endowed with any discretion whatever, and whom you would with equal right call dull and semi-fatuous; these, like those deaf-mutes, will often be able to communicate. Appendix annotation (Delta), to n. 1305. q. 7°. R. 3°. R. 4°. p. 60. col. 1. It is also advisable to give to those delirious persons, and generally to those who are destitute of their senses, a little water or wine together with the Sacred Species or immediately after this has been put into the mouth, since these persons easily retain solids, and therefore also the Sacred Species, in the mouth. Thus Capellmann, Past.-Med., p. 152. 153. Appendix annotation (Epsilon), to n. 1305. q. 8°. R. 8°. p. 60. col. 1. Except if the paroxysms followed one another at intervals so brief that there was almost no moment at which danger of them was absent. Yet in this case the disturbance of reason progresses at so swift a pace that they are to be treated as mad or semi-fatuous. There are also some who have learned by experience that paroxysms befall them precisely in church very often, or even always. Communion can be administered to these at home. Capellmann, Past.-Med., p. 153.

ARTICLE II: ON THE DISPOSITIONS REQUIRED IN THE SUBJECT OF THE EUCHARIST 1° AS REGARDS THE SOUL 2° AS REGARDS THE BODY

§ I. On The Dispositions Of The Soul

1306. Principles. - I. For receiving the Sacrament of the Eucharist, besides immunity from excommunication (n. 1676) and interdict (n. 1696. q. 1°. q. 2°), there is required the state of grace, at least prudently judged to be present. Otherwise a most grave sacrilege is committed. The reason is clear from the nature of the thing, and also from the words of the Apostle:[1] *But let a man prove himself, and so let him eat of that Bread, and drink of the Chalice. For he who,* etc.

II. It does not suffice that the state of grace be acquired by perfect contrition, but it is required that Confession of mortal sins be premised and Sacramental absolution be received, except in a case of necessity, namely either when the supply of a confessor is lacking and Communion cannot be omitted without grave note or suspicion, or when it must be celebrated by a priest so that the people may assist at Mass on a feast day. - Trent.[2] See St. Alphonsus.[3]

1307. - Questions. Query 1° When is the supply of a confessor judged to be lacking?

Resp. It is judged to be lacking: 1° If no confessor is present, and, considering the circumstances of weakness, age, business, distance, weather, shortness of time, etc., an absent one cannot be approached without grave difficulty.

2° If no other confessor is present except one ignorant of the language, or lacking jurisdiction, or to whom you cannot confess without grave damage to yourself or another. Nevertheless in these cases perfect contrition is required. But the supply of a confessor is not judged to be lacking if the one to whom you are accustomed to confess is absent; rather any approved confessor must be lacking.[1]

But a cause excusing from Confession occurs most rarely for laymen. It can indeed more easily be present as regards priests; but one must surely beware lest, deterred by a vain pretext or by shame and embarrassment, they imagine for themselves a chimerical impossibility.

Query 2° What distance is required, that the priest may be judged to be lacking?

Resp. It cannot be determined rigorously, but depends on circumstances. Some require a distance of two leagues; others one league with a half or a quarter; others one league only. But besides the reason of journey, other reasons often urge, e.g. infirmity or shortness of time. Thus a priest already about to celebrate can be excused from Confession, even if the confessor is distant only 50 paces.[2]

Query 3° Is he who remembers a mortal sin which from inculpable forgetfulness he did not declare in Confession held to confess it before Communion?

Resp. 1° Certainly not, if the penitent is already at the Sacred Table, or a grave cause of communicating is present, and he can confess again only with difficulty. The reason is because, even if the precept of Confession were present, it would not urge with so great an inconvenience. - Thus all.

Resp. 2° If the penitent can confess or omit Communion without inconvenience, it is controverted: very probably he is neither held to confess, nor to abstain from Communion; because the sin omitted involuntarily has certainly been remitted, although only indirectly; and therefore it in no way stands in the way of Communion to be received. Nor should you say that the precept of Trent of confessing before Communion urges; for the penitent, since he has already been rightly confessed and justified through the Sacrament of Penance, is sufficiently proved, even according to the mind of the Council of Trent. - St. Alphonsus[3] and others, against others who more commonly and not improbably held the opposite. - St. Alphonsus inclines more to the former sentence, nevertheless he judges that the second is to be advised in practice, provided that some cause does not counsel otherwise.

Query 4° Is a priest who celebrated, or a layman who communicated conscious of mortal sin, without Confession, because of urgent necessity, held to confess *as soon as possible*?

Resp. 1° As regards the priest, affirmatively. For thus expressly Trent:[2] "But if, necessity urging, a priest has celebrated without previous Confession, let him confess as soon as possible."

Resp. 2° As regards the layman, negatively, more probably. The reason is because Trent speaks only of priests, as is clear from the text. - Thus most commonly, says St. Alphonsus.[3]

Query 5° How is that precept imposed on priests of confessing *as soon as possible* to be understood?

Resp. More probably it suffices if the priest confesses within three days; because, since this precept is only ecclesiastical, the word *as soon as possible* can be understood morally, as it is understood in other human laws, where that word, or another similar word, by common interpretation is extended to the space of three days.[4] - Nevertheless the priest cannot celebrate again before he has confessed, because he was not excused from Confession except on account of present necessity. Hence, if the same necessity of celebrating on the following day urges, and he can confess, he cannot defer Confession to another day.

Query 6° Is a priest celebrating after Confession, in which he inculpably forgot some mortal sin, held to confess *as soon as possible*?

Resp. 1° Negatively, if he remembers the sin after celebration; because he did not celebrate conscious of that sin, as Trent speaks. - Thus commonly.

Resp. 2° Negatively, very probably, even if he remembers the sin before celebration; because since he has premised Confession, although he forgot some grave sin, nevertheless he cannot be said to have celebrated conscious of mortal sin without previous Confession. St. Alphonsus[1] calls this sentence very probable, after Lacroix and others against Suarez, Lugo, etc.

Query 7° Is a priest celebrating sacrilegiously, when necessity does not urge, or, if it does urge, when the supply of a confessor is not lacking, held to confess *as soon as possible*?

Resp. Negatively. The reason is because the precept of Trent is ordered only to striking fear into those who defer Confession under pretext of necessity, not however into those celebrating sacrilegiously, to whom a precept of this kind would very rarely be of profit; for those who, having contemned the divine precept, dare to celebrate sacrilegiously, would surely more easily contemn the precept of the Church. - Thus most commonly and more truly, St. Alphonsus.[2]

Query 8° Does affection to some venial sin impede the whole fruit of Communion?

Resp. Negatively. The reason is because the will can well experience pious movements toward God and the Sacrament, although it retains some lightly disordered affection toward a particular thing; therefore one communicating with such an affection is not deprived of every fruit of the Eucharist.[3]

§ II. On The Dispositions Of The Body

A twofold disposition is required on the part of the body, namely 1° fasting; 2° decency.

Point I. On The Fast Required For Communion.

1308. - Principles. I. From the precept of the Church, for Communion there is required natural fasting, or total abstinence after midnight from any thing whatever, however minimal, which by way of food, drink, or medicine is conveyed into the stomach, with certain cases nevertheless excepted. It

is established 1° from the universal custom of the Church and unanimous tradition; 2° from all Catechisms and Rituals approved by the Church;[3] 3° from the Councils and especially from Constance.[4]

II. For breaking that fast, according to the common sentence three conditions are required, namely 1° That what is taken be taken from without and be conveyed into the stomach: for what does not come from without, even if it is voluntarily swallowed, or what is not conveyed into the stomach, but e.g. sticks in the throat, is not said to be eaten; for things which are eaten come from without and are destined for the stomach. Hence blood flowing from the mouth, tongue, gums, etc. does not break the fast.[1]

2° That something be taken by way of eating or drinking. The reason is because according to common sense the natural fast is broken only in this way. Hence whatever is drawn by way of respiration or saliva in no way breaks the fast. Thus you remain fasting, although through respiration you swallow dust or a fly, by accident, namely, and not on purpose.[2]

3° That the thing taken have the character of food or drink, that is, that it be something alterable in the stomach and apt for nutrition. The reason is because otherwise, according to the common mode of understanding, there is not eating nor drinking. For no one is said to eat iron, glass, etc. - Thus commonly the Theologians with St. Thomas,[3] St. Alphonsus.[4]

III. From the Response of the Sacred Penitentiary, dated 18 June 1873, it must be gathered that as regards the moment at which the obligation begins of the natural fast, the ecclesiastical fast, the divine office, etc., one must stand by public clocks, or those designated by the Magistrate for indicating noon; and this even if they do not mark true time, but only mean time, or the mean time not of one's own meridian, but of another, e.g. of the metropolis.[5]

Addendum and Corrigendum. - What is said in this place is to be understood according to the following response of the Sacred Penitentiary. "Whether, where clocks accommodated to mean time are used, one must stand by them both for fulfilling the burden of the Divine Office and for observing the natural fast; or whether one ought, or at least can, use true time? The Sacred Penitentiary responded: The faithful, in observing the natural fast and in reciting the Divine Office, can follow mean time, but are not bound to do so. - On 29 Nov. 1882."

1309. Questions. - Query 1° Does the swallowing of remnants of food which adhere between the teeth break the fast?

Resp. 1° Negatively if it is involuntary, because it does not have the character of food. It is established also from the Rubric of the Missal.[6] - Thus all.

Resp. 2° If it is voluntary, it is controverted.

The first sentence, which to St. Alphonsus[2] does not seem improbable, denies; because such remnants are morally reputed parts of the eating of the preceding day, and not of a new one, and they are not taken by way of food, although on purpose, but by way of saliva. - See the Rubric.[1]

The second sentence affirms; because such a swallowing, since it is done deliberately, seems to be a new eating. - Thus Roncaglia, etc. St. Alphonsus[2] says that this sentence is more common and more probable, and altogether to be counseled; nevertheless he warns that one must not act scrupulously in this, so that it suffices to spit out those remnants which are sensibly perceived on the tongue, and

there is no obligation to employ diligence to draw them out from the teeth, even if otherwise they are foreseen to be swallowed.

Query 2° Do little drops of water or broth tasted and mixed with saliva break the fast if they are swallowed?

Resp. 1° Negatively, if they are swallowed accidentally beyond intention, provided they are not in great quantity. The same must be said of the little drops which are involuntarily swallowed while washing the mouth. The reason is because they are not taken by way of nutrition. It is established also from the Rubric of the Missal.[3]

Resp. 2° Affirmatively, if they are swallowed on purpose. The reason is because then nothing is lacking so that they have the character of food or drink.[4]

Query 3° Does tobacco powder taken through the nostrils dissolve the fast?

Resp. Negatively, even if something is transmitted into the stomach. The reason is because, although such matter is nutritive, nevertheless it is not taken by way of eating, unless it is done on purpose.[5]

Query 4° Does tobacco smoke or similar smoke dissolve the fast?

Resp. Negatively, because in the common estimation of men tobacco smoke is neither food nor drink, nor is it taken by eating or drinking. On account of the same reason it must be said that those do not break the fast who draw in through both mouth and nostrils the smoke of foods in a kitchen. And this holds even if the smoke is voluntarily sent into the stomach.[6] - The same seems to be said concerning the juice or odor of camphor, which is drawn in by way of tobacco smoke (in French: *cigarette de Raspail*).

Query 5° Does he dissolve the fast who takes a leaf of tobacco, or a spice, in order to bruise it with the teeth and spit out phlegm?

Resp. Negatively, probably, even if a little of the juice inseparably mixed with saliva is swallowed, nevertheless beyond intention; because, if this is swallowed accidentally, it is conveyed not by way of food, but by way of saliva. But all agree that chewing of this kind before Communion is indecent; hence it does not seem to be excused from venial fault, unless some reasonable cause intervenes.[1]

Query 6° Can he communicate who doubts whether after midnight he has taken food or drink, or on the same day has swallowed something?

Resp. Affirmatively, as is clear from what was said n. 67. 1°. a). Except if presumptions to the contrary are so strong that the one acting believes more probably that twelve o'clock has already sounded.[2]

Query 7° Is it lawful to eat and drink immediately after Communion?

Resp. Formerly indeed after Communion the fast was prescribed until Sext. But this precept has long since been abrogated. Nevertheless from decency some delay must be observed between the reception of this Sacrament and other foods, at least as long as the consecrated species, not yet wholly corrupted, persevere in the stomach, unless nevertheless there is some reasonable cause of taking something immediately; otherwise such eating, on account of irreverence, is not excused from venial fault.[3]

Query 8° Is it illicit to spit after Communion?

Resp. Negatively, of itself, provided that no fragment of the Host has remained in the mouth. For there is no danger of irreverence toward the sacred species; since the way through which spittle flows together into the mouth is not the esophagus, or the way of food and drink, but is the way of respiration. Nevertheless all agree that it is fitting that those who have communicated abstain from spitting for some interval of time.[4]

Query 9° When is it lawful to communicate someone not fasting?

Resp. One not fasting communicates lawfully 1° in danger of death, from whatever cause it comes; 2° in danger lest the Eucharist perish or be badly handled, e.g. by heretics, impious persons; 3° in proximate danger of grave scandal from omission of the Sacrifice or Communion; 4° in necessity of completing the Sacrifice or Communion, e.g. if the priest has taken water for the species of wine, etc.[1] (9) p. 417.

Query 10° Is moral certainty of danger of death required, that Viaticum can be ministered to one not fasting?

Resp. Negatively, but a prudent doubt suffices, or probability of danger (for probability of the article of death is not required, if with some it is pleasing to distinguish danger from article), especially when it is to be feared lest the sick person be seized by sudden death. Indeed Pastors and parents or relatives of the sick are to be gravely reproved, who from carelessness or vain fear so prolong the administration of Sacred Viaticum that the sick are in danger of dying without the Eucharist.[2] But if the sick person could easily receive Viaticum fasting on the following day, he would be held to wait. Nevertheless in this matter one must not proceed scrupulously, since the Council of Constance simply excepts the dangerously sick from the law of fasting.[3]

Query 11° Is it ever lawful to give Communion to a sick person not fasting, and not dangerously bedridden, if the illness is long-lasting?

Resp. It must be denied, given the present practice of the Church, unless the illness is of such a kind that of itself it can induce danger of death. Nevertheless some Theologians permit this at times, if the illness is long-lasting, and the sick person can never communicate altogether fasting, provided it be done rarely, e.g. some times in the year. - Thus Elbel.[4] But the most common sentence of Theologians with Suarez contradicts, who asserts that only the Pope can dispense in this law. In fact, the Supreme Pontiff is accustomed to dispense rarely and only from a grave cause, nevertheless even with private persons (as I myself know from a particular case), and not only, as formerly almost, with public persons or from a public cause, that they may communicate once, three times, or even several times in the year. But then there is a sufficient reason why sometimes the Eucharist can be administered to a sick person after midnight. The reason why this can be done only by dispensation of the Pope is that otherwise this law of the Church would be too much relaxed. See, if you please, Benedict XIV, the Brief *Quodam de more*, dated 24 March 1756, handing down the history of this law.

Appendix annotation (9), to n. 1309. q. 9°. p. 64. col. 1. Add from the response given by S. C. de Prop. Fide to the Vicar Apostolic of Eastern Tonkin, 13 Feb. 1806, the following case. "When salt has been tasted beforehand by Catechumens in the conferral of Baptism, although the fast seems to be broken, nevertheless there is still no doubt that, after Baptism has been received, they can be admitted to Sacred Communion; indeed, they ought to be admitted. Thus altogether the Church, in whose power it is to dispense in peculiar cases from the general law of the Eucharistic fast, introduced by itself for those

who desire to receive Sacred Communion outside danger of death, prescribes in the Roman Ritual, where it hands down the rite by which Baptism is to be conferred upon adults." Collect. p. 161 n. 282.

Point II. On Decency Of The Body.

1310. Principles. - I. By natural law that exterior habit and that composition of body are required which exhibit the internal reverence and devotion of the soul. The reason is clear: for not only internal, but also external veneration is due to this most august Sacrament, since Christ himself, by means of the species, exists and is handled in it in a certain sensible way.

II. No stain whatever of the body of itself impedes Communion, since the Eucharist is only food of the soul, nor is purity diminished by stains of the body, which contribute nothing to moral goodness or malice.[1] - Nevertheless the decency and reverence due to so great a Sacrament require that, if dirt appearing externally can be removed, it be diligently removed.

III. There is no obligation of abstaining from Communion on account of hidden stains of the body, or even those appearing externally, but indelible.[2] - If nevertheless external stains, here and now indelible, are very notable and ought to cease shortly, it will be becoming, where it can conveniently be done, to defer Communion. But when they last longer, there is no reason why someone should be deprived of heavenly nourishment. - Thus commonly.

1311. Resolves. - 1° Women ought to approach holy Communion in holy ornament, redolent of modesty; if some should present themselves to the Sacred Table very indecently (see n. 1233. 19), Communion would have to be denied to them, with due cautions nevertheless for preventing scandals as far as can be done.

2° Leprosy, flow of blood, and similar things, which happen without fault of the sufferer, of themselves do not prohibit from Communion, because those blemishes do not stand in the way of devotion, which is the disposition required for Communion.[3] - After a voluntary pollution had shortly before, to approach holy Communion, although someone is contrite and confessed, they say is venial, unless scandal or another just cause demands Communion; the same holds after one venially evil, or even involuntary, if it leaves disturbance in the mind. They except if the one about to communicate endeavors to repel this as much as he can, or some just cause of necessity or devotion is present.[1] - Concerning Communion after conjugal intercourse it will be said n. 1646. 7°.

3° A priest infected with leprosy, or another infirmity exciting horror, can celebrate, but not in public; for thus it is established from Canon Law.[2]

4° It is fitting from decency and Christian humility that soldiers about to communicate approach the Sacred Table with arms laid aside. Nevertheless they are obliged to this by no law.[3] - The same should be said of laymen wearing gloves. "But priests," says the Roman Ritual, "should communicate with stole."

Notes to n. 1311. (1) L. VI. 272. Rubric of the Missal, de defect. Tit. 9. n. 5. (2) L. VI. 275. (3) Ib. 1. L. VI. 272. 2. Ib. 3. Ib. 275.

APPENDIX I: ON FREQUENT COMMUNION

1312. By the name of frequent Communion, commonly with St. Alphonsus, are understood in the stricter sense those Communions which, besides Sundays or feast days, are made also on ferial days without previous Confession.

It is certain, 1) frequent Communion, even daily, has always been most desired in the Church. It is established 1° from the common agreement of the Fathers, who always earnestly commended it to the faithful. It is established 2° from Trent,[4] where it says: "The holy Synod would indeed wish that at individual Masses the faithful standing by communicate, not only with spiritual affection, but also by sacramental reception of the Eucharist, by which the fruit of this Most Holy Sacrifice may come to them." It is established 3° from the Decree of Innocent XI of the year 1679, and also from the common agreement of Doctors. Therefore frequent Communion is greatly to be praised, and earnestly to be urged upon the faithful by Pastors and also by confessors. It is certain, 2) days for receiving the Sacred Eucharist cannot be established generally; nor are those to be kept away from it who desire to approach frequently, unless they seem unworthy. Therefore this whole matter must be left to the judgment of confessors, who, according to purity of conscience and the fruit perceived from the Sacred Table, ought to prescribe that which they judge will profit individuals more. 3) As regards Sacred Virgins, if they ask Sacred Communion daily, "they will be admonished that they communicate on the days established by the institute of their Order; but if some shine with purity of mind and have grown warm with fervor of spirit in such a way that they may seem worthy of more frequent or daily reception of the Most Holy Sacrament, let this be permitted to them by Superiors." - Thus from the same Decree of Innocent XI.[1] Cf. n. 1189. 5°.

1313. - According to the mind of St. Alphonsus,[2] and of others reported by him, the doctrine on frequent Communion can be constrained in a few general rules thus.

First Rule. - Monthly Communion is to be denied to no one sufficiently disposed; indeed it is to be advised most greatly to all, even if they live a life entangled in secular business; for otherwise it is very difficult to persevere long in divine grace, on account of innumerable occasions, and the quasi-forgetting of eternal things. - Thus commonly.

Second Rule. - Weekly Communion is to be permitted, indeed also advised, to those who by habit do not commit grave faults: nevertheless for those who labor under several light vices and are not at all solicitous concerning amendment, it will sometimes be useful to interdict Communion for some week, namely that they may be stirred up with some zeal to casting aside vices.[3]

Third Rule. - Frequent Communion, or several times in the week, can be permitted, or even advised, to those in whom these three things are found: 1) Flight from fully deliberate venial sin, and absence of voluntary affection to venial sin, i.e. to its matter. 2) Study of Christian perfection and desire of Communion. 3) Exercise of mental prayer and mortification.[4] - Thus regularly speaking; for exceptionally it can also be granted "to some who" lack the aforesaid dispositions, but "would be in danger of falling into lethal sins, that they may receive strength for resisting."[1]

Fourth Rule. - Daily Communion is to be granted to those who, besides the two former things aforesaid, devote themselves much to prayer and mortification and for the greater part have overcome

evil desires. "Except, ordinarily speaking, one day in any week ... and that time in which" directors wish "to deprive their penitents of Communion for proving their obedience, or humility, or on account of some just cause."[2] It can also be granted on account of some particular passing circumstance, e.g. on account of a novena.

APPENDIX II: ON SPIRITUAL COMMUNION

1314. - Spiritual Communion is called the pious desire of receiving the Sacrament of the Eucharist, when it cannot really be received. This Communion was very much in delight among the Saints, and is commended by Trent.[3] It is very useful to pious faithful. For if God rewards the pious desire of any virtue whatever, how much more the desire of possessing himself! Therefore it is to be carefully suggested by confessors to the faithful, their penitents, and most vehemently commended. Spiritual Communion can be made at every time and in every place, both in the morning and in the evening. Nevertheless the more opportune time is the time of Mass itself, when namely the priest communicates; for then, since the most august Sacrament is shown to the eyes and represented more vividly to the mind, it will inflame hearts more ardently with divine love.

Notes to n. 1314. (3) Sess. 13. c. 8.

APPENDIX III: ON THE FIRST COMMUNION OF CHILDREN

1315. - "As regards children," says the Second Plenary Council of Baltimore,[4] "who approach the Sacred Table for the first time, let it be permitted to apply to our matter the excellent words of the Fathers of Ravenna. It cannot be but that the manner in which one receives Holy Communion for the first time contributes much to the whole plan of Christian life, and indeed even to eternal salvation itself. Hence let all rulers of souls carefully see to disposing for it girls and boys whom by age and sufficient understanding of spiritual things they judge capable. Let them instruct them with special zeal, diligently inquire into their life, and admit to the Sacred Table those whom they understand to be already sufficiently instructed in the rudiments of Christian doctrine, and to be commended by probity of morals and piety, sending the rest away to another time, all human respect being set aside. But for three days before Communion, let them be prepared proximately for it both by pious exercises and especially by general Confession; but on the day itself, with the greatest solemnity, let them receive the Divine Bread, with the whole people looking on, and especially the parents, to whose care afterwards those souls, refreshed by the heavenly Banquet, will have to be commended by Pastors with the most fervent zeal of charity."[1]

"But at what age children ought first to be refreshed with the Eucharistic Food has not been defined by the Church. St. Thomas, having used a general form of speaking, taught that this Sacrament can be conferred on them when they begin to have some use of reason, so that they can conceive devotion for this Sacrament."[2] Therefore it will belong to pastors to inquire diligently concerning this matter, lest anyone either through carelessness be admitted too soon, or through severity be kept away longer than is fitting. But this general rule, which nevertheless admits its exceptions, seems safely able to be established, namely that, ordinarily speaking, no one ought to be made a sharer of the Bread of Angels before the tenth year, nor after the fourteenth year ought it to be denied to anyone otherwise worthy."[3]

Notes to n. 1315. (4) a. 260. 261. (1) a. 1855. P. II. c. 4. Decr. 7. (2) P. III. q. 80. a. 9. (3) Syn. dioec. Sabinae a. 1844. P. III. c. 2. §§ 6. 7. Cf. Laymann, L. 5. Tr. 4. c. 4. n. 3.

PART SECOND: ON THE EUCHARIST AS SACRIFICE

The Eucharist has not only the character of a Sacrament, but also of a Sacrifice.

It must be treated 1° of the nature and virtue of the Sacrifice of the Mass; 2° of the application of the Sacrifice of the Mass; 3° of the obligation of celebrating Mass; 4° of the time and place of celebration; 5° of the manner of celebrating.

CHAPTER I: ON THE NATURE AND VIRTUE OF THE SACRIFICE OF THE MASS

Sacrifice taken generally is thus commonly defined: The external oblation of a sensible thing with its destruction or change, made to God alone through a legitimate Minister, in protestation of his supreme dominion.

1316. Principles. - I. The Mass is a true Sacrifice of the new law.

II. The Sacrifice of the Mass perfectly contains the characters of all the sacrifices of the old law, or it is latreutic, etc.

III. The unbloody Sacrifice of the Mass is certainly the same as the bloody Sacrifice of the Cross, not only because the same victim is offered, but also because the formal character of Sacrifice is the same, namely through protestation of the supreme dominion which God has over life and death. Wherefore the Sacrifice of the Altar differs from the Sacrifice of the Cross not indeed essentially, but only accidentally, namely as regards the manner of offering.

These principles are proved and more broadly explained in Dogmatic Theology.

Notes to nn. 1316-1317 - note sequence 1. (1) L. VI. 305. Notes to nn. 1316-1317 - note sequence 2. (1) De Euch. D. 19. n. 188. (2) L. V. Decr. T. XXXIX. c. 28. St. Alphonsus, L. VI. 308. Lacroix, n. 33. (3) L. VI. 309. (4) N. Rev. Th. T. 3. p. 298 sv. Notes to nn. 1316-1317 - note sequence 3. (1) Nouv. Rev. Th. T. 12. p. 558 sv. (2) L. VI. 309. (3) Apud Gury. Ed. Rom. 1873. T. II. n. 349 (). Notes to nn. 1316-1317 - note sequence 4. (1) L. VI. 312. Notes to nn. 1316-1317 - note sequence 5. (1) L. VI. 312 and the cited work, Sess. XXII. n. 22. (2) Sess. 22. c. 2 and Can. 3. 3. 26. 28. 4. Th. Dogm. vol. VIII. n. 282. 5. L. VI. 310. 6. Suppl. q. 71. a. 9 ad 5. 7. S. R. C. 29 Nov. 1856.

1317. Questions. - Query 1° In what does the essence of the Sacrifice of the Mass consist?

Resp. It is controverted. Not a few hold that the essence of the Sacrifice consists in the Consecration and partially in the Consumption, because in the Consecration the victim is placed, and in the Consumption it is consumed. St. Alphonsus holds this opinion as the more probable.[1]

Query 2° For whom can the Sacrifice of the Mass be offered?

It must be premised. In offering Sacrifice the priest acts in three ways, namely in the name of Christ, in the name of the Church, and in his own name. Those things which he does in the name of Christ comprise the essence of Sacrifice properly so called; but in the name of the Church he performs the ceremonies and pours forth the prayers which the Church prescribes for the celebration of this Sacrifice; but he acts in his own name insofar as the good and meritorious work which he places by sacrificing pertains to his person as such. - These things having been premised:

Resp. In general it can be offered for all for whom, at least as impetratory, it can be of profit. Hence:

1° Validly, at least in the name of Christ and in one's own name, it is offered for all, whether living or dead, except only the damned and infants dead without Baptism.

2° Validly and lawfully it is offered, and this in the threefold manner which we have described, for all living faithful, even for sinners not excommunicated, but for these only as regards the fruit of impetration.

3° As regards living excommunicated persons: a) Certainly it is lawful indirectly, even in the name of the Church, e.g. for their conversion, for the propagation of the Faith, etc., "insofar as their good results in the enlargement of the Church," as Lugo says. b) If there is question of the Sacrifice to be offered directly and in particular for some excommunicated person, distinguish between those to be avoided, or nominally excommunicated, and the tolerated. - For those to be avoided it is lawful in one's own name, but not in the name of Christ or of the Church.[2] - But for the tolerated, of itself, it is more probably lawful even in the name of the Church, because the faithful are permitted to communicate with them, even in divine things.[3] I said: of itself; because, if there is question of heretics and schismatics, several Responses of the Holy See prove that in practice this is not lawful, by reason of scandal, etc.[4]

4° In the name of the Church, neither publicly (as is clear of itself and all admit) nor secretly (as almost all hold) is it lawful to offer for the dead to whom ecclesiastical burial is to be denied, for instance for notorious heretics and schismatics. For under the name of burial are understood whatever suffrages are customarily made by the Church for the dead; but among these, Masses celebrated in the name of the Church, even secretly, hold the first place.[1]

Note. What has been said concerning tolerated excommunicated persons holds more probably also concerning unbelievers.[2] It is confirmed from the following Response of the Holy Office, which, to the proposed doubt: "Whether it is lawful for priests to celebrate Mass for the intention of Turks and other unbelievers, and to accept from them alms for the application of Mass?" on Wednesday, 12 July 1865, responded: "Affirmatively, provided that scandal is not present, and nothing is added specially in the Mass, and as regards the intention it is established that nothing of evil, or error, or superstition underlies the unbelievers offering the alms."[3] (10) p. 418.

Query 3° Of how many kinds is the fruit of the Sacrifice of the Mass?

Resp. The fruit of the Mass is distinguished under a twofold head, namely on the part of the one offering and on the part of the victim.

I. On the part of the one offering. Since the one offering is twofold, namely Christ and the priest, hence there is a twofold kind of fruit of the Mass on the part of the one offering. The first comes from Christ offering, and is said to be *ex opere operato*, because it is received in view of the merits of Christ and his promise. The other comes from the priest offering, insofar as it is received in view of the merit and devotion of the priest celebrating, and is called fruit *ex opere operantis*. - Hence it happens that a Sacrifice offered by a holy priest, insofar as it is considered *ex opere operato*, is not of more profit than if it were offered by an unworthy Minister; because the Sacrifice, considered thus, is the work of Christ, and fruit flows only from the merits of Christ. Wherefore in this sense it can rightly be said that the Mass of a bad priest is worth as much as the Mass of a good priest. But otherwise it must be said if the merit *ex opere operantis* is considered; for the worthier the priest is and the greater the devotion with which he is endowed, by so much the greater does the fruit of the Mass become.

II. On the part of the victim. Under this head a threefold fruit of the Sacrifice is distinguished, namely general, special, most special.

1° The general fruit is that which corresponds to the Sacrifice insofar as it is a work placed by the priest, according as he operates in the name of the whole Church. And indeed all the Faithful, both living and dwelling in purgatory, perceive this fruit; but it is assigned to them only by way of

impetration (by force of which contrition and thus also remission of sins can be obtained), not however, as it seems, by way of satisfaction, because from the thousands of Sacrifices which are offered daily, any just man, even unknowingly, would obtain the remission of immense punishment, which appears incredible. - Those assisting at the Sacrifice, and *a fortiori* those cooperating in it, e.g. those serving the priest, etc., participate in this general fruit in a more abundant or more special manner. But this fruit, as being *ex opere operantis*, is the more abundant, the greater the devotion and holiness of those assisting and cooperating. Thus Gury; but St. Alphonsus calls the fruit accruing to those assisting and cooperating special (others call it middle or ministerial), nor does he distinguish between *opus operatum* and *operantis*. - But, as ministerial:

2° The special fruit is that which comes to him or to those to whom the priest specially applies the Sacrifice. These participate *ex opere operato* in the Sacrifice as it is impetratory and propitiatory; indeed also, provided nothing stands in the way, as it is satisfactory.

3° The most special fruit is that which comes to the priest offering, insofar as he is a private person offering. For if any cooperators perceive from the Sacrifice a fruit entirely special, much more ought the priest who sacrifices to perceive this. But whether the priest can apply this fruit to others is uncertain.[1]

Query 4° Is the value of the Sacrifice of the Mass infinite?

Resp. 1° It is certainly infinite if it is considered in itself, or in the thing offered and in the excellence of the dignity of Christ offering. For Christ himself in this Sacrifice is at the same time the victim and the principal one offering. Wherefore the Mass is the oblation of a victim of infinite price, made by Christ as primary offerer, who has infinite merit.

Resp. 2° It cannot be infinite as regards the application made to individual men, or as regards the effect or fruit. The reason is because creatures are not capable of perceiving infinite fruit; but the application can be greater or lesser, according as the disposition or capacity of him to whom it is applied has been greater or lesser.

But it is controverted whether the application of the fruit of the Sacrifice is restricted to a certain degree, or is made indefinitely according to the capacity of those for whom it is offered.

The sentence today, says St. Alphonsus, most common, and which speculatively seems more probable, contends that the application is made indefinitely according to the capacity of the faithful for whom it is offered. - The reason is because the value of the Sacrifice is in itself infinite; hence of itself it can be applied to innumerable men, without being able to be exhausted. Otherwise the holy Doctor teaches in the work *contro gli eretici pretesi riform.*, where he teaches that the fruit, from the will of Christ, is restricted to a certain degree.[1]

Query 5° Is the Mass of profit to the dead from an infallible promise of Christ?

Resp. Affirmatively. For Mass is usefully offered for the dead, as is established from Trent.[2] Moreover this cannot be done except from the promise of Christ, which is related in Matthew:[3] *This is my Blood ... which shall be poured out for many unto the remission of sins*. It is established also from the words of the form in the conferral of Order: *Receive the power of offering Sacrifice to God, and of celebrating Masses both for the living and for the dead, in the name of the Lord. Amen.* - Nevertheless temporal punishment is not

remitted to the dead by a certain law, but it is of profit to them only by way of suffrage, according as it shall have pleased God to accept it. - See Perrone.[4]

Query 6° Is a Mass of Requiem of more profit to the dead than a Mass of the Saints?

Resp. Negatively as regards the substance, or on the part of the Sacrifice; but certainly as regards accidentals, or on the part of the prayers, whose defect devotion can supply. - St. Alphonsus,[5] after St. Thomas.[6]

It must be noted here that a Mass of Requiem and in black can be applied for a living person, provided that he who gives the alms has not expressly declared the opposite.[7]

Appendix annotation (10), to n. 1317. q. 2°. Note. p. 68. col. 1. For deceased unbelievers, however, "if they truly die in unbelief, it is altogether not lawful" to offer Sacrifice, S. C. de Prop. Fide responded to the Dominican Missionaries in China, 12 Sept. 1645. Collect. p. 188 n. 369.

CHAPTER II: ON THE APPLICATION OF THE SACRIFICE OF THE MASS

The application of the Sacrifice of the Mass is the intention by which the priest wills that the fruit of the Sacrifice yield to the advantage of a certain person.

1318. Principles. - I. In order that a part of the general fruit be perceived, the application of the priest is not necessary; but it suffices that he wish to celebrate according to the mind of the Church: for such an application is always implicitly included in the general intention of the celebrant. Likewise, in order that the most special fruit come to the priest himself, it is not necessary that he wish to apply it specially to himself; for this is always of itself applied to him. Indeed there are those who think that this fruit is so proper to him that it cannot be applied to another.

II. Nevertheless the application of the priest is required, in order that the special or ministerial fruit come to someone. For the priest, and indeed he alone, bears the person of Christ; therefore, just as he alone in the person of Christ offers the Sacrifice for others, so also he alone applies its fruit.

III. The special fruit, applied to no one or to one incapable, remains in the general treasury of the Church.[1]

1319. Questions. - Query 1° Must the application of the fruit of the Mass be actual?

Resp. Negatively; but it suffices that it be habitual, namely that once made it is not retracted. The reason is because this application is made by way of donation, which is valid until it is revoked. - Nevertheless it is expedient to make the application of the Mass before it is begun. But if the priest has not done this before the Consecration, afterwards he cannot specially apply the Sacrifice to anyone.[2]

Query 2° If a priest, forgetful of the prior intention, elicits a new one while celebrating, which one must be judged valid?

Resp. In general it cannot be defined. Let the priest see what sort of intention was predominant in his mind. For the rest, in practice it matters little; for since either one or the other is certainly valid, it will be enough another time to apply the Sacrifice to him to whom it was not applied.

Query 3° Must the intention of the celebrant be explicitly determined?

Resp. Negatively. For it suffices that it be determined implicitly. Thus the application is valid if you say: I offer this Sacrifice for him who gave the stipend, - for whom the Superior wishes the Sacrifice to be made, - for whom the foundation demands, - for the greatest sinner, - for the soul afflicted by graver temptation, - for the suffering soul needing greater help, or more pleasing to God, - for all the souls of Purgatory, - for him to whom I am held to apply, - for the person or intention determined by writing or by mind at the beginning of the week, etc. - On the contrary, this application is not valid: I offer, that God may apply this Sacrifice.[1]

Query 4° If a priest has received stipends from ten persons, does he satisfy by celebrating with a confused and indeterminate intention?

Resp. In no way, negatively; because a determinate intention at least to a certain person is required; otherwise there is no reason why the Mass should be applied to one rather than to another, and thus it would be applied to no one. - Nevertheless, if he intended to apply any Mass whatever to those ten persons, by applying to each one a tenth part of any Mass whatever, he would satisfy the obligation; because the fruit of the Sacrifice is divisible, and to each one is assigned what is owed to him: for each one, perceiving in each of the ten Masses a tenth part of the fruit, when the tenth Sacrifice has been done, has already obtained the whole fruit owed to him.[1]

Query 5° How is the application to be determined, when stipends are given by many unknown persons?

Resp. The intention is to be made for those who first gave the stipends. This easily succeeds when the same priest is going to satisfy all the obligations; nor does it stand in the way that he perhaps distributes part of the Masses to be celebrated to other priests: because he can distribute them in the same order in which he received them; and thus the application seems sufficiently determined. Greater difficulty seems to be present if a sacristan or another person has collected many stipends from diverse persons, and distributes the mixed money to several priests; which case is obvious and frequent. How then is the application of the Mass to be made? I respond: nothing else is to be done, nor can anything else morally be done, than that the application be made according to the order of time in which the stipends were given by the faithful, according to the axiom which is sometimes used in the matter of justice: *He who is prior in time is stronger in right*. Indeed it is not necessary that the priest explicitly attend to this; since he is judged to wish to act thus, since natural equity demands it. Hence, if from a common heap, or from a distributor of Masses, you have received stipends for 20 Masses, no other care ought to fall upon you, except that you make the Sacrifice twenty times according to the intention of the giver. The distributor himself is judged to have the same implicit intention, that he distribute the stipends successively according to antiquity of time. Nevertheless the priest can interrupt the aforesaid order by express intention from some just cause, e.g. if some other Mass urges, or he has received a greater stipend that the Sacrifice not be deferred, etc.

Notes to n. 1319. (1) L. VI. 336. (2) Ib. 335 and H. A. Tr. XV. 80. Exam. Ord. n. 110. (1) L. VI. 335.

CHAPTER III: ON THE OBLIGATION OF CELEBRATING

This obligation can be considered under a threefold respect: 1° by reason of the priesthood; 2° by reason of office; 3° by reason of stipend.

ARTICLE I: ON THE OBLIGATION OF CELEBRATING BY REASON OF THE PRIESTHOOD

1320. - I say: All priests, by reason of the Priesthood, are bound by divine law, under grave obligation, to celebrate at some time. This is proved from the words of Christ:[1] *Do this in commemoration of me.* By these words, according to the testimony of the Council of Trent, Christ commanded the Apostles and their successors to offer Sacrifice. Moreover, all priests in their ordination receive not only the power, but also the charge and office annexed to it, of sacrificing. Hence the Apostle:[2] *For every Pontiff taken from among men is appointed for men in those things which are toward God, that he may offer gifts and Sacrifices.* But in a grave matter anyone is gravely bound to execute an office undertaken. Therefore ... Thus St. Thomas.[3] See St. Alphonsus.[4]

Notes to n. 1320. (1) Luke 22. 19. (2) Hebr. 5. 1. (3) P. III. q. 82. a. 10. (4) L. VI. 313. Notes to nn. 1320-1324 - note sequence 1. (1) L. VI. 319. (2) Instit. 56. n. 10. (3) L. VI. 320. Dub. 1. (4) Inst. 56. n. 11. St. Alphonsus, L. VI. 320. Dub. 3. (5) a. 369. (6) L. VI. 317. q. II. (7) Ib. Notes to nn. 1320-1324 - note sequence 2. (1) L. VI. 317. q. II. (2) Conc. Pl. Balt. II. a. 371. (3) L. VI. 317. q. III.

1321. Questions. - Query 1° How often in life or in the year is a priest bound to celebrate?

Resp. It is not clearly established. It seems *more probable* that he is not bound to celebrate except three or four times in the year, or on the more solemn feasts. Indeed it appears not improbable that a priest has satisfied his office if, on whatever days at last, he offers Sacrifice three or four times in the year.

Query 2° Is he excused from every sin who celebrates only four times in the year?

Resp. No. For he does not seem to be excused from some venial sin. Thus commonly according to the mind of Trent,[2] where it is said: "Let the Bishop take care that they" (Presbyters) "celebrate Masses at least on Lord's days and solemn feasts." Indeed Holy Mother Church desires that a priest offer Sacrifice on individual days, and pious priests are accustomed very rarely to omit it.

Notes to n. 1321. (1) L. VI. 313. Dub. 2. (2) Sess. 23. c. 14. Ref.

ARTICLE II: ON THE OBLIGATION OF CELEBRATING BY REASON OF OFFICE

1322. - I say I. All Pastors of souls, by natural and divine law, are bound at some time to celebrate for their sheep. The reason is because they ought to feed them. This is also established from Trent,[3] where it says thus: "Since by divine precept it has been commanded to all to whom the care of souls has been committed, to know their sheep, to offer Sacrifice for them," etc.

I say II. The same, by ecclesiastical law, are bound to celebrate for their sheep on all Sundays and on the days brought forward by Our Most Holy Lord Pius IX in the Encyclical *Amantissimi Redemptoris*, 3 May 1858 (see p. 87), from several Decrees of the Church, but especially from the Constitution of Benedict XIV, *Cum semper*.[4] To this, however, not only secular Pastors are bound, but also Regulars;

likewise those who for a time or removably, e.g. on account of the absence or infirmity of the Pastor, are deputed to supply his office, as Vice-pastors.[5] Indeed a Pastor set over two parishes (but not a Bishop set over two dioceses[1]) is bound, outside the case of an indult, to apply 2 Masses, unless the union of the two parishes is plenary and extinctive, so that from two parochial Churches there has entirely come to be one, by the extinction of the title of the other.[2] That burden belongs *a fortiori* to Ordinaries after possession of the See has been obtained,[3] but not to Vicars Capitular.[4] Missionaries, however, and Vicars Apostolic (provided there is not question of places in which Episcopal Sees and Parishes have already been canonically erected, and Vicars Apostolic and Missionaries have been sent to them to perform the duties of legitimate Pastors), and titular Bishops, are by no means bound to apply Masses, although from charity it is becoming that they do so. V. T. I. (§), p. 471.

Query. Is a Pastor or Bishop who is ill, or prevented from celebration for another cause, bound on feast days to celebrate for the people through another?

Resp. It must be answered affirmatively, because that burden is not merely personal, but at the same time real, not otherwise than the burden of preaching, which consequently can and must be fulfilled through another.[6]

Notes to n. 1322. (3) Ib. c. 1. Ref. (4) 19 Aug. 1744. (5) Ib. and Craisson, Elem. n. 542. (1) Leo XIII, In suprema, 10 June 1882. (2) S. C. C. 11 March 1774; 27 Feb. 1875. (3) Leo XIII, ib. (4) S. R. C. 12 Nov. 1831. (5) Conc. Pl. Balt. II. p. CXLVIII. Decr. II. Leo XIII, ib. (6) L. VI. 326. S. C. C. 11 May 1720; Ben. XIV, c. Cum semper, n. 17. Craisson, Elem. n. 545.

ARTICLE III: ON THE OBLIGATION OF CELEBRATING BY REASON OF STIPEND

1323. Principles. - I. A stipend or alms can lawfully be accepted for a Mass which one is not bound to read for another. For a stipend is not given as a price or compensation of the Mass, but as a means for the support of the Minister. This is also established from 1 Cor. 9. 13: *Do you not know that they who work in the sanctuary eat the things that are of the sanctuary; and they who serve the altar participate with the altar?*

II. Priests are bound from justice to celebrate Mass and to apply it determinately according to the intention of those who have given the stipend for this. For there intervenes with them an onerous agreement, which, by the title of justice, must be observed not otherwise than in any other contract. Hence a priest who, whether through himself or through another Minister, omits to apply according to the intention of him who gave the stipend, is bound to restitution by strict right.

III. A priest cannot satisfy a double stipend by one single Mass, but for each one he must offer a distinct Sacrifice. The reason is, 1° because it is not certainly established that a Sacrifice offered for several persons profits each one as much as it profits when applied for one alone, although this is more probable to many; 2° because this very thing is established from the 8th proposition condemned by Alexander VII, p. XIII.

1324. Questions. - Query 1° What is judged the just stipend of a priest celebrating?

Resp. The quantity of a just stipend cannot be universally determined. It is lawful to require the stipend established by the Bishop or by custom.[1] To this rule even Regulars are bound to conform themselves under grave obligation, from the Decree of the Sacred Congregation cited by Benedict XIV.[2] - St. Alphonsus.[3] And indeed the Bishop, at least as regards manual alms, can prohibit a

stipend less than the established tax from being accepted (Benedict XIV[4]); that this not be done regularly is prohibited by the Second Plenary Council of Baltimore.[5] - Nevertheless, just as through charity or friendship a lesser stipend can be admitted, so also from the liberality of the giver it is right to receive a greater one. Likewise, a priest can receive more for extraordinary labor, e.g. for a Sacrifice to be celebrated at such an hour or in such an inconvenient place, etc. - Nor is a priest to whom richer stipends are available obliged to accept those which correspond to the tax; for he would be obliged with his own loss.

Query 2° Does a priest sin gravely who, after receiving a stipend, delays celebrating Mass?

Resp. Affirmatively. The reason is because he violates a contract in a grave matter. This is also established from the Decrees of the S. C. C. in the year 1625. - St. Alphonsus.[6]

Query 3° What delay is judged grave?

Resp. It is controverted; certainly a delay which exceeds three months can seem grave. - Thus commonly with St. Alphonsus,[7] against others who require an entire year. - But more probably a priest does not sin gravely who celebrates a promised Mass within two months. In Masses, however, which are to be celebrated for the dead, a delay of one month is reputed grave according to St. Alphonsus,[1] Salmanticenses, Lugo, etc. - Besides, the statutes of Bishops also must be attended to. Certainly, however, a priest sins gravely whenever "he omits to celebrate, within a time fitting to the circumstances, a Mass requested and promised for obtaining some urgent grace"; and therefore he who has accepted a stipend for a happy childbirth is bound to restore the accepted stipend if, even licitly, he has celebrated after the childbirth. - The will of the one giving the stipend must also be attended to; for when it is principally given for assisting the priest, and the burden of celebrating is not imposed so strictly, even a very long delay will be without fault.

"But that a more distinct account may be had of the obligation of accurately fulfilling the burdens of Masses, both manual and for an indefinite time, we decree that in each secular and regular church there be a catalogue or table of burdens, which have been imposed on them in perpetuity or for a certain and predefined time, and respectively accepted; and that in the same place in the sacristy books be kept, in one of which perpetual burdens of this sort or temporary burdens are to be inscribed, but in the other manual and adventitious Masses, together with a faithful and distinct notation of the subsequent fulfillment of both."[2]

Query 4° Does a priest sin gravely by omitting to celebrate a Mass, if the stipend accepted for it is not grave matter, e.g. $0.50?

Resp. Affirmatively, more probably, unless perhaps the stipend is so slender that the Mass appears to have been promised gratis. The reason is because he who gave the stipend suffers a notable spiritual detriment.[3]

Query 5° Whether, or in what way, does one sin who omits a Mass promised gratis?

Resp. 1° He does not sin whenever there is not truly a contract of promise, but the one promising only shows a benevolent purpose.

Resp. 2° More probably he sins only venially when a true promise has intervened; because a simple promise does not oblige under grave obligation, unless, as Lugo says, the one promising expressly obliges himself under grave obligation and from justice.

Query 6° Is a priest guilty of simony who celebrates chiefly with a view to the stipend?

Resp. See n. 353, Query 3°. Resp. ad 1.

1325. Query 7° Can a priest commit a Mass to another to be celebrated, giving a smaller stipend than he himself has received?

Resp. No, not indeed generally of itself, but because, on account of the appearance of base gain, the S. C. C. prohibited this by a Decree approved by Urban VIII and confirmed by Innocent XII, where these things are had: "Wishing to remove every damnable gain from the Church, it prohibits a priest who has undertaken to celebrate a Mass with a certain alms from committing the same Mass to another to be celebrated while retaining for himself part of the same Mass." Cf. proposition 9 condemned by Alexander VII, p. XIII, and the Rescript of the S. C. C. 19 Jan. 1869.

Except: 1° If from the circumstances it is morally established that the excess of the stipend was handed over by a title extrinsic to the celebration, for instance friendship, gratitude, etc. 2° If another priest, entirely spontaneously and not having been asked, remits either part of the ordinary stipend or the excess. 3° If there is not question of manual Masses, concerning which alone the Decrees speak, but either 1) of perpetual Masses entrusted to some priest, or 2) of Masses to be celebrated by force of a rich legacy left to some priest for life, or 3) of those which are to be celebrated from a benefice or foundation, provided that the contrary has not been provided for in the foundation, a stipend is given according to the tax or custom of the place, and, if there is question of founded Masses, the one celebrating has been determined at least in some way, e.g. the Pastor for the time being. Thus St. Alphonsus,[2] to whom especially the S. C. C., in the Response of 29 Aug. 1860, refers for the solution of this question. See p. LXXXI. 7. The Response of the S. C. C. 18 July 1868 to the Archbishop of Cologne agrees as regards founded Masses. 4° If the remission is made, even when the one remitting has been asked, but with him consenting with complete liberty, especially in favor of a pious work, provided however: a) there is not question of a matter which by its amplitude and its annexed laws takes on the appearance of public business, which is illicit to clerics; and b) in the case of an extraordinary stipend, those who gave that stipend did not give it on that condition, that they should perceive more abundant fruit from the Mass, which indeed is to be presumed, unless the contrary is sufficiently established, as in the exception under 1°. - Besides, all the exceptions are to be understood with this addition: provided nothing is taken away from the will of the founders or givers concerning the place and time of the celebration of the Masses, any studied collection of them being excluded, and the one to whom it belongs by law being taught concerning the subsequent celebration of them.[1]

It is pleasing here to append the following questions proposed to the Sacred Congregation of the Council by the Archbishop of Cologne.

I. "Many Masses to be sung have been founded in parochial churches, ... to which a richer dowry has been assigned by the founders, to be administered by the church-provisors, from which Pastors, to whom by diocesan law and custom the celebration of these Masses belongs, receive an alms greater than the diocesan one, although no priest has expressly been called by the founders to celebrate these Masses."

II. "In celebrating Marriages and obsequies of the dead, stole-fees are not paid to the Pastor in a lump, but a certain portion is assigned for individual acts required for duly performing these functions.

Hence a certain alms also, and one richer than for the other manual Masses, has been fixed by the Ordinary both for nuptial Masses and for funeral Masses; the celebration of which by law and custom belongs to the Pastors."

III. "Very many alms are offered through the year to Pastors by the faithful for Masses to be sung, either according to the tax constituted by the Ordinary, or even richer alms are spontaneously handed over."

"But since Pastors are sometimes hindered by illness, absence, and other sacred functions from celebrating these Masses themselves in the three cases set forth, other priests supply their places, whether attached to the same churches for their assistance, whose salary is paid by the church-provisors, or even outsiders. Hence the question arises whether Pastors in the same three cases must hand over the whole alms to the priests supplying their places; or whether rather it is lawful for them, retaining part for themselves, to give a smaller alms to the celebrant? But if in these cases part of the alms can licitly be retained by the Pastors, it is further asked whether the diocesan alms for low Masses must be paid by them to the priest celebrating, or rather that constituted by the Ordinary for sung Masses?"

To these questions the S. C., on 28 March 1874, rescribed: Let it be deferred; and the matter having again been maturely weighed and discussed in the meetings of the day 25 July 1874, judged that response should be made:

To I. That the whole alms must be paid by the Pastor for Masses whether low or sung.

To II. Since there is question of stole-fees, it is enough if the Pastor recompenses the celebrant with the ordinary alms. (11) p. 418.

To III. That the whole alms must be paid, unless it is established with moral certainty that the excess of the common alms was offered with regard to the person of the Pastor himself.[1]

But these resolutions, since there is question of a matter of strict right, are valid also for our quasi-pastors. More easily, however, among us cases occur in which richer stipends are offered on account of a title distinct from the celebration of Masses, for instance for the support of a Missionary to whom certain or sufficient revenues are lacking.[2]

Query 8° Is he who retains part of the stipend bound to restitution?

Resp. Affirmatively. The reason is, 1° because this is deduced from the proposition condemned by Alexander VII related under this n. q. 7°. For the proposition said that a priest retaining part of the stipend can satisfy through another; therefore it follows that the contradictory is true, namely that he cannot satisfy; but satisfaction regards not only the honesty of the act, but also its justice; and he who does not satisfy an obligation of justice is bound to restitution; 2° because a priest dividing a stipend, if it is richer, acts against the will of the giver: for the will of the giver is not only that Mass be celebrated, but that it be celebrated for such a stipend. For he does not wish to bestow something gratuitously on him who does not celebrate. - Thus St. Alphonsus,[3] saying that this opinion must be held. But to whom must restitution be made, namely to the one giving the alms, or to the celebrant? More commonly and more probably they teach that it must be made to the celebrant.[1]

Query 9° Can a priest to whom a rich stipend is offered for today's Mass, having retained this, ask another priest to celebrate for him, promising to celebrate on the following day for the same person,

who is going to be celebrated for an ordinary alms?

Resp. It is controverted. The first opinion denies it, since this cannot be excused from the appearance of base gain. - Thus St. Alphonsus, who says that Concina thinks thus rightly, adding however that he deservedly does not dare to condemn this as grave, and leaves it to the judgment of prudent men whether the poverty of the priest can excuse from every fault.[2]

The second opinion affirms, with Lacroix,[3] and others.

Query 10° How are Masses to be taxed, for the reading of which a testator has left some sum of money?

Resp. They are to be taxed according to the custom of the place or the law of the diocese prevailing for private Masses. But if the testator himself has taxed them, but below the custom of the place or the norm of the received tax, they are to be taxed by the Ordinary according to the custom of the place, account being taken of whether the inheritance is rich or slender. - Thus the S. C. determines in St. Alphonsus.[4]

Query 11° Can rich priests accept a stipend?

Resp. Affirmatively. The reason is because every worker, whether rich or poor, is worthy of his wage, as Christ himself says in Luke[5] and according to the Apostle.[6] Besides, if they could not accept a stipend, and otherwise are not bound to celebrate without a stipend, since there is no law which obliges them to celebrate thus, the faithful would often be unable to obtain Masses. This is established besides from the practice of the universal Church. - St. Alphonsus,[7] and others commonly.

Query 12° What is to be said of booksellers and merchants who in various ways exchange Masses to be celebrated for books or merchandise?

Resp. The S. C. C., 9 Sept. 1874, to the following doubts:

1. Whether the manner of acting of those booksellers or merchants savors of base traffic, and therefore is to be disapproved and, if necessary, restrained also by ecclesiastical penalties by their Bishops, who, by employing public invitations and premiums or in any other way whatever, collect alms for Masses, and to priests, to whom they commit them to be celebrated, repay not money but books or other merchandise?
2. Whether this manner of acting can be made honorable either because, with no diminution having been made, as many Masses are committed to be celebrated by the aforesaid collectors as correspond to the alms collected, or because through it poor priests, lacking alms for Masses, are assisted?
3. Whether collections and distributions of alms of this kind, even then, are to be disapproved and restrained, as above, by Bishops, when the profit which is drawn from the exchange of merchandise with alms is expended not for the private advantage of the collectors, but for the use or increase of pious institutions and good works?
4. Whether they concur in base traffic, and therefore are to be disapproved and even restrained, as above, who hand over alms for Masses accepted from the faithful or from pious places to

booksellers, merchants, and other collectors of them, whether they receive or do not receive anything from the same under the name of a premium?

5. Whether they concur in base traffic, and therefore are to be disapproved and restrained, as above, who receive from the said booksellers and merchants, for Masses to be celebrated, books or other merchandise at the price of these, whether diminished or whole?

6. Whether they act illicitly who for Masses celebrated receive, in place of a stipend, books or other merchandise, with any commerce or appearance of base gain being excluded?

Responded: - To 1. Affirmatively.

To 2. Negatively.

To 3. Affirmatively.

To 4. Affirmatively.

To 5. Affirmatively.

To 6. Negatively.

Query 13° Can administrators of Churches retain something for themselves from the alms of Masses for the expenses of altars, lights, etc.?

Resp. No, unless the Churches have no other revenues; and then in no way must the value of the expenses which are necessary for the Sacrifice of the Mass itself be exceeded, and nevertheless also in that case care must be taken that from the monies which remain, the expenses as above having been deducted, absolutely as many Masses are celebrated as were prescribed by those offering the alms.[1] See the exception in Ben. XIV, Inst. 56. n. 13.

Query 14° Must he restore who, after receiving a stipend for a Mass to be celebrated on a privileged altar, celebrates the same on another altar?

Resp. It seems it must be denied; but he will be bound to gain a plenary indulgence applicable to the dead, such as are the indulgences of the Way of the Cross, etc. For thus a proportionate compensation is bestowed. If, however, he has accepted a stipend greater than ordinary for this, he is bound to restore the excess. - Thus St. Alphonsus,[2] Elbel,[3] Sporer.[4]

But if someone accepts a stipend in order that he celebrate in a certain place, e.g. at a miraculous Statue, or in a Chapel so that the people may hear Mass, or at a certain time, e.g. on the Sabbath day in honor of the Blessed Virgin, so that the place and time are intended of themselves, he cannot retain the stipend unless he has read the Mass at the prescribed time and place. The reason is because otherwise the one giving the stipend is judged to be gravely unwilling. But it is otherwise if the time and place are not intended of themselves.

Query 15° Is one obliged by stipend to celebrate on a privileged altar for a deceased person bound to read a Mass of Requiem, when the RITE permits it?

Resp. Affirmatively. The reason is because this is required for gaining indulgences, as is clear from the declaration of the S. C. R. 11 April 1840.[5]

Query 16° Does one obliged by stipend to READ a Mass of Requiem, or a votive Mass, satisfy if he says another Mass?

Resp. Affirmatively as regards a Mass of Requiem, unless the testator or the one giving the stipend has expressly asked that it be said (S. R. C. 5 Aug. 1662 and 12 Sept. 1840). - Negatively as regards a votive Mass (S. R. C. 12 Sept. 1840), unless either 1° the one requesting consents; or 2° a votive Mass has been accepted which is not permitted to be celebrated, as in honor of a Mystery or of a Blessed; or 3° a votive Mass has been accepted for a day on which it is prohibited, and cannot conveniently be deferred to a free day.

But truly, neither in the case of a Mass of Requiem expressly requested, nor in the case of a votive Mass, do they sin gravely who read the Mass of the day, and not even lightly in the excepted cases, or when a legitimate cause is present, such as however one's own devotion is not.[1] The reason is because the essential value is the same; but the privation of accidental value does not bring so grave a prejudice. Besides, the virtue of fidelity in the case does not oblige so gravely.

Note, however, that here there is not question of the cases treated under q. 14° and q. 15°, nor of Masses of Requiem to be celebrated in chant, concerning which, as also concerning this whole question, see de Herdt.[2]

Query 17° Can a stipend be received for a Mass to be celebrated on the day of the Commemoration of all the faithful departed?

Resp. Affirmatively. The reason is because not all priests are bound on this day to apply Mass for all the dead, indeed they are not obliged to celebrate. Therefore they can apply Mass at will either for all the dead dwelling in Purgatory, or for some only. This is established from a Decree of the S. C.[3] But this being posited, absolutely nothing stands in the way of a stipend being able to be accepted for Mass. - Thus commonly.[4]

Query 18° What does the Second Plenary Council of Baltimore counsel, and what does it prescribe, concerning Masses to be founded or founded Masses?

Resp. To the first. In the Appendix of the Council[5] there is reported, and therefore by way of norm seems to be counseled, Decree LV of the Second Provincial Council of Cincinnati, which reads thus: "That a certain norm be established in this Province for foundations of Masses, ... the Fathers judged that foundations of this kind, especially when they are perpetual, because of the peculiar circumstances in which we are placed, ... are to be admitted with great caution; also on this condition, that for a private Mass there first exist a fund of at least fifty scutata, but for a sung Mass, of one hundred scutata." ... But the best precaution will be if the agreement to be entered into with the founder contains at least these conditions: 1) that there will be no future obligation of celebrating, if the capital destined for this end for any cause whatever has either perished, or remained idle or unfruitful; 2) that the number of Masses to be celebrated be diminished proportionately, if for any cause whatever the revenues do not reach the stipend established by the founder; and therefore that not only the capital, but also the stipend of the Masses be determined, or at least that the faculty of reduction be reserved to the Ordinary; 3) that, if for any cause whatever the Church in which the Masses are to be celebrated should lack a priest, or even be destroyed, they can be celebrated in another to be designated by the Ordinary.

Resp. to the second. "Let foundations not be accepted without the previous assent of the Bishop, if there is question of a secular institute, or of the regular Prelate, if the foundation is made in favor of an exempt community."[1]

Query 19° What is the reduction of Masses?

Resp. It is the diminution of the number of Masses to be celebrated, granted by legitimate authority for a legitimate cause.

It is said: 1° *of Masses to be celebrated*; for reduction regards the future, or Masses to be omitted; and, if there is question of Masses omitted, there is a condonation, which is reserved privatively to the Supreme Pontiff. If it is granted, a small alms is imposed, which is called composition. B. 14. d. S. L. 13. c. ult. n. 15.

It is said: 2° *by legitimate authority*, namely through the Supreme Pontiff, as the S. C. C. declared, with Urban VIII and Innoc. XII approving, in the Bull *Nuper*. - Nevertheless the Bishop also will be able to reduce if either a) as is plain of itself, he has obtained an Indult for this, in the use of which Indult, lest Bishops wander from the path, rules are suitably handed down by Benedict XIV in the book *On the Diocesan Synod*, C. ult. n. 22-29; likewise nn. 32. 34. 35; or b) the founder has given the Bishop this faculty;[2] or c) the imposed and accepted burden was made *inter vivos* by force of a convention entered into with the Bishop; for that convention includes this tacit condition: the thing, or capital, remaining in that state in which the fruits yield at least the ordinary stipend of a manual Mass. Therefore in the case of diminution of revenues or loss of the fund, the Bishop by his ordinary power, or by assuming the parts of a judge, can either rescind the contract, or at least reduce it to the terms of right.[3]

It is said: 3° *for a legitimate cause*, e.g. diminution of revenues, increase by the Bishop of the alms, etc.

Notes to n. 1325 - note sequence 1. (1) Acta, Vol. IV. p. 537. (2) L. VI. 321. Notes to n. 1325 - note sequence 2. (1) Acta, T. VIII. p. 75 sq. (2) Cf. Vd. Burgt, de cel. Miss. n. 115. (3) L. VI. 322. Notes to n. 1325 - note sequence 3. (1) L. VI. 322. Dub. 1 in fine. (2) Ib. Dub. 4. Cf. Vind. p. 386. Ed. 2a T. I. p. 437. (3) n. 134. (4) L. VI. 320. Dub. 5. (5) 10. 7. (6) 1 Cor. 9. 14. (7) L. VI. 317. q. I. Notes to n. 1325 - note sequence 4. (1) L. VI. 322 in fine. (2) Ib. 329. Not. 2. See n. 1798. q. 4°, R. 7°. (3) 210. (4) n. 355 and Suppl. n. 137. (5) L. VI. 339. Notes to n. 1325 - note sequence 5. (1) L. VI. 327. (2) T. I. n. 66. (3) 4 Aug. 1663. (4) L. VI. 338. (5) p. 319. Notes to n. 1325 - note sequence 6. (1) a. 370. (2) Ben. XIV, de Syn. L. XIII. c. ult. n. 19. (3) Ib. n. 26. Appendix annotation (11), to n. 1325. q. 7°. p. 74. col. 1. to II. It is clear of itself that to one celebrating a sung Mass in this and similar cases the ordinary alms is to be given, which has been established for sung Masses. Thus also S. C. C., 25 July 1874. Past. Bl. für N. Am., 1881. p. 34.

CHAPTER IV: ON THE TIME AND PLACE OF CELEBRATION

ARTICLE I: ON THE TIME OF CELEBRATION

1326. Principles. - I. It is lawful to celebrate daily, indeed it is laudable, unless the unworthiness of the celebrant, or a special prohibition of the Church, stands in the way. - But the Church prohibits Mass from being celebrated on the day of Parasceve, or Friday of the greater Week; likewise, that several Sacrifices be made in the same Church on Thursday and Saturday of the same Week. Necessity, however, permits several Sacrifices only on Thursday in the Supper of the Lord, 1° on account of the communion of the sick, who cannot assist at the solemn Mass, and in whose favor it will be lawful to celebrate a private Mass, at the judgment, however, of the Bishop; 2° on account of a feast of precept occurring on the same Thursday in the Supper of the Lord (not on Holy Saturday), in which case not indeed all priests, but some, can and must celebrate a private Mass (not of the feast, but of the Supper of the Lord) before the solemn Mass, so that the faithful may not lack fulfillment of the precept. - But that single Mass, which is celebrated on Thursday in the Supper of the Lord and on Holy Saturday, cannot be celebrated in those Churches in which the Most Holy Sacrament is not reserved. This furthermore must be celebrated in chant (excepting parochial churches, if there is no cantor present, and then with the permission of the Bishop to be sought each year) and solemnly, unless ministers are lacking.[1]

II. It is not lawful ordinarily, and with special privilege excluded, to celebrate before dawn, nor after noon, nor before the recitation of Matins and Lauds. For thus it is had in the Rubrics of the Missal: "A private Mass can be said at least after Matins and Lauds, at whatever hour from dawn until noon." - It is lawful, however, to begin Mass before dawn, provided that it is not finished before dawn. Likewise it is lawful to prolong the celebration beyond noon, provided that it be begun at least at noon; for the time of dawn and noon is to be taken not mathematically, but morally.[1] But dawn begins when the first brightness is diffused over the earth, or from the beginning of light, which is various for various places and times of year. Where there is no physical dawn, one should attend to when labor is accustomed to begin.[2] - By special privilege, which is conceded to our Bishops and through them can be communicated to priests and is customarily so communicated, it is permitted that Mass be celebrated for one hour before dawn and another after noon. See p. LXXI. n. 23.

III. In like manner, the privilege of celebrating one hour before dawn or after noon must be understood of one hour before or after the time assigned for others not privileged; otherwise the privilege would be of little profit.[3]

Notes to nn. 1326-1327 - note sequence 1. (1) L. VI. 350. 424 sub 8, and De Herdt, T. II. n. 280. T. III. n. 34-36. Notes to nn. 1326-1327 - note sequence 1. (1) L. VI. 351. (2) 25 Sept. 1858 in a case of Gaul. (3) 21 March 1863. Notes to nn. 1326-1327 - note sequence 2. (1) L. VI. 341. (2) S. R. C. 18 Sept. 1634. (3) L. VI. 346. (4) L. VI. 346. (5) Ib. 343 sq. Notes to nn. 1326-1327 - note sequence 2. (1) L. VI. 343. De Herdt, T. III. n. 3. (2) L. VI. 400. (3) Praxis Conf. n. 155.

1327. Questions. - Query 1° Does he sin gravely who celebrates before dawn or after noon?

Resp. Affirmatively, if he much anticipates or prolongs the time established by the Church; but otherwise, if the change is slight; indeed, if a just cause is present, it will be without any fault. But what change is judged notable is controverted. According to the more common and more probable

opinion, it is not held grave unless the celebration is begun a whole hour before or after the established time.[4]

Query 2° When is it lawful to celebrate before dawn or after noon?

Resp. 1° In necessity, e.g. that Viaticum may be administered to one about to die; in which case it would be lawful to celebrate even at midnight. 2° Where there is a reasonable custom, e.g. that workmen and servants may be able to hear Mass very early in the morning. 3° By force of a privilege granted by the Pope, or of a dispensation in a particular case from a reasonable cause by the Bishop, or for exempt religious by their Superior; 4° from the cause of a journey, for an hour after noon or before dawn; 5° likewise because of the funeral of some magnate, or of a sermon, or of a public supplication.[5]

Query 3° What sort of sin is it to celebrate Mass before the recitation of Matins and Lauds?

Resp. See n. 1100. q. 2°.

Query 4° Is it lawful to celebrate more than once in a day?

Resp. No, speaking generally according to the present practice of the Church, although formerly it was not prohibited. This is established from various places of Canon Law and from the Decree of Benedict XIV, 16 March 1746.

Except 1° the feast of the Nativity of the Lord, on which it is lawful to celebrate three Masses; 2° if a Pastor before the ablution is moved concerning communicating the sick, and has already consumed his Host, and no other fasting priest is found.[1]

Query 5° When is it lawful to celebrate Mass twice in the day by permission of the Bishop?

Resp. With the Bishop permitting it, Mass can be celebrated twice (but never more than twice) by the same priest on Sundays and feasts of precept not suppressed, if necessity demands it, but not on account of custom alone, nor for the convenience of those who enjoy the privilege of a private oratory, nor on account of the poverty of the priest, nor where another priest is had through whom provision can be made for the necessity. Benedict XIV, Const. *Declarasti nobis*, and c. *consuluisti* (3) *de celebrat. Miss.* (L. III. Decr. T. XLI.). See p. LIV-LVI. n. 1-9.

Query 6° When is necessity judged to be present for celebrating twice in the day?

Resp. See p. LVI. n. 10. 11. See the broader faculty of our Bishops p. LXXI, LXXII. 23, and its declaration p. LVI. n. 11 sq.

Query 7° Can he who celebrates two Masses accept a duplicated stipend?

Resp. No; and Pius IX strictly prohibited this. - Thus S. C. C.[2] - Nevertheless, sometimes there is given, and to the Ordinaries of Missions there has been given, the faculty, for a just and grave cause, of permitting priests to receive a stipend also for the second Mass. Thus from the Letters of the S. C. de P. F. 15 Oct. 1863, which *Rev. Th.* T. IV. p. 101 exhibits. (12) p. 418.

Query 8° Would it be lawful in this case to accept a double stipend on this condition, that the other stipend be expended for a pious use?

Resp. No, without an Indult of the Supreme Pontiff, which indeed the Pontiff was unwilling to grant to the Archbishop of Cologne. - Thus S. C. C.[3]

Query 9° Is it lawful in the night of the Nativity of the Lord to celebrate all three Masses before dawn?

Resp. No, without an indult, or unless one of the causes alleged above in this n. q. 2° is present, some one of which, however, will very rarely be present on this day. It is clear from the Rubric of the Missal: "The first Mass is said in the night; the second at dawn; and the third in the day"; likewise from the decree of the S. C. R.:[1] "A priest who celebrates only one Mass should read the Mass which corresponds approximately to the hour according to the particular Rubrics of the same day." S. R. C. 19 June 1875.

Query 10° Through what space of time ought a low Mass to last?

Resp. The general rule is that Mass ought neither to be longer than half an hour, lest those present be affected by weariness, nor shorter than a third part of an hour, because otherwise it will not be able to be celebrated becomingly. But you will not excuse from mortal sin a priest who, in making the Sacrifice, does not reach a quarter of an hour. St. Alphonsus[2] gives the reason, because in so brief a space he must necessarily commit two grave defects, one of grave irreverence toward the Sacrament,[3] the other of grave scandal toward the people. But it is to be desired, and earnestly commended to all priests, that in making the Sacrifice they complete half an hour.

Query 11° How much time, when the Sacrifice has been completed, ought to be spent in giving thanks to God?

Resp. No entirely certain rule is given. But the more benign require at least a quarter part of an hour. - St. Alphonsus[3] earnestly persuades that at least a half-hour be spent on this pious exercise by a priest, who ought to offer an example to the faithful.

Appendix annotation (12), to n. 1327. q. 7°. p. 78. col. 1. A bination Mass can also be applied for a deceased priest-confrere by the members of a society who, by agreement, are bound to this. S. C. C., 14 Sept. 1878 in Nancien-Tullen. and Nemausen., apud Nouv. Rev. Théol., T. XI. p. 25, where also the reasons of this resolution are exhibited.

ARTICLE II: ON THE PLACE OF CELEBRATION

1328. Principles. - I. It is not commonly lawful to celebrate except in a Church, and one consecrated, or at least blessed, which is not polluted, execrated, or interdicted. This is established from Trent.[4]

As regards a polluted and execrated Church, see below n. 1329. 4° and 5°. But concerning an interdicted Church, n. 1695-1697.

II. The Bishop can no longer, as formerly, grant the faculty of celebrating in the houses of private persons, nor in a private Oratory.[1] This is established from the declaration of the S. C. C. 27 May 1617 and 23 Jan. 1847, in which it is said that it is not lawful for any Bishop to grant licenses of this sort, not even for a passing act, and that this faculty is reserved to the Roman Pontiff. An exception is made, however, if great and urgent causes are present, and then only by way of a passing act. Thus S. C. C. 20 Dec. 1856.

Notes to n. 1328. (4) Sess. 22. decr. de observ. et vitand. in celebr. Miss.

1329. Questions. - Query 1° In what Oratories can Bishops give permission to celebrate?

Resp. By common law, in public ones, and, outside private houses, in every religious or pious place. But a religious place is said to be that in which works of piety and mercy are exercised, and which has been erected by the authority of the Bishop or of another ecclesiastical Prelate. Such are monasteries, palaces of Bishops, Seminaries, and the rest. ... But a pious place is called that which is constituted and deputed for works of piety and mercy, even without the authority of the Bishop or of an ecclesiastical Prelate. Hence any Hospitals and Orphanages whatever must be held as pious places, in which therefore the Bishop can permit the erection of an Oratory, even if places of this kind have been erected and constituted by the civil power. Thus S. C. C.[2] Add also Oratories which are erected in prisons, although prisons are not customarily called pious places.

Query 2° Is it sometimes lawful to celebrate outside a Church, or outside the Oratories of which in the preceding question?

Resp. Affirmatively, when grave necessity urges, e.g. 1° if the Church were destroyed or could not contain an immense multitude, and otherwise the people would lack Mass on a day of precept; 2° if a priest were making a long pilgrimage through deserted places or among unbelievers, and otherwise would be without Mass for a long time; 3° if an army were in camps, and otherwise would lack Mass on a day of precept; 4° in a port because of the arrival of a ship, lest those sailing, who cannot leave the ship, be deprived of Mass on a day of precept. Thus from various places of Canon Law according to St. Alphonsus. Nevertheless in these and similar cases the permission of the Ordinary is always to be sought and can be sought;[1] 5° concerning the permission of the Bishop in a private house in the case declared in n. 1328. II. and n. 1144. IV. 2°.

Query 3° What are the special faculties of our Bishops concerning the place of celebration?

Resp. "Of celebrating under the open sky and under ground, but in a becoming place, ... if it cannot be celebrated otherwise." See p. LXXII. n. 23.

Nevertheless this faculty, which can be and is customarily communicated to priests, as the tenor of it, "if it cannot be celebrated otherwise," already demands, is restricted by the Second Plenary Council of Baltimore[2] in such a way that "no priest ... may celebrate Mass in private buildings, unless in stations, and in those buildings which the Ordinary has designated, or while he is actually giving attention to the exercises of a Mission" (understand: spiritual assistance furnished to some place "far from any church," through one or more days). Therefore it is not lawful to use that faculty in cities or towns in which churches have been erected.[3]

As regards the becoming place of which in this faculty, Kenrick[4] observes that the following are not judged such: a) A room where a sick person lies, unless in the country far from every church it is necessary to celebrate for giving him Viaticum.[5] b) Where a more suitable place can be had, the house where there is the corpse of a dead person; a room where some are accustomed to sleep; huts and the houses of laborers. c) The lower part of a house. d) A ship, unless by special Papal indult, which is customarily granted only to Apostolic Missionaries. Except the case of which in the preceding question 2° under 4°. e) A theater. f) Buildings of Freemasons. g) A room of an inn in which dances are customarily held. h) Churches of heretics or schismatics; for the so-called "Simultaneous" churches, in which Clement XI permitted the Missionaries of Rhaetia to celebrate, are consecrated churches of Catholics occupied by heretics, such as, so far as I know, we have none among us.

Query 4° In what way is a Church polluted, and in what way must it be reconciled?

Resp. to the first. A Church is polluted (likewise a crypt blessed together with it), when in it those indecent actions and injuries to a sacred place are done, on account of which it is reputed unbecoming that the immaculate Host be offered there, and that the divine Offices be celebrated, until it is reconciled. Hence it is polluted: 1° by voluntary homicide (therefore also by suicide), and one injurious, at least to the immunity of the Church, such as also is that which otherwise would be just by sentence of a judge; unless, however, a disturber of the republic could not otherwise be seized; 2° by a gravely culpable and copious shedding of blood from a blow or from a wound gravely injurious to the church; but it is required that he against whom the savagery of which under 1° and 2° is exercised, suffer it in the church itself, although perhaps the one wounding is outside the church, or although the shedding of blood or death follows outside it; 3° by a voluntary shedding of human seed, and one illicit either of itself or by reason of the sacred place. Therefore it would not be polluted by marital intercourse, when a just cause of having it was present, namely to avoid incontinence; 4° by the burial of an unbaptized person, or of an unbeliever. Except the infant of whom in n. 1699. q. 1°. R. 1°, and catechumens (ib.);[1] but not an infant already born (even of Christians) dead without Baptism (S. C. Immun. apud Craisson, Man. n. 4800); 5° by the burial of a baptized excommunicated person to be avoided; but not if he is indeed excommunicated, but not to be avoided. Concerning these things there is evidence from Canon Law. - See St. Alphonsus.[2] But that a Church be judged polluted, these crimes must be notorious either by fact or by law, either immediately from the beginning, or afterwards. They must also be committed in the Church itself, i.e. in some part of it from the upper vault to the pavement and from the interior door to the last wall; therefore not in the sacristy, etc.[3]

Resp. to the second. 1° If the Church was only blessed, it can be reconciled by a priest (according to the Roman Ritual to be delegated by the Bishop, which however is not of precept), with the customary prayers, and with water blessed for reconciling the Church by the priest himself delegated (or not delegated).[4]

2° But if that Church was consecrated, it must be reconciled by the Bishop himself, or by a priest delegated by the Pope [n. 1247. IV. b)], or among us by the Bishop (p. LXXI. 13), according to the rite of the Roman Pontifical. Nevertheless, if the divine Offices cannot be omitted without grave inconvenience, with the permission of the Bishop, if it can be had (otherwise without it), it can be celebrated.

Domestic Oratories in private houses, although blessed (which nevertheless cannot be blessed except with the blessing of a place or of a new house[1]) and deputed to worship, are not judged to be polluted.

Query 5° In what way is a Church execrated, or an execrated Church rendered fit for worship?

Resp. 1° A Church is execrated when it loses its blessing or consecration. But it is judged to be execrated when it totally or for the greatest part collapses, or is destroyed, so that it must be built anew, at least for the greater part, or if the whole plastering of the walls, or at least the greater part, is removed at the same time.[2]

Resp. 2° An execrated Church is again to be blessed or consecrated, according to the rite and form prescribed for the blessing or consecration of Churches.

But a fixed altar loses its consecration when the table or upper stone is removed from its base, or through an enormous fracture of the table. - Thus S. C. R. 15 May 1819, 3 March 1821. Altars, whether portable or fixed, lose it when the sepulcher is opened or broken (or when the cover of this is broken or removed, but not precisely the seal),[3] in which the Sacred Relics are placed, or through the loss of the same. - S. C. R. 23 Sept. 1848. Nor is it sufficient to bury other authentic Relics in them; but the altars are to be consecrated anew. - Thus S. C. R. 7 Dec. 1844. - Note, however, the faculty conceded to our Bishops and which through them can be and is customarily communicated to priests,[4] of celebrating, ... even if the altar is broken or without Relics of Saints; ... if it cannot be celebrated otherwise. See p. LXXII. n. 23.

Finally, sacred vessels and other consecrated things are execrated when they lose their form, and can no longer serve for their use. - Hence also paraments lose their blessing if they become so torn or worn by use that by the estimation of moral men they can no longer be employed for their end, or if they lose their essential form even for the briefest time, so that, while this separation stands, they cannot serve for their use: hence also, if by one act a part is added which is greater than the blessed part; but not if they are repaired gradually by smaller parts. De Herdt.[1]

Moreover, from what has been said it is clear what the distinction is between the pollution of a Church and its execration. When part of the Church is polluted, the whole Church is judged polluted, even together with the adjacent cemetery and fixed altars (but not portable ones). On the contrary, when a Church is execrated, the cemetery is not for that reason execrated, nor are the altars. L. VI. 368-371. (Z) p. 403.

Notes to n. 1329 - note sequence 1. (1) Sess. 22, decr. de observ. et vitand. in celebr. Miss. Cf. however n. 1144. IV. 2°. (2) 27 March 1847 and 14 Nov. 1648. Notes to n. 1329 - note sequence 2. (1) L. VI. 356. 359. (2) a. 362. (3) Kenr. Tr. XVII. 87. (4) Ib. n. 87. 88. (5) S. C. de P. F. 14 Dec. 1668. Notes to n. 1329 - note sequence 3. (1) Conc. Pl. Balt. II. a. 390. (2) L. VI. 362-366. (3) Ib. 364. Cf. L. IV. 460. (4) Ib. 363. De Herdt, T. II. n. 164. Notes to n. 1329 - note sequence 4. (1) L. VI. 361. (2) De Herdt, T. III. n. 289. I. (3) L. VI. 368. (4) Rev. th. T. 12. p. 595. n. 63 sq. Notes to n. 1329 - note sequence 5. (1) T. I. n. 169. 174. Appendix annotation (Zeta), to n. 1329. p. 81. col. 1. "By the misfortune of the times," writes the distinguished Van de Burgt, De celebr. Miss., n. 218, "and by the malice of men, it happens not infrequently that a sacrilegious injury is inflicted upon Catholic churches through crimes other than those which have been set forth thus far. And we must touch upon these briefly. Suppose that temples have been used as the place of quarrels and tumultuous fighting, for the exercise of the worship of heretics or schismatics, as a lodging for soldiers, as taverns, as workshops, as stables, and that neither report nor fame has spread of any one of the crimes previously mentioned being perpetrated there. Such a church has by no means need of the reconciliation which the sacred laws mention. Nevertheless, it seems very congruous to the sense of piety and religion that the temple, before the Most Holy Sacrifice is immolated in it, first be expiated from the stain of profanation by the designated rite of reconciliation." See St. Alphonsus, L. VI. 367. That this is accommodated to the mind of the Holy See is shown by the Responses of S. R. C. in Carpet., 3 March 1821, apud Van de Burgt, ib., and 27 Feb. 1847 in Tolent.

CHAPTER V: ON THE MANNER OF CELEBRATING

Namely, 1° concerning the requisites for Mass; 2° concerning the Rubrics.

ARTICLE I: ON THE REQUISITES FOR MASS

1330. - These things are required: 1° A stone altar, fixed or portable, consecrated by the Bishop, or among us, if there is question of a portable altar, while the See is vacant and in a case of necessity, by the Administrator of the diocese, or, while the See is full, by a priest deputed by the Bishop in places subject to him, with oils nevertheless blessed by the Bishop (see p. LXXII. n. 28 and p. LXXIII. n. 6). 2° A triple cloth made from linen or hemp; wherefore "the custom," says Kenrick,[2] "of certain persons using cloths which are found in the house in which they celebrate in the country is to be corrected, one shorter corporal cloth being placed beneath, or those which are not made from linen or at least from hemp. There is at least venial fault in not using three cloths; mortal fault in omitting all, unless grave necessity excuses." 3° Sacred vestments, or vestments blessed by the Ordinary, or among us by a priest delegated by the Ordinary by force of the faculty which is referred to on p. LXXI. n. 13. 4° A chalice and paten, consecrated by the Bishop, or among us by those deputed by him, as above 1°. 5° A linen corporal, or one made of hemp, blessed by the Ordinary, or among us by a priest delegated as above 3°. 6° A pall likewise linen or made of hemp. 7° A linen purificator. 8° A missal with a cushion. 9° A crucifix. 10° A double lighted candle made of wax. 11° A burse, silk veil, towel, cruet. 12° A male minister.[1] Cf. n. 1247. V. a).

But as regards candles, in strictly private Masses it is not lawful to light more than two wax candles, unless the Bishop celebrates, or unless there is question of low conventual or parochial Masses or similar ones on more solemn days, or of those which are celebrated in place of a solemn and sung Mass on account of celebrity and solemnity, or unless exposition of the Most Holy Sacrament requires a greater number. - De Herdt.[2]

1331. Questions. - Query 1° Must the altar cloths necessarily be blessed?

Resp. Affirmatively. The reason is because this is prescribed in the Rubric, and whatever some may say, there does not appear a sufficient reason for acting against the Rubric, by which it is thus determined: "Let the altar be covered with three cloths ... blessed by the Bishop or by another having power." Nevertheless, to celebrate over a cloth not blessed does not exceed venial fault, and therefore, when a reasonable cause urges, it is without any fault, according to St. Alphonsus.[3]

Query 2° Is it mortal to celebrate without any sacred vestment, or without stole, or alb, chasuble, maniple, or cincture?

Resp. 1° It is mortal to celebrate without any sacred vestment, in every case, from whatever cause. 2° Likewise to celebrate without chasuble, or alb, or stole and maniple together. 3° Likewise to celebrate with an ornament notably unclean and torn. 4° More truly also to celebrate without maniple, or stole, or (outside grave necessity) with these not blessed. 5° Probably it is not mortal to celebrate without amice, at least for those who do not use it to cover the head, but only the shoulders. The same is also to be said of celebration without cincture; hence a reasonable cause easily excuses from all these things.[4]

Query 3° Is the color of the vestments of precept?

Resp. Affirmatively, because all Rubrics which regard ceremonies accompanying Mass are held as preceptive. Nevertheless this Rubric does not seem to oblige under grave obligation, unless scandal is present, e.g. if on Easter day or on another solemn day Mass were celebrated with black vestments. Hence a reasonable cause, which will often be present to our Missionary priests, can excuse from this precept.[1] (13) p. 418.

Query 4° What colors are required in the paraments?

Resp. Paraments of white, red, green, violet, and black color are required. - Paraments made of glassy silk fabrics are altogether reprobated. Thus S. C. R.[2] - Likewise paraments of various color (*of the various colors*) are reprobated, which, on account of flowers of each color mixed in, not a few wish could be used on every feast. These the S. C. R. prohibited on 23 Sept. 1837; and therefore they can represent only that color which is primary and predominant.

Paraments of yellow and blue color are altogether prohibited.[4] Paraments made of gold cloth are tolerated, which, according to the use of the City, are used for white and red color, and, where custom is present, also for green; indeed they can be used for every color, if the silk threads intermingled with the gold threads are of the prescribed color.[5]

Query 5° Must the chalice and paten be consecrated under grave obligation or only under light obligation; and from what material are they to be fashioned?

Resp. to the first. They must be consecrated under mortal obligation; for the precept concerns a grave matter.[6]

Resp. to the second. From present discipline, at least the cup of the chalice must be gold, or silver gilt within.[7] But in a case of necessity a chalice with a cup of tin could be used. The paten must be of gold, or of gilt silver.

Query 6° Do the chalice and paten lose consecration if the gilding perishes?

Resp. No, more probably, but after new gilding they need a new consecration, because gold newly added and not consecrated intervenes, immediately touching the Blood.[1] The Declaration of the S. C. R. agrees.[2]

But it is to be held as an abuse that a priest should wish to execrate the aforesaid sacred vessels before he hands them over to an artisan to be repaired or refashioned. Therefore they must be handed over to him, if there is need, without the priest trying to execrate them either by his own hand directly, or by means of some instrument. - Thus S. C. R.[3]

Query 7° Must the alb, cincture, amice, small altar cloths, corporal, purificator, and pall necessarily be made from linen or hemp?

Resp. Affirmatively as regards all. Thus from the practice and precept of the Church. - Nevertheless, from the general Decree of the S. C. R.,[4] amices, albs, and small altar cloths, if any were made from cotton, could meanwhile be used until they were consumed, yet not to be renewed unless from linen or hemp. But it was prescribed that Corporals, palls, and purificators, after the lapse of one month from the publication of the Decree, could be used only if made of linen or hemp. - The cincture can also be made from wool or silk. S. C. R. 23 Dec. 1862. n. 5326.

Query 8° Must the pyx necessarily be consecrated?

Resp. See n. 1247. V. a). 4°.

Query 9° What sort of sin is it to celebrate with a corporal not blessed?

Resp. This cannot be excused from mortal sin, unless grave necessity of celebrating urges. But in a case of necessity one could even celebrate without a corporal. - Thus commonly.[5] Likewise, unless the precept of hearing Mass urges, it is mortal to use a very unclean corporal; light, if it is not very unclean; but none, in this case, if another cannot be had.[6]

Query 10° Is it mortal to celebrate without a pall, or with a pall not blessed?

Resp. It is controverted. The first opinion, probable, affirms. The reason is because formerly the pall was the corporal itself with which the chalice was covered; hence, although now it is separated from the corporal, it is equally necessary as it.

The second opinion, itself also probable, denies. The reason is because today the same reason of reverence does not apply to the pall as to the corporal, which immediately touches the Sacred Species. In necessity, when the pall is lacking, a purificator or burse can be used to cover the chalice.

Query 11° Is it lawful to use a pall covered with silk cloth and woven with gold?

Resp. Affirmatively. For although this is prohibited, nevertheless, at the request of several Bishops of Gaul, it was granted that it can be used. Hence to the question: *Whether, notwithstanding the Decrees issued by the S. C. R., it is lawful to use a pall covered on the upper part with silk cloth and woven with gold?* The S. C. responded: It can be permitted, provided that a linen pall joined underneath covers the chalice, and that the upper cloth is not of black color, nor displays any signs of death.[2]

Query 12° Must the purificator be blessed?

Resp. No. See n. 1247. V. a). Indeed, if a purificator cannot easily be had, it is probably lawful to celebrate without it, and in its place a clean small towel can be used, which afterwards is not to be used for profane use.[3]

Query 13° What sort of sin is it to celebrate without a minister?

Resp. It is mortal according to all. Nevertheless, Doctors commonly say that it is lawful to celebrate without a minister when the necessity of administering Viaticum urges. Others concede the same, that the people may hear Mass of precept.[4] - Yet to our Bishops and to priests to whom it is communicated by them, there is the faculty "of celebrating ... without a minister, ... if it cannot be celebrated otherwise." See p. LXXII. n. 23. (14) p. 418.

Query 14° Can a priest ever celebrate with a woman responding?

Resp. Affirmatively, if necessity urges, especially among nuns, provided the woman responds from afar, and does not immediately minister at the altar by presenting the cruets, etc.; for this could not be excused from mortal sin, because the Church altogether forbids women to minister to one celebrating.[5] - This is confirmed by a Decree of the S. C. R.[6]

Query 15° Is it mortal to celebrate without a cross; and what sort of cross ought it to be?

Resp. to the first. No; for this does not appear grave, wherefore a reasonable cause excuses even from venial sin. - Thus commonly the Theologians.

Resp. to the second. The Cross which is required in the celebration of Mass ought not to be small, but to stand out among the candlesticks, so that the priest and the people can easily and conveniently look upon it. Thus Benedict XIV, c. *Accepimus*, 16 July 1746. "In Missions, however," says Kenrick,[1] "necessity brings it about that a Cross not very large is used; but care must be taken that, as far as can be done, it be conspicuous to the people." He adds that, in a case of necessity, which however is to be guarded against, a small cross attached to a Rosary can be used. If on the altar on which Mass is celebrated there is a large statue, or a painted or carved image, in which the Crucified One obtains the first place, this suffices. - S. C. R.[2] - If Mass is celebrated on an altar where the Most Holy Sacrament is publicly exposed, the cross can be exposed or not exposed according to the custom of places. - Thus Benedict XIV, Const. cited. - A crucifix is not required with such great rigor as a Cross.[3]

Query 16° What sort of sin is it to celebrate without light, and is it ever lawful?

Resp. to the first. It is mortal to celebrate without any light at all.[4]

Resp. to the second. In one case it is lawful to complete the Sacrifice without any light, namely when, after the Consecration has been completed, the light is extinguished and no other can be had; for then the reason of completing the Sacrifice urges.

Query 17° Is it lawful to celebrate with candles made from another material than wax, or with one wax light?

Resp. to the first. No, except in the case of an Apostolic indult, or of necessity, e.g. lest one dying lack Viaticum, or the people lack Mass of precept; and St. Alphonsus[5] reproves this as a mortal sin. With the former part of the response agrees the declaration given to the Bishop of Charleston. S. C. R. 10 Dec. 1857.[6]

Resp. to the second. No, likewise with the more common and more probable opinion; but if it is done, it does not exceed venial sin, and any reasonable cause excuses from every fault; wherefore, when the other wax candle is lacking, a priest could celebrate even from mere devotion.[7]

Note. Kenrick[1] observes that in Missions the cushion to be placed under the Missal cannot easily be had; the cloth or antependium almost nowhere among us; for cruets, any vessels whatever can be used in Missions.

Notes to n. 1331 - note sequence 1. (1) T. I. n. 169. 174. (2) Tr. XVII. 99. (3) L. VI. 373 sq. (4) T. I. n. 184. (5) L. VI. 375. (6) L. VI. 377. Notes to n. 1331 - note sequence 2. (1) Kenr. Tr. XVII. 111. (2) L. VI. 378. Dub. 5. (3) 11 Sept. 1847. (4) S. C. R. 16 March 1833. (5) De Herdt, T. I. n. 147 and S. C. R. 28 Apr. 1866. (6) L. VI. 379. (7) S. R. C. 16 March 1876. Notes to n. 1331 - note sequence 3. (1) L. VI. 370. Dub. 2 in fine. (2) n. 5011. (3) 20 Apr. 1822. n. 4588. (4) n. 4563. (5) L. VI. 387. (6) L. VI. 376. Notes to n. 1331 - note sequence 4. (1) L. VI. 388. (2) 10 Jan. 1852. (3) L. VI. 389. (4) Ib. 391. (5) Ib. 392. (6) 27 Aug. 1836. Notes to n. 1331 - note sequence 5. (1) Tr. XVII. 101. (2) 16 June 1663. n. 2231. (3) L. VI. 393. (4) Ib. 394 and L. III. Decr. T. XLI. c. ult. (5) Ib. 394. Dub. 1 and S. R. C. 7 Sept. 1850. (6) Acta T. III. p. 602. Cf. Past.-Bl. fur N. Amer. Jahrg. III. 23. (7) L. VI. 394. Dub. 2. Appendix annotation (13), to n. 1331. q. 8°. p. 82. col. 1. Among reasonable causes De Herdt, Pr. Lit., P. 1. n. 155, recounts: "necessity of the church; a gathering of priests for whom vestments of the due color are not sufficient; great solemnity, which brings it about that in less wealthy churches it is useful to use more precious vestments, if even only the cross of the chasuble is of a color conforming to the office. Besides, as several note, it is better on any day to perform the Sacred Rite in whatever color than to omit it." Appendix annotation

(14), to n. 1331. q. 18°. p. 83. col. 1. Question. - If a priest celebrates without a minister, ought he to say the Confiteor twice before the introit? S. R. C. in Erien., 4 Sept. 1878, responded: Negatively. Gardellini, Appendix IV. n. 5627.

ARTICLE II: ON THE RUBRICS

1332. - Priests ought to observe with the greatest care and solicitude the laws of the Church which pertain to the manner of celebrating Mass, since among all sacred things this is the most sacred of all, and therefore worthy of the greatest reverence.

1333. Questions. - Query 1° Are all the Rubrics of the Mass preceptive?

Resp. 1° According to the common opinion, all Rubrics which are observed within the Mass are preceptive, since they regard so sacred a thing. But they oblige under grave or under light obligation according to the gravity or lightness of the matter, as will be said below.[2]

Resp. 2° But some Rubrics which are observed outside the Mass, that is, before or after the Sacrifice, are merely directive, as e.g. the washing of hands after Mass and the prayers for preparation or thanksgiving.[3]

It is controverted as regards the prayers which by the Rubric are to be recited while the vestments are put on; but with the common opinion it must be held, says St. Alphonsus,[4] that their omission is venially culpable.

Query 2° Can an infirm priest celebrate, although he cannot observe all the Rubrics?

Resp. Affirmatively, if he omits only a few and lighter ones, especially if he celebrates privately. Indeed several authors of grave note permit an infirm celebrant even to use a staff, if he needs it, etc.[5]

Query 3° Is it ever lawful to interrupt Mass?

Resp. 1° It is never lawful to interrupt Mass essentially, so that the Sacrifice begun remains truncated, unless a very grave or extreme necessity urges, as in the case of an imminent fire, or of an enemy rushing in to kill; for then the priest, omitting the Consecration of the chalice, could consume the Host already consecrated, or carry it away with him by fleeing. But if he has completed both Consecrations, he should immediately consume both Species, if he can; or if he cannot, he should carry them away with him to a nearby place to be consumed most quickly.[1]

Resp. 2° It is lawful to interrupt accidentally, namely by interposing something for a just cause before the Canon: 1° on account of a sermon after the Gospel, on account of prayers to be recited for the dead (which nevertheless, just as also those which are prescribed by the Ordinary, must among us be recited before or after Mass[2]), on account of proclamations of Banns to be made, or on account of a procession to be received, etc. 2° In favor of a Prince arriving, or of a crowd of pilgrims on a feast day, if otherwise they cannot hear Mass. Then, if the oblation has not been made, the priest can begin anew so that they may hear the whole Sacrifice. 3° If the priest remembers some impediment, e.g. that he is not fasting, or that he is not in the state of grace, or that he is irregular, provided that the Mass can be broken off without scandal or note.[3]

Resp. 3° Nevertheless, it is not lawful to interrupt, even accidentally, once the Canon has been begun, and *a fortiori* once the Consecration has been completed, except from a very grave cause. Hence Mass can always be interrupted, indeed must be, if a necessary Sacrament is to be administered, i.e. Baptism and Penance; likewise Extreme Unction or Viaticum, when these are to be administered for

this reason, because absolution could be given only doubtfully (n. 1226. q. 2°. R. 1°). Otherwise, between the Consecration and Communion, it is not becoming, unless there is question of Viaticum, and provided that in that case the celebrant ought not to take off the sacred vestments, nor lose sight of the altar.[4] - Without a just cause, a notable interruption is mortal.[5]

Query 4° What is to be done if a priest, overtaken by illness or death, cannot complete the Sacrifice?

Resp. 1° If the priest fails before the Consecration, nothing is to be done by another priest, because the Sacrifice was not properly begun.

Resp. 2° But if he fails after the Consecration, even of only one Species, then another fasting priest, if he is present, must supply; if no fasting priest is present, another, even not fasting, should supply and complete the Sacrifice; because the precept of procuring the integrity of the Sacrifice urges more gravely. Indeed even an irregular or excommunicated priest would be obliged to supply. Nevertheless, if another priest could not be found immediately, after one hour has intervened, more probably he should no longer be sought, because moral union would be lacking, and therefore it would not be judged the same Sacrifice. But if a priest overtaken by illness while celebrating can complete the Sacrifice after some interruption, he himself will complete it better than another, even if he is not fasting.

Notes to n. 1333 - note sequence 1. (1) Tr. XVII. n. 102-104. (2) L. VI. 399 and S. C. R. 10 June 1690 in Mediolan. sub fine. (3) L. VI. 409. 410. Exam. Ord. n. 112. (4) Ib. 410. (5) Ib. 402. Notes to n. 1333 - note sequence 2. (1) L. VI. 352. (2) Conc. Pl. Balt. II. a. 364. (3) L. VI. 352. 353. (4) Ib. 354. (5) De Herdt. T. II. n. 177.

1334. - Resolves. 1° It is illicit to celebrate with the head covered. This is established from c. *Nullus* de Cons. dist. 1. And indeed according to the common opinion it is mortal to celebrate the whole Mass with the head covered; but to celebrate with a skullcap (*calotte*) up to the Canon, contempt and scandal being excluded, is only venial; indeed probably it is without even venial fault, although it be done without dispensation up to the Canon only from a reasonable cause and in a private place, or even in a public place, if the reason is manifest to those present, and the priest cannot celebrate without notable inconvenience. Nevertheless it is illicit to celebrate the entire Mass with the head thus covered without Apostolic license. Thus expressly St. Alphonsus,[2] after others. - Craisson, *Man. Jur. Can.*[3]

2° It is illicit by common law to celebrate with a false head of hair (*wig*), because by it also the head of the celebrant is covered. Thus from the Decree of Innocent XI, in which moreover Bishops and Apostolic Nuncios are prohibited from granting this license.[4] - But this prohibition has passed into desuetude in many places.[5]

3° A priest is not excused from venial sin who omits blessings, inclinations, genuflections, etc. ... Say the same of him who advertently does not genuflect to the ground, or contrary to the prescriptions of the Rubric changes the order of blessings, or performs these too hastily.

4° It is a grave sin, unless the lightness of the matter excuses, to omit the parts of the Mass which are called ordinary, or which are always recited or done. Hence Doctors commonly say that it is mortal to omit the Confession with the other things at the beginning of Mass, the Epistle, the Gospel, the principal Collects, the Offertory, the Preface, the breaking of the Host, and its mixing with the Blood.

5° It is mortal to omit in the Canon any prayer, or 10 or 8 names of the Saints (words?), or to change its words so that the sense is changed, or to omit some word by which, when removed, the remaining

words do not make sense. - The same is to be said if the *Pater noster* or *Agnus Dei* is omitted; likewise concerning *Libera nos*; *Domine, non sum dignus*; and *Quid retribuam*; likewise concerning the purification of the paten and chalice after the consumption.[1]

6° It is venial to omit one of the three principal Collects. If the first prayer has been omitted, it seems it is to be recited together with the Secret, not afterwards. It will not be mortal to omit other prayers which are added in the Mass besides the proper Collect.[2]

7° He sins venially who, contrary to the express prescription of the Rubric of the Missal, a) pronounces those things which are to be said secretly so softly that he does not hear himself (indeed gravely, if he pronounced the words of Consecration thus); b) those things which are to be said in a loud voice, softly, or so loudly that he disturbs other celebrants; c) those things which are to be said softly, loudly. Nevertheless there would be no sin in reciting those things which are to be recited in a subdued voice so that only the ministers hear them.[3]

8° To mutilate words or to interpose a syncopation, with the sense preserved and scandal excluded, is no more than venial.[4]

9° To omit extraordinary parts, namely those which are not said in every Mass, is only venial. - Thus commonly, unless so many parts are omitted that, taken together, they constitute notable matter. - Hence it will be only venial to omit the *Gloria*, *Credo*, Collects besides the proper one of the Mass, the Tract, or special things about the Preface or the *Communicantes*. - Thus commonly. - Likewise to celebrate a votive Mass or Mass of Requiem when this is not lawful according to the Rubrics is venial, unless it becomes mortal by reason of contempt or scandal. Thus, for example, you will with difficulty be excused from grave scandal if you read a Mass, at least a public one, of Requiem on the solemn feasts of Easter or of the Nativity of the Lord.[1]

10° The washing of hands before Mass must be done at least under venial obligation, and under grave obligation if the hands are very unclean, on account of reverence for the Sacrifice. - But to omit the washing after Mass will be no sin.[2]

11° Although there is no sin in omitting the prayers before and after Mass, nevertheless a priest who approached to sacrifice without any other preparation would not be without some fault.[3]

12° A priest would sin if in the purification of the Chalice he used water alone, but only venially according to the common opinion.[4] - Several also excuse a priest from venial sin if he is an abstainer from wine. Thus Tamburinus. - See more concerning the Rubrics and Ceremonies in the authors.

13° Whether it is mortal to celebrate with notable voluntary distraction, e.g. in those things which are recited in the Canon, and especially under the Consecration and Communion, is disputed. St. Alphonsus rather adheres to the affirmative opinion, because, as he says, the Sacrifice, besides the character of prayer, by force of which it would not be certainly mortal (cf. n. 402), has moreover the character of a most excellent worship of Religion, "to which he seems to bring grave irreverence, who, while he professes to worship God by a religious act, voluntarily" and notably "distracts himself."[5]

14° The following things are rightly admonished by the Fathers of the Second Plenary Council of Baltimore:[6]

"In celebrating the divine Sacrifice let pains be taken diligently, that all ornaments of altars and sacred vessels be clean; not foul corporals or purificators; not torn or unbecoming vestments; but let the

garments of private attire lie hidden under the amice and alb so that they do not appear in an unbecoming or worldly manner; nor let anything be unworthy of the tremendous altar or the administration of the Sacraments."

"That all things be done according to order, and that the solemn rites of the Church be preserved whole, we admonish Rectors of churches that they diligently watch to eliminate abuses which have invaded ecclesiastical chant in these regions. Therefore let them take care that music serve the Most Holy Sacrifice of the Mass and the other divine offices, but not that the divine offices serve music. Let them know that, according to the rite of the Church, songs in the vernacular tongue may not be sung during the solemnities of Masses or solemn Vespers." (H) p. 403 and (15) p. 418.

Notes to n. 1334 - note sequence 1. (1) L. VI. 355. (2) Ib. 397. (3) n. 3688 sq. (4) L. VI. 398. (5) Craisson. Man. Jur. Can. n. 3692. Notes to n. 1334 - note sequence 2. (1) L. VI. 404. (2) Ex. Ord. 125. (3) L. VI. 405. (4) L. VI. 406. (5) Ib. 413-416. (6) Ib. 407. Notes to n. 1334 - note sequence 3. (1) L. VI. 420. (2) Ib. 409. (3) Ib. 410. Dub. 2. (4) Ib. 408. (5) Ib. 410. Dub. 5. (6) a. 360. 361. Appendix annotation (15), to n. 1334. 14°. p. 86. col. 2. S. R. C. seems to have receded from the former severity as regards the singing of songs in the vernacular language. For it responded, on 27 Sept. 1864, n. 5336, and 11 March 1871, n. 5472, that this custom of singing before the Most Holy Sacrament, or in its processions, and likewise while, the Sacrament not being exposed, the divine offices are celebrated, can be tolerated and observed. Cf. Nouv. Rev. Th., T. XII. p. 241. n. 27.

APPENDICULA.

ON THE DECREES OF THE SACRED CONGREGATION OF RITES AND ON CUSTOM AGAINST THE RUBRICS.

1335. - Besides the Rubrics of the Missal, Breviary, Ritual, and other liturgical books, there are also decrees of the Sacred Congregation of Rites, which likewise must be judged as the proximate rule of the same rites.[1] This is clear from what was said in n. 172. 4° and 173. q. 3°.

I. The Decrees of the S. R. C. can be distinguished as twofold, general and particular. See what was said in n. 173. q. 4°.

II. They are preceptive if either they are bare declarations or interpretations of Rubrics and concern a preceptive Rubric, or if they are in the rigorous form of a decree, i.e. they have some clause of command, as, e.g., *he commanded it to be observed*.[2] Otherwise they are only directive, nevertheless to be observed by all with due respect and to be preferred to any contrary opinion of authors.

III. That they oblige, they must be a) authentic (n. 173. q. 3. R. 1°), such as are all those which are had in the Gardellinian Collection (ib. q. 6°); nor is it enough that they were given by the Prefect or Secretary of the S. R. C. or by others outside the Congregation;[3] b) if they are extensive, promulgated in the manner which we stated in n. 173. q. 5°.

IV. If any decrees are truly contrary to one another, one must stand by the later one. - But if some apparent discrepancy is had between the general Rubrics of the Missal and those which are noted in the Order of Mass, each Rubric is to be followed with equal form, reconciling, as far as possible, their dispositions; for the discrepancy ordinarily comes from the fact that what is expressly prescribed in one is passed over in silence or expressed more obscurely in the other. The same is to be said concerning a discrepancy which sometimes occurs between the Missal and the Ceremonial of Bishops; concerning which, however, it can also be said that the Ceremonial can be left to cathedral churches and others, for whose use it is prescribed.[1]

I have said further that abuse alone is forbidden. Wherefore musical chant must be grave, decorous, sweet and pious, distinct, intelligible. Cer. Ep. L. I. c. 28. n. 12; Circular Letters of the Eminent Cardinal Vicar of His Holiness, 18 and 20 Nov. 1856, apud *Anal. J. P.*, month of May 1857. Hence in it these abuses are to be reproved and guarded against: 1° lest whether in organ or song anything lascivious or impure be mixed in, such as music is to be kept away from churches; lest profane melodies be introduced, or those which breathe levity, or by excessive noise dissipate rather than foster and excite affections of piety; lest theatrical, military, or worldly songs or modulations be transferred to sacred concerts; so that from sacred music there be removed whatever is alien from its scope, and serves only the curiosity or pleasure of the hearers, or even the fame of the authors. 2° Lest the text be notably altered by mutilating, putting before, putting after, and altering the words and the sense of them, and by adapting them to the modulation in such a way that the music does not seem to serve the words and sense, but these to serve the music; which S. R. C. judged to need reform, 21 Feb. 1643. 1. n. 1285. 1432. For this reason Benedict XIV prescribes in the cited Constitution, § 9, that care is to be taken that the words which are sung be perfectly and plainly understood. 3° Lest those things which are sung under the introit, offertory, elevation, and communion be so prolonged that the celebrant, by waiting, is compelled to interrupt the Sacrifice and to linger distracted longer at the altar, so that music does not serve the Mass, but the Mass serves music. S. R. C., 21 Feb. 1643. 2. n. 1285. 1432; Benedict XIV, Const. cited, § 13.

The Ceremonial of Bishops, L. I. c. 28. n. 1, says that it is fitting that the organ be played while in Mass the Most Holy Sacrament is elevated, but with a graver and sweeter sound. De Herdt, ib. n. 113, 114.

Concerning the use of instruments, Benedict XIV notes these things in the cited Constitution: "If instruments sound continuously, and only sometimes ... rest for some moments, so that they may offer free space for hearing harmonic modulations and rippled ejaculations of voices ... but otherwise overwhelm and bury the voice of the singers and the sound of the words, the use of instruments of this kind is vain and useless, indeed forbidden and interdicted." Which instruments are forbidden, see apud the same Benedict XIV, Const. cited, § 11.

Notes to n. 1335. (1) L. VI. 401. (2) Ib. (3) De Herdt. T. I. n. 8. Appendix annotation (Eta), to n. 1335. p. 86. col. 2. Sacred song can be of very great help to sacred worship, since it is able both to express the very text of the Sacred Liturgy with the greatest perfection possible, and to excite the minds of the hearers to devotion, and to impress the signification of the liturgical words more deeply upon the hearts of the faithful. But when song of this kind is such that it serves for expressing and exciting human passions rather than pious affections, and keeps the minds of the faithful intent upon the music rather than upon the words of the Sacred Liturgy, it will hinder true devotion more than it will help it. This was the reason why Holy Mother Church, while on the one hand she has never not taken upon herself both the care and patronage of song, on the other hand has always attempted, insofar as it could be done, to turn away abuses and dangers from it. Wherefore she has never omitted to prescribe by whom, what, and in what manner singing is to be done in churches. a. By whom it is to be sung. - Besides the priest, the choir ought to sing. Mention is also made sometimes in the Sacred Liturgy of the people singing together, for example at the Kyrie eleison and at the Litanies, while in the consecration of a church a procession is made around the church with the Relics. In sung Masses the choir holds the place of the people, as the minister does in private Masses. The singers, and musicians, as completing a liturgical action, have a distinct place in the church; they must attend processions clothed in a surplice and not in secular dress; they are forbidden to converse, make noise, or turn their back to the altar; they are commanded to perform their office with a recollected and devout mind, and to believe with the heart and profess by deed what they believe; or at least not to lead a notoriously depraved life, nor to be non-Catholics. Conc. Prov. Col. II. 20; Conc. Prov. Prag. III. 1; Conc. Prov. Vien. IV. 6. It is resolved. - Universally women are to be excluded from the choir, and a fortiori those who sing on stages. Thus demands the ancient custom of the Church,

the liturgical law commanding women to be far from the service of the altar, the dignity of ecclesiastical song, and the edification of the faithful. Conc. Prov. Col. l. c.; Westmon. I. Decr. XVIII. n. 20. Except if there is question of churches of Nuns; a case of necessity; a long-standing custom. b. What is to be sung. - 1) Nothing is to be sung except those things which the Church prescribes, or at least, says De Herdt, P. I. n. 112, "a long-standing, reasonable, and praiseworthy custom, with the consent of the Ordinaries of places, tacit or express, has approved." 2) The rubrics of the Missal, Tit. XVI. 3, indicate those things which are to be sung or intoned by the celebrant. 3) "By the choir are sung the introit, Kyrie eleison, Gloria, gradual, Alleluia, tract, sequence, Credo, offertory, Sanctus, Agnus Dei, communion, and whatever things are to be answered to the celebrant." De Herdt, P. I. n. 111. For the sake of brevity nothing is to be omitted, and the Mass is to be sung as it stands in the Missal. Thus answered S. R. C., 5 July 1631. 5. n. 776. 923, concerning Masses of the dead. Hence, according to the decrees of S. R. C., either Masses of the dead are not to be celebrated, or all things are to be sung which regard the prayer of suffrage, such as also are the sequence Dies irae and the offertory; yet in the sequence the singers can omit some strophes. In a conventual Mass in which the choir is bound to sing the Symbol, it is to be sung entire and in an intelligible voice; the verses cannot be supplied alternately by the organ, nor meanwhile can the celebrant proceed with the Mass. The Kyrie, Gloria, gradual, sequence, Sanctus, and Agnus Dei can be supplied alternately by the organ; but wherever the organ is used, the beginning and end, and those things which require an inclination and genuflection, are always to be sung. - The singers can and must begin the introit only when the celebrant reaches the altar. The Sanctus is sung after the preface, but Benedictus qui venit according to the Ceremonial of Bishops is reserved until after the elevation of the Most Holy Sacrament; this disposition of the Ceremonial is to be observed in Pontifical Masses, and is laudably observed in others. But if the Benedictus in other Masses is sung before the Consecration, under the elevation, or rather afterward, the Tantum ergo or some antiphon proper to the Most Holy Sacrament can be sung. The communion is to be sung after the celebrant has consumed the Most Holy Blood, during the distribution of Holy Communion; but if this does not take place, during the purification. > Notes to appendix annotation - note sequence 9. > > 1 There is no need to say that this does not apply where, from the obligation of singing the sequence, as in parish churches, they are to be taught to sing it insofar as circumstances permit. c. In what manner it is to be sung. - Plain and firm song, which is called Gregorian, if it is performed rightly and decently, is heard more gladly by pious men and is deservedly preferred to the other, which is called harmonic or musical. Benedict XIV, c. unus, 19 Feb. 1749, § 2. Students of Seminaries are to be taught the discipline of this song from the salutary prescription of the Council of Trent, Sess. 23. c. 18. de Ref.; and the Fathers of the Second Plenary Council of Baltimore, n. 380, judge it greatly to be desired that its rudiments be explained and practiced in parish schools. - As to the matter of the tone in which Gospels, Epistles, Chapters, etc., are to be sung, the Ceremonial of Bishops, L. I. c. 27, sends one to other books, the Pontifical, Sacerdotal, Directory of the Choir, and similar books, and describes only the tone of the prayers; having described it, it adds: "It is regular that in both," namely solemn and simple, "the prayers be recited in a grave and fitting voice, with some pause interposed at the end of each clause, and especially in the final clause, and with decorum and gravity." - It is clear of itself that Graduals, Antiphonaries, etc., endowed with the approval of the Holy See are to be preferred. Although Gregorian chant is preferred, nevertheless musical chant and also the use of musical instruments has been permitted and received by use, and abuse alone is reproved. Benedict XIV, const. cited, §§ 3. 6. 7; Ferraris, V. Musica, n. 1. 2. I have said that musical chant is permitted. Yet it is by no means consonant with the mind of the Church that it be used regularly; for by the very fact that she prefers Gregorian, she shows sufficiently that musical chant is to be used only exceptionally. Moreover, musical chant was forbidden to Nuns by several Pontiffs, and expressly by Clement VIII, 12 July 1592, apud Craisson, Man., n. 5180. Finally, the Ceremonial of Bishops, L. I. c. 28. n. 13, also has these things: "In Masses and offices of the dead we use neither organ nor music, which they call figured, but firm chant, which also during the time of Advent and Lent" - feasts and the third Sunday of Advent and the fourth of Lent are not comprehended in this rule, according to the same Ceremonial - "it is fitting to use." (52) p. 430. Appendix annotation (52), to p. 405. col. 1. The words utimur and convenit indicate sufficiently that here there is no question of a strict precept. It is clear as regards Masses of Requiem from the following declaration of S. C. R., 31 March 1629, apud Mühlbauer, Decr. auth., II. p. 588: "The organ can be permitted in Masses of Requiem, but with a certain sad and mournful sound, notwithstanding the prohibition of the Ordinary," that is, unless the Ordinary prohibits the use of the organ.

1336. - On custom against the Rubrics.

Query. What conditions are required that it be legitimate?

Resp. 1° That it be immemorial.[2] This is clear from various decrees of the S. C. R. and from c. *Apostolici ministerii* of Innocent XIII, 23 May 1723, according to De Herdt.[3] - 2° That it not openly conflict with the Rubrics of the Missal, Breviary, Ceremonial of Bishops, or Roman Ritual, or also

with the general decrees appended in the Missal and Breviary. - I said: that it not OPENLY conflict, etc.; for the S. R. C., according to De Herdt,[4] permits and approves those customs which, although they plainly do not agree with the rules contained in the Missal, Breviary, Ceremonial, and Ritual, nevertheless do not openly conflict with the same, but rather concern a certain manner. 3° That it be laudable, i.e. not "contain a positive indecency which cannot becomingly be tolerated."[5]

"From these things it is clear," says De Herdt,[6] "that very many customs are illegitimate, and therefore to be removed and corrected; which must be done the more if they regard clerics alone, so that, with the people scarcely attending or not caring much, they can be corrected; but if it is foreseen that wonder and scandal will arise in the people from the change to be made, one must proceed very prudently, and sometimes it is better to tolerate something, than to move disturbances, which sometimes are stirred up, even from a good cause, not without great harm to Religion. But truly legitimate and laudable customs ought not to be changed, and if the change would yield to someone's burden, or to wonder and scandal of the people, they cannot be changed at all."

Notes to n. 1336 - note sequence 1. (1) De Herdt. T. I. n. 9. (2) L. VI. 401. (3) Ib. (4) T. I. n. 11. R. 1°. (5) T. I. n. 11. R. 2°. (6) L. VI. 401. De Herdt. T. I. n. 11. R. 3°. Cf. Litt. Rundschau, 1860. col. 741. (7) Ib. Notes to n. 1336 - note sequence 2. "This one thing we except, namely, when together with the solemnity the Divine Office shall have been transferred to a Lord's day, only one Mass for the people is to be applied by Pastors." - Thus Pius IX in the cited Constitution.

DAYS,

on which, outside the case of an indult of remission, to be obtained by the Bishops from the S. C. C. or respectively from Propaganda Fide, Pastors and Ordinaries are bound to celebrate for the people, Pius IX (see n. 1322. II.) determined to be the following:

Namely, the Lord's days of the whole year; the Nativity of Our Lord Jesus Christ; Circumcision; Epiphany; Resurrection with the two following ferial days; Ascension; Pentecost with likewise the two following ferial days; Most Holy Trinity; Solemnity of the Body of Christ and Invention of the Holy Cross, and also the feasts of the Conception, Purification, Annunciation, Assumption, and Nativity of the Virgin Mother of God; Dedication of St. Michael the Archangel; Nativity of St. John the Baptist; of Sts. Peter and Paul, St. Andrew, St. James, St. John, St. Thomas, Sts. Philip and James, St. Bartholomew, St. Matthew, Sts. Simon and Jude, and St. Matthias, Apostles of Christ the Lord; likewise St. Stephen, Protomartyr; the Holy Innocents; St. Lawrence, Martyr; St. Sylvester, Pope and Confessor; St. Joseph, also Confessor; and St. Anne, Mother of the Mother of God; the Solemnity of All Saints, and one of the more principal patrons in any kingdom or province, and another likewise more principal in any city, town, or village, where it happens that these patrons are had and venerated.*

TREATISE ON THE SACRAMENT OF PENANCE

PART FIRST: ON THE ESSENCE OF THE SACRAMENT OF PENANCE, OR ON ITS NATURE, MATTER, AND FORM

CHAPTER I: ON THE NATURE OF PENANCE

1337. - Penance, considered generically, sounds the same as the sorrow of soul which anyone experiences after he has done or omitted something which he would wish had not been done or had not been omitted. But in the strict and proper sense penance is sorrow of soul, insofar as it is referred to God offended, and hostile to us.

I. Penance, as a virtue, is defined: A moral virtue inclining one to detestation of sin, insofar as it is an offense of God, and to an efficacious purpose of avoiding it in the future, and of satisfying divine justice.

Penance was never not necessary to the sinner by necessity of means unto salvation. For it is altogether repugnant that an impenitent sinner be received by God into friendship.

It is also necessary by necessity of divine precept, as is clear from many testimonies of Sacred Scripture, e.g. "Unless you shall do penance, you shall all likewise perish," etc.[1]

The effect of perfect penance, namely of that which leads to those acts of obedience by which, from His immense mercy, God Himself has revealed that He is placated and reconciled with sinful man, is twofold: 1° remission of sins, as is clear from countless places of Sacred Scripture; 2° remission of eternal punishment. For a justified man cannot be liable to eternal punishment. It is clear also from Trent.[2]

II. Penance, as a Sacrament, is defined: A Sacrament of the new law instituted by Christ after the manner of a judgment, for remitting, through priestly absolution, to a contrite and confessing man sins committed after Baptism.

This Sacrament differs especially from the others in this, that it is administered after the manner of a judgment: for the penitent is present at once as accused, witness, and accuser; and the priest as judge pronouncing sentence.

Notes to n. 1337. (1) Luke 13. 5. (2) Sess. 6. c. 7.

1338. Points To Be Established. - I. Penance is a true Sacrament of the new law. See Dogmatics.

II. The Sacrament of Penance has the power:

1. Of remitting all sins committed after Baptism.
2. Of restoring infused virtues, yet according to the measure of disposition.
3. Of revivifying works made dead. See Dogmatics.

III. The necessary parts of the Sacrament of Penance are 1° contrition; 2° confession; 3° absolution; 4° satisfaction, insofar as it is to be accepted by the penitent. For the Sacrament of Penance was instituted after the manner of a reconciling judgment; but this cannot be had without sorrowful confession of guilt, a disposition of soul for undergoing the satisfaction enjoined, and the absolution of the priest. - But satisfaction, insofar as it is to be imposed or fulfilled, is only an integral part of

this Sacrament; because the primary effect, namely grace and the remission of sins as to guilt and eternal punishment, can be had without satisfaction.

IV. But the acts of the penitent required for the remission of sins are: 1° contrition; 2° confession; 3° satisfaction in the sense explained. This is clear from Trent.[1]

V. The Sacrament of Penance is necessary - by necessity of precept in reality, and by necessity of means in desire, at least implicit - for remitting mortal sins committed after Baptism. Thus in the new law Christ the Lord, the supreme legislator and provider, has established by His divine goodness and providence.

Hence for those stained by mortal sin committed after Baptism, the Sacrament of Penance is necessary unto salvation at least by necessity of precept; but penance or contrition with the desire of the Sacrament, or with a serious purpose, at least implicit, of confessing sins when the opportune occasion has been given, is always necessary by necessity of means.

CHAPTER II: ON THE MATTER OF THE SACRAMENT OF PENANCE

1339. - As in the other Sacraments, so in the Sacrament of Penance there is a twofold matter, one remote, but the other proximate.

The remote matter is all sins committed after Baptism; which are called the matter about which, because absolution is concerned with destroying them. But it is either necessary, or merely sufficient and free.

The necessary remote matter is all mortal sins committed after Baptism, and never yet directly remitted by the power of the keys; because by divine precept sins of this kind are to be subjected to the keys. - But sufficient and free matter is all venial sins, and all sins, whether mortal or venial, already otherwise duly subjected to the keys. It is called sufficient, because any sins, even the least, can be the object of sacramental pardon. But it is called free, because there is no precept of subjecting them to the keys. Concerning these things there is proof from the perpetual practice and tradition of the Church, and also from the definition of Trent.[2]

But the proximate matter of the Sacrament of Penance is the three acts of the penitent, namely contrition, confession, and satisfaction, which are called as it were the matter of this Sacrament, because they are in the place of the sensible matter which in the other Sacraments is subjected to the form; for through these acts sins are proposed to be destroyed by the words of the form. This is clear especially from Trent.[1]

Notes to n. 1339. (1) Sess. 14. Can. 4. (2) Sess. 14. c. 5.

1340. Questions. - Query 1° Are sins already duly confessed and remitted through absolution sufficient matter of the Sacrament of Penance?

Resp. Affirmatively. This is certain among all, says St. Alphonsus.[2]

The reason is, 1° because a sin, although remitted, is always a sin committed; and just as contrition for the same sin can be repeated with fruit, so also confession; and it happens only *per accidens* that the sin, as already remitted, is not remitted, though nevertheless *per se*, as committed, it is capable of remission. - Nor is it an obstacle that then the Sacrament does not delete this sin; for it suffices that it have the effect in first act, namely that it bestow grace destructive of sin, although *per accidens* in second act it does not delete the sin, as happens when someone approaches the Sacrament already perfectly contrite. For in each case absolution has the same force, namely an increase of grace, remission of punishment, etc.; and this grace, or increase of justice, can truly be called justification, just as an increase of heat is called heating, as Sylvius says.

2° Because a sentence already rendered can be confirmed for greater security, and greater consolation and quiet of soul, as is sometimes wont to be done in civil matters; and if perhaps the sin submitted to the keys has not yet been remitted, then it will be able to be remitted.

3° It is clear also from the Declaration of Benedict XI, in the Canon Law:[3] "Although," he says, "it is not of necessity to confess the same sins again, nevertheless ... that the Confession of the same sins be repeated, we judge salutary." It is clear besides from the constant practice of the faithful, with the Church approving.

Query 2° Is an adult to be baptized conditionally, in doubt concerning the preceding Baptism, bound to confess sins already accused?

Resp. Negatively. The reason is that those sins have already been remitted through the Sacrament of Penance, if the prior Baptism was valid; but if it was not valid, they are not matter of Confession, and they will be remitted through the second Baptism. - Reuter.[4]

Query 3° Is the aforesaid adult bound to accuse sins not yet confessed, or committed after the last Confession?

Resp. Affirmatively, as is clear from what has been said n. 1264. IV. 2), and from Resp. S. Inq. p. LIX. related. The reason is that all obligations which are joined by some nexus with an act certainly performed, and which is not established to be null, remain in their force. Wherefore, since after Baptism there remains in the Church no other Sacrament by which sinners can be reconciled to God, they neither ought nor can be sent away freed from this obligation, who certainly have received Baptism, concerning whose valid collation only doubt is present.

Query 4° Must an adult who is to be baptized and absolved conditionally first be baptized or absolved?

Resp. From the Resp. S. Inq. in the preceding question 3°, he ought first to be baptized conditionally, and then to be absolved under condition. Yet it is expedient to premise Confession before Baptism for the better disposition of the one to be baptized, but to confer absolution immediately after Baptism. (6) p. 414.

Query 5° Is a sin accused only in general sometimes sufficient matter of the Sacrament of Penance, e.g. if someone says: I ACCUSE MYSELF OF ALL MY SINS?

Resp. 1° Affirmatively, certainly in a case of necessity, or when the penitent, e.g. one at the point of death, cannot accuse any sin in species, even generically. - Thus most commonly with St. Thomas. - But I think the case of moral impossibility is to be likened to the case of necessity, when a sufficient cause is present, on account of which the penitent is not to be sent away without absolution. Such a case would be given if the confessor, as not rarely happens, wastes oil and labor while he tries in vain to induce an untaught person, or one dull from old age, or a pious person not having any certain venial sin, and not absolved from them for a rather notable time, to declare some certain venial sin concerning which they sufficiently grieve, or a mortal sin already confessed. - A general accusation also suffices, when there is question of a penitent whose sins already confessed are sufficiently known to the confessor.[1]

Resp. 2° Negatively, at least as to liceity, since Doctors dispute concerning the sufficiency of such accusation for the validity of the Sacrament outside the cases under 1°, and because inconveniences arise from it.[2]

Query 6° If the penitent offers only doubtful sufficient matter, is the confessor bound to inquire about the past life, so that he can absolve?

Resp. 1° Affirmatively, if he wishes to absolve, because otherwise the Sacrament would be exposed to danger of nullity. Except if a case occurs in which the penitent can be absolved conditionally, concerning which below.

Resp. 2° Negatively, if he does not wish to absolve, but to send the penitent away with only a blessing; because the penitent who does not bring matter certainly sufficient has no right to absolution. - Likewise, if the penitent seems to have doubtful sorrow concerning only venial sins, ordinarily the confessor is not bound to use great diligence to move him to sorrow, although he does this much better.[1] - But the contrary must be said if there is question of doubtful mortals, on account of danger to the penitent.

But the confessor sending away the penitent with only a blessing is not always bound to procure efficaciously that the penitent himself understand this well. For in fact certain causes sometimes demand that with certain persons, either very ignorant, or scrupulous, or ostentatious of piety, one proceed in this or a similar manner: "You will recite, therefore, three Hail Marys; elicit an act of contrition, and may God bless you. The blessing of God almighty," etc.

Query 7° Must a penitent be necessarily absolved who does not bring necessary matter?

Resp. Negatively *per se*, if the penitent does not ask for absolution; but even without absolution he can be permitted to receive Holy Communion; because, since he is in the state of grace, the Sacrament of Penance is not required for disposing him to that. Yet ordinarily it is expedient to absolve such a person, if he has confessed sufficient matter, concerning which he sufficiently grieves, so that he may receive both an increase of sanctifying grace and sacramental graces, and an easier remission of venial sins and punishments, etc.

But if he has not received the Sacrament for a notable time, or if he needs special helps, e.g. for overcoming temptations, or if the penitent himself, offering, as above, sufficient matter and being disposed, desires or asks it, he must be absolved.[1]

Notes to n. 1340 - note sequence 1. (2) L. VI. 427. (3) c. 1. L. V. T. VII. Extravag. Comm. (4) n. 118. Notes to n. 1340 - note sequence 2. (1) Acta, Vol. IV. pp. 323. 324. (2) L. VI. 480. 488. V. Pr. Conf. 71.99. Vind. P. V. q. VII. 1). I. in fine. Notes to n. 1340 - note sequence 3. (1) Prax. Conf. n. 71. Appendix annotation (Phi), to Tom. I. [p. LX] (/manuals/konings/v-on-confession-sacramental-to-be-required-from-heretics-to#p6). Tom. II. n. 1340. q. 4°. p. 90. col. 1. "The Sacred Congregation in the Meetings held on Wednesday of this month," November, "1875, ordered it to be written back ... If there is question of those who must be baptized under condition, then, for the greater ease of the ecclesiastical function, they will be able first to be heard sacramentally as to the accusation of their faults; then, after the conferral of Baptism under condition, the confessor, again taking up by summary heads with the penitent those things concerning which he has already made accusation, may absolve him sacramentally, likewise under condition."

1341. Resolves. - 1° Sufficient and licit matter of Confession is venial sins, or mortal sins otherwise confessed, according to their own species, even generic, prescinding from number and from any circumstances whatever. The reason is that thus there is had Confession of a sin, and indeed of a determinate sin, at least of one in species; nor is there an obligation of adding the number of venial sins, or of mortal sins already remitted.[1]

2° If someone accuses himself of no sin in particular, and says, e.g. I know nothing, except that I must often have sinned like other men, he should be examined as children are wont to be examined. If nothing can be elicited from the last Confession, let him be asked about his past life, ... whether he ever lied in his life ... whether he ever offended his parents, or was angry, or disparaged his neighbor, etc., etc.

3° With little women, devout women, and others of this sort, who confess only confusedly and about very light things, care must be taken that they add some fault from their past life in species, at least

generically. Then, however, you will try to excite them to sorrow and purpose, and, having absolved them, you will dismiss them in peace.

4° For greater security and for perceiving the fruit more surely, penitents are to be induced so that, besides doubtful sins or even daily light sins, they always join from sins already confessed at least generically some other certain sin, concerning which they grieve more vehemently, lest perhaps the Sacrament be exposed to danger of frustration. But if the accusation of some mortal sin already confessed cannot prudently be obtained, then it will suffice if the penitent accuses himself of some venial sins, at least insofar as he has committed them innumerable times in his life, the confessor leading in this or a similar manner: "Now you accuse yourself of all sins committed in the time before this, i.e. of all disobediences, lies, murmurings, etc."

5° But penitents who observe the aforesaid practice are to be admonished that they not subject again to the keys a sin of past life only from a certain custom, especially if that sin is light; because there is fear lest they do not grieve sufficiently, and so do not attain the purpose of providing for the validity and fruit of the Sacrament.[2]

Notes to n. 1341. (1) Prax. Conf. n. 71. (2) Berardi, de Recid. n. 180. 5°.

CHAPTER III: ON THE FORM OF THE SACRAMENT OF PENANCE

The form of the Sacrament of Penance can be distinguished as twofold: one essential for the validity of the Sacrament, and the other only preceptive or rubrical.

1342. - I. The essential form consists in the words: *I absolve thee from thy sins*. This is clear from Trent.[1]

II. The preceptive or rubrical form consists in those prayers which precede or follow the essential form. But thus it is had in the Roman Ritual: *May Almighty God have mercy on thee, and, thy sins having been forgiven, bring thee to eternal life. Amen.*

May the almighty and merciful Lord grant thee indulgence, absolution, and remission of thy sins. Amen.

May our Lord Jesus Christ absolve thee, and I, by His authority, absolve thee from every bond of excommunication (suspension), and interdict, insofar as I am able and thou needest; then: I absolve thee from thy sins in the name of the Father, and of the Son, and of the Holy Ghost. Amen.

May the Passion of our Lord Jesus Christ, the merits of the Blessed Virgin Mary and of all the Saints, whatever good thou shalt have done and whatever evil thou shalt have endured, be to thee unto remission of sins, increase of grace, and the reward of eternal life. Amen.

The right hand is raised toward the penitent from the word *Indulgence* up to the word *Passion of the Lord*; and the Sign of the Cross is made over the penitent while saying: *In the name of the Father ...* The word *suspension* is omitted for lay persons. But there is a pious custom that the confessor before Confession, while blessing the penitent, say: *May the Lord be in thy heart and on thy lips, that thou mayest rightly confess all thy sins*, or recite a similar prayer.

In practice the prayers *May Almighty God have mercy* and *May the almighty and merciful Lord grant thee indulgence* can easily be omitted, as is clear from the Roman Ritual. Indeed according to the more common opinion they can always be omitted without sin. The same also is said concerning the prayers which follow absolution; but since, according to the probable opinion, these elevate the good works of the penitent unto the merit of sacramental satisfaction, it is fitting that they be omitted as rarely as possible. - But the words *May our Lord Jesus Christ ...* cannot be omitted without venial fault, unless necessity urges, since the Roman Ritual says: "In more frequent Confessions it will be enough to say: *May our Lord ...* up to *the Passion of the Lord ...* exclusively." - S. C. R.[1] and Conf. dir. *per le C.* 15. n. 2.

Notes to n. 1342 - note sequence 1. (1) S. 14. c. 3. Notes to n. 1342 - note sequence 2. (1) 28 Feb. 1847. n. 5089.

1343. Questions. - Query 1° Is absolution valid if the priest says only: I ABSOLVE; or I ABSOLVE FROM THY SINS; or I ABSOLVE THEE?

Resp. to the 1st. Negatively. The reason is that the word *I absolve* alone does not of itself carry any determinate sense, and it falls upon no subject; therefore it cannot be a valid form.

Resp. to the 2nd. Affirmatively as more probable, as it seems, at least speculatively. The reason is that by these words the subject is sufficiently determined; for the pronoun *thee* is sufficiently expressed in

the word *thy*. - Thus Lugo.[2] - St. Alphonsus,[3] as more probable, etc. Yet not a few deny it, whose opinion, as St. Alphonsus says,[4] as safer, is to be followed.

Resp. to the 3rd. Affirmatively as more probable, with the common opinion. The reason is that the whole effect of the Sacrament is expressed in these words, without adding *from thy sins*. - Besides, it seems to be clear also from the Catechism of the Council of Trent,[5] where only this is said: "But the form is: *I absolve thee*." And nothing else is added there. - Roncaglia, Lugo, etc. - Yet not improbably some deny it with Lacroix, and this opinion is to be stood by in practice.

Query 2° Is the deprecative form valid, e.g. *May God absolve thee*?

Resp. Negatively, at least more probably, with St. Alphonsus,[6] Lacroix,[7] and very commonly others. The reason is that the Sacrament of Penance was instituted after the manner of a judgment; hence Christ wished that the priest as judge would pronounce a sentence, and would express this: therefore sins must be remitted by the priest himself as minister of Christ; therefore it does not suffice that he beseech God to remit them. Therefore, etc. Besides, from the Council of Florence the indicative form alone is prescribed as the true form of the Sacrament of Penance.

Query 3° Is the elevation of the hand and the formation of the Sign of the Cross necessary in imparting absolution?

Resp. 1° It is certain that it is not required for the validity of the Sacrament, because it pertains neither to the matter nor to the form. This is clear from the Council of Florence and Trent, and also from the unanimous consent of Theologians, at least after Trent.

Resp. 2° Nor is it required under mortal sin for liceity according to the common opinion, against a few; because it is only a Rubric, which does not seem grave. Indeed several grave authors assert that this can be omitted without sin, as Busembaum, reported and implicitly approved by St. Alphonsus,[1] and many others. At least the elevation of the hand can be omitted without sin while the prayers which precede formal absolution are recited.

Query 4° Can a priest validly absolve several by one form, saying: I ABSOLVE YOU FROM YOUR SINS?

Resp. Affirmatively, because all things required for validity are found. And it can also licitly be done in a case of necessity, e.g. in shipwreck, before battle, or in the battle itself, etc.; and such absolution would be multiple, not indeed formally, but virtually and equivalently, and there would be as many Sacraments as there were men who, through some Confession and sufficient sorrow, were disposed. - Lacroix,[2] and all others.

Query 5° What presence of the penitent is reckoned moral with respect to absolution?

Resp. It must be such that the words: *I absolve thee*, according to the moral estimation of men, are judged to fall upon the penitent; but that moral presence is reckoned sufficient within which men can and are wont to speak in a common voice, although a higher one. Many extend it to 20 paces, especially if the penitent is not outside the sight of the confessor. In necessity at least the penitent is to be absolved under condition whenever he is perceived by some sense. - Thus commonly with St. Alphonsus.[3]

Hence: 1° One who seems about to fall from a roof, to fall into a river, or to be submerged in the sea, is to be absolved, at least if he is not far distant from the confessor. 2° If the confessor, on account of danger of infection or for another cause, cannot enter the room of the sick person, he ought to absolve him from the door. 3° If a penitent were to withdraw from the confessor not yet absolved, thinking himself absolved, he would have to be absolved if he were seen at a small distance, or were certainly known to be present within the nearby crowd; yet he would have to be called back if this could conveniently be done.

Query 6° Through the words: I ABSOLVE THEE FROM THY SINS, can the confessor validly absolve the penitent both from censures and from sins?

Resp. Affirmatively, because these words: *I absolve thee from thy sins*, involve absolution from every bond arising from sins; and nothing prevents the confessor from being able to direct his intention to absolution both of sins and of censures. - Thus commonly. - St. Alphonsus,[1] Lacroix.[2]

Query 7° Is absolution valid if the confessor absolves from sins before he absolves from censures?

Resp. Affirmatively, because censure is not an obstacle to the validity of the Sacrament, but only to its licit reception or administration. Yet he would sin gravely who first absolved from sins before censures, because he would act against a grave prohibition of the Church: except if there is question not of excommunications, but only of suspensions and interdicts; because those censures do not of themselves deprive one of the reception of the Sacrament of Penance.[3]

Notes to n. 1343 - note sequence 1. (2) D. 13. n. 26. (3) L. VI. 430. Dub. 1. (4) L. VI. 430. Dub. 1. (5) P. 2. c. 5. n. 19. (6) L. VI. 430. (7) n. 639. Notes to n. 1343 - note sequence 2. (1) L. VI. 425. (2) n. 645. (3) L. VI. 429. Notes to n. 1343 - note sequence 3. (1) L. VI. 430. Dub. 4. (2) n. 1567. (3) L. VI. 430. Dub. 4.

1344. - Query 8° Whether and when is a conditioned form valid and licit?

Resp. to the 1st. It is certain that absolution under a condition concerning the present or the past is valid in every case, provided the other requisites for the validity of the Sacrament are present; for the condition in no way changes the sense of the sacramental form, which it does not affect at all; but it affects only the will of the confessor, who does not intend to absolve unless the condition added is fulfilled; but once this has been fulfilled, the form becomes absolute; and therefore nothing is found which can stand in the way of its validity. - Thus St. Alphonsus,[4] who says that all agree concerning this. Cf. what was said n. 1218. q. 5°.

Resp. to the 2nd. It is equally certain that conditioned absolution is sometimes licit; for if it is valid, it must also be licit when necessity urges. - Thus most commonly the Theologians.[5]

Yet the doctrine of some is to be rejected as plainly lax, who hold that conditioned absolution can be imparted for any light cause whatever, and when no necessity urges, even if the sufficient disposition of the penitent, though burdened with mortal sins, is doubted in any way whatever. For no one fails to see how many sacrileges a practice of this kind would induce. Indeed the confessor would no longer be a prudent dispenser of the Sacraments, but would cast pearls before swine; and by this facility of absolving he would effect that penitents waste away in sins.[1]

But no more is the doctrine of those to be admitted, who with Collet and certain others hold that absolution under condition is not to be imparted except in extreme necessity, or in extreme danger of

life; for doctrine of this kind is supremely harmful to penitents, who can return to the confessor only with difficulty, and, dismissed without absolution, incur danger of eternal damnation.

But concerning the necessity in which absolution under condition can or ought to be imparted, according to the common doctrine and practice, the following rules seem to be established:

Rule I. - Absolution can and ought to be given under condition whenever, if granted absolutely, it would expose the Sacrament to danger of nullity, and, if denied absolutely, it would expose the penitent to danger of grave spiritual harm.

Rule II. - Even if necessity of this kind does not urge, nevertheless absolution can be given under condition whenever, if granted absolutely, it would expose the Sacrament to danger of nullity, and, if denied absolutely, it would deprive the penitent of some notable spiritual good, although not a necessary one.

Hence, with due conditions observed, when necessity urges, or when a just and proportionate cause is present, it is lawful to absolve conditionally in the following cases: 1° in doubt whether the penitent is living or dead; 2° in doubt of sufficient matter, for example if there is question of a pious penitent who "confesses only imperfections, which do not reach sins certainly venial." Yet very rarely,[2] or once in a month,[3] "and when he cannot assign certain matter from his past life, or not without great trouble";[1]

3° in doubt of fact concerning jurisdiction in the cases and under the conditions to be handed down n. 1394. q. 4°.[2] (On doubt of law, n. 60. I.); 4° in positive doubt (n. 1213) whether the penitent has been, or has been duly, absolved; 5° in doubt whether the penitent is morally present; 6° in doubt whether a dying person destitute of the senses is capable of the Sacrament; 7° in doubt concerning the disposition of the penitent, if there is question either of the half-witted, - to whom I equate those who are so stupid or untaught that whatever you say or do, you effect nothing, as sometimes happens with our Negroes; likewise the mute who do not know how to write, unless and insofar as one can deal with them sufficiently through some signs; likewise the deaf and those somewhat deaf in the case treated n. 1369. q. 6°; likewise those having their mind so confused or their tongue so stammering that their disposition cannot be judged, - or of children who are not yet perfectly capable of reason, especially if they bring a doubtful mortal sin, indeed also, not improbably, only venial sins, - or of a relapsed person in mortal sins, and there is fear lest he not return to Confession and waste away in his sins,[3] or, I add, despair, or apostatize, or pass over to heretics, - or of a dying person, or, I would add, of a woman in difficult childbirth, of a soldier about to go into battle, of one about to undertake a dangerous voyage, of one about to undergo a dangerous surgical operation, of one condemned to be beheaded, and the like; 8° if in some case the necessity of avoiding scandal or infamy would truly urge, because bystanders would see that he did not approach Communion after Confession had been made; yet the penitent could not communicate unless certainly disposed through contrition, on account of the precept of the Apostle, concerning which n. 1306 has been treated.[4]

But if the penitent is in good faith and no fruit is hoped for from admonition about not receiving Communion, the confessor should conduct himself permissively. - But if the penitent asks the confessor whether he can communicate, a distinction must be made; for he asks either because he is of doubtful faith, and then one must answer according to the things said above; - or solely because

from youth he was taught to ask in this way after individual Confessions, and then the confessor, if he does not hope for fruit from admonition, should answer evasively. - This lamentable necessity, of which I have spoken, is sometimes found when there is question of a Communion called general of Societies, especially if the number of male or female associates is small. Likewise if there is question of Communion on the occasion of funerals or the first Communion of children. - Some equate to the aforesaid necessity the necessity of celebrating Matrimony.[1] (16) p. 418.

Query 9° With what sacred vestments ought the confessor to be clothed while he hears Confessions in church, and in what place are they to be heard?

Resp. to the 1st. With surplice and violet stole,[2] unless custom (e.g. of certain Regulars), or occasion, or place (e.g. for the Confession of a sick person, in necessity, outside the church, where no opportunity is given for assuming surplice and stole) suggests otherwise.[3] - Nevertheless, notwithstanding custom, it is fitting that in church a stole be used, as the S. C. R. rescripted.[4] But for Confession outside the church the confessor laudably keeps a stole at home.[5]

Resp. to the 2nd. "Confessionals are to be erected in churches, for hearing the Confessions of women. ... But by the name church ... the sacristy is not to be understood, unless the place is public and open ... and it will be lawful for no priest to receive the Confessions of women in another place, without the special license of the Ordinary. But this," say the Fathers of the Council, "we trust is never to be granted except to priests advanced in age, or infirm, or on account of penitents who are deaf; or in other cases in which grave inconveniences would arise from observance of this rule. We wish also that this condition always be added, that the Confessions of women never be received in private houses, unless with grates interposed, and in an open place, insofar as the character of the place permits."[6]

Notes to n. 1344 - note sequence 1. (4) L. VI. 431. (5) Ib. 431. Notes to n. 1344 - note sequence 2. (1) L. VI. 432. Notes to n. 1344 - note sequence 3. (2) Prax. Conf. n. 99. (3) H. A. Tr. XVI. 6. (1) Prax. Conf. n. 99. Notes to n. 1344 - note sequence 4. (2) H. A. Tr. XVI. 6.84. L. VI. 489. II. 571. (3) L. VI. 432. (4) Ib. 482. 475. Coll. H. A. Tr. XV. 84. Notes to n. 1344 - note sequence 5. (1) Berardi de Recid. n. 167. Notes to n. 1344 - note sequence 6. (2) Rit. Rom. de Sacr. Pen. Conc. Pl. Balt. II. a. 293. (3) Rit. Rom. de generaliter servandis in adm. Sacr. De Herdt. Pr. Rit. c. 8. § 1. III. (4) 31 Aug. 1867. n. 5882. (5) De Herdt. T. III. n. 172. (6) a. 294-296. Appendix annotation (16), to n. 1344. q. 8°. p. 94. col. 2. Note: 1° The alleged cases are not to be referred to taxatively, as if others were not given in which conditional absolution can be given, but by way of example. The two rules set forth in n. 1344. q. 8°. p. 93. col. 2 are always to be kept before the eyes; if the confessor, holding the middle way between laxity and excessive rigor, prudently applies these also to other cases not recounted here, he will be safe. 2° In the case of a penitent doubtfully disposed, one must always labor, insofar as morally it can be done, that from doubtfully disposed he become certainly disposed.

PART SECOND: ON THE SUBJECT OF THE SACRAMENT OF PENANCE, OR ON THE ACTS OF THE PENITENT

Three are numbered, namely 1° Contrition; 2° Confession; 3° Satisfaction.

CHAPTER I: ON CONTRITION

1345. - Contrition is sorrow of soul and detestation concerning sin committed, with the purpose of not sinning further. Thus Trent.[1] - Detestation of sin - which, if you except the Blessed, as incapable of sadness, necessarily includes sorrow - regards the past; but purpose is concerned with the future.

This definition abstracts from the new law, in which contrition can have no efficacy without the desire, at least implicit, of Confession. For the same Trent adds a little below: "with the desire of performing the remaining things ... which are required for rightly receiving this Sacrament" (of Penance).

Resolves. - The object of contrition is neither 1) punishments or other evils, the consequences of sin; nor 2) imperfections, even deliberate, at least speaking speculatively; nor 3) sins of others or original sin.

Not punishments; for contrition etymologically imports a breaking or crushing of a hardened will; but this hardness of the will, says St. Thomas,[2] is in the evil of fault, and not in punishment. Hence sorrow concerning the punishment of sin is indeed the occasion and beginning of contrition, but never essentially contrition itself.

Not imperfections, even deliberate, or voluntary actions or omissions which, with no precept being violated, are repugnant only to counsel here and now intimated either by divine inspiration, or from the dictate of reason soliciting to more perfect things, or from the directive ordinance of a Superior. For contrition is sorrow concerning sins, which imperfections are not. Yet I said: at least speaking speculatively; for, speaking practically, deliberate imperfections very often already have some fault annexed to them, for example by reason of an inordinate motive of sensuality, impatience, sloth, etc. Hence, as we said in n. 1344. q. 8°. § Hence ... 2° with St. Alphonsus, even those imperfections which do not reach sins certainly venial are sometimes sufficient matter of conditioned absolution.

Not sins of others or original sin; for contrition is sorrow concerning sin committed, or perpetrated by one's own will. - To be sure, it is fitting to foster true sorrow sincerely from the soul, both concerning original sin, by which we were constituted children of wrath, enemies of God and servants of the devil, and also concerning the sins of others, by which infinite goodness is offended and the souls of many are cast headlong into eternal destruction; but sorrow of soul of this kind is indeed displeasure and affliction, but not contrition properly so called. Thus nearly the distinguished Van Egeren.

It must be said 1° concerning contrition strictly so called; 2° concerning purpose.

Notes to nn. 1345-1347 - note sequence 1. (1) Sess. 14. c. 4. (2) Matt. 3. 2. Luke 13. 3. 5. Eccli. 2. 22. Apoc. 2. 5. Acts 3. 19. (3) Sess. 14. c. 4. (4) P. III. q. 86. art. 2. Notes to n. 1345. (1) Sess. 14. c. 4. (2) Supplem. q. 2. art. 1. Notes to nn. 1345-1347 - note sequence 2. (1) L. VI. 437. (2) H. A. Tr. XVI. 10.

ARTICLE I: ON CONTRITION PROPERLY SO CALLED

1346. - Contrition is distinguished as twofold:

1° Perfect, which is detestation of sin arising from the sole and proper motive of charity, appreciatively supreme; with the purpose, on account of the same motive, of not sinning further. - I said: a) from the SOLE motive of charity; i.e. perfect contrition ought to be elicited from a motive of charity so efficacious or predominant that by itself it suffices to excite in the sinner supreme sorrow and detestation concerning sin committed, and a firm purpose of sinning no more; not, however, so that therefore other motives, less noble than charity, must be excluded by the penitent, just as hope and charity, or faith and knowledge, do not exclude each other. - I said: b) from the PROPER motive of charity; or of divine goodness. See n. 275.[1] - I said: c) appreciatively supreme; see the same n. 275 and n. 1349. III. 1350. q. 1°. q. 2°.

2° Imperfect or attrition, which is detestation of sin arising from a supernatural motive which is inferior to charity - e.g. from consideration of the baseness of sin, or from fear of hell, or from love of eternal beatitude - with the purpose, on account of the same motive, of not sinning further. - Trent.[1] Besides, contrition is either formal or explicit, by which a man, thinking of the sin committed, directly and expressly detests it; or implicit or virtual, by which a man, not actually thinking of the sin committed, posits an act which indirectly and tacitly contains sorrow and detestation of sin, for example an act of perfect charity.

Three things must be explained here: 1° necessity; 2° qualities; 3° efficacy of contrition.

Notes to n. 1346. (1) Cf. Vind. p. 399. Ed. 2a. T. II. p. 5.

§ I. On The Necessity Of Contrition

1347. Points To Be Established. - I. Contrition, either perfect with the desire of the Sacrament, or imperfect with the Sacrament itself, is altogether necessary to the sinner by necessity of means for obtaining justification and salvation. This is clear from Scripture[2] and from Councils, especially Trent:[3] "At every time this movement of contrition was necessary for obtaining pardon of sins." The reason from St. Thomas[4] is this: "The offense of mortal sin proceeds from this, that the will of man is turned away from God through conversion to some mutable good; whence for the remission of the divine offense it is required that the will of man be so changed that it be converted to God with detestation of the aforesaid conversion and with purpose of amending."

II. Mortal sin being supposed, contrition is necessary by necessity of precept, at least sometime in life, and indeed of a natural, divine positive, and ecclesiastical precept. - Of natural precept; for the law of nature dictates that the means without which he cannot attain the end, which he is bound absolutely to procure, are to be assumed by man; but contrition, as is clear from what has been said at I, is for sinful man a means without which he cannot attain the end which he is bound absolutely to procure, namely his reconciliation with God and eternal salvation; therefore, etc. - Of divine positive precept, as is gathered from the words of Scripture cited at I. - Of ecclesiastical precept; for the Church, in commanding the faithful to confess their sins validly at least once in the year, by that very fact commands them to elicit true contrition concerning the sins to be confessed, since sacramental Confession without contrition cannot at all be validly instituted. - But it is understood that that contrition falls under the precept which is required for justification, namely perfect contrition outside the Sacrament, or attrition with the Sacrament.[1]

III. The precept of contrition obliges sometimes *per se*, sometimes *per accidens*.

1° Apart from the precept of annual Confession, it obliges *per se*, i.e. from the motive of the virtue of penance - so that he who then does not elicit contrition commits a special sin of impenitence - when a grave necessity of reconciling oneself with God urges, namely in danger, even probable, of death or perpetual insanity, whether true or supposed, e.g. in a lethal disease, in war, in dangerous navigation, in difficult childbirth, in an arduous surgical operation, etc.; and this on account of the precept of attaining the last end. - I said: apart from the precept of annual Confession, in which case some say that it obliges *per se*, others *per accidens*. St. Alphonsus is silent concerning this controversy, and it seems to us a dispute about the name.

2° It obliges *per accidens*, when another precept urges which cannot be fulfilled without contrition, especially in the following cases, namely - when the precept of an act of charity urges, with memory of sin occurring, - when someone guilty of grave sin is about to receive or administer a Sacrament, - whenever the Sacrament of Penance is received, even for the sake of devotion, - when someone has fallen into mortal sin, in which case he would not be excused from a new mortal sin who deferred penance for a notable time. He would sin, namely, against the precept of charity toward God, which binds everyone at least several times in the year see [n. 277. q. 1°. R. 1°. c).], and against charity toward himself, since he would expose himself to the danger of new faults. But what time is to be called notable cannot be determined by one and the same rule for all; since the necessity of contrition varies according to the variety of greater or lesser infirmity of the sinner, of graver or lighter temptation which he suffers, of a continuing or passing occasion in which he is placed, etc. Nevertheless, speaking generally, St. Alphonsus, on account of the precept of charity toward God, thinks that time should not be extended beyond a month. Yet sinners, especially the untaught, for the most part, indeed almost always, will be able to be excused from this sin of delayed penance on account of inadvertence.[2]

1348. Questions. - Query 1° Is he who in danger or at the article of death receives the Sacrament of Penance with attrition bound besides to elicit an act of perfect contrition?

Resp. Some affirm it, because by the law of charity in danger of this kind each one is bound to safer means; others deny it, because means simply safe suffice. The affirmative opinion is altogether to be counseled, all the more because at the extremity of life we are bound to an act of charity, to which satisfaction cannot be made unless from the motive of the same virtue we detest sins, if they occur to memory.[2] Wherefore dying sinners, especially those whose penance was sufficiently weak and tepid, are seriously to be excited to contrition. Van Egeren.

Query 2° For obtaining grace in the Sacrament, besides sorrow, are explicit acts of Faith and Hope required?

Resp. Negatively. See n. 250. q. 2°, n. 270. II.

Query 3° Does he sin who confesses some venial sin without sorrow?

Resp. Negatively, more probably, provided sorrow concerning other sins, or at least one sin, is not lacking (which sorrow concerning one is necessarily included in explicit sorrow concerning a multitude), and the penitent does not knowingly subject the other sins as matter of absolution. The reason is, 1° because by reason of the validity of the Sacrament it suffices that some certain matter be offered, namely that sorrow concerning some venial sin be present, since venial sins are not necessary matter of the Sacrament of Penance, and besides, since they do not deprive one of the grace and

friendship of God, some can be remitted without others; 2° because no injury is thereby done to the Sacrament if, from a good end and with all levity excluded, they are declared. Indeed usually those venial sins also concerning which sorrow, at least certain sorrow, is not had are usefully opened, namely for the greater manifestation of conscience and direction, for conceiving some shame, etc.[1]

Query 4° Must contrition precede Confession?

Resp. 1° It must certainly precede absolution, or at least coexist with it, as is clear.[2] "But speaking practically, it is required that sorrow precede at least absolution, because no penitent sensing himself indisposed can ask for or receive absolution.

Resp. 2° The more probable and more common opinion is that for the validity of the Sacrament it is not required that sorrow precede accusation; the reason is that sorrow, although it must be sensible, does not necessarily have to become such through Confession, since it can become such through other signs; and the Ritual strongly favors this opinion, admonishing: "When Confession has been heard," the confessor is "to lead" the penitent "to sorrow," etc. The opposite opinion differs from the one set forth only in appearance; for its patrons require only that Confession not be a mere narration of sins, but have the character of sacramental accusation: but for this it suffices that Confession be made with the mind of obtaining absolution, and then that sorrow be manifested through petition for or expectation of absolution.[3]

Query 5° For how much space of time does an act of sorrow morally persevere for validly receiving the Sacrament?

Resp. It can certainly persevere for one day, or even another, if the penitent elicits such an act of contrition by which he is efficaciously moved toward Confession, so that the Confession afterward instituted is truly the effect of such contrition. "But otherwise, if someone confesses from mere devotion, or for fulfilling a vow or penance."[2] Moreover, supposing that the act of contrition was elicited with relation to the Sacrament, and before reception of this was not retracted, for example through a new mortal sin, the distance between the act of contrition and the remaining parts of the Sacrament certainly does not seem too long: 1° if the penitent, going to church with the intention of confessing, first elicits an act of contrition, and then, morally speaking, continues in examining conscience or in prayer, remains at the confessional, and confesses in his own place; even if in the Confession itself or in the reception of absolution, on account of distraction or some other cause, he no longer thinks about contrition;[1] 2° if the penitent in the morning elicits an act of contrition from the intention of confessing that day, e.g. in the evening, or in the evening with the intention of confessing the next day in the morning, and then at the time proposed confesses and is absolved, not actually thinking about contrition.[2]

Query 6° Is a new act of sorrow required for receiving a new absolution, when the penitent immediately after absolution confesses a mortal sin omitted from forgetfulness?

Resp. It is controverted. The probable, indeed more probable, opinion affirms. The reason is that, although sorrow morally perseveres in itself, nevertheless it does not persevere in order to the second absolution; for probably for the validity of the Sacrament it is required that sorrow be elicited in order to absolution. On which account St. Alphonsus[3] judges that at least as safer this opinion is to be held.

Query 7° Can there be a valid and at the same time unformed Sacrament of Penance, on account of defect of sufficient disposition, in the case, for example, in which someone guilty of twofold sin, say theft and perjury, from invincible forgetfulness of the perjury, would confess only the theft, grieving not from a universal motive but from the special motive of baseness which is in theft?

Resp. It is controverted. Some deny with Billuart[4] and Elbel.[5] Their reason is that in the Sacrament of Penance contrition is the matter of the Sacrament; therefore, if it is insufficient, the Sacrament will be invalid. But if it is sufficient, the Sacrament is valid and at the same time formed, and therefore it immediately remits sins. - Yet others affirm, and indeed grave Theologians with Lugo,[6] Lacroix;[7] and St. Alphonsus[8] calls this more probable. - But their reason is that in the alleged case, on the one hand nothing is lacking of those things which are required for the validity of the Sacrament - not formally integral Confession, since everything that occurred to memory was declared; - not sorrow, since it is present concerning the sin confessed; - not absolution, as is supposed. - But, on the other hand, the Sacrament must actually lack its effect, since one mortal sin cannot be remitted without the other, but defect of sorrow stands in the way of the remission of the perjury.

Notes to n. 1348 - note sequence 1. (2) L. VI. 437. Dub. 2. H. A. Tr. XVI. 11. (1) L. VI. 449. Notes to n. 1348 - note sequence 2. (2) L. VI. 445, a. 6a ed. (3) H. A. Tr. XVI. 20. (1) Lacroix, n. 705. (2) Bouvier de Poenit. c. III. Sect. VI. Theol. Mechl. n. 43. Notes to n. 1348 - note sequence 3. (3) L. VI. 448. Cf. Vind. p. 418. Ed. 2a. T. II. p. 25. (4) Diss. 7. a. 1. (5) n. 81. (6) D. 14. n. 65. (7) n. 672. (8) L. VI. 444.

§ II. On The Qualities Of Contrition

1349. - The qualities necessarily required for the validity of contrition, both perfect and imperfect, are numbered as these six, namely 1° that it be internal; 2° supernatural; 3° supreme; 4° universal; and, if there is question of receiving the Sacrament of Penance, 5° formal; and 6° elicited in order to Confession.

I. Internal or true, i.e. truly conceived in heart and soul. For contrition according to Trent is sorrow of soul.

II. Supernatural, i.e. elicited through the help of grace and from a motive known by faith. For natural means cannot conduce to a supernatural end. Cf. proposition 57 among those condemned by Innocent XI. p. XVIII, and Trent.[1]

But suitable motives can be reduced to four: 1° to fear of punishment; 2° to hope of reward; 3° to the baseness of sin; 4° to the love of God.

III. Supreme, so that the sinner appreciatively, i.e. from a previous appreciation or intellectual estimation of sin as the supreme evil, detests his crime more than every other evil, and is prepared in soul to lose and suffer all things rather than commit sin.

IV. Universal, as regards all and individual grave sins committed and not yet remitted. - I said: 1° as regards GRAVE sins; for as regards venial sins it is not required that it be universal, as was said n. 1348. q. 3°, and will be said n. 1350. q. 4°. R. 2°. - I said: 2° as regards ALL AND INDIVIDUAL grave sins; not because individual acts of contrition must also be elicited concerning individual mortal sins - although it is expedient to detest one by one those sins toward which one is affected by a more vehement passion - but in reality one act of contrition suffices, extending itself at least virtually to all and individual sins, both known and forgotten, in the universal: namely, it must extend itself to all

grave sins either from one universal motive, or from several particular motives which, at least taken together, extend themselves to all mortal sins committed, even those not occurring to memory. The reason is that no actual sin is remitted without sorrow; but one mortal sin cannot be remitted without another, since remission is made through the infusion of grace, which cannot stand together with mortal sin. I said: 3° As regards all and individual mortal sins committed and NOT YET REMITTED; for the precept of contrition does not extend to sins already remitted, except in the case in which these sins are necessary or free matter of Confession or sacramental absolution.

V. Formal, so that a desire for absolution does not suffice, although it be without affection for sin, - nor an act of charity; for by this desire or act alone the matter of the Sacrament is not yet posited.[1]

VI. Elicited in order to Confession, at least practically, since this opinion is probable, although the opposite is more probable.[2]

Notes to n. 1349. (1) Sess. 6. Can. 3. (1) L. VI. 438. 449. (2) Cf. Vind. p. 411. Ed. 2a. T. II. p. 18. Notes to nn. 1349-1350 - note sequence 1. (1) Suppl. q. 5. a. 3. (2) L. VI. 440. (3) Sess. 6. c. 6. (4) 1. 2. q. 40. a. 7. Notes to nn. 1349-1350 - note sequence 2. (1) 25. 16. Notes to nn. 1349-1352 - note sequence 1. (2) Prov. 8. 17. John 14. 21. 1 Pet. 4. 8. (3) Sess. 14. c. 4. Notes to nn. 1349-1352 - note sequence 2. (1) L. VI. 437. Dub. 4. (2) Sess. 6. c. 14. et Can. 30. Sess. 14, de Poenit. c. 8. et Can. 12. (3) Disp. 11. Sect. 3. (4) Disp. 9. n. 28. Notes to nn. 1349-1352 - note sequence 3. (1) Sess. 14. c. 5.

1350. Questions. - Query 1° Must contrition be supreme intensively?

Resp. Negatively. The reason is that intensity is something merely accidental: for a greater or lesser degree of sorrow, or affection or effort, does not pertain to the essence of contrition, which can exist whole without a degree of this kind of intensity. Besides, how would you know that this or that degree of intensity must be attained? Moreover the intensity of sorrow is not always in our power. Hence, even when the sense is moved more vehemently toward temporal evil from God's offense, it is not therefore the case that the will itself, under which alone moral evil falls, is less affected by sin. It suffices, therefore, that the sin be displeasing appreciatively as the supreme evil.[3]

Query 2° Is a formal comparison required in appreciation between various evils and sin, or God?

Resp. Negatively. For it suffices that the sinner sincerely and truly detest sins, and not wish to sin anymore. Indeed confessors act very imprudently who, in order to explore whether sorrow is supreme, propose to penitents certain very dangerous comparisons, e.g. whether they would rather be burned alive, or suffer all the torments of the martyrs, or eat poisonous reptiles, than sin again? For such comparisons move the imagination more vividly, and when a strong temptation approaches, the true disposition which existed before is easily lost.[1]

Query 3° What length of time is required for conceiving true and supreme contrition?

Resp. None *per se*, because length of time does not pertain to the essence of the act, but is merely accidental to it; wherefore it is enough that the act be substantially fulfilled, which can be done even in the smallest instant of time. Yet it is safer to elicit a more intense and more prolonged act of contrition, lest perhaps from levity or too much haste no act as to substance be conceived.[2]

Query 4° Must contrition concerning venial sins possess these same six qualities?

Resp. 1° It must necessarily possess the 1st, 2nd, 3rd, 5th, and practically also the 6th; namely it must be 1° internal, because contrition which is not elicited from the intimate heart is not true; 2° supernatural, because, as was said, natural contrition cannot be a means to a supernatural effect; 3°

supreme, or the sinner must detest venial sin more than all natural evils; 4° formal, so namely that the matter of the Sacrament be posited;[3] 5° elicited in order to Confession. See n. 1349.

Resp. 2° But it does not have to be necessarily universal, whether in the Sacrament or outside the Sacrament. The reason is that since venial sin is not incompatible with sanctifying grace, one venial sin can be remitted without others.[4]

Query 5° Does fearful attrition (*formidolosa*), or that conceived from fear of hell, suffice for justification in the Sacrament of Penance?

Resp. Affirmatively, provided it be truly supernatural, absolutely efficacious, and only materially, but not formally or servilely servile. The reason is, 1° because attrition of this kind, since it is a true conversion to God and a true aversion from sin, removes that which stands in the way of the operation of the Sacrament; 2° because this is clearly drawn from Trent,[5] which says that such attrition disposes the sinner to obtaining justification in the Sacrament of Penance. Cf. the Roman Catechism. Besides, 3° the same Synod[2] teaches that it sometimes happens that contrition is perfected by charity and reconciles man to God before this Sacrament is actually received. Therefore the Council supposes that perfect contrition is not necessary for receiving the Sacrament rightly; otherwise not only sometimes, but always, the sinner would be justified before he received the Sacrament.

Moreover attrition is called servilely servile when someone indeed grieves concerning sin and wishes to avoid it because of the punishments which he knows are to be inflicted by God; yet he would still be prepared to sin if those punishments did not exist. But it is called simply servile when someone abstains from sin indeed on account of fear of punishments, yet is not so disposed that he would wish to sin if those punishments did not exist, although he abstracts entirely from this thought: if those punishments did not exist. The former is evil, not insofar as it is fear of punishments, but on account of the depraved disposition of soul.

Query 6° Does attrition from fear of the punishments of Purgatory for venial sins suffice?

Resp. Affirmatively, with the very common and morally certain opinion; because all the reasons adduced above for the sufficiency of attrition from fear of hell are valid here also.

Query 7° Does attrition from fear of the temporal punishments of this life, to be undergone for sin as they are inflicted by God, suffice?

Resp. Affirmatively, and, as it seems, more probably, provided it is supernatural. The reason is, 1° because it seems to be clear from the words of Trent, where it says: Attrition is conceived from fear of hell and of punishments: for it distinguishes between the punishments of hell and other punishments; 2° because in fear of this kind all conditions of true attrition can be present. "Yet since" the opposite opinion, founded on the reason that Trent does not say *of hell or of punishments*, "is not lacking in its probability, at least extrinsic, I think that in practice it is safer that it be observed." Thus St. Alphonsus.[3]

Query 8° Is also a beginning of love required with attrition for obtaining justification in the Sacrament of Penance?

Resp. Negatively, if by a beginning of love there is understood some degree of perfect charity, by which God is loved above all things. The reason is that for rightly receiving the Sacrament an act

which outside the Sacrament would essentially justify is not necessarily prerequired. But an act of charity, and therefore "sorrow which suffices for the nature of contrition, however small it is, deletes every fault," as St. Thomas says.[1] Therefore, etc. - St. Alphonsus[2] says that this is morally certain.

"But if by initial love of God there is understood a certain pious movement, by which the penitent, sincerely averse from sin, trustingly turns himself to God, and begins to love Him as the font of all justice, or as his justifier, liberator, and glorifier, you will most rightly affirm the necessity of some initial love, since a true conversion of the sinner to God cannot be conceived without a begun love of God of this kind, and besides Trent[3] enumerates a certain beginning of love among the dispositions required for justification in Baptism (therefore by parity in Penance). ... But ... such beginning of love of God is had by the very fact" that "the penitent, truly attrite, has recourse with hope of pardon to the tribunal of Penance"; for: 1° "True attrition is a certain sincere conversion of heart to God. But he who is converted to God with a sincere heart is certainly moved of himself toward God as toward good, and therefore he is moved by love. 2° True attrition includes a firm purpose of observing the divine commandments, among which the commandment of love of God obtains the first place. But he who firmly proposes to love God already loves God inchoatively; since a proximate voluntary disposition toward something is of itself already the beginning or inception of that thing. 3° True attrition includes hope of pardon to be obtained from God. But from this, says St. Thomas,[4] that we hope goods can come to us through someone, we are moved toward him, as toward our good, and so we begin to love him. - Moreover, even that salutary fear of God the avenger, by which true attrition is more often conceived, already contains in itself a certain beginning of the love of God, our liberator and justifier, according to that saying of Ecclesiasticus:[1] The fear of God is the beginning of the love of Him." Thus Van Egeren.

Notes to n. 1350 - note sequence 1. (3) L. VI. 433. 442. (1) L. VI. 433. 7. (2) Ib. 433. (3) Ib. 449. (4) Ib. 449. (5) Sess. 14. c. 4. (2) Sess. 14. c. 4. Notes to n. 1350 - note sequence 2. (1) n. 8. (3) L. VI. 448. Cf. Vind. p. 426 sq. Ed. 2a. T. II. p. 34.

§ III. On The Efficacy Of Contrition

1351. Principles. - I. Perfect contrition justifies man *per se*, even outside the Sacrament of Penance. 1° It is clear from reason; for contrition necessarily includes perfect charity: moreover, to love God perfectly is to be united with God; but union with God necessarily works separation from sin, since one cannot embrace one extreme without totally withdrawing from the opposite extreme. Therefore ... 2° It is clear from Scripture.[2]

II. Perfect contrition does not remit mortal sins, or does not justify man, except with the desire, at least implicit, of Confession: for sins cannot be remitted except through the means instituted by Christ; but the Sacrament of Penance in reality, or at least in desire, is the one means instituted by Christ for remitting sins committed after Baptism. Therefore, etc. It is clear besides from Trent.[3]

III. Attrition, as a prerequired disposition, suffices for obtaining pardon of sins in the Sacrament of Penance. This is clear from what was said n. 1350. q. 5°.

IV. But attrition outside the Sacrament cannot justify the sinner. For justification consists in the perfect union of man with God; but the attrite man, although he withdraws from creatures and begins the first steps of conversion to God, is nevertheless not yet perfectly converted to Him and united through love. Nor by its own power does attrition justify in the Sacrament, but it is only a prerequired condition; but the Sacrament itself justifies through the infusion of grace: wherefore in

the Sacrament the penitent from an attrite man becomes contrite, namely contrite equivalently, or contrite by habit, through the infusion of sanctifying grace and the habit of charity, which is conferred by the force of absolution.

1352. Questions. - Query 1° Must the desire of Confession be EXPLICIT in contrition?

Resp. Negatively, more probably with the common opinion. The reason is, 1° because for remission it suffices that someone be truly united with God with his whole heart through perfect contrition; for God, as is clear from what has been said, cannot reject a sinner approaching Him with his whole heart and from the most perfect motive; but it can sometimes happen that a sinner elicits an act of perfect contrition without thinking of Confession, whether from inadvertence or natural forgetfulness, or from invincible ignorance. Therefore for the remission of sin through contrition it is not essential that the desire of Confession be explicit. 2° Because according to Trent this desire is included in contrition; but what is included in another is implicit, not explicit.[1]

Query 2° Does contrition remit not only guilt, but also the punishment owed to guilt?

Resp. 1° It certainly remits eternal punishment, because a man justified through contrition cannot remain guilty of eternal damnation.

Resp. 2° According to its greater or lesser intensity it also remits part of the temporal punishment owed after mortal or venial sins have been deleted. Hence very intense perfect contrition can even abolish all punishment; but it does not necessarily have this efficacy from its nature. - This is drawn from Trent.[2]

Query 3° Does attrition elicited by a just man remit venial sins outside the Sacrament?

Resp. It is controverted. More probably it seems to be affirmed. The reason is, 1° because from Trent venial sins can be remitted in various ways: therefore they are not remitted by perfect contrition alone; 2° because in the opposite opinion venial sins are not more easily remitted than mortal sins: but this is contrary to common sense; 3° because the power of remitting venial sins is commonly attributed to Sacramentals: but it would be falsely attributed to these, if contrition were required for deleting them. - Thus Suarez,[3] Lugo,[4] and many others.

Yet not a few deny it, because from Trent[1] venial sins are usefully accused in Confession; but they would not be usefully accused if they could be remitted by attrition: therefore, etc. - But it is rightly replied that venial sins are usefully exposed in Confession also for other reasons, namely on account of remission of punishment, on account of the merit of shame, on account of the advantage of direction, etc.

Query 4° Does contrition or attrition remit venial sins without the desire of the Sacrament?

Resp. Affirmatively. The reason is that by divine institution the Sacrament is necessary for mortal sins alone: therefore venial sins can be deleted without the Sacrament of Penance; therefore no desire of this Sacrament is necessarily required for their remission. - Thus all.

ARTICLE II: ON PURPOSE

1353. - Definition. Purpose is the will of not sinning further.

Division. It is twofold: 1° explicit, or formal, by which someone, thinking of the future, determines not to sin anymore; 2° implicit, or virtual, which is included in contrition itself, without the future time being held before the eyes.

Notes to nn. 1353-1355 - note sequence 1. (1) L. VI. 451. (2) Ib. 459. Notes to nn. 1353-1355 - note sequence 2. (1) L. VI. P. 2. n. 1733. (2) L. VI. 451. Cf. Vind. p. 440 sq. Ed. 2a. T. II. p. 49.

1354. Principles. - I. Purpose, at least implicit, is altogether necessary for the remission of sin; because purpose is a necessary consequent of contrition, and at least virtually included in it, as is clear from its nature and definition.

II. True purpose must possess a threefold condition; namely, it is required that it be firm, efficacious, and universal.

1° Firm, i.e. not wavering, nor conceived with a light mind, so that it would be a certain velleity, or a certain volatile sensation by which even impenitent sinners themselves are not rarely affected, or rather are deceived by the devil, lest they awaken from the lethal cauterized sleep of their conscience; but a serious decree of the deliberate will, by which the penitent simply and absolutely determines to guard against sin in the future, notwithstanding any inconvenience whatever or human fear: otherwise he would not wish to be converted to God totally and sincerely. Yet the confessor must not test the soul of the penitent by using comparisons suited to disturb his imagination.

2° Efficacious, i.e. the penitent must not only firmly determine that he does not wish to sin anymore, but also to apply the means necessary for avoiding sin and for fleeing proximate occasions, etc. - But it suffices that the purpose be efficacious affectively, i.e. it suffices that the sinner be prepared in soul to apply the necessary means; because future amendment in fact is not of the essence of purpose.

3° Universal, or it must extend to all and individual mortal sins, not only those committed, but also those which could be committed. The reason is that full and true conversion to God cannot be given without aversion from any lethal sin whatever.

But as regards venial sins, for the validity of the Sacrament it is required and suffices that a firm and efficacious purpose be present of avoiding either one of the venial sins, or all those fully deliberate, or of avoiding or diminishing with all diligence, insofar as it can be done in a human manner, those which creep in without full deliberation.

Notes to n. 1354. (1) Sess. 14. c. 5.

1355. Questions. - Query 1° In order that purpose be firm, must it also be found constant?

Resp. Negatively; at least this is not absolutely necessary. The reason is that purpose affects the present will, which by its nature is otherwise variable. Hence from relapse after Confession the weakness of purpose cannot be gathered *per se*.[1]

I said: at least this is not absolutely necessary. For if the penitent relapses immediately and with almost no resistance, it furnishes an argument, or at least a vehement presumption, that he lacked a truly firm purpose; for he who firmly proposes usually does not so easily forget his purpose, but is wont to persevere constant at least for some time, and to employ efforts for resisting temptations or occasions of sin, and therefore ordinarily falls with more difficulty and more rarely.[2]

Query 2° Can the purpose of him be firm who indeed has the intention of not sinning, yet fears that he will relapse?

Resp. Affirmatively; for fear, which is introduced from past frailty and the inconstancy of the human will, does not impede a sincere will. Hence that penitent can have true purpose who, when the confessor asks him concerning the will of not sinning, responds: I am frail, I fear a fall, yet I do not now wish it, nor do I choose the fall: which are the words of Gerson according to Croix.[1]

But in practice you will look at the character and disposition of the penitent; for not rarely you will find sinners asserting that they will relapse, who for that reason fear lest they do not have a sufficiently firm purpose, and yet show nothing besides fear of relapsing and distrust of themselves. To penitents of this kind it must be inculcated that there is question not of those things which perhaps are going to happen, but of the actual will, and of confidence to be placed in divine help.

These things are said concerning him who only fears that he will relapse; for if he certainly believed it, he would furnish a certain suspicion that his purpose is not sufficiently firm. Thus St. Alphonsus resolves practically, although speculatively he admits that firmness of purpose can stand together with knowledge of relapse. The reason is that it cannot happen that he firmly proposes amendment who, knowing that God does not deny His grace to one who does what is in him, nevertheless certainly believes that he will relapse. Hence such a penitent, before he is absolved, is to be led to hope of amendment.[2] - Nor can the purpose therefore be judged weak because only the confessor, on account of the known frailty of the penitent, foresees, even rather certainly, that he will relapse; for Peter was not therefore judged indisposed for Communion because he was known by Christ to be going to fall. Besides, there are those who, when they say: I believe, I believe, that I will relapse, and therefore I will indeed avoid sins if I can, yet I am not able to promise anything, lest afterward I seem unfaithful, etc., - show nothing other than a well-founded fear and distrust of self, and they must be judged as those who only fear. - Finally, to relieve the soul of the penitent who, on account of an inveterate habit of sinning altogether deliberately, which perhaps he has contracted, thinks that avoidance of such sin is morally impossible for him, it will often be most useful to teach him that here and now there is strictly required of him only the purpose of not sinning anymore deliberately, i.e. with full advertence and full consent, etc.

Query 3° For receiving the Sacrament of Penance rightly, is explicit purpose required?

Resp. According to St. Alphonsus,[1] there is a threefold opinion. The first affirms absolutely: because, although sorrow necessarily includes purpose, nevertheless explicit purpose seems to be required from Trent saying: *With the purpose of not sinning further*.[2]

The second denies, in the case in which sorrow is elicited from a universal motive. The reason is that sorrow of this kind includes a purpose plainly efficacious. Moreover, from the Tridentine Synod, when attrition excludes the will of sinning, it sufficiently disposes a man to obtaining grace in the Sacrament.

The third teaches that if the penitent thinks of future life, he ought formally to propose amendment. Otherwise, if the penitent, e.g. immediately about to be beheaded, thinks nothing about the future. For if he thinks about the future, he would not seem sufficiently to repent, if he did not expressly propose amendment.

But St. Alphonsus thus interposes his judgment concerning these things: "These two latter opinions are indeed the more probable; but ... since the first ... is sufficiently probable ... before the fact the safer opinion is to be followed," indeed also after the fact, i.e. a penitent who, although in good faith, confessed a certain mortal sin without explicit purpose is bound to repeat the confession. See the reason n. 67. 2°.

Yet in practice this obligation will rarely urge. 1° Because those who are troubled about this matter belong almost to the number of those who have confessed only venial sins;[3] whose accusation is no more to be repeated than to be made. 2° Because ordinarily there is only doubt concerning the defect of explicit purpose; in which case one must stand for the validity of the act. See n. 67. 2°. 3° Because the faithful are wont to recite a formula of contrition which contains the act of explicit purpose. 4° Because those who grieve in the due manner concerning sins do not easily omit an explicit act of purpose.

Query 4° What purpose is required, or suffices, for venial sins?

Resp. See n. 1354. 3°; but for practice observe:

1° It is safer to elicit purpose concerning some determinate sins, especially concerning the graver ones, and concerning especially those which are committed from habit, and to add to them some sin of past life.

2° When the faithful, even those who are held as pious and confess frequently, are seen after innumerable Confessions to make no or almost no progress, it is lawful to conjecture that they conceive purposes too general and confused, and therefore sluggish and languid.

3° Not rarely penitents are found, especially women, who spend much time in examining conscience, search out the smallest faults with the greatest anxiety, and draw out their Confessions beyond measure, and yet are not very solicitous concerning sorrow and efficacious purpose. These must be seriously exhorted that, omitting anxious care to declare all venial sins in species and number, they subject to the keys with serious sorrow and purpose of amendment only those sins which burden the conscience more, and which especially are to be rooted out. Indeed it is expedient that from those venial sins they select some one principal sin, for detesting and amending which before the others they diligently labor.

Notes to n. 1355 - note sequence 2. (1) L. VI. 450. (2) Sess. 14. c. 4. (3) L. VI. 450. Cf. Vind. p. 443 sq. Ed. 2a. T. II. p. 52.

CHAPTER II: ON CONFESSION

Confession is the accusation of sins committed after Baptism, made to an approved priest, in order to absolution.

Three things pertain here, namely 1° necessity; 2° qualities; 3° repetition of Confession.

ARTICLE I: ON THE NECESSITY OF CONFESSION

1356. Principles. - I. Sacramental Confession by divine law is necessary for all who after Baptism have fallen into mortal sin. See the arguments among the Dogmaticians.

II. It is necessary also by ecclesiastical law, at least once in the year, according to custom to be computed from Easter to Easter. See n. 547. 548. L. VI. 662.

1357. Questions. - Query 1° When does the divine precept of Confession urge?

Resp. 1° It certainly obliges *per se* in danger, and still more in the article, of death, and often in life. - The reason of the first is that all positive precepts oblige at least in the time of necessity; otherwise they would never oblige, and would be imposed in vain. The reason of the second is that affirmative precepts do not oblige only in extreme necessity, but also when their fulfillment is judged reasonably necessary.

Resp. 2° It often obliges *per accidens*, namely 1° when the Eucharist is to be received (n. 1306. II.); 2° when the precept of reconciling oneself with God urges, or the state of grace is required, e.g. for administering Sacraments, or for receiving those which are called of the living, and an act of perfect contrition is not elicited (n. 1223. q. 7°; n. 1241. I.; n. 1347. II.); 3° when a grave temptation or depraved habit cannot otherwise be overcome.

Query 2° Does the divine precept of Confession oblige immediately once sin has been committed; or at what time does it urge?

Resp. 1° It does not oblige immediately after sin. The reason is that such an obligation rests on no certain foundation.

Resp. 2° It cannot easily be determined how often in life and at what precise time the divine precept urges. Whatever be the case, without doubt he satisfies who confesses even only once in the year; because it is not established that the divine precept urges more often, and, according to the more common opinion and, as it seems, the more probable one, Christ left the time of the obligation to be determined by the Church.[1]

Notes to n. 1357. (1) L. VI. 663.

ARTICLE II: ON THE QUALITIES OF CONFESSION

1358. - Many qualities of Confession are assigned by authors, which for the most part do not pertain to its validity; but they are chiefly contained in these little verses:

Let it be entire, simple, humble, discreet, faithful,
Vocal, sorrowing, pure, and ready to obey.

1° Entire, i.e. let it comprehend all mortal sins not yet confessed, as will soon be said.

2° Simple, i.e. not intermingled with impertinent conversations, nor painted with words, nor adorned with figures; but a naked, clear, and brief declaration of sins.

3° Humble, i.e. it ought to be made with true humility of heart and body, namely with knees bent, unless infirmity excuses, and with head uncovered, if a man confesses; humility ought to appear also in the manner of the voice, so that the penitent narrates his sins with shame, but not in the manner of a fable or bare history.

4° Discreet, i.e. it ought to be made in honest and discreet words, especially in explaining sins against chastity; nor ought the sins or defects of others to be manifested without necessity.

5° Faithful, i.e. sincere, without a lie, especially in grave matter and what is necessary for sacramental judgment. But faithfulness or sincerity consists not only in sins being duly declared, which pertains to integrity, but also in not exaggerating them or in not adding supposed sins.

6° Vocal, i.e. Confession ought to be made by the voice itself, but not by writing, nor by other signs, without necessity or grave cause, e.g. on account of very vehement shame, on account of an impediment of the tongue, etc.; in which case, the writing having been read by the confessor, let the penitent add: "of these I accuse myself."

Moreover Confession by writing is indeed valid *per se*; yet Confession or absolution by letters would be invalid. For the form consists in words, as Eugene IV defined in the Decree for the Armenians; moreover the form must be applied to present matter. - It is clear besides from the proposition condemned by Clement VIII (see p. XVIII), and from the declaration of Paul V, 14 July 1605, in the Congregation of the Holy Office. - Absolution given to him who without grave cause had made the whole Confession by nod or writing would also be invalid; for he would have sinned mortally,[1] unless he had acted thus in good faith.

7° Sorrowing, or sorrowful, as was said above n. 1348. q. 4°.

8° Pure, namely for an honest end, or for obtaining pardon of sins and sacramental graces, but not for moving the compassion of the confessor, or for capturing his benevolence or esteem, etc.

9° Ready to obey, i.e. the penitent ought to be disposed to obey the admonitions of the confessor, for example in fleeing occasions, in applying remedies, in making restitution, in accepting penance, etc.

Among the aforesaid qualities of Confession, integrity and contrition are especially principal. Enough has now been said concerning the latter; but now we must speak particularly concerning the former.

Notes to n. 1358. (1) L. VI. 429. 493.

On The Integrity Of Confession.

1359. - Integrity is distinguished as twofold, one material, the other formal.

1° That integrity is called material to which in reality nothing at all is lacking of those things which, speaking *per se*, are to be exposed, that is, of those things which of themselves constitute the necessary matter of Confession.

2° But that is formal to which nothing of the things said is lacking through grave fault of the penitent.

Hence whenever material integrity is had, formal integrity is also had; but not vice versa.

We shall speak 1° concerning the necessity of integrity; 2° concerning the causes excusing from it.

§ I. On The Necessity Of Integrity: 1° In General; 2° Concerning Doubtful Sins; 3° Concerning The Circumstances Of Sins; 4° Concerning Forgotten Sins

Point I. On The Necessity Of Integrity In General.

1360. - I. All mortal sins, committed after Baptism, must be accused by divine law, as far as this can morally be done.

It is clear 1° from the very words of the institution of the Sacrament of Penance; for thus Christ the Lord says: *Whose sins you shall forgive, they are forgiven them; and whose sins you shall retain, they are retained.* Hence the Council of Trent concludes in these words: "Our Lord Jesus Christ, when about to ascend from earth to heaven, left priests, His own vicars, as presidents and judges, to whom all mortal crimes should be brought, into which the faithful of Christ have fallen; that, according to the power of the keys, they might pronounce the sentence of remission or retention of sins. For it is clear that priests could not have exercised this judgment, the cause being unknown, if they themselves had declared their sins only in general, and not rather in species and singly. From these things it is gathered that all mortal sins, of which, after a diligent discussion of themselves, they have consciousness, must be enumerated by penitents in Confession, even though they are most hidden."

It is clear 2° from the same Council of Trent, which thus defined: "If anyone shall say that in the Sacrament of Penance, for the remission of sins, it is not necessary by divine law to confess all and each mortal sin, of which memory is had after due and diligent premeditation, even hidden sins and those which are against the last two precepts of the Decalogue, and the circumstances which change the species of the sin, ... let him be anathema."

II. To material integrity belong grave sins as to - number, - moral species, - certain circumstances, - the external act, - bad effects joined with the action and morally imputable. This is clear from what has been said and from what is to be said below.

III. Material integrity is not always necessary for the validity and fruit of Confession; for sometimes it is morally impossible, either from inculpable forgetfulness, or from other causes. But God does not command impossible things. Therefore, etc. It is also clear from these words of Trent: "But the other sins, which do not occur to one who thinks diligently, are understood to be included in the same Confession universally; for these we faithfully say with the Prophet: From my hidden sins cleanse me, O Lord."

IV. For the integrity of Confession there is prerequired a diligent examination, according to the capacity of the penitent, concerning sins committed since the last valid Confession; for he who is held to the end is held also to the necessary means.

Notes to n. 1360 - note sequence 1. (1) John 20. 23. (2) Sess. 14. c. 5. Notes to n. 1360 - note sequence 2. (1) Sess. 14. de Sacr. Poen. Can. 7. (2) Sess. 14. c. 5.

1361. Resolves. - 1° We are held, in the Confession of mortal sins, to accuse not only the generic species of sins, but also the lowest species; for these are properly called species; and the Council of

Trent requires the accusation of all species.

2° He who cannot disclose the lowest species must manifest the higher, or generic, species: e.g. if someone, knowing that he sinned against chastity, does not remember the specific sin, he must say that he sinned gravely against chastity.

3° He who knows that he has sinned mortally, but is ignorant of, or does not remember, the species, even the generic species, of his sin, must say in general that he sinned gravely, but that he does not remember of what sin he is guilty.

4° He who cannot remember the certain number is held to accuse the more probable number, or the one which more nearly approaches the truth, adding the particle *about*. But he who cannot even give a likely sum of sins is held to say how often approximately in a month, in a week, in a day, etc. He who cannot even indicate this should say whether he always consented to the temptation and whether it occurred often. Cf. what was said n. 216-227 and what is to be said n. 1424. III. c).

5° The confessor cannot exempt from the obligation of confessing integrally on account of a great crowd of penitents, e.g. on some more solemn feast day. This is clear from what has been said, and also from the 59th proposition condemned by Innocent XI. See p. XVII.

6° A defect of sincerity concerning even one mortal sin, which is omitted, constitutes a grave sin; because the divine precept of Confession is violated in a grave matter.

1362. Questions. - Query 1° What number is judged to be comprehended in the particle *about*?

Resp. This cannot be determined by an entirely certain rule; nevertheless not every excess is comprehended, nor a notable defect: but only a moderate one, greater however or lesser proportionately to the number expressed. Thus Theologians commonly establish it: a moderate excess or defect will be, relatively to *about five* sins, to add or subtract one unit on either side; relatively to *about ten*, two; relatively to *twenty*, three or four; relatively to *forty*, four or five; relatively to *one hundred*, five or six; ... and prudently in the first case the penitent will be judged to have sinned four, five, or six times; in the second, to have sinned eight, nine, ten, eleven, or twelve times; and resolve similarly concerning the others.

Query 2° Must a notable excess afterward be declared, if it is found after Confession?

Resp. Affirm. The reason is clear from what has been said; for since a notable excess is not comprehended in the number declared by the particle *about*, the penitent has not satisfied the obligation of Confession as to that excess. Therefore... Thus all.

Query 3° If someone has erred notably by exaggerating the number, must he afterward declare this also in Confession?

Resp. Neg., if in good faith he expressed that notably greater number. The reason is that he fully and integrally satisfied the obligation of Confession; for the true number was comprehended in the greater one, and therefore remitted.

Query 4° Is it always a mortal sin to lie in Confession?

Resp. Of itself one sins mortally only when the lie is concerned with necessary matter of Confession concealed without a just cause, or with grave matter falsely supposed, namely by advertently, not

from scruple or simplicity, accusing what was not committed, or what is doubtful as certain, or by exaggerating the number.

A lie therefore concerning things not pertaining to Confession or to the conscience of the penitent is not of itself mortal; because neither is it gravely harmful to the penitent, as is supposed, nor gravely injurious to the Sacrament, since it is not referred to it. - Thus commonly with St. Alphonsus against a few who say that every lie in Confession is mortal. - But if the penitent lies concerning sins, even sins already confessed and absolved, when the confessor as judge or physician asks something about them, as necessary for the present Confession, he sins gravely, because he deceives in substantial matters. Cf. pp. 58a. among the propositions condemned by Innocent XI, p. XVII.

Query 5° Does it prejudice the integrity of Confession if someone accuses venial sins to his ordinary confessor, but mortal sins to another?

Resp. 1° Neg., speaking *per se*, provided that he never receives absolution unless he has manifested all mortal sins to one confessor and is absolved by the same. The reason is that that Confession is integral which includes all mortal sins, since venial sins are not necessarily to be accused.

Resp. 2° In practice, however, attention must be paid to the circumstances of penitents and to the motives by which they are led. For those are not to be condemned who sometimes confess graver sins to an unknown confessor, but submit lighter sins to the ordinary one, if, from the shame with which they would be suffused with a confessor familiarly known, they would put themselves in danger of confessing sacrilegiously. Wherefore the confessor should never inquire curiously about this, and much less vex with questions a penitent perhaps trying to conceal it, nor, if he knows it, show that this displeases him, but rather that the use of the liberty which the Church permits most amply is approved by him, while she makes available to the faithful an abundance of several confessors. - Nevertheless they would sin gravely, and because of defect of due disposition would confess invalidly, who for that reason remained in the occasion or habit of sin, or went around for this reason, that they might sin more freely. Say the same with Bouvier concerning a seminarian who with a base habit (n. 1523. q. 13°) wishes to ascend to Holy Orders and for this reason approaches an unknown confessor, lest he be troubled.

Query 6° Does it prejudice integrity if someone feigns another voice, lest he be recognized by the Confessor?

Resp. Neg. *per se*; for provided that he opens all mortal sins, he accomplishes an integral Confession.

Notes to n. 1362 - note sequence 1. (1) H. A. Tr. XVI. 108. (2) L. VI. 466. Notes to n. 1362 - note sequence 2. (1) H. A. Tr. XVI. 28.

Point II. On Doubtful Sins.

Doubt here can be concerned chiefly, 1° with the act of sin, or with the sin committed; 2° with the gravity of the sin, both on the part of the matter and on the part of consent; 3° with the Confession of a sin certainly committed.

1363. Questions. - Query 1° Must mortal sins doubtfully committed necessarily be accused?

Resp. Neg. most commonly, if, after a diligent examination has been made beforehand, the doubt perseveres: and this holds even if the doubt is truly positive, or if a true probability is given

concerning the sin committed. The reason is that here there is question of a doubtful law, which consequently does not oblige. And indeed from Trent those mortal sins must be accused of which consciousness is had; but there is not consciousness of doubtful sins; for to have consciousness imports certain knowledge of sin, since conscience is nothing other than knowledge of the heart and judgment concerning a sin committed. Therefore.

Others nevertheless contradict; because, as they say, it is gathered from the words of Trent that all mortal sins are to be accused as they are in conscience; and therefore, if they are doubtful in conscience, they are also to be confessed as doubtful. - But indeed it must be answered that in Trent it is not said that sins are to be accused as they are in conscience, but of which we have consciousness. In practice, however, an accusation of this kind is to be advised, says St. Alphonsus.

It is more common to teach that negatively doubtful sins are to be accused; but the denying opinion of St. Alphonsus is more probable; for there cannot be given an obligation of confessing negatively doubtful sins, since a doubt of this kind rests on no solid foundation, nor does it arise except from an empty suspicion, or fear of a sin committed, as frequently happens to the scrupulous or to those of timid conscience. - If however someone is in a positive doubt in the article of death, - knowing that he has not received the Sacrament of Penance or another Sacrament in good faith and being attrite after such a sin, - in order to escape the danger of damnation he would certainly be obliged either to receive absolution (yet he is not held to confess that doubtful sin), or at least to elicit an act of contrition.

What if he wishes to receive Communion? See n. 67. 12 a); 1307. q. 3°.

Query 2° Are sins doubtfully grave to be accused?

Resp. Neg. more probably *per se*, at least speculatively, even if a true probability is given concerning the gravity of the sin. The reason is the same as for the preceding question: for it is not established that a grave sin was committed; nor therefore can the obligation of Confession be established.

In practice, however, a twofold rule is to be followed:

Rule I. - In doubt whether the matter of the sin is grave. Boys and the unlearned ordinarily must accuse doubts, 1° because they can scarcely form a conscience by themselves; 2° because for the most part they do not know how to distinguish venial sins from mortal. Except, however, the scrupulous, who do not frequently tend to commit mortal sins. But instructed penitents are not held to accuse doubtfully grave sins, because they can form a conscience by themselves; nevertheless they are ordinarily to be gently exhorted to accuse these also, so that the confessor, observing the dangers in which the penitent is placed, may be able both to warn him and to remove them.

Rule II. - In doubt concerning full consent or perfect advertence: 1° if the penitents are of timid conscience and are not accustomed to sin gravely, they are by no means held to confess doubtful sins, because the presumption favors them which is had from things ordinarily occurring; indeed they are often to be prevented from this accusation if they seem inclined to scruples; 2° if the penitents keep a middle way between a timid and lax conscience, they are indeed not to be obliged, but certainly to be induced to declare doubtful consent, because it profits for tranquility of conscience, etc.; 3° if the penitents are of lax conscience, they scarcely ever ought not to declare doubtful sins, because the presumption scarcely ever is not opposed to them.[1]

Query 3° Must grave sins, indeed certainly committed, concerning which however you doubt whether you have confessed them, necessarily be accused?

Resp. Affirm. See n. 67. 1°. Except, 1° if doubt occurs concerning the omission of a sin already committed long ago in one who was diligent in confessing his sins, because the presumption taken from things commonly occurring favors him; 2° if there is question of a scrupulous person, to whom the rule handed down in n. 44. II. 8° must be applied.

Query 4° Must he who confessed some sin as doubtful repeat it, if afterward he knows it as certain?

Resp. It is controverted. The "true and most common" opinion, says St. Alphonsus, "affirms." The reason is that that sin was not truly accused as to substance: for a certain accusation is not included in a doubtful one. - Otherwise, if someone afterward recognizes as mortal what, without any doubt added, he confessed.[2]

Notes to n. 1363 - note sequence 1. (1) L. VI. 471. 5. (2) Th. 478. 89. Notes to n. 1363 - note sequence 2. (1) L. VI. 471. (2) H. A. Tr. XVI. 80. 81. Notes to n. 1363 - note sequence 3. (1) L. VI. 476. Notes to n. 1363 - note sequence 4. (2) H. A. Tr. XVI. 84. L. VI. 478. Cf. Vind. p. 472. Ed. 2. T. II. p. 84.

Point III. On The Circumstances Of Sins.

Circumstances of various kinds are distinguished in sins. (See n. 27.)

1364. Principles. - I. It is certain that circumstances changing the species are to be accused, if the malice of a diverse species which the circumstance induces is grave (for if it was light, e.g. a light irreverence of him who in a Church steals the image of another, it is not necessary, as is established concerning venial sins, to express it in Confession). The reason is that they constitute a new sin, and indeed a mortal one, of itself; and this is clear from Trent.[1]

II. It is certain that circumstances lightly aggravating, or diminishing, are not necessarily to be accused, although to expose them is of itself better. The reason is that venial sins are not necessary matter of the Sacrament of Penance.

III. It is also certain that circumstances must be expressed by reason of which a sin venial from its kind becomes mortal. Likewise circumstances are to be opened which so diminish the sin that what, with them set aside, would have been mortal, becomes by reason of them either no sin, or only venial (n. 204).

Notes to n. 1364. (1) Sess. 14. c. 5 et Can. 7.

1365. Questions. - Query 1° Must circumstances *notably aggravating* the malice of mortal sins within the same species necessarily be accused?

Resp. There is a twofold probable opinion.

Opinion I, the more common and more probable, denies absolutely. The reason is: 1° because Trent requires nothing else than the Confession of the number and species of sins, and therefore seems to exclude the obligation of confessing other circumstances.[2] 2° Because otherwise Confessions made in good faith would have to be repeated, and penitents would have to be commonly admonished for the future about explaining aggravating circumstances. But a precept so doubtful does not oblige.

But *per accidens* even aggravating circumstances are also to be declared, namely by reason - either of number, and thus the circumstance of quantity of time through which hatred or concupiscence

toward a woman endured is to be declared; - or of censure or reservation; - or of necessary direction, as in the case of those in habit, those in occasion, and generally when there is question of the obligation to restitution.[3]

Opinion II affirms. The reason is, 1° because the same reason holds for accusing aggravating circumstances as for accusing circumstances changing the species; 2° because a sin increased by notably aggravating circumstances is equivalent to several sins; 3° because, if they were not accused, the confessor could not impose a proportionate penance; 4° because the Roman Catechism teaches thus.[1] - But the patrons of the first opinion reply:

To the 1st reason: "If the reasons proved equally concerning both circumstances, without cause the Council would have limited that whole doctrine to the circumstances which change the species: for it ought to have spoken concerning both in general without limitation and discrimination." Thus Lugo.[2]

To the 2nd. No one ever sought the multiplication of sins in the same act from the possible division of the matter.

To the 3rd. "So exact an equality is not always required in the penance to be imposed." Thus the same Lugo.[3]

To the 4th. The text objected here is: "Nor indeed is it necessary only to explain grave sins by narrating them, but also those things which surround each sin and greatly increase or diminish its depravity." But it can be replied that these words are explained in the same place in such a way that it is not necessary to understand them concerning merely aggravating circumstances. And indeed - a) immediately the Catechism adds: "For some circumstances are so grave that the nature of mortal sin consists from them alone: wherefore it is always necessary to confess all these." But the nature of lethal fault is not had from a circumstance alone, unless this changes either the moral or the theological species. - b) This is confirmed from the fact that it prescribes that circumstances greatly diminishing are to be confessed. For even the adversaries concede that this holds only when the diminution changes the theological species.[4] - c) The Catechism confirms its doctrine from the necessity of expressing the circumstance of a sacred person in homicide, and of Matrimony in intercourse. But these pertain to circumstances changing the moral species.

Query 2° Must the circumstance of the degree of incest committed with blood relatives or relatives by affinity be declared?

Resp. 1° More probably, incest between blood relatives and relatives by affinity does not differ in species, since it makes no difference whether the conjunction arises from blood or from Matrimony; for intercourse with blood relatives is prohibited from the same motive from which it is prohibited with relatives by affinity: therefore the circumstance of consanguinity or affinity is not necessarily to be expressed.[1]

Resp. 2° According to the common opinion of Doctors, the circumstance of conjunction in the first degree of the direct line is to be opened, namely between father and daughter; mother and son; father-in-law and daughter-in-law; mother-in-law and son-in-law; stepmother and stepson; stepfather and stepdaughter (p. 258), on account of the debt of reverence. Indeed it must be explained whether a son has sinned with his mother, by reason of the special reverence owed to the mother. - They say the same concerning the circumstance of the first degree of consanguinity in the collateral line,

namely between brother and sister. Nevertheless St. Alphonsus calls the contrary opinion equally probable.[2]

Resp. 3° More probably, however, the other degrees of consanguinity or affinity are not necessarily to be declared.[3] Cf. n. 495.

Query 3° Must the circumstance of the dignity of the person necessarily be accused, e.g. if the one sinning is a Superior, Magistrate, Priest, etc.?

Resp. Neg. more probably *per se*, i.e. with the reason of scandal, of office, or of a particular obligation set aside. The reason is that the circumstance of the dignity of the person sinning does not change the species of sin *per se*, but at most aggravates the sin.

Query 4° Must the circumstance of a sin committed by a confessor with a penitent necessarily be declared?

Resp. Neg. more probably, provided that it has no relation to Confession. The reason is that by this sin no injury is done to the Sacrament, since it has no respect to Confession.[4] Nevertheless it is easily clear that both such a penitent is wholly to be deterred from further confessing to that priest, and such a confessor from further admitting that penitent to Confession.

Query 5° Must the circumstance of sacred time necessarily be accused?

Resp. Neg. This is clear from the universal practice both of confessors and of penitents; indeed it is certain that the former are not solicitous about asking concerning such a circumstance, nor the latter accustomed to declare it. The circumstance of sacred time does not seem to have to be explained, unless certain things are specially prohibited on account of reverence for the time, e.g. lest someone on Good Friday present public games, comedies, or ludicrous spectacles.[1]

Query 6° Does he who accuses a recent sin as committed long ago satisfy the integrity of Confession?

Resp. 1° Affirm. *per se*. "The reason,... because the sin is the same, whether he had confessed it before or not, unless perhaps the change of time brings with itself a circumstance diverse in species," or the reservation, as regards this confessor, of a sin not confessed, or the occasion or habit of sin demands something else, and provided that a sufficient penance is imposed. ... "Nor is it an obstacle that" the penitent "says that he wishes to make a general Confession; for by this he does not say that he wishes to confess only old sins, but that he wishes also to comprehend those," i.e. old ones; "for a general Confession includes all sins up to this hour. Nor also does it matter that the confessor understands that that is an old sin, for the penitent has not said this. ... Finally it does not matter that the penitent seems implicitly to indicate that they are old sins; for he truly has the intention of speaking about new sins, and wishes to speak of them, although he desires not to be understood as to this by the confessor," ... who "intends to absolve from the sins which the penitent has brought forward."[2]

Resp. 2° But if the penitent lies about the time, e.g. if he denies that he sinned today; and declares the sin as committed at another determined and remote time, the Doctors more commonly think that he does not satisfy his obligation. The reason is that the act which the penitent placed today is not an act placed in the past year. Hence he lies in two ways, namely by concealing the sin committed today, and by accusing a sin committed at another time. - Thus Tamburinus.[3] Yet Theologians are not lacking who think this lie light. - See Lugo.[4]

Query 7° Must the external act of sin necessarily be accused?

Resp. Affirm., because it is one and the same thing with the internal act in the genus of morals, and these two constitute one total thing. Moreover the external act is directly prohibited by divine law, e.g. *You shall not commit homicide*. Besides, without the declaration of the external act the confessor generally could not perform his office, as is fitting, concerning admonitions to be given, etc. This is also clear from the universal custom of the faithful, which explains the law in this sense.

Query 8° Must the penitent declare the number of persons with whom he sinned?

Resp. Neg. *per se*. - Thus Bonacina,[1] Tamburinus,[2] Lacroix,[3] and others commonly.

The reason is that it suffices that the number of sins and their species be declared; but sins do not change species because they were committed with several persons. Hence he who fornicated with three different persons, or three times with the same, satisfies by saying that he fornicated three times; nor is he held spontaneously to say whether the accomplice was one, or several; whether they were prostitutes, or others. - Nevertheless the penitent is held to declare it if there is a proximate occasion of sinning, as because sin was committed several times with the same person.

Query 9° Must the nearness of persons be declared in sins of grave hatred?

Resp. 1° Affirm., if there is question of nearer nearness, on account of the strict bond of piety. Hence hatred against parents, children, grandparents, grandchildren, spouse, relatives by affinity in the first degree of the direct line, and, at least if very grave evil is wished, brothers must be declared.[4]

Resp. 2° But neg. more probably, if there is question of remote nearness, namely among the other blood relatives or relatives by affinity. - Lugo,[5] and others, against others who think the circumstance of nearness must be declared even in the fourth degree of consanguinity.

Notes to n. 1365 - note sequence 1. (2) L. VI. 468. (3) L. VI. 467. 468. 585. Dub. 3. (1) De Poenit. n. 47. (2) Ib. D. 16. n. 115. (3) Ib. n. 120. (4) L. VI. 468. ad prob. 3 ex ratione. Notes to n. 1365 - note sequence 2. (1) L. VI. 469. (2) Ib. 469. 470. (3) Ib. 470. (4) L. IV. 461. Notes to n. 1365 - note sequence 3. (1) L. IV. 278. (2) Lugo, D. 16. n. 47. 54. Cf. S. Alph. L. VI. 425. 2. (3) Meth. Conf. L. II. c. 1. (4) D. 16. n. 58. Notes to n. 1365 - note sequence 4. (1) De int. Conf. D. 5. P. 2. c. 3. Diff. 3. n. 14. (2) In Decal. L. VII. c. 1. § 1. n. 8. (3) n. 1040. (4) Lugo, De Poen. D. 16. n. 298 sq. cum communi. (5) Ib.

Point IV. On Forgotten Sins.

Sins omitted from inculpable forgetfulness must be accused, if they return into the memory of the penitent. For by divine precept all sins committed after Baptism must be declared in Sacramental Confession; nor can present forgetfulness excuse from so great an obligation even for the future. This is clear from the 11th proposition condemned by Alexander VII. See p. XIII.

1366. Questions. - Query 1° Must sins omitted from forgetfulness or another just cause be accused *as soon as possible?*

Resp. Neg. more probably. For an obligation of this kind is to be understood morally, especially since these sins have already been blotted out, and therefore there is no danger to the soul in delay. - Thus more commonly.

Indeed according to several grave Theologians the penitent probably can defer the Confession of these sins until from the force of another obligation he is held to confess again. Thus it could be deferred for several months, and even to the time of annual Confession. Bon.[1] (6) p. 405. But more

probably another Confession, with these omitted, cannot be interposed. The reason is that it belongs to the integrity of Confession to declare in the actual accusation all mortal sins not yet accused, which occur to memory, or of which consciousness is had, as Trent says.[2]

Query 2° Must sins omitted from forgetfulness be accused before Communion, if they first occur to the mind?

Resp. Neg. very probably, even if the penitent can confess without inconvenience (n. 1307. q. 3°).

Query 3° Is a penitent, who remembers a forgotten sin and cannot, or does not wish to, confess before Communion, held to elicit an act of contrition?

Resp. Neg. with St. Alphonsus,[3] Lugo,[4] and with others commonly against certain others. - The reason is that no foundation appears why this contrition should be required. For it is not required from precept, because this is found prescribed nowhere; nor from the necessity of probation, because the sin has already been indirectly blotted out through the preceding Confession, and therefore does not need remission.

Query 4° Must a penitent accusing a grave sin, omitted in the preceding Confession from forgetfulness or another legitimate cause and already indirectly remitted, necessarily be absolved again?

Resp. Affirm. with the most common opinion. The reason is that all mortal sins, from the institution of Christ, must be subjected to the keys, so that they may be directly remitted. For although they have already been remitted, nevertheless they have not been remitted by the force of the Sacrament, or by the force of absolution, but only by the force of grace infused through the Sacrament, and concomitantly with other sins. - Sporer,[1] Collat. Andeg.[2] - Yet it happens that penitents confess as omitted from forgetfulness sins which, through the accusation of other sins in which they are necessarily contained, have already been sufficiently declared; in which case there will be no obligation of absolving.

The confessor may omit absolution with penitents who will return to him; since they will be directly absolved in another Confession; nevertheless it is better to impart absolution to all, when this can easily be done, for the consolation and tranquility of the penitent's mind, and also on account of the fruit to be received from the Sacrament. Add the danger lest the penitent may not be able to approach the same confessor any more.

Notes to n. 1366 - note sequence 1. (1) De integr. Conf. §. II. P. IV. n. 32. (2) Sess. 14. c. 5. (3) L. VI. 257. (4) De Euch. D. 14. n. 122. Notes to n. 1366 - note sequence 2. (1) n. 627. (2) Coll. 8. q. 8. Appendix annotation (Theta), to n. 1366. q. 1°. p. 111. col. 2. "Per accidens, however," cautiously remarks the distinguished Van Egeren, de Conf. Sacr., p. 88, "an integration of this kind" - namely, of a Confession in which a sin was omitted without fault - "will have to be completed immediately after the cessation of the impediment, namely in danger of thereafter lacking the occasion of a new Confession; as not rarely happens among the sick, who here and now, on account of the violence of the disease, are excused from material integrity, but afterward, without grave inconvenience, are able to supply the omissions before approaching death. Therefore the confessor, having heard the Confession of such a sick person which is formally only integral, should indeed render him altogether quiet; but at the same time, if it can be done, let him exhort him concerning the obligation of soon supplying the omissions, when, the violence of the disease being calmed for the time, his state conveniently permits this and the danger of death continues to exist. But so that the aforesaid exhortation may be brought to effect with the sacramental seal uninjured, the confessor, if the circumstances allow it, should address the sick person in this or a similar way: My son! now be quiet and with greatest confidence commend your spirit into the hands of the Lord, who, according to His infinite paternal goodness, does not require of you at present a further Confession of your sins, etc. Indeed it is

necessary that, when the state of your illness has changed, you accuse in a new Confession the sins now omitted, if you conveniently can; but do not be disturbed in any way about this obligation. I shall return to you shortly and often, and then you yourself should ask again to confess, if you conveniently can; or rather, if it pleases you, permit me here and now to admonish you concerning that obligation and to help you in fulfilling it, when I notice that it urges."

§ II. On Causes Excusing From Integrity In General, And Especially As Regards The Dying

Point I. On Causes Excusing From Integrity In General.

1367. Principles. - I. Causes are sometimes given which excuse from the material integrity of Confession, because sometimes that integrity is physically or morally impossible.

II. In order that someone be judged excused from the material integrity of Confession by reason of moral impotence, although the sins occur to mind, these conditions must be observed: 1° that only those sins be omitted which cannot be declared, or from the manifestation of which grave harm would follow, whether spiritual or temporal, either to the penitent, or to the confessor, or to some third person; 2° that another confessor cannot be found to whom an integral Confession may be made without such harm; 3° that Confession be necessary here and now, as it is judged to be, a) if the precept of annual Confession or Communion must be fulfilled; b) if the reception of the Eucharist or the celebration of Mass cannot be omitted without notice or scandal; c) if otherwise someone would have to be deprived for a long time of the benefit of the Sacraments; d) if someone otherwise would have to remain in mortal sin, even for only one day.

III. Difficulty intrinsic to Confession itself, however grave it may be, never excuses. The reason is that Confession from its nature is essentially laborious, and therefore, if grave difficulty - e.g. great repugnance, or shame, or the loss of one's own reputation before the confessor - excused from integrity, the faithful would for the most part be excused from accusing mortal sins, and therefore the institution of the Sacrament of Penance would fall in greatest part. Moreover the Church could not reserve atrocious crimes, because this creates no light inconvenience for penitents.

IV. When the cause excusing from material integrity ceases, the divine precept of confessing all omitted mortal sins urges again; for when an impediment occurs, the obligation of Confession does not simply cease, but is only suspended; therefore, when the excusing cause ceases, the obligation of the whole law revives: and since the precept of Confession is not affixed to a time or circumstance, but affects the whole life, therefore sins not yet accused must afterward necessarily be accused, if this can be done. This is clear also from the 11th proposition condemned by Alexander VII. See p. XIII.

Notes to nn. 1367-1368 - note sequence 1. (1) L. VI. 487. H. A. Tr. XVI. 89. Istr. e prat. c. XVI. 39. 40. Notes to nn. 1367-1368 - note sequence 2. (1) L. VI. 479. Prax. Conf. n. 103. Cf. Vind. p. 936. 4). Ed. 2a. T. II. p. 596. (1). (2) Tr. XVIII. 69. (3) L. VI. 484. 4; 485. Ben. XIV. de Syn. L. XIII. c. 19. n. 19. Notes to nn. 1367-1369 - note sequence 1. (1) L. VI. 488. VI. 490. (2) Praxis Conf. n. 102. Notes to nn. 1367-1369 - note sequence 2. (1) Praxis Conf. n. 102. (2) Ib. n. 104. (3) L. VI. 479. Notes to nn. 1367-1369 - note sequence 3. (1) Ib. Cf. Conf. diretto per le conf. della gente di campagna. C. XV. n. 18. Vind. P. V. q. VII. Concl. nota II.

1368. Resolves. - The following chiefly excuse from the material integrity of Confession:

1° Grave infirmity, namely that in which integral Confession would bring great fatigue, or the proximate danger of it or of some other grave inconvenience, as for example often happens to women in childbirth when laborious delivery is imminent. Concerning the dying, n. 1370.

2° Defect of speech; thus from integrity are exempt the mute, who cannot confess integrally either by signs, or by writing, without danger of manifestation or without grave extraordinary inconvenience or great labor; likewise travelers wholly or almost wholly ignorant of the language of the region in which they confess. Hence, if there is question of a confessor who does not know sufficiently the language of the penitent, Kenrick learnedly teaches these things: once diligence has been applied to perceiving everything, "it is not necessary that one be more solicitous who has a less perfect knowledge of the language, provided there is a fair cause for exercising the sacred office, with another lacking who may execute it. Missionaries for this reason are not to be distressed in mind for the most part if, not knowing very well the language of the faithful, they do not fully understand Confessions; for necessity very often compels that they administer the Sacrament of Penance."

3° Defect of time, e.g. if soldiers must go immediately to battle. But the mere multitude of penitents does not excuse, as was said above, n. 1361. 5°.

4° Danger of life of the penitent, confessor, or a third person: e.g. if enemies arrive; if many are in danger of shipwreck or contagion; if in a contagious disease there is probable danger that the confessor be infected. Indeed sometimes in the highest danger of several persons, all, after some general sign of contrition and Confession has been shown, can be absolved by one utterance of the form thus: *I absolve you*, etc.

5° Danger of reputation, e.g. if a priest about to celebrate immediately, and needing general Confession, could not confess integrally without those standing by suspecting the matter. Say the same if there were question of a sick man confessed before the carrying of the Most Holy Sacrament and now on the very point of being refreshed by Holy Communion, who, because past Confessions were invalid, asks again for Confession, which, since it would be rather lengthy, would expose the sick man to danger of infamy. Likewise concerning a boy prepared now to receive First Communion, and concerning one to be ordained prepared now to receive Orders, if they declare to the confessor that they have hitherto confessed sacrilegiously.

6° Danger of revelation, or violation of the seal, e.g. if the confessor could not confess integrally without manifesting sins heard in Confession, etc.; or if the penitent from a grave cause fears that the confessor may break the law of the seal. But this latter case, if indeed it should ever be said to occur, is most rare.

7° Danger of scandal or fall, both on the part of the penitent and on the part of the confessor, e.g. if a woman certainly knew the very great frailty of the confessor, etc. The case of the scrupulous person in n. 44 is related.

1369. Questions. - Query 1° Is there an obligation of confessing a mortal sin which cannot be explained without the manifestation of an accomplice?

Resp. Affirm. more probably, with the common opinion, which we follow, says St. Alphonsus, provided that there is question of a mortal sin, and one not yet, or not yet rightly, confessed. The reason is, 1° because no legitimate excuse is given by which derogation would be made from the precept of integrity: for it cannot be said that a positive precept is restricted by the natural precept of not defaming one's neighbor; for this precept only prohibits that the crime of another be manifested without cause; but here there is a cause, and indeed a grave one, namely the procuring of the integrity of Confession, and the direction of conscience; 2° the accomplice, by committing the sin,

loses every right to reputation which he could have had before the confessor, in order to the Confession of this sin; and he himself implicitly consents of his own accord to this harm to reputation, when he sins.

But the penitent is held, if he conveniently can, to approach another confessor to whom the person of the accomplice is unknown.

Query 2° What are the causes excusing from seeking another confessor to whom the accomplice is unknown?

Resp. 1° If danger of death urges, or the precept of annual Confession or Communion; 2° if it would be grave for the penitent to omit Confession or Communion; 3° if someone would with difficulty open his conscience to another confessor; 4° if someone otherwise would have to remain in mortal sin, even for one day; 5° if someone otherwise would be deprived of the benefit of some extraordinary indulgence; 6° if by approaching the confessor to whom the accomplice is known, there would be better direction, notably greater consolation, etc.

Hence by reason of seeking counsel, of relieving sorrow, etc., mothers and wives are often excused when they manifest to the confessor the sins of sons or husbands, even though he may know them. For it would be exceedingly hard that they should be held to seek another confessor. Therefore, generally, there is no grave obligation of approaching another confessor for the sake of concealing the accomplice, unless perhaps there is question of a very grave and extraordinary crime.

Query 3° Is it lawful for the confessor himself to ask the name of the accomplice, e.g. for correction, etc.?

Resp. Neg., at least speaking generally, because this both induces one without just cause to detract from the neighbor, and makes the Sacrament of Penance odious. This is clear from Benedict XIV: C. *Suprema omnium ecclesiarum*, 7 July 1745, and *Ubi primum*, 2 July 1746, both of which were given for the kingdoms of Portugal and the Algarves, but which afterward through C. *Ad eradicandum*, 28 Sept. 1746, he extended to the whole world, and in which the Pontiff, speaking of confessors who under penalty of denying absolution require the name of the accomplice, declares that they sin gravely, and incur suspension from hearing Confessions, but only *ferendae sententiae*.

Query 4° Through the aforesaid letters of Benedict XIV has asking the name of the accomplice been so forbidden that in no case is it lawful?

Resp. Neg., 1° because Benedict XIV himself supposes cases in which this is lawful according to true, as he says, and sound opinions; 2° because sometimes the penitent must necessarily reveal the accomplice, and nevertheless cannot furnish this except through the confessor.

Query 5° Is there an obligation of confessing a sin which cannot be declared without the defamation of another, who was the occasion of the sin, e.g. if someone killed his own sister pregnant from a crime?

Resp. Affirm., according to the opinion set forth above in this number, q. 1°.

Query 6° Are the deaf and mute at the same time held to confess, and how?

Resp. The mute and deaf are held in some way to confess, at least by signs, unless they are so ignorant and dull that nothing can be drawn out from them. The reason is that the precept of

Confession regards all the faithful who can manifest their sins by some means. - It will be best that the confessor inquire from the relatives of such mute persons to what vices they are given, and what mode is to be held so that he may be understood by them and he himself may understand them.

Hence: 1° Mute persons sufficiently instructed are held to confess integrally, at least by signs, if these are understood by the confessor; but if they are less instructed, or could with difficulty be understood by the confessor, it will suffice for them to manifest only one or another sin, or to signify in general that they are sinners and wish to avoid sin; but these, unless there is present a certain moral certitude concerning their disposition, are to be absolved conditionally.

2° The deaf, having the use of speech, are held on their own part to confess the sins which occur to memory; but the confessor is scarcely, or hardly at all, held to question them for procuring the integrity of Confession, on account of the excessive difficulty of questioning; which reason of excessive difficulty would not exist where they could easily be questioned in writing. - But the partially deaf, or those who are not wholly deaf, should either confess with an acoustic horn employed, or be led to a remote place, whether at once or at another suitable time. But if this cannot be done without danger of the seal, because the deafness became known not at the beginning but only in the progress of Confession, after a light penance has been imposed, those certainly disposed are to be absolved absolutely, those doubtfully disposed conditionally.

Query 7° Are mute persons who know how to write held to confess by writing for procuring the integrity of Confession?

Resp. See n. 1368. 2°.

Query 8° Are those ignorant of the language of the place in which they wish to confess held to confess, and how?

Resp. Those ignorant of the language of the place in which they are staying, and lacking a confessor by whom they can be understood, are held, when the precept of annual Confession urges and in the article of death, to confess in some way, at least by general signs. The reason is that the divine and ecclesiastical precept urges. For although they cannot confess materially integrally, nevertheless they are held to that which they can do.

Query 9° Are those ignorant of the language held to confess through an interpreter, if they can?

Resp. Neg., because to confess through an interpreter is a very grave burden and subject to many dangers, e.g. of revelation, mockery, etc. Except if in danger of death the penitent ignorant of the language doubts concerning perfect contrition, because in that case Confession would be a means altogether necessary for salvation; but then it will suffice to confess one venial sin, so that in this way the other sins may be indirectly remitted.

Notes to n. 1369 - note sequence 1. (1) L. VI. 479 sq. quoad omnia. (2) Ib. 489.

Point II. On The Confession And Absolution Of The Dying.

1370. - I. Any dying person who in some way, by voice or sign, confesses, or asks for absolution, can and must be absolved, and indeed absolutely. The reason is that all requisites are present for the Sacrament and for Confession formally integral.

II. Any dying person in whom attrition and Confession can be presumed in some way, however slightly probable, can and must be absolved, but conditionally; because in a case of extreme necessity, even in the administration of the Sacraments, it is lawful to use even a slightly founded opinion. - St. Alphonsus and others more commonly against others.

III. A dying person who altogether refuses the Sacrament of Penance, or who can in no way be presumed attrite or to have wished or to wish Confession, can in no way be absolved. The reason is most plainly clear.

Notes to n. 1370. (2) L. VI. 480. (3) Ib. 482. Notes to nn. 1370-1371 - note sequence 1. (1) L. VI. 481. (2) Th. 482. (3) Ib. 483. (4) Kenr. Tr. XVIII. 211. (5) L. VI. 483. Notes to nn. 1370-1371 - note sequence 2. (1) n. 276. sub. 11. (2) L. VI. 482. (3) Tr. XVI. 37.

1371. Resolves. - 1° All dying persons not yet deprived of the senses and consenting to absolution, and obeying the commands of the confessor, are to be absolved: absolutely indeed, if they spontaneously ask for Confession, or if with a willing mind they propose to confess; but conditionally, if with difficulty they are scarcely induced to some Confession, or if there is prudent doubt concerning their sufficient disposition. - Thus commonly.

2° All dying persons deprived of the senses, who before the deprivation of the senses expressly showed a desire of Confession, e.g. by ordering a priest to be called, etc., are to be absolved, but more safely conditionally. The reason is that in the case Confession becomes known sufficiently sensibly to the confessor through the testimony of another, even of one person or mediately. This is clear from Councils and from the Roman Ritual.

3° All dying persons wholly destitute of the senses, who lived as Christians, are to be absolved under condition, even if at that time they gave no sign either of sorrow or of desire for Confession. The reason is that in these persons sorrow and the desire of absolution can be presumed through sensible signs, e.g. through sighs, motions of the body, anxious breathing, which were manifested although not perceived by the confessor.

4° For the same reason other dying persons destitute of the senses, who lived little as Christians, are also to be absolved conditionally.

5° For the same reason, sufficiently probably, a Catholic dying person, destitute of the senses in the very act of sin, e.g. in a duel, adultery, theft, etc., can and must be absolved under condition.

6° "Those who, although they have never professed the Catholic faith, have shown a will inclined toward it, can in that crisis," i.e. if they are dying and destitute of the senses, "be absolved under condition, ... if they have already been baptized in their sects" (but in doubt concerning the value of this Baptism, after Baptism has been repeated under condition); "for there is some reason for conjecturing that they wish to finish life in the communion of the Church. But if no indication of his will has been given, they are not to be absolved, even if they give signs of sorrow": because such persons can never prudently be presumed to give those signs in order to Confession, from which they greatly abhor.

Note. - Absolution is usefully conferred several times on a sick person still enjoying his senses after a brief Confession; for thus he is rendered more secure concerning the state of grace, he receives an increase of grace, and purgatorial punishments are diminished for him. - But to one destitute of the senses and giving no sign of sorrow and of desire for absolution, "it is not expedient to impart

absolution very often within the same day," i.e. more often than every three or four hours, even if only conditionally; for the grave and urgent cause which is required in order that a Sacrament be administered under condition does not exist *per se* for this kind of absolution "repeated very often within the same day."

I say: *per se*; for it could be given more frequently to a dying person habituated in evil thoughts, or entangled in some passion of hatred or impure love, or not bearing a very bitter infirmity with a willing mind, or also now on the very point of dying. - "Moreover, it will not be beside the matter to warn the sick man, while he is in possession of mind, that" when "he will not be able to speak," he should "give some determinate sign," or one agreed upon with him, "when he seeks absolution, or when the priest wishes" to confer it "upon him," e.g. to close or open the eyes, lift the hand, incline the head, and the like. Thus St. Alphonsus in *Praxis Conf.*, where he treats the matter more explicitly than in *Theol. Mor.* or in *Hom. Apost*.

APPENDIX: ON THE EXAMINATION OF CONSCIENCE

1372. Principles. - I. The penitent, speaking *per se*, is held under grave obligation to institute a diligent examination of mortal sins before Confession. This follows from the precept of procuring also material integrity, as far as can be done. For since he is held to confess the number and species of sins, by that very fact he is held to recall them into memory as far as he can by moral diligence, and therefore to institute a diligent examination; because he who is obliged to the end is also obliged to the means necessary for it. It is clear also from Trent.

II. Diligence in the examination ought to be serious, or such as is usually applied in serious matters and matters of great moment. The reason is clear; for there is question of the grave precept of Confession. - Nevertheless it is not required that it be the greatest diligence, even if someone thinks that through it, for example by thinking for another hour, he would find still other sins. - Likewise, due diligence having once been applied, no one is obliged afterward to think expressly about his past life further.

III. Nevertheless equal diligence is not required from all. For those who confess frequently need less examination than those who confess rarely; but those who are involved in worldly business need more than those who lead a private life. Likewise country people and the unlearned cannot apply that accurate diligence which the skillful and learned can.

Notes to n. 1372. (4) Sess. 14. c. 5.

1373. Resolves. - He sins *per se* mortally who from gravely culpable negligence in the examination omits some mortal sin, and he is held to repeat the Confession, as sacrilegious. Nevertheless in defect of examination there can be smallness of matter, even if a grave sin is omitted from it, e.g. on account of some inadvertence; and then the Confession is certainly valid. I said: *per se*; for *per accidens* that obligation can either cease or be greatly diminished, namely:

1° He who is morally certain that he has not committed mortal sins since the last Confession is not held to a rigorous examination before Confession, except insofar as is required for furnishing sufficient matter for the Sacrament. In practice, however, it is to be advised to pious penitents that they give attention to an examination of conscience at least for five minutes, or for about half a quarter of an hour, namely for knowing and rooting out venial defects.

2° An entirely middling diligence of examination is required in those of timid conscience, because conscience would not be silent if anything gravely culpable lay hidden within; indeed in the scrupulous inquiry is to be omitted, and sometimes altogether forbidden, as useless and often harmful: for if they had sinned gravely, they would always have the sin before their eyes.

3° For the sick, an examination so accurate as for the healthy is not required; indeed sometimes none is to be demanded from them on account of weakness of the head; nor should compliance easily be made with them when they say they are putting off Confession from day to day, as if they have not yet sufficiently discussed their conscience; but as far as their state permits, they are to be examined briefly by the confessor himself through the precepts of the Decalogue and of the Church; for it is

better to restore them to the state of grace through absolution, even if confessed imperfectly, than, with the Sacraments of the Church delayed, to expose them to the danger of damnation.

Notes to n. 1373. (1) L. VI. 471. 1.

1374. Questions. - Query 1° Is a penitent who fears lest sins fall from memory held to write them and read the writings?

Resp. Neg. The reason is that no one is held to procure the integrity of Confession through extraordinary means, and through diligence so exquisite. Besides, this is foreign to the common practice of those who fear God, and can even be prohibited to the scrupulous.

Query 2° What order is to be followed in the examination of conscience?

Resp. 1° By reason of matter: if someone has not confessed for a long time, it is expedient that he run through the order of the precepts of God and of the Church, and the special obligations of his state; otherwise it suffices to attend to evil habits, to sins more customary, or summarily to sins against God, one's neighbor, and oneself.

Resp. 2° By reason of manner: 1) divine light is to be humbly sought; 2) discussion of conscience is to be made; 3) afterward the baseness of sins and the gravity of the divine offense are especially to be considered, and thus one must insist upon eliciting sorrow and purpose.

Query 3° What is to be done by the confessor if penitents approach without their conscience having been sufficiently discussed?

Resp. 1° If they are instructed, they must kindly be dismissed, so that they may discuss their conscience more accurately and return, at least if there is question of lengthy and complicated Confessions. The reason is that it is almost impossible that someone suddenly, when asked, remember all things. Except, however, unless circumstances advise otherwise.

Resp. 2° If they are unlearned or little instructed in matters of Religion, they are not easily to be dismissed so that they may examine their conscience, at least if they have applied some diligence. The reason is that the confessor will easily supply for these. For by some questions he himself will obtain more than they, left to themselves, would furnish by a long examination, although they should strive to recall all sins into memory. Besides, it is to be feared lest perhaps, terrified by the difficulty, they may not return any more to confess.

Notes to n. 1374. (1) Elbel, n. 153. (2) L. VI. 471. 3. (3) Ib. 471. 2. (4) Ib.

ARTICLE III: ON THE REPETITION OF CONFESSION

1375. Principles. - I. Every Confession of lethal sins morally certainly invalid must necessarily be repeated. For a Confession of this kind is altogether unfit for fulfilling the law of Confession.

II. But a valid Confession, even if it lacks integrity, is not to be repeated, but only integrated, namely by supplying the defect; the reason is that the sins already declared were directly remitted by force of absolution. Therefore there remains only the obligation of subjecting to absolution the omitted sins, which had been remitted only indirectly and concomitantly. - Thus all.

III. The repetition of an invalid Confession must be made from the whole, if the penitent approaches a new confessor; because otherwise he cannot here perform the parts either of judge or of physician.

But otherwise, if he confesses to the same confessor still remembering the preceding Confession; then it suffices if he accuses himself summarily of the sins already accused, e.g. *I accuse myself of the sins already declared in such a Confession*: for this is enough that the sins invalidly declared be sacramentally accused, nor does the confessor need to hear the Confession again in order to fulfill his office. - Thus commonly. - St. Alphonsus and others against certain ones who require the whole repetition of the Confession.

IV. Confession is not necessarily to be repeated unless its invalidity is morally certainly established. See the reason n. 67. 2°.

Notes to nn. 1375-1376 - note sequence 1. (3) Ib. 502. Notes to n. 1375. (1) L. VI. 504. (2) Ib. 502. Notes to nn. 1375-1376 - note sequence 2. (1) L. VI. 502. (2) Ib. Cf. Vind. p. 480. Ed. 2a. T. II. p. 93. Notes to nn. 1375-1376 - note sequence 3. (1) L. VI. 502. (2) Ib. 499.

1376. Questions. - Query 1° Must an invalid Confession be repeated from the whole before the same confessor, if he remembers only confusedly the sins accused, or even has altogether forgotten them?

Resp. to the 1st. Neg., more commonly, even if the invalid Confession was invalid on the part of the penitent; but a general repetition will suffice. The reason is that for faults already accused a general repetition joined with knowledge antecedently had by the confessor suffices for sacramental judgment, since concerning the individual sins the confessor has already judged.

Resp. to the 2nd. Neg. also, more commonly, even if the confessor does not in any way remember that invalid Confession; therefore it will suffice that the penitent manifest his state, so that the confessor may have at least a confused knowledge, which also the penance sometimes procures, concerning him. For if in the preceding case some confused memory of the state of the penitent suffices for the confessor, it ought to suffice also in the present case; since in both cases the same reason applies.

Query 2° Must a Confession made with doubtful contrition be repeated?

Resp. Neg. *per se*. The reason is clear from what was said n. 67. 2°. I said: *per se*; for in practice attention must carefully be paid to the condition of the penitent. For if the penitent is a man sufficiently prudent and serious in his ordinary actions, or in his Confessions, there is a legitimate presumption concerning the value of the Confession; nor therefore is he to be urged to repeat it. But otherwise, if he is supposed to be a frivolous man and inconsiderate in most of his actions, because then the presumption militates against him. See n. 67. 3°.

Query 3° Are relapsers to be compelled to repeat preceding Confessions?

Resp. See n. 67. 3°.

Query 4° Must all sins be repeated explicitly which before were narrated to the confessor merely historically outside Confession?

Resp. 1° Neg., if the confessor still remembers them distinctly; then it suffices if the penitent confess them generally by saying: *I accuse myself of all those things which I have already narrated to you.* The reason is that those sins through summary Confession are sacramentally subjected to the confessor as judge, in order to absolution; and the confessor here and now sacramentally judges concerning all of them, since he remembers them distinctly.

Resp. 2° Affirm., if the confessor does not distinctly remember all of them, even if he remembers them confusedly or in part. The reason is clear from what has been said.

Query 5° Must Confession be repeated if the confessor before absolution has forgotten the sins accused?

Resp. Neg., if the confessor remembers, at least confusedly, the state of the penitent; for he absolves over certain and sufficiently perceived matter; and besides he judged sacramentally concerning the individual sins while they were being exposed to him. If he does not remember even the state of the penitent, he will easily be able to explore him by a few questions.

Query 6° Is the penitent held to go over the whole Confession again if, when it has been finished, he notices that the confessor, on account of deafness, sleep, or another distraction, did not perceive the sins?

Resp. Affirm., if he perceived absolutely nothing. Otherwise neg. But *per accidens* the repetition of the whole Confession can be necessary, namely if the penitent does not know precisely which sins were not perceived, and at the same time there is question of a brief Confession; for material integrity must always be supplied where it can conveniently be supplied. Nevertheless, if there is question of a long Confession, its repetition is not to be required, since it cannot be presumed that Christ prescribed material integrity with so great a burden.

It is said in the question: *if, when it has been finished*, etc.; because he who in bad faith confessed to such a confessor, or even to an unlearned one, would be held to repeat the Confession, as sacrilegious, in every case.

1377. Resolves. - 1° For a confessor noticing at the beginning of Confession that the penitent had confessed badly in past years, it will suffice to have questioned him only concerning the last year, if on account of the uniform manner of life he can at the same time form judgment concerning preceding years. The same, with the same uniform manner of life supposed, is to be said if he notices the defect of past Confessions after the Confession of the last year has been heard, provided that he still remembers this distinctly; nevertheless in both cases it is required that the penitent accuse himself in a general manner concerning the other years.

2° If someone has confessed to a priest lacking jurisdiction, he will be held to repeat the Confession, if afterward he detects the defect. But those chiefly and regularly lacking jurisdiction are a simple priest (n. 1394. q. 7°), an accomplice (n. 1404), an excommunicated person to be avoided [n. 1676. 1°, Exc. b)], and a suspended person denounced (n. 1689. 4°).

3° In practice the confessor should distinguish carefully Confessions which were only null from those which were also sacrilegious. For it happens that both the nullity of Confessions which were not sacrilegious and the obligation of repeating them are unknown in good faith; in which case the admonition from which no fruit is hoped is to be omitted, or at least deferred to a more suitable time. But sometimes the penitent can be so questioned that, unknowing, he repeats the Confessions, and it can be declared to him that they have now been sufficiently repeated.

4° Doubtfully valid Confessions are or are not to be repeated, according as the presumption stands for their value or nullity.

Notes to n. 1377. (3) Ib. 504. (1) L. VI. 505.

APPENDIX: ON GENERAL CONFESSION

General Confession is the repetition of several Confessions. It can be the repetition of the Confessions of the whole life, or of some time, e.g. of one or several years. We must speak briefly: 1° concerning the necessity or opportunity of general Confession; 2° concerning the method of performing it.

I. On The Necessity Or Opportunity Of General Confession.

General Confession can be either necessary, or only useful, or useless, or even harmful. Hence the following rules must be established.

1378. Rule I. - General Confession must be judged necessary whenever preceding Confessions were morally certainly invalid or sacrilegious, either on the part of the penitent because of defect of contrition or integrity, or on the part of a confessor lacking jurisdiction; but in the other cases it can never be prescribed. The reason of both is clear from what was said above concerning the repetition of Confession. Cf. however n. 1377. 3°.

Rule II. - General Confession is to be permitted, or even prudently advised, although not necessary, when, the circumstances having been considered, the penitent is going to perceive notable spiritual fruit from it, e.g. by reason of greater security or peace of conscience, humility, devotion, fervor, knowledge of himself, manifestation of conscience for more perfect direction; or greater purity of soul, for obtaining divine helps more efficaciously, etc.; because the confessor from charity must promote the greater spiritual good of the penitent, when he can do so easily. Benedict XIV, c. *Apostolica*.

Rule III. - It is to be prohibited in the other cases as useless, and even harmful, when other inconveniences besides the loss of time are prudently to be feared, namely scruples, anxieties, perturbation of conscience, etc.; for if so great a burden for the confessor and the penitent is not to be undertaken without hope of notable fruit, all the more so with fear of notable harm.

1379. Resolves. - 1° General Confession is useful 1) in a doubt, not empty, concerning the value of past Confessions; 2) when a purpose of a better life more strongly impels, e.g. in the time of a Mission; 3) in the principal epochs of the Christian life, namely before First Communion; before the reception of a new state of life; when a dangerous illness is deservedly feared; when old age is approaching.

2° Besides the Confession made at the time of First Communion, another general Confession of the whole life is easily, generally speaking, to be permitted; but another would be conceded with greatest difficulty when the prior one was made sufficiently accurately, in good faith and with good will, unless perhaps it was made in youthful age, e.g. before the 26th year. Hence penitents who ask permission from the confessor to make a general Confession are to be asked for what cause they request it; whether they have already confessed generally at other times; from what time, and how often; and from the answers the confessor will judge whether this Confession is expedient or not.

3° A partial general Confession, namely of one year, or from the time of the last general Confession, is easily to be permitted to devout persons, according to the custom kept among most religious

families. Likewise, at times it can be permitted to pious penitents to repeat summarily in a few words the principal sins of their life; nevertheless attend to the various circumstances of persons.

4° But confessors must especially beware lest they too easily compel penitents to general Confession; and those are greatly to be reprehended who require this from all new penitents under the pretext of necessity, or by reason of direction, etc.

5° General Confession is not to be permitted, even in doubt concerning the validity of preceding Confessions, where from it notable inconveniences are to be feared by reason of scruples, perturbation of conscience, etc.; because grave and certain inconveniences are not to be undergone on account of a doubtful obligation.

6° It happens that young women professedly devout, although already several times confessed generally, ask to confess generally more from affection toward a new and younger confessor than from true devotion. A younger confessor should hardly ever comply with these, unless this is necessary, or prudently feared to be necessary. Except in a jubilee, etc., a Confession from the last general Confession.

II. On The Mode Of Performing General Confession.

General Confession can be made in many ways; but generally speaking it will be more expedient if it is made according to the following rules.

1380. Rule I. - Before Confession: the confessor must take pains to know explicitly the state of the penitent, and the various circumstances by which he can be directed toward questioning prudently and fruitfully. Hence:

1° Let him examine whether the Confession is necessary; for if it is necessary, the penitent must be heard and questioned with much greater care. But if it is not necessary, the penitent must first be warned that diligence of this kind is not required, indeed that he is free to keep silent about the sins he wishes. Nevertheless what at the beginning seems only useful is often found necessary in the course of the Confession, especially in doubt concerning the value of past Confessions.

2° Let him prudently inquire concerning the state of the penitent, whether unmarried or not, concerning his age, occupations or offices, concerning his family; namely whether he still has parents, brothers or sisters; and whether he lives with them, or lived with them for a long time; if he is or was joined in Matrimony, whether he has sons or daughters, in what age they are constituted, and whether he lives with them. Let him also discreetly inquire concerning the impediments of Matrimony, especially of clandestinity, where it was contracted clandestinely, and whether perhaps before a heretical minister; of disparity of cult, and of mixed religion, and, in these last two cases, whether the children are educated Catholic.

3° Let him ask from what time the penitent has confessed; whether he was absolved; whether here and now he is entangled in some depraved custom, occasion, or depraved affection of soul; whether perhaps he is enrolled in some condemned society; whether he ever concealed sins; how long; whether he afterward confessed them, or repeated sacrilegious Confessions, and how often; what other Sacraments he received, confected, or administered sacrilegiously.

These preliminary pieces of knowledge will serve the confessor very much; but he will urge these questions more or less according to the quality of the one confessing and the nature of the answers. - The confessor will procure several of these pieces of knowledge for himself if he induces the penitent to premise before the general Confession an accusation of sins committed since the last Confession.

Rule II. - As regards the order of Confession: the accusation and questions in the Confession itself must be made in a certain order, and always the same one, lest everything be mixed up with disturbance of the confessor and of the one confessing, and with danger of defect of integrity, etc. But the shorter and easier way is if the declaration of sins is made according to the order of the commandments of God, of the Church, and of special obligations according to each one's proper state. - Nevertheless questions concerning the Sixth are more prudently made at the beginning, or, if there is question of penitents who on account of their condition or for other reasons can be presumed to bear it with difficulty if they are questioned about this matter at once from the beginning, they are instituted at the end of the general Confession.

Rule III. - As regards the mode of Confession: if the penitent is sufficiently instructed, let the confessor kindly induce him to expose his sins according to the aforesaid order, promising that he will help him and, whenever there will be need, question him, so that all things may be rightly completed. - But if the penitent is unlearned, or prefers to be questioned, let the confessor take almost the whole burden of the Confession upon himself; let him question in order concerning all things which penitents of the same condition are accustomed to commit; but if there is question of a necessary general Confession, or of those who do not belong to the class of the pious, only concerning sins truly grave. But before he begins the questions, let him carefully warn the one confessing that he should fear nothing as to the difficulty of uncovering sins: *Be quiet and of good mind*, he will say; *I shall make your Confession; I know indeed all the sins which you could have committed; I shall uncover all these things for you; it will be yours only to respond clearly and sincerely to my questions, and to conceive true sorrow for sins.*

When the examination has been finished, let the confessor inquire from the penitent whether he is now quiet, or whether he knows that something must be added.

Then, and generally not before, let him proceed to the necessary admonitions. Finally let him exhort him not to repeat this general Confession.

CHAPTER III: ON SATISFACTION

We must treat 1° concerning the imposition; 2° concerning the fulfillment of penance.

ARTICLE I: ON THE IMPOSITION OF PENANCE

1381. Principles. - I. The confessor is held to impose a penance on every penitent who can perform it. The reason is clear, 1° because satisfaction is an integral part of the Sacrament of Penance, having an effect *ex opere operato*, and a greater effect by force of the Sacrament than without it. But the confessor, as Minister of the Sacrament, is held to procure its integrity as far as lies in him; otherwise he would not be a faithful dispenser; 2° because the confessor is held both to vindicate and to heal. This is clear also from Trent. See St. Alphonsus.

II. The confessor is held to enjoin penances both vindicative and medicinal, suitable and salutary, i.e. in some way proportionate to the number and gravity of the sins, and also to the strength and dispositions of the penitent. The reason is clear from the nature of the matter, since sacramental satisfaction is ordered to the vindication of sins, which are more or less grave, and likewise more or fewer, and also to preventing new faults. This is clear from Trent.

Notes to n. 1381. (1) Sess. 14. c. 8. (2) L. VI. 506; H. A. Tr. XVI. 47. (3) Sess. 14. c. 8.

1382. Questions. - Query 1° How great is the obligation of imposing penance?

Resp. 1° This obligation is grave from its genus. The reason is that the obligation regards a grave matter, although from smallness of matter one can sin against it only venially. - Hence the confessor can also sin gravely if, for grave faults, he should impose very light penances without an excusing cause. - Thus commonly.

Resp. 2° As regards venial sins, it is controverted. Some affirm that it is grave, because the enjoining of satisfaction pertains to the rite of this Sacrament; and since this rite was instituted by Christ, it must be held as a grave matter. - But others say that it is light, because a grave obligation of enjoining penance for light faults only cannot be proved, since in this no grave disorder appears; which opinion is probable, as St. Alphonsus says.

Query 2° When must penance be imposed?

Resp. Generally speaking it is to be imposed before absolution: the reason is that thus the order of judgment is observed, which requires that the guilty person first promise satisfaction before he is absolved. But if the confessor from forgetfulness did not enjoin the penance before absolution, he must impose it after absolution. Nevertheless it is not grave to impose penance immediately after absolution; indeed probably it is free from all fault if it is presumed that the penitent will accept the work enjoined upon him.

Query 3° How much penance must be imposed on sinners?

Resp. The quantity of penance cannot be determined universally; but it is left to the prudence and judgment of the confessor. Nevertheless, regularly and *per se*, he must impose grave penance for mortal sins. Thus from Trent.

Query 4° What penance is judged grave *per se* for one or another mortal sin?

Resp. A penance is to be judged grave, at least from the present practice of the Church, which corresponds to a work which is enjoined under grave obligation by the Church, or which would oblige of itself under grave obligation if it were prescribed.

Hence a grave penance, and one sufficient for an ordinary grave sin, will be to hear Mass, to fast, to recite the Rosary, even if only of five decades, the Little Office of the Blessed Virgin, the Litany of the Saints, and other similar things; but it would not be judged a grave penance if only the Psalm *Miserere* were imposed.

Query 5° For what cause can a lighter penance be imposed?

Resp. 1° If the penitent is very weak and infirm in body; concerning this matter the Roman Ritual speaks thus: "Let the Priest remember that a grave and laborious penance is not to be enjoined on the sick, but only that which, if they recover, they may perform at a suitable time." But if the sick person is constituted in danger of death, then he can be absolved without any penance, although it is always expedient to impose some penance on him; 2° if there is a prudent fear lest he not fulfill a greater penance, or lest on account of a heavier penance he be turned away from Confession; 3° if a greater penance would probably be more harmful to him than profitable; 4° if the penitent appears very contrite; 5° if there is present a time for gaining a plenary indulgence, especially of Jubilee. For the rest, with grave infirmity, or very vehement contrition, or some other very rare case excepted, the confessor would not act well if for mortal faults he enjoined a penance light *per se*, which carries a light obligation. For although, if it is expedient, a work may be imposed which, respectively to the sins, is light, nevertheless regularly some grave penance under grave obligation is always to be enjoined, with a heavier one added under light obligation, if it so seems.

Query 6° Can penance be imposed under the condition of relapse?

Resp. Affirm., "provided that," besides, "a proportionate penance for the sins confessed be imposed," because otherwise there would in fact be no penance, if perchance the penitent did not relapse into sin. "But it is not expedient to impose it" beyond a month or another Confession, "because afterward it is easily neglected and sins are multiplied."

Query 7° Can a public penance be imposed?

Resp. Neg., if there is question of hidden sins. - Thus the Roman Ritual. But otherwise for public sins. Nevertheless, if public penance is not so necessary, the confessor ought not to impose it on one refusing it, since otherwise his salvation can be obtained and scandal repaired.

Query 8° Can a work otherwise due be imposed for penance?

Resp. Affirm. The reason is that since that work is satisfactory, it can well be elevated through the keys to the merit of sacramental satisfaction. Nevertheless, in practice this should not be done except on account of the frailty of the penitent. Nor is it to be presumed that the confessor has chosen a work already due, unless either this is established concerning it, or there is a founded presumption. Cf. n. 134. R. ad a).

Notes to n. 1382 - note sequence 1. (1) L. VI. 506. (2) Ib. et H. A. Tr. XVI. 47. (3) Ib. 514. 8. H. A. Tr. XVI. 47. (4) Sess. 14. c. 8. L. VI. 508. Notes to n. 1382 - note sequence 2. (1) L. VI. 515. (2) H. A. Tr. XVI. 49. (3) L. VI. 508 sq. (4) Ib. 510 in fine. 518. H. A. Tr. XVI. 51. Prax. Conf. n. 13. (5) Ib. 524. H. A. Tr. XVI. 52. Prax. Conf. n. 13. III.

1383. Resolves. - 1° Perpetual penances are never to be imposed, both because they are wont to induce danger of forgetfulness or excessive anxiety, and because, if such penances are imposed by various confessors on the same penitent, he will be bound at the same time and for his whole life by innumerable bonds. Indeed penances are not ordinarily to be imposed for a long time, e.g. for a year, or for five months.

2° Those satisfactions are never to be imposed which can expose the penitent to the mockery of others, e.g. that he recite in the middle of the Church five *Paters* with arms extended, etc. - But *a fortiori* penances are not to be imposed which cannot be fulfilled without the revelation of Confession easily following.

3° Nor are fasts to be imposed on boys, country people, artisans wearied by continual labor; nor on children of a family who by fasting would cast astonishment on their parents, or even offend them. Nor are pilgrimages or lengthy prayers to be enjoined, or generally alms, on women constituted under the power of a husband, just as neither on the poor procuring their living by constant labor.

4° Penances involved in many diverse works are not to be imposed, because they could not be retained by memory; nor, ordinarily at least, penances too repugnant to nature, e.g. to sign the cross with the tongue on the ground, to visit enemies, etc. It is also generally imposed imprudently on boys that they ask pardon of parents or of others, on account of disobedience, irreverence, or little thefts; because they often render Confession odious, and for the most part are omitted, etc. (I) p. 406.

Notes to n. 1383. (1) L. VI. 512. (2) Ib. 513. (3) H. A. Tr. XVI. 52. Appendix annotation (Iota), to n. 1383. p. 128. col. 1. To the preceding resolutions I also add these things from the distinguished Van Egeren, De Satisf. Sacram. "This is most worthy of observation for a confessor, yet it is not attended to often enough: namely, that the devil is the con-cause of many causes of sin, so that the greater part of sins, especially those which are admitted by persons more fearful, is not to be judged to have been perpetrated without any instigation of the demon. And hence the practice of those is very much to be approved who, with other causes sometimes less attended to, once or twice impose for penance principally remedies specially adapted to the assault of the demon, for example, repeated invocation of the Most Holy Names of Jesus, Mary, and Joseph, imploration of the help of the Guardian Angel, veneration of the Crucifix, sprinkling with holy water, carrying blessed images, etc." To the question: What penances, considering present-day morals, are generally useful for all? he responds: "Those penances generally are useful for all which, while small mortifications or modest alms are not altogether always excluded, nevertheless consist principally in vocal prayers or other not unusual works of piety, provided these very things, insofar as it can be done, are adapted according to the diversity of cases to punish and amend sins salutarily and fittingly. But such adaptation will often be made with success through determination of the mode of execution, for example, of kneeling, of extension of the arms, etc.; - through determination of the time, for example, as often as perhaps you have relapsed; each morning or evening; at the time of Mass during the elevation of the Sacred Host and Chalice; - through determination of the place, for example, in church before the Most Holy, before an image of the Crucifix, of the Blessed Virgin Mary, of St. Joseph, before the bed before going to sleep, etc.; - but above all through determination of the intention with which they are done, while nevertheless guarding against confusion and always seeing what the capacity of the penitent can do, what it refuses to bear. And indeed, the highest importance of positively determining an intention of this kind will become more clearly evident even from these few examples, namely: "To the proud man enjoin a prayer to be recited devoutly with the express intention, that by being lifted up you may never provoke the divine indignation, like the proud Pharisee; or another time, that God may be propitious to you, as to the humble Publican; or another time, if there is question of one more devout, that some humiliation may befall you from men, etc. "To the avaricious man, a prayer with the express intention, lest by accumulating temporal goods you lose eternal goods; or another time, that you may obtain the grace of Christian mercy toward the poor, etc. "To the lustful man, a fervent prayer to the most pure Heart of Jesus, or to the Blessed Virgin conceived immaculate, that not so many men be damned eternally by reason of lust; or another time, that henceforth you may serve God with a chaste heart and please Him with a clean heart; or again, that you may be filled with a holy shame of yourself, who, created to the image of God, have plainly assimilated yourself to uncomprehending beasts, etc. "To the drunken man, a prayer for all who have seen you drunk, that they may not imitate your evil example; or

another time, for your household family, that, with God providing, it may not miserably perish by your scandal and wasting, but by the Consoler of those who mourn and the Protector of the innocent; or again, that the Savior thirsting on the Cross may preserve you from the outcry of everlasting thirst in hell, etc. "To the thief, a prayer that the paternal Divine Providence may rather send some misfortune upon you than permit you again to stretch out your hands to the goods of others; or another time, that, with the help of the grace of God, you may vividly believe that the thief will be excluded from the kingdom of heaven, or that his sin is not forgiven him unless what has been taken away is restored, etc. "To the distrustful man, a prayer before the Crucifix, that, considering the mercy of God, you may be raised up into hope and firmly trust that God, on account of Christ, will be propitious to you; to which prayer afterward for some time a pious aspiration of this kind should be joined: O Cross of Jesus, my one hope, hail; or another time, which we read was more frequently recommended by St. Alphonsus and St. Leonard: O my Jesus! mercy; or again: O Mary, show thyself to be a mother. Hail, my life, sweetness, and hope! etc. "To the blasphemer, a prayer lest your house be deprived of heavenly favor and blessing, as experience testifies happens so often by reason of blasphemy; or another time, lest you learn further on earth those infernal canticles which the damned will sing eternally; or again, that, with the grace of God exciting and helping, as soon as perhaps you relapse, under a humble striking of the breast you may proclaim: Praised be Jesus Christ, or Hallowed be thy name, etc. "To the tepid man, a prayer lest the merciful God begin to vomit you, neither cold nor hot, out of His mouth, etc. "But it is not to be passed over here in silence that the discreet choice itself of various prayers or pious exercises is intimately connected with a determination of intention of this kind; by this the attention of the penitent is accustomed to be much strengthened, while now these, now those, now certain, but few, are imposed together according as the thing calls. Suppose, for example, the case in which to one approaching Confession on the feast of Pentecost there seems to be enjoined a devout invocation of the Holy Spirit, that He may kindle in his heart the fire of His love, exceedingly diminished by venial sins. What prayer will you choose for this end? Indeed you will be able suitably to choose that any prayer proper to this Feast be recited once, for example, the Litany of the Holy Spirit; but, to excite the greater attention of the penitent, you will sometimes more aptly choose that the prayer which is found after the Litany of the Holy Spirit in prayer books be recited daily through the octave. "Moreover, there are almost innumerable prayers or other works of piety from which this choice can be made." See, for example, n. 1387 of this Compendium. "Several will occur finally" to one reading "spiritual books, or investigating the mind of holy confessors, who have committed to writing their salutary thoughts on this matter. Thus, for example, St. Alphonsus in Praxis, n. 14, while inquiring rather diligently, among penances generally useful, recounts in the first place: to be joined to some congregation; and certainly, as I note in passing, you will find no penance more useful than this. ... Thereafter the same Holy Doctor, l. c., testifies: 'I have been accustomed mostly to enjoin, or at least to advise for those who were not accustomed to use it, the penance of reciting the Angelic Salutation three times morning and evening, with the supplication: My Mother, help me today, lest I sin against God.' To not a few it has also often seemed good to enjoin for penance: for some time, and especially in the event of a base temptation or of a relapse into lust, five Pater and Ave in honor of the five Wounds, with the successive veneration of each, namely, with kissing. Still, according to all, it will be of very great profit to impose that for some time each morning a firm purpose of vigorously fighting such a vice on that day be renewed before God." It is useful besides to note three things expressly: A. Concerning suffrages for the faithful departed. - That suffrages for the dead constitute matter generally apt for all, which may sometimes be enjoined for sacramental satisfaction, the Roman Catechism is a witness of the highest authority. Moreover, for penitents accustomed to confess venial sins only, a penance of this kind will then especially become most useful when it is imposed under some mode by which they may better understand that venial sins also merit a great punishment before the divine Judge, for example under this or a similar mode: say five Pater and Ave for those faithful departed who are paying penalties in purgatory because of voluntary distractions in prayer; or another time, for those just souls which are tormented by the fire of purgatory because of disobediences toward parents, because of sins of the ears or tongue, because of tepidity in approaching the Sacraments, etc. B. Concerning the Way of the Cross. - The exercise of the Way of the Cross is one thing when public, which at fixed times is accustomed to be performed solemnly in churches; another when private, which is customarily done separately by the faithful. The imposition of the first exercise for the most part can be accommodated sufficiently to all; but the imposition - I do not say the persuasion - of the second exercise will not rarely be less accommodated to those who thus far have had no or little use of it. - But when these things have been attended to by a prudent confessor, concerning the eminent aptitude of the Way of the Cross for penance it will be useful to recall these words, most worthy of mention, from the Mystical Discourse of St. Leonard: An easier satisfaction for sins is also furnished by the frequenting of the Way of the Cross, both on account of the value of the indulgences, because of the gaining of which a penance less than just can often be imposed, and on account of the memory of the Lord's Passion, which is satisfactory in the highest degree, as Blosius says, and also because it is a most noble alexipharmacum preserving against further falls. And hence, with as much exertion and efficacy of spirit as I can, I ask and beseech all confessors that they show to their

penitents the very great treasure of the Way of the Cross, enjoining in place of penance a visitation of the Way of the Cross to be completed so many times, for example; I for now would say: once or twice; and when this has been done, let them set down the scruple whether the other imposed penances are proportionate, since a single visitation of the Way of the Cross very abundantly supplies many other penances. C. Concerning penances for priests confessing. - A confessor receiving the Confession of a priest, upon which not only this man's salvation but also that of many can happen to depend, should before all else recall in his mind that he will render to God a terrible account if, overcome by human respect and having let go the holy liberty of spirit and speech, he exercises this office almost cursorily, as though it were the simple office of absolving, with some small penance indifferently chosen. Namely, without doubt, he must direct the penitent priest, who, otherwise than the rest of the faithful, is accustomed to have no Ananias outside Confession, as much as will seem necessary, to perfection and perseverance in the first charity of the priesthood received, by opportune admonitions, and no less by penances efficaciously salutary and suitable to him. But he will be able to choose penances of this kind sometimes from works which are generally useful for all, sometimes from works specially appropriated to the priestly state, such as, for example, are judged: "a) Prayers from the Roman Missal to be said at will on certain days: for the priest himself; for the petition of tears; for the remission of sins; for repelling evil thoughts; for asking continence; for asking humility, patience, etc. "b) A brief meditation concerning the very great utility of daily mental prayer of at least one quarter-hour, without which, says St. Alphonsus, it will be most difficult to be a good priest. "c) Prayers for deceased priests who are paying penalties in purgatory because of defects committed in the hearing of Confessions, in the visitation of the sick, in the instruction of children, etc. "d) Prayers for oneself and other priests associated in the priesthood in the same parish, that, united by the bond of charity, you may collaborate with fruit in the salvation of souls. "e) Prayers for resuscitating in you, according to the admonition of the Apostle, the priestly grace received in the Ordination of the presbyter. "f) Examination of conscience concerning your priestly duties. "g) A fitting preparation for Mass, with an added act of charity and contrition; or a fitting thanksgiving with the joined prayer: O good and sweetest Jesus, etc., for gaining the indulgence. "h) To be read ... from the Roman Pontifical, if it is at hand, some part of the prayers of the Ordination of a presbyter; or from the Roman Ritual, concerning the care and visitation of the sick, etc. "i) A prayer for asking the grace of fervent devotion toward the Most Sacred Heart of Jesus, the Most Blessed Virgin, the mother specially of the ministers of her Son, etc.; or sometimes also a prayer for obtaining the grace of receiving the Sacraments of those departing this life, of which, if you consult experience, not a few priests have been deprived, with divine Providence so permitting." And many similar things, very easy for a zealous confessor, as is fitting, to find.

ARTICLE II: ON THE FULFILLMENT OF PENANCE

1384. Principles. - I. The penitent is held to accept and fulfill a reasonable penance sacramentally enjoined; because from what has been said the confessor is held to impose a penance, and indeed one in some way proportionate to the sins. But if a penance must be imposed and accepted, by that very fact, by reason of the obedience due to the confessor, it must also be fulfilled. This is clear from Trent,[1] St. Alphonsus.[2]

II. The penitent is held under grave obligation to fulfill a grave penance imposed for grave sins; because grave matter of itself obliges under grave obligation. - Thus all. But more probably he is obliged only under light obligation to a light penance imposed for light faults; because light matter is not capable of grave obligation. - Thus the common opinion with St. Alphonsus.[3]

III. The penitent must fulfill the penance at the time designated by the confessor, or as soon as he conveniently can; and, if the penance obliges under grave obligation, he will sin gravely if from grave negligence he delays it for a long time; the reason is that *per se* it is grave to draw out a notable debt for a long time. But as often as the penance was not fulfilled at the established time, the burden of performing it always remains, because the time is intended only accessorily.[4]

Notes to n. 1384. (1) Sess. 14. c. 8. (2) L. VI. 516. (3) L. VI. 517. (4) Ib. 525. Notes to nn. 1384-1386 - note sequence 1. (1) L. VI. 520. (2) Ib. 528. 529. (3) Ib. 528. 529. (4) H. A. Tr. XVI. 61. Notes to nn. 1384-1386 - note sequence 2. (1) L. VI. 529. Dub. 1°. H. A. Tr. XVI. 61. Prax. Conf. n. 18. IV. (2) L. VI. 529. Dub. 3°. Notes to nn. 1384-1386 - note sequence 3. (1) H. A. Tr. XVI. 57.

1385. Questions. - Query 1° Does a penance, grave indeed in itself, but imposed for only venial sins, oblige under grave obligation?

Resp. Neg. probably. The reason is that then satisfaction is not necessary insofar as it is grave. Hence just as the confessor was not held, indeed could not command it under grave obligation, so neither is the penitent held to fulfill it under grave obligation. Except a) if a grave penance is to be enjoined on account of venial sins greatly disposing to mortal sin, e.g. from their frequency and their special nature, as of sensuality or dishonesty;[1] b) if there is question of grave sins already confessed, for which condign penance has not yet been done, e.g. on account of very grave infirmity.

Query 2° Can the confessor, for grave faults, impose a penance which is indeed grave, but lightly obliging?

Resp. Affirm.; but see n. 1382. q. 5° at the end.

Query 3° Is the penitent held under grave obligation to fulfill the circumstances attached to the penance, e.g. that he pray on bended knees, etc.?

Resp. The solution depends on the greater or lesser affliction of the flesh which the circumstance brings, whether *per se* or with respect to the penitent.[2] This can also depend on the intention of the confessor, which either he himself has expressly manifested, or the penitent can presume.

Query 4° Does he satisfy who fulfills the penance in mortal sin?

Resp. Affirm., with the common opinion. The reason is that in order to satisfy the precept it suffices to place the work of satisfaction enjoined, although the end of the precept is not obtained.[3]

Query 5° Does he sin who fulfills the penance in mortal sin?

Resp. 1° It is certain that he does not sin gravely. - Thus Theologians commonly.

Resp. 2° More probably he sins venially. The reason is that he who voluntarily places an obstacle to the effect, even partial, of the Sacrament does not seem able to be excused from some fault.

Query 6° What delay of penance is a grave fault?

Resp. Of a grave penance, and one imposed for grave sins, a delay for six months is to be judged grave, but not a delay for a month, "provided the penance is not medicinal, ... and ... can be fulfilled in the future." But the delay of a penance whose time for fulfilling it was imposed preceptively and under grave obligation will more easily, at least regularly, be grave. Nevertheless a brief, and therefore venial, delay would be, e.g. of monthly Communion for 6 or 8 days.[4]

Query 7° If the penitent has forgotten the penance enjoined, is he held to repeat the Confession in order to receive another penance?

Resp. Neg., with the common opinion. The reason is that the fulfillment of the penance already once enjoined has become impossible through forgetfulness, even culpable forgetfulness. But no one is held to the impossible.[1]

If nevertheless the penitent prudently presumes that the confessor still remembers the penance enjoined, he ought, if he conveniently can, to approach him, so that he may learn from him what it was. (17) p. 418.

Query 8° Who can commute a penance?

Resp. 1° It can never be commuted by the penitent himself, not even for the better, although a vow can be changed by the one vowing it into a work evidently better; the reason is that penance cannot be elevated to the merit of sacramental satisfaction unless it has been imposed by the Minister himself of the Sacrament of Penance.

Resp. 2° It can be commuted, 1) by the confessor who imposed it, because the legislator can change his own law; 2) by any other confessor, because any other confessor can be judge of the same cause, if the penitent submits himself to his tribunal; for the successor in the same authority can do whatever the predecessor could do. Nevertheless, according to the opinion which pleases St. Alphonsus more, it must be excepted if the penance was imposed by the Superior himself for reserved cases, because an inferior cannot change the sentence of the Superior; unless however a grave cause is present, and the Superior cannot easily be approached, and therefore his consent can be presumed.[2]

But for a commutation to be made licitly, a just cause is required, such as 1° if the penance seems difficult; 2° if it is foreseen that the penitent is not going to satisfy it on account of repugnance, frailty, forgetfulness, etc.[3] - But the penitent will always be able to prefer the prior penance; for the commutation is made in his favor.[4]

Query 9° Is the penitent held to repeat the Confession in order to obtain the commutation of the penance?

Resp. Neg., sufficiently probably; and this whether he approaches the same Confessor or another; because there is no question of a judgment to be passed concerning faults blotted out in the preceding Confession, where judgment concerning them has already been formed, but only of a penance to be commuted; but for this the knowledge of the prior penance suffices, and the knowledge of the frailty or difficulty for fulfilling it, so that, namely, either a new penance in some way equivalent may be imposed, or the given one may be lessened according to the disposition of the penitent.[1]

Query 10° Can the confessor commute penance outside Confession?

Resp. 1° Neg., if the confessor is a different one. The reason is that the confessor has no power except in sacramental judgment.

Resp. 2° If the confessor is the same one who imposed the penance, he can change it immediately after absolution, before the penitent departs; but not afterward. Thus more truly and more commonly. The reason is that for this it is required and suffices that the preceding judgment of the confessor morally persevere, which does not seem to have place if the penitent approaches the confessor outside the tribunal of Penance. Therefore, etc.[2]

Notes to n. 1385. (1) L. VI. 517. H. A. Tr. XVI. 56. (2) L. VI. 517. (3) Ib. 522. (4) H. A. Tr. XVI. 57. Appendix annotation (17), to n. 1385. q. 7°. p. 124. col. 1. If the forgetfulness was gravely culpable, in the following Confession, as is clear, it must be accused, as Müller rightly notes, Th. Mor., V. § 127. I say: "if the penitent prudently presumes," etc.; for example, because he has just now confessed, or there were few penitents present. I say besides: "if he can conveniently," that is, without much trouble and without moving the wonder of the bystanders. Finally I say: "he would have to approach him"; not, however, outside the confessional when, for example, the confessor has already left it; for in the case there is no question of imposing or commuting a penance. What if the confessor did not impose a penance, for example from inadvertence? If the penitent notices this before he leaves the confessional, and immediately after absolution, he ought to ask the confessor to impose a penance upon him. But if he notices this only after he has left the confessional, he is not

bound to this unless he can approach the confessor immediately after absolution has been given, as was established above for Resp. 2. h.

1386. Resolves. - 1° The penitent is not held to fulfill the penance when the Confession was invalid; because the sacramental sentence of the judge was null, and therefore there is no Sacrament to be integrated: otherwise he would have to satisfy twice for the same sins. The same is to be said for the same reason about a penance imposed without absolution. Except, 1° if the penance is medicinal, and therefore necessary by reason of medicine; 2° if the penitent approaches several times for completing the same Confession, and meanwhile the confessor, as is often done, imposes some penance on each occasion, so that a lesser one remains to be imposed at the end.

2° He sins gravely not only who omits the penance, but also he who omits a part of it notable in comparison with the whole penance; or even a part which would be grave considered in itself.

3° Universally, for judging concerning the gravity of an omission, attention must be paid to whether the matter or circumstance omitted contributes much or little to the end of the precept; whether the substance of the precept has been fulfilled, etc. Thus he fulfills the substance of the precept, and sins only venially, who standing, or in his bedroom, recites the Rosary which by order of the confessor ought to have been recited on bended knees or before the image of the Blessed Virgin; but otherwise if the penitent were ordered, e.g. to pray with arms extended;[1] for this mortification is notable, and its omission can be held grave.

4° Prayers imposed as penance can be recited even while one meanwhile hears Mass of precept, unless however something else was established by the confessor. St. Alphonsus against a few. - Prayers which from the use of the Church, or the practice of the faithful, are wont to be recited as if in choir, e.g. the Rosary, etc., could also be recited alternately with companions.

5° The penitent cannot satisfy through another person, unless however this is done with the consent of the confessor, in which case the act by which he asks satisfaction from another on his behalf will be the penance; because satisfaction is an integral part of this Sacrament. Therefore it must necessarily be placed by the penitent himself. This is clear also from the 15th proposition of Alexander VII, p. XIII.

6° If the confessor imposed as penance two Masses to be heard on the same day, they must be heard successively, but not at the same time; for we reasonably presume that the confessor intended this.

7° It is lawful to refuse a penance truly unreasonable, e.g. a manifest penance for sins altogether hidden, or entrance into a religious order. Nor does he sin who does not wish to accept a penance which he sincerely thinks is greater than is just, or too burdensome for his weakness. Therefore in either case, if the confessor is unwilling to mitigate the penance, he can leave the Sacrament already begun imperfect and approach another confessor. But he who from sloth refuses to accept a penance of itself sufficiently fair and rather easy to fulfill, which the confessor when asked refuses to change, intending to approach another confessor so that by him he may be absolved with a penance absolutely light, does not seem, with good faith set aside, able to be excused from grave sin.[2] Thus the illustrious Van Egeren rightly interprets St. Alphonsus.

APPENDIX: ON PENANCES MORE USEFULLY IMPOSED

I. Works Of Piety.

1387. - 1° Vocal prayers, *Pater*, *Ave*, *Credo*, the Litany of the Blessed Virgin, the Rosary, or its third part; morning and evening prayers.[2]

2° Mental prayers, discreetly, according to the capacity of the penitent; for the unlearned, some thought concerning hell, death, or the passion of Christ, morning or evening, e.g. for the time of one *Ave*.

3° Acts of Faith, Hope, Charity, contrition, trust in God, conformity to the divine will, purpose of not sinning, ... so many times, ... e.g. morning, evening, especially in temptations or dejection of mind.

4° The offering of oneself to God very early in the morning, the Sign of the Cross, various aspirations or ejaculatory prayers to Christ, to the Heart of Jesus, to the Blessed Virgin, to the Guardian Angel. (Ordinarily they are not to be multiplied.)

5° The exercise of the Way of the Cross, especially when it is made in common; nine-day prayers in honor of the Blessed Virgin or of some Saint.

6° The hearing of sermons, assistance at Offices of the Church, e.g. at solemn Mass, Vespers, etc., or at spiritual exercises, or the pious exercise of the Marian Month, or other things of this kind, at least several times.

7° General examination of conscience in the evening, at least for a brief time; likewise particular examination concerning such a defect, or such a depraved custom, from a firm purpose of amendment.

8° Visit to any Church or Altar, or to some one in particular, to pray something there, or to ask the grace of sinning no more.

9° Pious reading, e.g. for a quarter of an hour on Sunday, or one or another chapter, e.g. of the *Imitation of Christ*, of the Lives of the Saints, or of another pious book, etc.

10° Frequenting of the Sacraments, on such a day, or at such a time, or so many times. Here the confessor should act cautiously, and should not impose the obligation on those who confess rarely, that they approach the tribunal of penance once or twice in a month for a year; but let him not enjoin this except once, and perhaps another time, and only on penitents accepting it willingly.

Notes to n. 1387. (2) Ib. 55. 57. L. VI. 516.

II. Works Of Mortification.

1388. - 1° Fasting, either entire according to the laws of the Church, or partial according to the physical and moral strength of the penitent. Nevertheless a penance of this kind is not to be imposed except rarely, and only on those who will accept it willingly.

2° Some subtraction of food, which can in no way harm the health of the body, or the offices or labors of the penitent, e.g. half of the usual breakfast on Friday or Saturday, or on the vigil of some feast,

etc.

3° Abstinence from wine or intoxicating liquor, on such a day, at such a time, or not to exceed a certain quantity.

4° Some subtraction of ordinary sleep, especially by rising earlier in the morning, or at a determined hour, as a remedy for sloth, or also for preventing impure temptations.

5° To pray on bended knees, or with arms extended in the form of a cross, to kiss the ground for the sake of humility, to undertake brief pilgrimages.

6° To offer to God several times illnesses, sicknesses, or other hardships of life that occur, by bearing them patiently.

7° Sometimes to be deprived of recreation, even honest recreation, e.g. walking; to repress excessive curiosity in hearing, in sight; not to remain so long at the door or windows of the house. This especially suits young women addicted beyond measure to vanity.

8° To chastise the body with moderate discreet mortification, with some scourging, with an uncomfortable posture. - But these are to be enjoined very rarely; indeed they are to be permitted with great discretion.

III. Medicinal Penances.

1389. - Since, generally speaking, contraries are cured by contraries, the following penances can be enjoined, or only advised, with discretion, however, with special attention to the quality and greater good of penitents.

1° Brief prayers are to be imposed on penitents who pray rarely and badly, to be performed morning or evening, for about a week. - For the tepid, pious readings, or ejaculatory prayers to be made several times in the day, yet few, and for few days, lest from forgetfulness they be omitted, or trouble the penitent. - For those tempted against Faith or Hope, acts of Faith, Hope, trust, or the recitation of the Apostles' Creed, etc.

2° For blasphemers, external reverence toward God, toward the Cross, ... e.g. to kiss reverently the Crucifix, or sacred images, or to say devoutly: *Blessed be the name of the Lord. Praised be Jesus Christ.*

3° For lovers of the world and its pomps, some meditation concerning the vanity of worldly things, e.g. when they rise in the morning or seek their bed, or the renewal of the promises made in Baptism.

4° For those who often omit Mass, some supererogatory Mass to be heard, e.g. a double one on Sunday, or one on a weekday, or some visit to the Most Holy Sacrament to be made several times, etc.

5° For those harboring hatred, some works of charity toward the neighbor, e.g. to greet or speak to an enemy, prudently however; prayer and an act of charity for the neighbor in general, and also specially for enemies; the recitation of the Lord's Prayer for the same, especially these words: *Forgive us our debts, as we also forgive our debtors.*

6° For the lustful, some mortification, or subtraction of conveniences, especially flight of occasions, prayer, frequenting of the Sacraments, frequent renewal of firm purpose, memory of the last things, etc.

7° For thieves and the avaricious, some alms according to their faculties, even if only one coin had to be spent several times on the poor or on the Church. But grave alms are never to be imposed, unless they are accepted willingly.

8° For the proud, certain offices of humility, e.g. to kiss the ground, to visit the poor, or kindly assist them, to treat them humanely, or to elicit various acts of humility, e.g. to say with the publican: *Lord, be propitious to me a sinner.*

9° For gluttons and drunkards, some subtraction of foods, abstinence from food and drink outside the customary meals, or abstinence from wine on such a day, or a prohibition not to exceed a certain quantity of wine at meals, etc.

Add also the works of mortification which are indicated in n. 1388.

PART THIRD: ON THE MINISTER OF PENANCE

We must treat 1° concerning the power of the Minister; 2° concerning his office.

CHAPTER I: ON THE POWER OF THE MINISTER

1390. - In order that someone validly absolve, nothing else is required on the part of the one absolving except intention, the power of Order and of jurisdiction; but that he also absolve rightly, licitly, and worthily, probity, knowledge, and prudence are required. Therefore three things are required for the adequate power of the Minister of Penance, namely, 1° the power of Order; 2° the power of jurisdiction; 3° approbation.

I. The power of Order is required, i.e. that which belongs to the Minister by force of ordination, and is intrinsically attached to the priestly character. The reason is that to priests alone was it said by Christ: *Receive the Holy Spirit; whose sins you shall forgive, they are forgiven them.* - This is established besides by the manifold definition of the Church.

II. The power of jurisdiction is required, i.e. the power by which a priest, as judge, can pass sentence on certain persons, as being his subjects. This is clear from Trent.

III. Approbation is required for hearing Confessions both licitly and validly, or a declaration of the Ordinary judging juridically concerning the suitability of the priest, or concerning the three gifts just indicated, which are necessary in order that someone absolve rightly, licitly, and worthily. - Trent.

Note. - Even a priest who is not a curate is obliged to render himself fit for hearing Confessions if he is in a place where the inhabitants, on account of a scarcity of confessors, labor under grave spiritual necessity, which today, since the number of priests has been so diminished, and especially in this region, is easily found.

Besides, it is altogether to be advised to parish priests whose subjects cannot easily find another occasion of confessing, except among them, that from time to time they call in some unknown confessors and offer their subjects every liberty of confessing to these; indeed, while strangers are exercising their office, let them not themselves hear Confessions. Thus not rarely invalid Confessions and sacrileges will be prevented. Certainly from this head already the utility of missions appears.

We must treat 1° concerning approbation; 2° concerning jurisdiction; 3° concerning the reservation of cases.

Notes to nn. 1390-1392 - note sequence 1. (1) Ib. 570. (2) Sess. 23. c. 15. Ref. (3) L. VI. 550. Notes to n. 1390 - note sequence 1. (1) John 20. 22. (2) Sess. 14. c. 7. (3) Sess. 23. c. 15 de Ref. (4) L. VI. 625. Ben. XIV. Inst. 94. Notes to n. 1390 - note sequence 2. (1) Praxis Conf. n. 201. (2) Sess. 23. c. 15 de Ref. (3) L. VI. 566. ## ARTICLE I. Notes to nn. 1390-1392 - note sequence 2. (1) H. A. Tr. XVI. 75. (2) L. VI. 551.

ON APPROBATION.

Approbation, taken nakedly, can be defined: the juridical judgment of a Prelate concerning the suitability of a priest for hearing Confessions.

Hence, for granting approbation, an examination is not essentially required; for a prudent judgment concerning suitability can be had even without an examination, when this is otherwise established.

1391. - I say I. Approbation is required for hearing Confessions both licitly and validly. Thus by force of Trent.

I say II. Only the Bishop can approve, or one who has quasi-episcopal jurisdiction. The reason is that it pertains only to the Prelates of the Church to judge concerning the suitability of Ministers to be deputed for hearing Confessions. This is also clear from Trent cited above. - But the Bishop can approve either by himself or through another delegated by him, because approbation is an act of jurisdiction; but ordinary jurisdiction can be delegated.

According to the present discipline of the Church, together with approbation jurisdiction also is usually conferred by the Prelate upon priests; and therefore in common usage, under the name of approbation, jurisdiction also is comprehended. But formerly, delegated jurisdiction was commonly granted by parish priests, and approbation only by Bishops; which faculty indeed now scarcely has exercise among parish priests, since scarcely now can a priest be found who, together with approbation, has not also already received jurisdiction from the Bishop.

1392. Questions. - Query 1° From what Bishop must approbation be had?

Resp. From the opinion today altogether to be held, approbation must be given by the Bishop of the diocese in which Confessions are to be heard; hence the approbation either of the Bishop of the penitents or of the Bishop of the priests does not suffice. This is clear from the Bull *Cum sicut* of Innocent XII, April 19, 1700, apud St. Alphonsus, which Bull Benedict XIV confirmed in the Constitution *Apostolica indulta*.

Query 2° Can someone absolve his own subject in a foreign diocese without the approbation of the Ordinary?

Resp. 1° Affirm., if he has truly personal or ordinary jurisdiction over him. The reason is that whoever by reason of his office has ordinary jurisdiction is considered approved by the law itself for hearing his own subjects everywhere; nor is ordinary jurisdiction, provided it is exercised without judicial stir, bound to place; but unless it is specially restricted, it can be exercised everywhere. - Thus commonly. Hence a Bishop and a parish priest can absolve their subjects outside the parish and diocese without the approbation of the Bishop of the place.

Resp. 2° Neg., if over the penitent there is had only delegated jurisdiction; because this *per se* is considered merely territorial, not personal, and therefore does not follow the delegate outside the territory.

Query 3° Does presumed approbation suffice?

Resp. Neg. The reason is that from Trent approbation actually and absolutely existing, and already obtained, is required. But for approbation of this kind actual consent declared by some sign is required. Indeed it is not lawful to begin Confessions before that consent, requested by letters, has been received, even if it seems certain to be obtained. - Thus commonly.

A fortiori, ratihabition of approbation even prudently presumed is not valid, because ratihabition has place only in acts whose value can be suspended into the future; but the value of present absolution cannot be suspended; for the value of Sacraments cannot depend on a future action.

Query 4° Can a Bishop validly and licitly limit approbation with respect to a certain time, place, and persons?

Resp. 1° Affirm. as regards validity, even without cause. The reason is that it is an act altogether dependent on the will of the Bishop, as Superior. Hence just as he can validly refuse approbation, so he can grant it only with restriction. This is also clear from the 13th proposition condemned by Alexander VII: *He satisfies the precept of annual Confession who confesses to a regular presented to the Bishop, but unjustly reprobated.* Therefore the denial of approbation, even an unjust denial, is valid; therefore *a fortiori* a restriction. - This is also clear from Trent, where it is said: *Unless he obtain approbation.* But he who obtains it with restriction simply does not obtain it for the cases excluded.... Therefore.

Resp. 2° As regards liceity, distinguish. - A Bishop can indeed restrict or even altogether deny approbation for a just cause, as is evident; because the necessity of approbation was introduced for this end, that the suitable may be separated from the unsuitable. But otherwise if he does this without a just cause.

Query 5° What are the just causes for limiting approbation to a time, etc.?

Resp. They are for the most part the following: 1° if now there is a necessity of having several confessors, which afterward ceases; 2° if the one to be approved indeed has sufficient knowledge, but greater knowledge is deservedly desired for perpetual approbation; 3° if there is a prudent fear lest, after once having perpetual approbation, he neglect study; 4° for trying how he conducts himself in hearing Confessions, namely whether he applies general principles well in practice, etc.

Query 6° Can a Bishop validly and licitly revoke granted approbation?

Resp. 1° Affirm. by reason of validity, if a just cause is present. Otherwise it is controverted. Practically, however, the opinion denying this is scarcely to be judged probable, since for the Bishop there can be innumerable just causes for revoking approbation which are unknown to the confessor.

Resp. 2° By reason of liceity, distinguish. 1° A Bishop can indeed for just causes revoke approbation even granted without limitation; for this follows from the necessity of approbation, which demands that whoever ceases to be suitable be removed from the office. 2° But he cannot revoke approbation without a just cause. For from what has been said, a Bishop cannot deny approbation without a cause; therefore *a fortiori* he cannot revoke without cause the one granted; since according to the saying: *A guest is more disgracefully cast out than not admitted.*

Query 7° Can a Bishop approve a foreign priest?

Resp. A Bishop can approve any suitable one actually existing in his diocese, even if only passing through. This is clear from the universal practice and the common opinion of Theologians against a few, who for this require a quasi-domicile, or at least a domicile of habitation in the diocese of the approving Bishop. The reason is that delegation or a mandate can be committed to anyone, provided he is capable. This is clear moreover from the practice which is universally observed in the Church.

Notes to n. 1392 - note sequence 1. (1) L. VI. 548. (2) Ib. Prima sententia. (3) Ib. 570.

ARTICLE II: ON JURISDICTION

What jurisdiction is, and what its various species are, see n. 149.

1393. Principles. - I. The power of jurisdiction is necessary for hearing Confessions, nor does the power of Order suffice. The reason is that absolution is a judicial sentence, which cannot be passed

except on subjects. Therefore subjects must be assigned to the confessor; but this pertains to him who has authority over those subjects. Moreover, this is altogether required for the right governance of the Church. For a very great inconvenience would arise if the faculty of absolving were independent of those to whom it was said by Christ: *Whatever you shall bind, ... shall be bound; ... whatever you shall loose, ... shall be loosed.* But it is especially clear from Trent.

II. Ordinary jurisdiction belongs: 1° to the Pope for the whole Church in both forums; 2° to the Bishop for his diocese, likewise in both forums, since it has been committed to him precisely that he may rule and direct it; likewise to the Archbishop, while he visits the subjects of his Suffragans; to the Capitular Vicar; to the Vicar General; and, for the internal forum, to the Canon Penitentiary of the Cathedral church; 3° to parish priests for their subjects in the internal forum; 4° to Abbots and Prelates of Regulars for their subjects.

III. Ordinary jurisdiction can be delegated, or exercised through another. The reason is that delegation is a proper act of ordinary power. Cf. n. 150. Nevertheless jurisdiction for hearing Confessions cannot be delegated except to a priest approved by the Bishop, as is clear from what was said above concerning approbation. As regards parish priests, the faculty of delegating has become almost useless; since Bishops, to whom it pertains to approve confessors, are accustomed to confer jurisdiction and approbation together, as was said in n. 1391.

IV. Delegated jurisdiction is granted by the Church to any priest in a case of extreme necessity, or in the article of death, or, as others will have it, the Church then supplies jurisdiction. This is clear from Trent.

V. Delegated jurisdiction for hearing Confessions expires by revocation made by the Superior, or by the lapse of the prefixed time; likewise by the death of the one delegating, or his ceasing from office, if it was given for some particular person and the judgment has not yet been begun; or also if it was given generally, but with the clause: *at the will of the one granting; at our good pleasure*, or another similar clause. Cf. n. 151.

Notes to n. 1393. (1) Matt. 18. 18. (2) Sess. 14. c. 7. (3) Ib. (4) L. VI. 558. 559. Notes to nn. 1393-1394 - note sequence 1. (1) L. VI. 572 sub. II. 571. H. A. Tr. XVI. n. 6. 84. (2) L. VI. 573. H. A. Tr. XVI. 91. Cfr. Vind. p. 485. Ed. 2a. T. II. p. 97. (3) Sess. 14. c. 7. S. Alph. L. VI. 560. Notes to nn. 1393-1394 - note sequence 1. (1) Inst. 86. n. 7. (2) L. VI. 544. (3) Inst. 18. n. 6. Notes to nn. 1393-1394 - note sequence 2. (1) L. VI. 561. (2) Ib. (3) Ib. 562. quaest. retr. 82. Cfr. Vind. p. 501. Ed. 2a. T. II. p. 115. (4) L. VI. 563. Notes to nn. 1393-1394 - note sequence 2. (1) L. VI. 569. (2) Ib. 571. H. A. Tr. XVI. 67. Cfr. Vind. p. 507. Ed. 2a. T. II. p. 121. Notes to nn. 1393-1394 - note sequence 3. (1) n. 1518 (al. 1618). (2) L. VI. 574.

1394. Questions. - Query 1° What is the jurisdiction of confessors in the Ecclesiastical Provinces of the United States, ordinary or delegated, and to what places does it extend?

Resp. 1° According to those things which we said in n. 1138, the common opinion almost up to this time has been that the jurisdiction of all priests is delegated. Therefore they cannot absolve those committed to them in a foreign diocese. See however T. I. (b), p. 471.

Resp. 2° That ancient custom, that approbation given for the diocese of one of these Provinces would be valid also for the others, which custom had been introduced in the year 1810 by a quasi-pact of the Bishops, has been abrogated.[1]

Resp. 3° All priests among us are accustomed to be approved and are considered approved for the whole diocese, "although," as Kenrick rightly observes,[2] "they ought not to use the faculties

committed to them to the burden of others; wherefore, only with the good leave of the Missionary of the place, ought they to hear Confessions outside their Mission."

Query 2° Can delegated jurisdiction be subdelegated?

Resp. Neg., generally speaking, namely, unless a special concession of the one delegating is added; and then it is considered to be subdelegated in the name of the one delegating himself. The reason is that a delegate has only that power which is granted to him; but to him is granted only the power of exercising jurisdiction, not of committing it to another, unless something else is expressed. Therefore, etc. - For exceptions see n. 150.

Query 3° Does the Church supply jurisdiction when penitents invincibly are ignorant of its defect?

Things to be noted beforehand concerning a title of jurisdiction and error concerning it. - A title of jurisdiction in general is an act by which power for performing ecclesiastical functions is conferred.

A title is true or false: it is true when it labors under no vice; but in order that it be true, three things are required: 1° the free power of the one granting; 2° the ability of the one receiving; 3° the due form in the act of concession.

False is that which labors under a vice concerning one of the three things just indicated. It is also called putative relatively to those who, ignorant of its vice, deem it legitimate.

A false title can be either fictitious, or colored, or simply or notoriously null.

Fictitious is that which was not granted by a Superior, or not for the case, or place, or time, or person, concerning which there is question.

Colored is that which was granted by a legitimate Superior, and of itself would be apt for conferring jurisdiction if it were not voided on account of a hidden defect; but that hidden defect can occur: 1° in the one granting. Thus, e.g., if the death of the Bishop were unknown, his Vicar General would have only a colored title; 2° in the one receiving, whether some vice preceded, e.g. hidden irregularity, or excommunication; or whether he was deprived of his title, and this is unknown; 3° in the act, as if hidden simony had intervened, by reason of which the act would be void.

Simply null is that which was granted by a Superior to whom it does not pertain to grant, e.g. by an Archbishop, outside the cases in which the faculty of supplying the negligence of Suffragans is attributed to him; or if it was indeed granted by him to whom it pertains to grant, but labors under a vice manifest to all or almost all.

Error concerning the title can be either common among the faithful, all or almost all of the place where Confessions are heard, or private only of some person.

These things having been noted beforehand:

Resp. 1° The Church certainly supplies if the error is common and at the same time joined with a colored title. The reason is drawn from the common interpretation of Theologians supported by diverse places of the Law. For, as they say, the Church, as a pious mother, is deservedly considered to supply jurisdiction for the good of souls, since she can do this.[2]

Resp. 2° According to an opinion probable to St. Alphonsus, but whose opposite he says is more common, the Church also supplies if common error is present without a colored title, but with a title

only esteemed or fictitious. For the same reason urges as in the preceding case, since also in this hypothesis innumerable souls could perish.[3]

Resp. 3° The Church is not considered to supply jurisdiction if the error is private, e.g. if it is of one or a few. The reason is that the Church is not considered to supply except by reason of the common good, after the likeness namely of a provider or general governor, who attends only to the general good of society, and leaves the good of private persons to the care of particular providers. - Thus very commonly the Theologians against a few.

Query 4° Is it lawful to absolve with doubtful jurisdiction in a doubt of fact, for example in a case in which it is doubted whether it was truly conferred by the Superior, or whether the time for which it was granted has elapsed?

Resp. Neg., unless there presses the necessity of annual Confession, of celebrating or communicating in order to avoid infamy, of celebrating from obligation, or of absolution from mortal sin otherwise not to be had for a long time; in these cases however only conditionally, with the burden on the penitent of confessing again if he learns that the confessor truly lacked jurisdiction, and with contrition elicited before Communion (n. 1344. q. 8° under 8°).

Query 5° Is it lawful to absolve with jurisdiction probable by probability of law?

Resp. Affirm., provided the opinion is truly probable, supported by grave reason and authority. For in this case custom itself confers jurisdiction, and by force of this custom the confessor, in absolving, would not absolve with only a probable opinion, but with morally certain certitude, not direct, but reflex. - Nevertheless it is not lawful to use this jurisdiction except when a cause of grave necessity or of great utility is present, as Elbel and Wig. say, or a gravely reasonable cause, as St. Alphonsus explains. The reason is that, although in that case, for the good of souls, the Church can well be considered to supply jurisdiction, nevertheless, with no just cause added, she is not presumed to wish to connive at mere freedom of priests.[2]

Query 6° Do excommunicated persons to be avoided, the suspended, the interdicted, the irregular, the degraded, schismatics, notorious heretics, apostates, etc., validly absolve in danger of death, when another priest is lacking?

Resp. Affirm. The reason is that all priests can absolve in the article of death, as is clear from Trent.[3]

Query 7° Can a simple priest absolve not only in the article, but also in the danger of death?

Resp. Affirm. The reason is that there is nearly the same necessity of the penitent in danger and in the article of death. Besides, it is clear from Canon Law that the article and danger of death are taken for the same thing.[1]

But danger of this kind is considered present: 1° in a dangerous illness; 2° in time of plague; 3° in a difficult childbirth; 4° in an arduous surgical operation; 5° before a very dangerous navigation; 6° in battle, or in other similar circumstances.[2]

Query 8° Can a simple priest absolve a dying person, even when an approved confessor is present?

Resp. Doctors disagree among themselves; and St. Alphonsus, after weighing the reasons of each opinion, finally gives his judgment in these words: "Nevertheless, these things notwithstanding," namely the reasons for the affirmative brought by him, "I think one must not depart from the first

opinion," namely the negative, which he calls very common, "on account of the authority of the Roman Ritual (*On the Sacrament of Penance*, near the beginning), where it is said thus: *But if danger of death threatens, and an approved (note this) confessor is lacking, any priest can absolve from any censures and sins whatsoever.* Therefore simple priests can absolve if an approved confessor is lacking; therefore they cannot if an approved one is present."[3]

Except: 1° if the approved confessor would not wish or would not be able to hear the Confession, because then it is the same as if he were lacking; 2° if the approved confessor is excommunicated by name, suspended, interdicted, irregular, degraded, a schismatic, notoriously a heretic, an apostate, because then the simple priest is to be preferred; 3° more probably, if the approved confessor were of another diocese, because with respect to the sick person he is by no means called approved; 4° probably, if the dying person so shuddered to manifest his crimes to the approved confessor - because, e.g., he is his enemy, or a blood relative, or the object of sin - that he would be in danger of confessing sacrilegiously; 5° if the sick person could not confess to the approved confessor without great difficulty or inconvenience, thus Mazzotta, alleged by St. Alphonsus and not disapproved; 6° if the approved confessor comes after the Confession with the simple priest has already begun; 7° if the approved confessor is the accomplice of the sick person in a shameful sin.[4]

What the law is, if there is question of reserved sins when one having the faculty is present, see n. 1403. q. 4°.

Query 9° Can a parish priest call in a parish priest of the same or of a different diocese for hearing Confessions in his parish?

Resp. 1° As regards a parish priest of the same diocese, although by force of his office he has special jurisdiction only for his own parish, nevertheless from the almost universal custom he can hear Confessions even in the whole diocese, unless the Bishop decrees otherwise. Nevertheless the proper customs of places must be consulted.

Resp. 2° As regards a parish priest of a different diocese, various opinions are brought, as Benedict XIV says. Those who affirm argue from Trent, because a parochial benefice would serve for universal approbation. Others deny, whose opinion, St. Alphonsus says, receives strength from the Response of the Sacred Congregation of the Council, December 3, 1707. - Benedict XIV admits the first opinion in those places where such a custom exists.

Query 10° Can a priest approved by the Bishop hear the Confessions of the faithful without the leave of the parish priest?

Resp. 1° As regards liceity, neg., if Confessions are heard in a Church subject to the parish priest. The reason is that due order altogether requires that, since the parish priest is the immediate Superior in his Church, leave to exercise sacred ministries there be sought from him. Nevertheless the leave of the parish priest is not required for hearing Confessions in the Chapel of Regulars or of Nuns, but the leave of the Superior or Superiorissa of the place suffices.

Resp. 2° As regards validity, it is certain according to all that the license of the parish priest is not required outside the case of annual Confession. Indeed neither is it required for annual Confession, at least *per se*, or by common law. This is clear from the common doctrine of Theologians against some, and also from the present custom and universal practice of the Church, as Benedict XIV

testifies, and as is clear from the declaration of S. C. de P. F., July 2, 1827. - But if somewhere that custom is not in force, nevertheless the Confessions must be held valid, unless the Bishop expressly contradicts; for if he is silent, he seems to consent to the universal custom of the Church.

Query 11° Does a delegate validly and licitly absolve after the elapsed term of a delegation to be renewed every year, e.g. if a crowd of penitents should flow together to some great solemnity?

Resp. 1° He absolves invalidly *per se*, i.e. by reason of jurisdiction, because in fact he has none. Nevertheless he will probably absolve validly by reason of common error, on account of which the Church is considered to supply for the good of souls.

Resp. 2° The priest sins gravely *per se* if he knowingly does this; the reason is that he exercises the function of confessor without legitimate authority; and, although then the Church supplies, he is nevertheless guilty because he unduly compels her to supply.

Query 12° Can a priest approved in some place validly hear the Confessions of pilgrims coming there?

Resp. 1° Affirm. absolutely as regards regular confessors, who have this special privilege from the Holy Apostolic See. - See the Constitution *Superna* of Clement X.

Resp. 2° Also affirm. as regards secular priests; the reason is that such is the custom having force from the tacit consent of Ordinaries, which is equivalent to ratihabition in the present. - Thus the more common Theologians and Canonists.

Query 13° Can a Bishop, under penalty of invalidity, prohibit diocesan subjects from going to confess outside the diocese?

Resp. Negatively, whether they go to confess outside the diocese to regular confessors, who have the privilege of hearing the Confessions of all the faithful coming from anywhere, or whether they confess in another diocese to secular priests. The reason is that, with the present custom of absolving pilgrims standing, these are no longer to be said to be absolved from the tacit consent of their Ordinaries, but from the will of the Church, which, by approving such a custom, grants to all approved confessors jurisdiction over pilgrims presenting themselves at their tribunal, excepting only those who go elsewhere in fraud of reservation. (18) p. 419.

Query 14° Can a simple priest absolve those sailing on the Ocean, or from whom must approbation be obtained?

Resp. 1° He cannot absolve *per se*, unless in probable danger of death, as was said above; because a priest of this kind outside that case lacks every jurisdiction.

Resp. 2° The approbation of the Bishop of the place whence the ship sets sail is required and suffices, and the faculty endures until it reaches a place where another ecclesiastical Superior possessing jurisdiction has been established. Thus S. C. O., March 17, 1869.

Query 15° Can military Chaplains absolve them everywhere without the approbation of the Bishop of the place?

Resp. 1° Affirm., if they have been specially delegated by the Supreme Pontiff to the spiritual care of soldiers, or by a major Chaplain approved by the Pope.

Resp. 2° But if they lack this special delegation, they can indeed hear Confessions in the diocese of the approving Bishop, and also outside it on the road and in camps from the tacit consent of the Bishops, as is clear from universal custom; nevertheless they cannot validly absolve in stations nor in garrisons without the license of the Bishop of the place, because they have no jurisdiction. This is clear from various Declarations of the Sacred Congregation, which P. Zacharia reports apud Lacroix. See also St. Alphonsus.

Notes to n. 1394 - note sequence 1. (5) Kenr. Tr. XVIII. 133. Notes to n. 1394 - note sequence 2. (1) Conc. Pl. Balt. II. a. 118. (2) Tr. XVIII. 138. Notes to n. 1394 - note sequence 3. (1) Scav. T. III. n. 874. (2) L. VI. 572. (3) Ib. Appendix annotation (18), to n. 1394. q. 13°. p. 132. col. 2. On the 28th day of November 1725, "in the General Congregation of the Holy Office, when the sheet sent back from S. C. de Prop. F. to the Holy Office had been reported, containing Ordinations made by the late Most Reverend Father Lord Bishop of Laranda, Vicar Apostolic of the Western Mission in the kingdom of Tonkin, of the following tenor, namely: 1. ... 2. ... 3. ... 4. ... 5. ... 6. ... 7. If some Minister of this Vicariate goes to another Vicariate to confess his sins, and the Minister of the other Vicariate should wish to confess with him, he will not be able to absolve such a Minister, and the same conversely; ... the Eminent Fathers decreed: that the reservation under numbers 1, 2, 3, 4, and 7 is to be abolished." Why, then, was it to be abolished, if custom does not confer jurisdiction over a stranger?

APPENDIX I: ON THE JURISDICTION AND APPROBATION OF REGULARS

Regulars, by reason of privileges and of immediate dependence on the Supreme Pontiff, differ in several things as regards jurisdiction from secular priests. Hence:

1395. - I say I. Regulars properly so called, or those who emit solemn vows and are endowed with the privilege of exemption, and likewise those who communicate with Mendicants in privileges, receive immediately from the Pope jurisdiction for hearing the Confessions both of their own and of seculars. Hence jurisdiction granted to individual religious priests is understood, with the communication or delegation of their own Superior added. - This is clear from the Constitutions of the Supreme Pontiffs in the *Corpus Juris*; likewise from other Constitutions, which, although afterward modified, especially by Trent, as regards privileges, nevertheless remained irrevoked as regards the substance of jurisdiction. - Thus commonly with Lugo, Lacroix, and Billuart. - There are however those who contradict, especially today, or after the Resolution given by the Sacred Congregation of Bishops and Regulars, March 2, 1866, which we report in n. 1397, q. 8°. This resolution, however, does not seem to others to settle the question, since the proposed doubt regards a Regular having a faculty from the Bishop. Nor indeed, they say, is it thereby excluded that a Regular can draw a faculty also from another source.

I say II. Regulars, for hearing the Confessions of their own, receive approbation together with jurisdiction from the Superiors of their monastery or Order; but for hearing the Confessions of seculars they receive approbation from the Bishop of the place where the Confessions are to be heard. The reason for the first is that Trent required the approbation of the Bishop only for the Confession of seculars, and did not change the ancient discipline as regards the Confessions of Regulars. The reason for the second is clear from the Decree of Innocent XII, in the year 1700, by which it was sanctioned that confessors, whoever they may be, both seculars and regulars, can by no means hear secular penitents without the approbation of the Bishop of the place.

I say III. Regulars cannot confess, at least ordinarily, outside their own Order, without the consent of their Superiors; indeed even in the Monastery, to no one other than the one designated by the Superior himself. But those living outside the Monastery, or making a journey, cannot confess except to a companion, if they have some suitable one; but if they do not have one, they can confess to any suitable priest, whether regular or secular. - These things are clear from privileges which are known to have been granted to all Religions by Innocent IV and by other Supreme Pontiffs.

Notes to n. 1395. (3) L. III. T. VI. c. 2 in Extr. Comm. L. III. T. VII. c. 2 in Clem. (1) Disp. 21. n. 4. (2) n. 1552. (3) Diss. 6. a. 7. (4) Acta, V. I. p. 678 sq.

1396. Resolves. - 1° Although Regulars have jurisdiction from the Pope, nevertheless they have it bound as regards hearing the Confessions of seculars; since for the validity of absolution the approbation of the Bishop, as a condition *sine qua non*, is required. Thus Trent decreed that "no one, even a regular, can hear the Confessions of seculars, ... unless either he has a parochial benefice, or obtains approbation from the Bishops."

2° If the Bishop expressly granted approbation only for some transitory act, e.g. for performing some Mission, the faculty received is considered to be valid for that act alone, and for every judgment then begun.

3° If the Bishop, or your Superior by his delegation, grants you approbation for a determined class of penitents, the faculty cannot be extended to others, as is evident. But if the request for the faculty from the Bishop or from the Superior is general, and the concession was not restricted, the faculty obtained is not limited to the work which was the occasion of the petition. Thus, e.g., if you seek a faculty on the occasion of giving spiritual exercises to Nuns, in such a convent, from the same faculty received, you can hear also the Confessions of other faithful. The reason is that in a concession is contained whatever is not excepted. Except however reserved cases, which by the law itself are never understood to be comprehended in a general faculty of hearing Confessions.

4° A religious missionary called by the Bishop to perform a Mission in his diocese, by that very fact receives tacit approbation for hearing Confessions during the time of the Mission for which he is called. The same must be said if he was requested by the parish priest or another Superior with the license of the Bishop. Nevertheless he is considered approved only for ordinary cases. Hence in practice recourse must always be had to the Bishop for determining the extension or measure of the approbation.

5° When a religious Superior, by delegation of the Bishop, employs a subject for general works of the Sacred Ministry, with the hypothesis of some special restriction set aside, he is considered to grant him an all-sided faculty for any penitents whatsoever, and for all reserved cases also contained in the episcopal concession; the reason is that he is considered to grant all that which he can and is accustomed to grant, according to the aforesaid rule: *In a concession is contained whatever is not excepted.*

Notes to n. 1396. (5) L. VI. 575.

1397. Questions. - Query 1° Can Regulars outside the house, when a suitable companion is lacking, confess to a priest not approved?

Resp. See n. 1195. G). b).

Query 2° Can a Bishop without cause deny approbation to Regulars?

Resp. Neg. "For," says Pignatelli, "regular confessors do not receive jurisdiction from the Bishop, but from the Supreme Pontiff, and approbation is required only as a condition, that jurisdiction can be exercised. Therefore Bishops cannot prohibit Regulars from absolving at some time."... Nevertheless, if approbation is lacking, even if unjustly denied, jurisdiction also will be lacking. Cf. n. 1392. q. 4°.

Query 3° Can a Bishop approve Regulars with a limitation of time, persons, or places?

Resp. Affirm. This is clear from various Decrees of the Holy See. - See St. Alphonsus. See however n. 1196. 4°.

Query 4° Can a Bishop revoke approbation granted to Regulars?

Resp. 1° He cannot revoke the approbation of all Regulars of the same community without consulting the Sacred Congregation of Bishops. Thus from the Bull *Superna*. - Except if there is question of regions far distant from the City, and a very grave cause is present; concerning which the Sacred Congregation willed the consciences of Bishops to be gravely burdened.

Resp. 2° But a Bishop can revoke the approbation of individual Regulars in the individual; but if there is question of a Regular approved simply and without any limitation of time, i.e. not for a determined time or at his revocation, will, or good pleasure, and approved after a previous examination, only for a just cause concerning Confession; nevertheless one approved in this way by his Vicar or by predecessor Bishops, and not by himself, he can freely revoke and subject to a new examination for a just cause. Thus from the same Bull *Superna*.

Query 5° Does a Regular once approved in some diocese need a new approbation if, after changing his habitation, he returns to the same diocese?

Resp. Neg., unless the diocesan statutes or the Bishop establish otherwise. The reason is that one approved indefinitely and without limitation remains approved at least until an implicit revocation of the approbation; but in the present case no revocation has intervened, not even an implicit one. Therefore. - Thus Lacroix, Lugo, with the common opinion.

Query 6° Does a Regular approved in some diocese need a new approbation for validly absolving if, after changing place, he passes through the same diocese?

Resp. Neg., as at q. 5°, because approbation granted indefinitely and without limitation endures until revocation. - Lacroix.

Query 7° Does a Religious validly absolve seculars by delegation of the Bishop, but without the Superior knowing?

Resp. Negatively, if the Bishop intended only to give approbation, and otherwise the Superior is so unaware that he has not given jurisdiction; for then that Religious would have jurisdiction from no one. Affirmatively, however, if the Bishop, as is usually done, intended also to confer jurisdiction. See the following question.

Query 8° Does a Religious validly absolve, with the Superior unwilling, but by delegation of the Bishop?

Resp. 1° Negatively, if the Bishop intended only to give approbation, and otherwise the Superior, who has the power of constituting confessors, is so unwilling that he does not wish to give jurisdiction or removes the jurisdiction given. The reason is clear. For then the Religious has jurisdiction from no one.

Resp. 2° Affirmatively however, if the Bishop intended also to confer jurisdiction, as from present practice is usually done. The reason is that the Bishop can well confer jurisdiction on a Religious, no less than on a secular priest, over his own sheep. For whoever enjoys ordinary jurisdiction can delegate it to any priest. - Billuart, etc.

But that Religious would sin gravely against obedience, because in a grave matter he would transgress the precept of his Superior; nor in that case could he use the privileges which many Religious enjoy, e.g. for absolving from certain censures, unless privileges of this kind had also been communicated to him by the Bishop; because a Religious receives a privilege of this kind only through the Superior himself, who from the hypothesis grants no faculty to the subject.

These things are confirmed by a Declaration which very recently came forth from the Congregation of Bishops and Regulars. For the following doubts having been proposed:

"I. Whether a Religious not approved according to the laws of his own Order by his Superior, or with that Superior unwilling, validly hears the Confessions of seculars with only the faculty of the Ordinary."

"II. Whether Regular Superiors, having jurisdiction, can suspend their subjects from hearing the Confessions of seculars even from informed conscience."

"And, in the affirmative, III. Whether an orally announced suspension, and one announced without writing, is valid."

"IV. Whether absolution imparted by him who is bound by such a suspension is valid."

"And, in the negative, V. Whether one who attempts an absolution of this kind incurs irregularity."

"The Sacred Congregation of Bishops and Regulars, the matter having been discussed, on March 2, 1866, responded":

To I. Affirmatively.

To II. Affirmatively; yet so that the suspended Religious hears Confessions illicitly, but not invalidly.

To III. Affirmatively, since it is brought by way of a particular precept.

To IV. Affirmatively.

To V. It has been provided for in the preceding answers.

Query 9° Can Regulars absolve, without the Bishop's approbation, their servants or other domestics living in the monastery?

Resp. See n. 1194. II.

Query 10° Can Regulars absolve pupils living with them, without the Bishop's approbation, as being of the household?

Resp. A twofold opinion is given. See n. 1194. II.

Notes to n. 1397 - note sequence 1. (1) Cons. Can. t. 4. Cons. 168. n. 12. (2) H. A. Tr. XX. 108 in fine. (3) C. Cum sicut. Innoc. X, 14 maii 1653. (4) H. A. Tr. XX. 103. Notes to n. 1397 - note sequence 2. (1) n. 1541. (2) Disp. 21. n. 44. (3) n. 1541. Notes to n. 1397 - note sequence 3. (1) Acta, T. I. p. 678.

APPENDIX II: ON JURISDICTION WITH RESPECT TO NUNS

1398. - I say I. Nuns emitting solemn vows and cloistered cannot confess except to a priest specially approved for them by the Bishop, although they may be exempt from the jurisdiction of that same Bishop and subject to Regulars of their own Order; yet in that case the deputation and election of the confessor belongs to the regular Prelate. Thus from the Bull *Inscrutabili* of Gregory XV and from the Constitutions of the Supreme Pontiffs.

Indeed a confessor approved for one monastery cannot validly hear the Confessions of Nuns of another monastery, unless he was approved in general for Nuns. Clement X confirmed this in the year 1670, in the Bull *Superna*.

But from the Decree of the Sacred Congregation of Bishops, September 20, 1642, the ordinary confessor of Nuns cannot be approved except for a triennium; when this has elapsed, he cannot hear Confessions any longer in the same monastery without the license of the Sacred Congregation. - But a restriction of this kind is not observed everywhere, or even, on account of the lack of confessors who are suitable for hearing the Confessions of Nuns, it cannot be observed, and then the approbation is valid until it is revoked by words or by fact. - But with an Apostolic indult saved, or unless, as was just said, it cannot be done otherwise in some region, the confessor of Nuns ought to be forty years of age; nor are the Vicar General, a Canon or another beneficed cleric obliged to choir, a parish priest, if he is much impeded thereby in carrying out his office, or, if there is question of Nuns subject to the Bishop and of the ordinary confessor, a Regular, to be deputed to that office.

Let the confessor beware lest he conduct himself as Superior of the monastery, since such authority in no way belongs to him. - Thus the Sacred Congregation of Bishops, September 7, 1797. - See *Analecta Juris Pontificii*.

I say II. Bishops and other Superiors of Nuns are held two or three times a year, even for the Novices themselves, to present an extraordinary confessor. Thus Trent established. - These statutes were confirmed by other Supreme Pontiffs, especially Benedict XIV in the Bull *Pastoralis*, issued August 5, 1748. Moreover, a particular confessor must be granted to Nuns in the article of death, if they ask, indeed also sometimes in life, if some Nun asks this or refuses to confess to the ordinary; but then for only certain extraordinary occasions the confessor must be deputed. These things are clear from the Bull *Pastoralis* of Benedict XIV just cited. Nor indeed does Trent prohibit several extraordinary confessors from being placed in charge, or from being offered beyond two or three times. Therefore the sense of the Decree is that they must be granted at least two or three times.

Notes to nn. 1398-1399 - note sequence 1. (1) L. VI. 576. (2) Ib. (3) T. II. n. 567. q. 2 (). (4) a. 417. Notes to n. 1398. (1) Cfr. Lucidi, de Vis. SS. Limin. P. 1, T. 2. de 5a rel. n. 227 sq. (2) L. VI. 577. (3) Ib. (4) Cfr. S. Alph. L. VI. 577. (5) Anal. Jur. Pont. Ser. 4. Col. 1300. (6) Ib. Col. 1289 sq. S. Alph. L. VI. 577. Not. 2. (7) Ib. Col. 1322. 1324. (8) Sess. 25. de Reg. et Mon. c. 10. Notes to nn. 1398-1399 - note sequence 2. (1) a. 417. (2) Anal. Jur. Pont. Ser. 4. Col. 1278 sq. (3) n. 1527. (4) Nouv. Rev. Theol. T. V. p. 223.

1399. Questions. - Query 1° Are all Nuns held to present themselves to the extraordinary confessor and to confess to him?

Resp. 1° All and each are held to present themselves at least to hear salutary warnings. This is clear from the same Bull of Benedict XIV, and also from an express Declaration of the Sacred Congregation of Bishops on October 19, 1621. But the reason for this disposition is that provision be made for the liberty of Nuns, who perhaps need the ministry of an extraordinary confessor; otherwise fear, or the displeasing of the ordinary confessor, or the falling into suspicion among the other Nuns, would easily prohibit them.

Resp. 2° They are not held to confess to the extraordinary confessor, but it suffices that they present themselves before him, for instance, that they ask his blessing, or receive salutary warnings from him. This is clear from the cited Bull of Benedict XIV. - See St. Alphonsus.

Query 2° What must be held concerning Nuns existing among us?

Resp. 1° As regards the approbation of the confessor, since, with those excepted about whom we spoke in n. 1205. V., the others are prohibited from emitting solemn vows, everything depends on the will of the Bishops. Therefore, unless the Bishop has signified the contrary, their Confessions are validly heard even without special deputation, and the clause: *except Nuns*, attached to jurisdiction, regards only Nuns strictly so called. But the mind of the Holy See is that even toward Nuns not strictly so called those things be observed by Bishops which are established by common law for those strictly so called in this matter. See Gury, Roman Edition 1873, and the Second Plenary Council of Baltimore.

Resp. 2° As regards the extraordinary confessor, there seems to be for the Bishop and other Superiors an obligation of procuring someone for Nuns among us living in cloister not Papal. The reason is that the end of the law is the same, namely, of providing for liberty of conscience. For if they are obliged to strict cloister, it is fair that they also use the privilege of cloistered Nuns.

Query 3° Is the Bishop held to grant an extraordinary confessor even to pious congregations of women, which are not truly Nuns?

Resp. Benedict XIV earnestly exhorts Bishops to extend to any communities of women the laws of Trent concerning extraordinary confessors of Nuns. - Constitution *Pastoralis curae*, August 5, 1748, with which several Decrees of the Sacred Congregation of Bishops and Regulars and the Second Plenary Council of Baltimore agree; indeed the Bishop is held to this in conscience, if those pious women have only one confessor designated by the Superiors, the faculty of calling another having been taken from them.

Query 4° Can cloistered Nuns be absolved by any confessor while by chance they are outside the monastery?

Resp. Affirm. with Lacroix and others. The reason is that the Constitutions *Inscrutabili* of Gregory XV and of other Supreme Pontiffs, which prohibit Nuns from confessing to another priest than one specially approved by the Bishop for Nuns, do not seem to be understood except of Nuns living in Monasteries; for they suppose that Nuns are always within the cloister. Therefore any confessors, although not approved for Nuns, can absolve Nuns coming to them by accident. Besides, a very great inconvenience would generally be present if travelling Nuns had to confess only to specially approved confessors; for often they would have to lack the Sacraments of Penance and Eucharist. The Response of the Sacred Congregation of Bishops and Regulars, August 27, 1852, agrees.

ARTICLE III: ON RESERVED CASES

The reservation of cases is a restriction or limitation of jurisdiction, or a denial of the power of absolving from certain sins, the power of absolving from the others being saved. We must treat 1° concerning reservation; 2° concerning the absolution of reserved things.

§ I. On The Reservation Of Cases, Or On The Principle And Nature Of Reservation

1400. Principles. - I. There is given in the Church the power of reserving certain cases or causes of graver crimes, from which inferior confessors cannot absolve without a special faculty. For to the Church, as was said in n. 1392. q. 4°, belongs the power of conferring and limiting jurisdiction; therefore also of reserving cases. - Besides, this is clear from the definition of Trent.

II. The power of reserving sins belongs only to those who have jurisdiction in the internal forum and, today at least, also in the external. The reason is that it pertains to those alone who can confer jurisdiction over the society of the faithful to limit the same.

Hence: 1° the Pope can reserve cases in the whole Church; 2° Bishops in their own diocese; which reservation, according to the common opinion and the opinion truer to St. Alphonsus, is valid even as regards non-exempt Nuns, since they are not excepted in the law. Whether it is also valid as regards exempt Nuns in exempt matter is disputed probably on both sides; 3° others having episcopal jurisdiction, with respect to their own subjects.

III. Three things are required, from the custom of the Church, in order that a sin be considered reserved, namely, that it be 1° grave internally and externally; 2° consummated in its own species, and hence those favoring a homicide do not incur its reservation, since they have not consummated it, nor those committing imperfect sodomy incur the reservation of sodomy, since they have not consummated it in its own species; 3° so certain that no prudent doubt remains whether it has been perpetrated; whether it is internally and externally grave; whether it is consummated in its own species; whether it is comprehended under the reservation. The reason is that only external crimes are wont to be reserved, and indeed the graver and more atrocious; and hence it must be externally and internally grave - and because reservation, as being odious, is to be interpreted strictly, and hence it must be consummated in its own species and certain.

IV. Reservation affects the confessor immediately, and the penitent mediately; because it immediately touches the power of the confessor and restricts it.

Moreover, most episcopal cases are reserved simply, without censure; but papal cases almost all have censure, and are reserved principally on account of the censure, so that in them the censure is reserved immediately, and the sin itself mediately or accessorily. Hence in papal cases, when the censure is reserved, the sin also remains reserved; but, contrariwise, when the censure is removed, e.g. because it was unknown, neither is the sin reserved, because when the object of reservation is removed, i.e. the censure, the sin now does not remain reserved. - But the cases reserved to the Pope without censure are two: the first, namely concerning him who receives gifts from Regulars strictly so called of either sex (from the Constitutions of Clement VIII and Urban VIII. - See St. Alphonsus, H. A. Tr. XIII. 8. 9); the second, if someone wickedly, by himself or through others, denounces an innocent confessor concerning solicitation (from the Constitution of Benedict XIV).

Concerning reservation to be made by Bishops, those things opportunely occur which we have apud Benedict XIV, and of which this is nearly the sum:

a) Let it be extended only to a few cases, and

b) to only the more atrocious and graver crimes, whose reservation may contribute to retaining Christian discipline, and may yield to edification, not to destruction; lest otherwise, with the power of confessors restricted, an effect contrary to the pious mind of Holy Mother Church follow. Therefore let it not comprehend cases which, although they induce mortal sin, nevertheless turn upon things of small moment and are wont to occur frequently among the unlearned, such as cases of damage given and similar things. Hence also in reserving carnal sins much circumspection must be used, on account of the danger of scandals, especially among those persons on whom, on account of frequent return to the confessor, something of suspicion could fall.

c) Let it not be superfluous, and therefore let it not comprehend those cases which are specially reserved to the Holy See, nor those in which absolution is not conferred unless with restitution or execution of those things to which the penitent is held.

d) Let it not promiscuously, i.e. not except on account of frequent scandal or another necessary cause, be extended to those things to which by Law a major excommunication has been imposed, whose absolution is reserved to no one.

Notes to n. 1400 - note sequence 1. (1) Sess. 14. de Sacr. Poen. c. 7. (2) L. VI. 602. q. V. q. VI. (3) Ib. 582. 600. Notes to n. 1400 - note sequence 2. (1) L. VI. 580. 581. (2) Ib. 580. (3) De Syn. L. V. c. V. n. 4. et S. C. Ep. et Reg. ib.

1401. Questions. - Query 1° Does ignorance of reservation or of the censure to be incurred from it excuse?

Resp. 1° Affirmatively as regards censure, because in it the character of penalty is especially considered, which is inflicted only on the contumacious; and this whether the ignorance is of fact, e.g. that such a book was written by an apostate or heretic to defend heresy, or of law, i.e. of the censure or law, whether divine or ecclesiastical, provided however it is not gross; although even this excuses if in the decree of censure there is read: *who shall have done this knowingly*, or *deliberately*, or *rashly*, or *who shall have presumed*. Concerning this matter more broadly where there will be speech about Censures, n. 1664. q. 2°. q. 3°.

Resp. 2° As regards reservation, it is controverted. The more common opinion denies, to which St. Alphonsus subscribes; the reason is that reservation restricts the power of the confessor, whom it immediately affects, as was said in n. 1400. IV.; therefore whether the penitent had knowledge of the reservation or did not have it, the power of the priest remains restricted.

Query 2° Does ignorance at least excuse from reservation when it is joined with censure?

Resp. 1° Affirm. for papal cases, because papal cases, with the two excepted about which in n. 1400, are reserved on account of the censure, from which ignorance excuses, as was just said. Therefore, when the censure is removed, no reservation remains.

Resp. 2° More truly, Neg. for episcopal cases; because in these reservation is principally and *per se* considered, to which sometimes a censure is annexed as a circumstance, for this end, that sinners may be more deterred from sin. Nevertheless this must be understood concerning the cases which, not indeed Common Law, but Bishops themselves reserve to themselves.

Query 3° Can the subject of another diocese be absolved if the case is reserved only in the place of Confession?

Resp. Neg. according to the more common opinion and the opinion by far more probable to St. Alphonsus, because reservation immediately regards confessors. Sacred Penitentiary, November 21, 1873. (K) p. 408.

Query 4° Can the subject of another diocese be absolved when the sin is reserved in his own diocese, but not in the place of Confession?

Resp. 1° He can be absolved by Regulars by force of the privilege granted to them in the Constitution *Superna* of Clement X.

Resp. 2° As regards secular Confessors, the very common and truer opinion affirms. The reason is that the universal custom so has it. - Except in either case, unless someone from his own diocese has gone to another principally and solely in fraud of reservation.

Query 5° Can regular Prelates or Superiors reserve cases in their own Order or Monastery?

Resp. They can reserve only some determined by Clement VIII, which are eleven in number and can be seen apud St. Alphonsus. But they can in no way reserve others without the consent of the general Chapter for the whole Religion, and of the provincial Chapter for the whole Province.

Notes to n. 1401 - note sequence 1. (1) L. VI. 581. Tertia. Cfr. Vind. p. 515. Ed. 2a. T. II. p. 130. Rev. des science. T. 43. p. 352, 440. (2) L. VI. 580. (3) Ib. 581. Dub. 2. Gury-Dumas, T. II. n. 571. (4) Hos vide n. 1733-1735. n. 1749. p. 361. col. 1. § Firmam, n. 1753. q. 2°. R. 2°. Notes to n. 1401 - note sequence 2. (1) L. VI. 588. H. A. Tr. XVI. 135. Vind. Ed. 2a. T. II. p. 141. Rev. Th. T. VII. p. 92. 243. (2) L. VI. 589. Cfr. Vind. p. 533. Ed. 2a. T. II. p. 151. et H. A. Tr. XVI. 136. (3) L. VI. 583. Appendix annotation (Kappa), to n. 1401. q. 8°. p. 139. col. 1. "A case reserved in the diocese of the confessor is not withdrawn from reservation for this reason, that it is not reserved in the diocese of the penitent." Thus Syn. Pl. apud Maynooth, 1875, n. 86. p. 84, Dublin, 1877.

§ II. On The Absolution Of Reserved Things

1402. Principles. - I. Those can absolve from reserved cases by ordinary power: 1° those reserving them themselves; 2° their successors in the same power; 3° their Superiors.

II. Bishops, or their delegates, can absolve:

1) Where Trent has been received, from hidden papal cases, except however those which are reserved to the Roman Pontiff in a special manner in the Constitution *Apostolicae Sedis*. This is clear from the Constitution itself, § *Firmam tamen*. See p. 361.

2) From papal cases, even notorious or public, all the faithful who on account of a legitimate impediment cannot approach the Apostolic See, lest from delay of absolution danger threaten souls. This is clear from Canon Law.

But absolution in this case is given directly, i.e. so that reservation ceases perpetually, if an impediment of this kind is perpetual. But the following are considered detained by a perpetual impediment: 1. Women, unless they are expressly noted by censure, as Nuns violating cloister. 2. Sexagenarians. 3. The sick with grave and rather long-lasting illness, such as quartan fever and the like. 4. Religious, even as regards censures incurred before entrance into Religion. For they can be absolved by their prelates or the delegate of these, except for enormous striking (n. 1753. q. 2°. R. 2°)

of a Cleric. 5. The impubes, even if they ask absolution after attaining puberty. 6. Sons of a family. 7. Those condemned to perpetual prison. 8. Those bound by the care of feeding a family or administering its goods, or of bearing a public office which cannot be left without public detriment. 9. Those living collegially, such as soldiers, seminarians, etc. 10. The poor, who are not wandering beggars. 11. All others who cannot go to Rome without grave temporal or spiritual harm to themselves or their own. All these are considered perpetually impeded, unless a founded hope is present that within ten years, or according to others five years, they will be able to go easily to Rome; nor are they then held to approach Rome by letters or through a procurator. The same faculty, in the same circumstances, belongs to any confessor if the penitent is perpetually impeded from approaching the Bishop.

If the impediment is not perpetual, but long-lasting, i.e. at least for a half-year, the Bishop can absolve, with the burden on the penitent and with an oath given by him, in the internal forum a promise, of approaching the Pope or one having faculty from him, to receive his mandates, and this under penalty of reincidence (p. 316. col. 1. 3°). But if he cannot approach even the Bishop for a half-year, he will be able to be absolved by any confessor, with the burden as above.

3) The faculties of our Bishops, see p. LXXI. n. 15. 16.

III. Any Confessor, even a Regular, cannot absolve from cases properly episcopal unless he has received the faculty from the Bishop himself, even if he could absolve from any cases whatsoever reserved to the Pope. - Thus Clement X in the Bull *Superna*.

IV. There is no reservation in either the article or danger of death. Nevertheless it is required that he who is then in possession of himself: a) ask Absolution (but see n. 1672. q. 4°). b) Repair scandal (ib. q. 7°. q. 8°). c) First satisfy the injured party, unless this party could and wished to remit the reparation of injury, or refused a just one, or unless the one to be absolved was perpetually unable to satisfy; or, if he cannot do this then, furnish sufficient caution, or at least, if he cannot even furnish this then, swear that he will satisfy as soon as he can (ib. q. 9°). d) If censure, reserved to the Bishop or in a special manner to the Pope, is annexed to the reserved sin, from which a priest cannot absolve, he swear, in the internal forum promise, that he will present himself to a superior having the faculty, if he recovers; otherwise he falls again into the same censure. e) If there is question of a grave crime, before absolution he swear, in the internal forum promise, not to fall again.

Notes to n. 1402. (1) L. V. Decr. T. XXXIX. c. 29. (2) Cfr. supra [p. LXXXI. 5. 6](/manuals/konings/a-principal-testimonies-and-judgments-of-the-holy-see#h7) et S. Alph. L. VII. 84-86. 83-92. (1) Trid. Sess. 14. de Sacr. Poen. c. 7. Rit. Rom. L. V. Decr. T. XXXIX. c. 10. 11. L. V. T. XI. c. 22 in 6°. S. Alph. L. VI. 537. q. VII. L. VII. 120. 121, 127-131. Scav. l. l. n. 535.

1403. Questions. - Query 1° Can a simple confessor sometimes absolve from reserved things, even outside the danger of death?

Resp. Affirm., if the Bishop or one having the faculty cannot easily be approached, and on the other hand there is present either 1° danger of infamy or scandal from the omission of the celebration of Mass or Communion, or 2° necessity of fulfilling the paschal precept, or 3° fear lest the penitent remain for a long time in mortal sin. Nevertheless, if the impediment is not long-lasting, that absolution can be given only *ad effectum*, i.e. so that, notwithstanding the reservation either of sin or of censure, which is afterward to be removed by the Superior, he can now be absolved, communicate, or celebrate. If it is long-lasting or perpetual, see n. 1402. II. 2). But if the penitent has no other

mortal sins than reserved sins, and, as ordinarily happens, doubts concerning perfect contrition, he is held to accuse either some venial sin, or a mortal sin otherwise confessed, or even the reserved sin itself, if in this he is a recidivist, or in a proximate occasion of relapsing into it.

Query 2° How besides is reservation removed?

Resp. 1° It is removed indirectly, with the burden of supplying, if someone in good faith has made a valid Confession before one not having the faculty, provided he subjects another non-reserved sin to the keys.

Resp. 2° It is removed directly: a) Excepting a jubilee, through a Confession, even one null or even sacrilegious, yet made to one having the faculty, and in which the reserved sin is accused.

b) Through a valid Confession made to one having the faculty, although the penitent forgets the reserved case, yet inculpably. Thus St. Alphonsus as probable, except the case in which it is positively presumed that, if the one having the faculty had heard the sin, he would have deferred absolution.

c) Through the Confession of a doubtfully reserved sin made to one not having the faculty, even if afterward it is known as certainly reserved. Therefore in this case afterward he is not held to approach the Superior or one having the faculty.

Query 3° Is one having reserved and non-reserved sins held in Confession to accuse also the reserved sins?

Resp. Neg., probably, *per se*. The reason is that otherwise he would be held to confess those sins twice, namely to the inferior and to the Superior. I said: *per se*, or unless he is a recidivist in the reserved sin, or in a proximate occasion of relapsing into it, as was said above at q. 1°.

Query 4° Can an inferior absolve a dying person from reserved things when the Superior is present?

Resp. 1° Affirm., if the cases are purely reserved. The reason is that in the article of death there is no reservation.

Resp. 2° Neg. as regards things reserved by the Bishop with censure; because since the dying person, if he recovers, is held to approach the Superior as soon as possible, he is to be absolved by this one if he is present. (8) p. 393.

Query 5° Is the leave of the Superior required for absolving a dying person from cases with reserved censure, if it can be sought by letters or through a procurator?

Resp. Neg., according to the more common and more probable opinion, both on account of the danger of manifestation, and because anyone who cannot personally approach the Superior is considered legitimately impeded.

Query 6° Can the Superior absolve the penitent from reserved sins, and send him back to the inferior for absolution from the non-reserved?

Resp. This does not seem improbable in a case, certainly very rare, in which the Superior a) could not free himself from some very grave business, b) judged it necessary to hear the reserved sin personally, and c) the penitent was under a necessity of communicating and did not wish to confess the same sins twice.

Query 7° Can pilgrims be absolved from episcopal censures which they incurred in their own diocese?

Resp. Neg., if there is question of public censures or censures inflicted *ab homine* by a particular sentence. Otherwise affirm. Cf. however n. 1401. q. 4°. R. 2°. (19) p. 419.

Notes to n. 1403 - note sequence 1. (1) L. VI. 265. 585. Cfr. Vind. p. 554. Ed. 2a. T. II. p. 173. (2) L. VI. 596. q. I. (3) Ib. 598. q. III. IV. (4) Ib. 597. Cfr. Vind. p. 572. Ed. 2a. T. II. p. 193. (5) L. VI. 600. (6) Ib. 265. q. II. 585. Dub. 8. (7) H. A. Tr. XVI. 96. 97. L. VI. 563. L. VII. 92. Notes to n. 1403 - note sequence 2. (1) L. VI. 563. Dub. III. (2) Ib. 595. (3) Priv. n. 35. Ed. Heilig. Istr. e prat. c. XVI. 135 (+) Avvertenza. Appendix annotation (beta), to n. 1403. q. 4°. R. 2°, p. 140, col. 2. The Constitution Apostolicae Sedis does not speak of the burden of presentation except after the enumeration of excommunications which it willed to be reserved in a special manner to the Pope. Therefore it is to be judged to have willed that, for these only, the obligation of standing by the mandates of the Church remains firm. Therefore, as often as a dying person is bound by other bonds which are not reserved in a special manner to the Pontiff, the obligation of presentation no longer seems to be present, and therefore it is not to be enjoined except for cases reserved in a special manner to the Pontiff, whether they are public or even occult; but for the remaining Pontifical cases, whether occult or public, such a burden is no longer present.(2) Therefore I now think that one must depart from St. Alphonsus.(3) > Notes to appendix annotation - note sequence 2. > > 2 The Theologians of Padua on the Constitution Apostolicae Sedis, Quest. n. 164. | 3 H. A. Tr. XVI. 96. Appendix annotation (19), to n. 1403. q. 7°. p. 141. col. 1. Note, however, that nothing prevents a crime public somewhere from being held as occult in other places. Titius, for example, incurs excommunication reserved to his Bishop because he contracted Matrimony with Caia before a petty minister; the delict is publicly known in the place of the diocese of that Bishop in which he contracted. Titius, having left that diocese, fixes his seat in another where his delict is occult. If the fame of the delict cannot easily pursue him in that other diocese, he will be able to be absolved in that diocese, with the faculty, however, of the Ordinary of that diocese, if there also an excommunication of this kind exists. Cf. Theol. Pat., n. 309; St. Alphonsus, L. VI. 593 and L. VI. 78.

APPENDIX I: ON THE ABSOLUTION OF ONE'S OWN ACCOMPLICE IN A SHAMEFUL SIN

1404. - I. No confessor can absolve his own accomplice, i.e. an associate and participant in a shameful sin. This is clear from the Constitution *Sacramentum Poenitentiae* of Benedict XIV, June 1, 1741. - Likewise from another Constitution of the same Pontiff: *Apostolici muneris*, February 8, 1745.

II. A Confessor lacks all jurisdiction for absolving an accomplice as regards the sin of which he was a participant. This is inferred from the express words of the Bull, in which it is said: "Moreover there is removed from him by the law itself any authority and jurisdiction whatsoever for absolving any person whatsoever from a fault of this kind."

Notes to nn. 1404-1405 - note sequence 1. (1) L. VI. 554. S. C. Inq. 28 maii 1873. Nouv. Rev. Th. T. X. p. 118. (2) Ib. 553. (3) Ib. 555. Notes to nn. 1404-1405 - note sequence 2. (1) Scav. t. III. n. 494, sub 7. 8. (2) Diss. de Jurisd. C. 1. art. 9. 5°. (3) In C. Apost. Sed. p. 323 sq.

1405. Questions. - Query 1° What comes under the name of shameful sin?

Resp. Every grave sin against the Sixth Precept of the Decalogue, even if it has not been consummated by copula; indeed even if it is only a shameful touch or look, or speech, as today is certain.

But it is required that on each side there be a certainly mortal sin, not only internal, but also external, insofar as mutual, or externally manifested at the same time on each side.

Query 2° Under the name of accomplice do not only women, but also men, come?

Resp. Affirm. The reason is that the words of the Bull are altogether general; for in it it is said: "Who shall dare to hear the Sacramental Confession of a person who is an accomplice in a shameful sin against the Sixth Precept." Therefore the disposition of the Constitution is not to be restricted to the female sex. - Thus commonly.

Query 3° Can a priest absolve an accomplice in the article or danger of death?

Resp. Affirm., if another priest cannot be called who can perform the function of confessor; but otherwise if another priest is present, even one not approved, who can hear the Confession.

Query 4° Can a priest absolve an accomplice in death, if another cannot be called or approach without infamy or scandal?

Resp. Affirm. Nevertheless the priest-accomplice is held to prevent such dangers of infamy or scandal, if he can, e.g. by departing under some pretext, etc. Otherwise he will not evade the penalties, although the absolution is valid. This is clear from the Constitution of Benedict XIV.

Query 5° Can a priest absolve an accomplice in death, if the latter refuses to confess to another?

Resp. Affirm., if otherwise he is disposed, namely lest he perish, or at least lest his eternal salvation be endangered. Cf. n. 1402. IV.

Query 6° Can a priest absolve an accomplice from other sins foreign to himself, after that one has once been absolved by another from his own sin?

Resp. Affirm. The reason is that he lacks jurisdiction over this penitent only as regards the sin of which he himself was a participant; therefore, when that sin has been blotted out through absolution imparted by another, the prohibition now ceases, nor is jurisdiction lacking. - Except: I. if the penitent was absolved from this sin by another confessor, either 1) only indirectly, e.g. on account of inculpable forgetfulness of the said shameful sin, or 2) invalidly. II. If that priest has been absolved from the censures and penalties which he incurred on account of the attempted absolution of an accomplice by force of the faculty reported at p. LXXI. Note 2, under the burden, namely, of altogether abstaining from hearing the Confessions of the accomplice. - Nevertheless the absolution which the confessor, absolved with this burden, had given would not by the law itself be invalid; for from precisely this, that the law or precept of a Superior prohibits some act from being done, unless it expresses that by that very fact it also wishes it to be done voidly and nullly, the act must not be considered null in conscience. III. According to some, if the penitent again confesses to the accomplice that very sin itself from which complicity arises, as sufficient matter, without adding another matter; for the words, they say, of the Constitution are altogether peremptory. Thus Pruner and *Acta*. Yet this exception, although it is usefully alleged here, does not pertain to the question. St. Alphonsus does not treat this precise question.

But truly, if any shame remains in a priest who through pitiable frailty has perpetrated a shameful sin with another, if any honor due to the Sacrament, he will never afterward hear the Confession of the accomplice. Moreover, the danger of a new fall, or at least of grave temptation in the direction of such a penitent, can easily be present. Therefore the faithful are to be turned away, as far as can be done, so that afterward, with the case of necessity set aside, they never approach a confessor who is an accomplice of sin. See the same warning given in n. 1365. q. 4°.

1406. - Resolves: 1° A Confessor invalidly absolves a penitent:

a) With whom he agreed about seducing a woman, although afterward he did not seduce her; because it is verified that this penitent is an associate of an iniquitous agreement against chastity.

b) From whom he heard only shameful conversations, if he showed that they pleased him; because by exteriorly taking complacence in them he participated in them, and therefore is an accomplice of shameful sin.

c) With whom he sinned against chastity before he was a priest or cleric; because it is always true that he is an accomplice, and therefore all jurisdiction is removed from him. Sacred Penitentiary apud Haringer.

d) An impubes accomplice; because the prohibition made to a confessor of absolving an accomplice does not have the character of reservation, since the power of absolving is removed from him, not from other confessors; nor is it certain that impuberty exempts from reservation.

2° A Confessor validly absolves:

a) A girl whom he shamefully touches while sleeping or resisting, or by whom he is touched while sleeping or resisting, although he altogether ought not hear her, lest he cast himself into the danger of sinning more gravely or formally; because he does not absolve from a sin of complicity.

b) A woman with whom there intervened a kiss given in passing, or a momentary touch of the hands or respectable parts from play or levity. - The same holds if the confessor takes hold of a girl by the

hand, arm, or neck, and he indeed undergoes venereal delight on his own part, even externally declared, if he excites none in the penitent. The same, if a priest were to induce a woman to believe that there is no sin if she allowed herself to be shamefully touched by him; and she, deceived by him, in good faith allowed herself to be shamefully touched, without sinning formally. For in these cases either a certainly mortal sin is not present, or it is not present on each side.

c) Resolve the same if the motion, however carnal, and arising on each side, is personal to each and respectively unknown. The reason is that, in order that there be a sin of an accomplice, unity of time in which each sins does not suffice, but moral unity of action is required, or communication in one action morally.

d) Resolve the same if there is question of a mortal sin internally or externally doubtful, and this whether it is thus doubtful on the part of each or on the part of one of the two.

Note. - Saving a better judgment, we altogether dissent from some who opine that an accomplice is validly absolved if he were absolved inadvertently; for Benedict XIV, requiring presumption (see n. 1401. q. 1°. R. 1°), requires it not so that the absolution be null, but so that excommunication be incurred. - Nor do we agree with those who think that an accomplice forgetting the sin of complicity inculpably, or placed in any necessity whatsoever other than that which arises from danger of death, can be validly, although only indirectly, absolved; for the case of an accomplice is not properly a reserved case, but a case in which all jurisdiction over the accomplice is taken away from the confessor, with only the danger of death excepted; but an exception confirms the rule.

Concerning the excommunication which one absolving an accomplice incurs, see in the Treatise on Censures, n. 1715.

Notes to n. 1406. (1) L. VI. 556.

APPENDIX II: ON SOLICITATION IN CONFESSION

1407. - I. When this crime of solicitation exists. - Here there is question of the abuse of the Sacrament of Penance for shameful things, - but not of the abuse of other Sacraments for shameful things, nor of the abuse of the same Sacrament of Penance for other sins, even very grave ones (see Resp. S. C. O. a. 1661 ad Dub. 10. 11. p. LXI.). But the obligation of denouncing solicitors seems to have been imposed on account of this venereal matter alone, because, on account of the frailty of nature, this solicitation can happen more frequently and there can exist a greater danger of consenting to it.[1] Now it is asked: A) What is understood by the dishonest and shameful things to which solicitation is made? B) By what act is solicitation completed? C) What sort of nexus must intervene between solicitation and the Sacrament of Penance, so that truly and according to the mind of the legislator the solicitation is an abuse of the Sacrament?

Notes to nn. 1407-1411 - note sequence 1. (1) L. VI. 686. (2) Amort. q. 19. Notes to nn. 1407-1412 - note sequence 1. (1) L. VI. 699. Form of denunciation, see p. 196. (2) Instr. S. C. O. a. 1867. 6. [p. LXIII](/manuals/konings/x-declarations-concerning-soliciting-confessors#h3). (3) Bened. XIV. l. c. (4) L. VI. 698. Prax. Conf. n. 83. Bened. XIV. Notes to nn. 1407-1411 - note sequence 2. (1) L. VI. 687. Cf. Resp. S. C. O. a. 1661 ad Dub. 13. [p. LXI](/manuals/konings/x-declarations-concerning-soliciting-confessors#h1). (2) L. VI. 688. H. A. Tr. XVI. 175. (3) Amort. l. c. q. 19. (4) L. VI. 692. (5) L. VI. 698. Rev. Th. T. XII. p. 15, 16. n. VIII. IX. (6) Amort. q. 21. Notes to nn. 1407-1412 - note sequence 2. (1) L. VI. 693. (2) Potesta apud Amort. l. c. q. 16. Cf. L. VI. 700.

1408. - Ad A). By dishonest and shameful sins, to which solicitation is made, are understood all external lustful acts or acts of luxury, to which also pertain acts which either from their own nature, or from the particular disposition of the accomplice, or from the intention of the one acting, otherwise sufficiently manifested (e.g. by a sign or word[3]), are inductive to a vehement commotion of the genital spirits.[2] One soliciting only to acts venially dishonest, and therefore not venereal (for in these there is not smallness of matter. See n. 484. 485 and Resp. S. C. O. a. 1661 ad Dub. 3. p. LX.), is not to be denounced, because solicitation must be a grave sin. Except if from the circumstances it were certainly conjectured that the priest, by an act evil of itself lightly, had had the mind of proceeding to grave things.[4]

A Confessor consenting only to a woman soliciting him in Confession is in no way exempted from the sin of dishonest dealing in the confessional, and therefore, as guilty of solicitation to shameful things in Confession, etc., must be denounced by the penitent by whom he was solicited, and this although he immediately ceased to speak of that shameful matter, deferring its complement to another time and not giving absolution to the penitent;[1] likewise although, induced by fear, he consented to the solicitation, and a fortiori when the confessor and penitent solicited each other mutually,[2] for instance when the confessor, solicited to one species of shamefulness, solicited the penitent to another.

Notes near nn. 1407-1408 (printed p. 143; left-column note sequence).

1 L. VI. 684. | **2** Amort. Tr. XIII. § 24. q. 5. | **3** e.g. by a rather flattering word. | **4** L. VI. 554 sub 3. 683.

1409. - Ad B). Solicitation to shameful things is present if a confessor (or even a priest lacking jurisdiction, but here in Confession[3]) solicits either a male or a female to sin either with himself or

with another; nor does it matter whether he solicits the penitent himself, or, through the penitent as mediator, some other person. Moreover, solicitation of this kind on the part of the confessor can be made either immediately, e.g. by obscene words, or mediately, as by a note afterward to be read by the penitent;[4] and it must be held as completed whether the penitent is in fact drawn into sin or resists, provided a means apt for enticing to dishonest acts is placed;[5] nor does it matter whether the means applied is evil in itself or indifferent, provided afterward from the circumstances it is known that this was employed for soliciting, for instance if the confessor with this intention commands a woman to wait for him at home, or with this same intention asks her where she lives.[6]

1410. - Ad C). But solicitation of this kind, in order that it be an abuse of the Sacrament, must have, in the manner determined by law, some relation intervening either between itself and Confession, or between itself and the place where Confessions are heard.[7]

a) The relation required to Confession is present if the solicitation is made:

1) In the act of sacramental Confession begun, although not perfected; or

2) Immediately before it, i.e. with nothing intervening between it and the solicitation. To one using the request for Confession as a means of soliciting, apply what is to be said under 4); or

3) Immediately after, namely when after Confession neither the confessor nor the penitent turns aside to other things, so that the solicitation happens before any other action intervenes, - or if the confessor immediately after Confession leads a boy into a room and solicits him, because then he immediately places, if not the solicitation, at least its means; (20) p. 419. or

4) On the occasion of Confession (true). e.g. if the confessor, having been asked or inducing to Confession, turns aside and solicits, although he has not yet sat down, nor the woman knelt, and this although he has been asked only by the woman to hear her Confession on the following day, provided nevertheless that then the solicitation is made in the Confessional or in the place of Confession or under the pretext of Confession (see Resp. S. C. O. a. 1661 ad Dub. 4. p. LX.), - or if, on account of knowledge had in the woman's Confession, he should solicit her afterward at home, provided that from indications it is sufficiently clear that he was moved to this by that knowledge, not by other causes; (21) p. 419. or

5) Under the pretext of Confession (fictitious), if the confessor from an evil end fictitiously invites a woman to Confession and then solicits her, or persuades a woman that, pretending herself sick, she should summon him to sin. (22) p. 419.

b) A relation to the place where Confessions are heard will be present if the prohibited acts are exercised:

1) In the confessional properly so called.

2) In any place whatsoever where Confessions are customarily heard, although a confessional is not found there.

3) In any place whatsoever which the confessor at his own choice has chosen for hearing Confessions; and thus even in a field, etc.

But in order that the obligation of denouncing arise on account of the circumstances narrated under b), it is necessary that simulation of Confession be added, i.e. the confessor and penitent must act in

such a way that the former seems to hear the confession (e.g. by applying his ears), the latter to make it. Hence he is not to be denounced who, sitting in the confessional, solicits a woman standing before the confessional, without simulating Confession. See Resp. S. C. O. a. 1661 ad Dub. 15. p. LXI. - Yet this simulation is not required if he solicits in the confessional a person who likewise is found in it; for in order to denounce it suffices that he himself in the confessional treats of shameful matters, without simulating that he hears Confession. (23) p. 419.

Notes near nn. 1408-1410 (printed p. 143; right-column note sequence).

1 S. Off. T. I. p. LX. 2, and p. LXII. 2. | **2** S. Off. p. LX. 8. 9. | **3** Resp. S. C. O. a. 1661 ad Dub. 5. p. LX. Instr. S. C. O. a. 1867 sub. 2. p. LXII. | **4** Prop. 6 condemned by Alex. VII, p. XIII. Cf. Resp. S. C. O. a. 1661 ad Dub. 1. p. LX. | **5** Viva, theol. trutina damn. thes. 6. n. 7. | **6** L. VI. 676. | **7** Ib. 676-680.

Appendix annotation (20), to n. 1410. a). 2). 3). p. 144. col. 1. That phrase "immediately before or after" some understand morally, so that if only something physical intervenes, or the interval is so brief that it ought to be computed as nothing, the confessor is still to be denounced by force of these clauses. The common sentence, which St. Alphonsus follows, L. VI. 617, takes it strictly, that is, physically. Nouv. Rev. Th., T. XII. p. 29. n. XXIX. Appendix annotation (21), to n. 1410. a). 4). p. 144. col. 1. From the examples which I allege it is clear that the word "occasion" here comes in a double signification: one of opportunity, the other of motive. "In both ways," says Passerinus, "Confession can be called an occasion of soliciting, either because they offer opportunity for doing this," as in the example which I bring forward in the first place, "or even because they offer a motive from which the confessor moves himself to solicitation," as in the example which I add in the latter place. Nouv. Rev. Th., T. XII. p. 31. n. XXX. I say at the end: "provided it is sufficiently established from indications," etc. Indications of this kind will be present if, for example, the confessor, after the sins have been heard, asks the woman where she lives, whether she is accustomed to remain at home alone, or asks some similar things; or, when he has approached for sinning, as Ballerini notes, by words or deeds he has recalled something from those things which he accepted from Confession. Theol. Pat., n. 393; Nouv. Rev. Th., T. XII. p. 34. n. XXXV. Appendix annotation (22), to n. 1410. a). 5). p. 144. col. 1. "But whether a confessor must be denounced who agreed with a woman that, to elude the domestics, she pretend to be sick and call him to the house for perpetrating sin? Concina and Mazzotta, l. c., affirm; likewise Fagundez apud Potestà, num. 513, and Sanchez apud Diana, p. 4. tr. 5. r. 37, because the pretext of confession then seems manifest enough. But more probably they deny, because then it is not verified that the confessor solicits or executes sin under the pretext of confession; thus the pretext of confession then is already ordered not to solicitation but to deceiving the domestics." St. Alphonsus, L. VI. n. 679. Cf. Theol. Pat., n. 394, 395. "External signs of simulation on the part of the confessor are to sit in a suitable place, to bless the woman, to hold the hand before the face, as is accustomed to be done in hearing confessions, and finally to extend the hand over her head while pretending to absolve her. But on the part of the woman the signs are genuflection, the sign of the cross, striking of the breast, joining of the hands, humble conversation with the confessor, which exteriorly appears as an accusation of sins." Potestà apud Nouv. Rev. Th., T. XII. p. 44. 2.

1411. - II. The obligation of denouncing does not bind, as is clear of itself, the one soliciting, nor is he held to warn the one solicited by him of that obligation. It must be made to the Holy See or to the Ordinary. But the end of denunciation is:

1) That, if the person denouncing is otherwise a very honorable person and worthy of faith, and not suspect of any malice, revenge, or enmity, or of subornation, and the one denounced is otherwise a man of little fear, a denunciation of this kind may render the denounced one suspect, so that he may be watched by the Ordinary. Cf. Instr. S. C. O. a. 1867 sub. 11. p. LXIV.

2) That, if otherwise greater indications concur on the part of the one denounced, e.g. otherwise suspect conversation, they may furnish the Ordinary with a motive, the first time, for employing a paternal warning, by which indeed he does not impute the crime, but exhorts to caution, yet in such

a way that he does not render the person denouncing suspect to the one denounced. For "for the most part" it is the custom "not to proceed" to trial "except from the third denunciation." Instr. S. C. O. a. 1867 sub. 11. p. LXIV.

Hence the adequate end of the law is understood: namely, the Pontiff intends the punishment of the guilty party rather than his amendment, in order, that is, to repair the harm to the Church and the scandal,[1] or, as Amort says, the end is not the amendment of a particular person, but the public security of the Sacrament and of souls, from the certain chastisement of so abominable a crime, and from the unavoidable fear of all confessors of incurring very grave punishments, even by one act or only once repeated; indeed also the indemnity of the Church, namely lest pests of this kind creep into public offices, than which nothing is more harmful to the common good of the Church.[2]

Wherefore:

a) Each and every person solicited is altogether held to denounce, nor is he exempted from the obligation of denouncing because another has denounced.

b) A Confessor must be denounced again if he offends again, after he has been punished on account of the first crime, or has not been fully convicted concerning solicitation.

c) The penitent is held to denounce the solicitor, even if from fraternal correction he hopes for his amendment; indeed, according to St. Alph., even if he has certainly been amended.

d) Denunciation must be made even if the solicitation cannot be juridically proved, or the crime is occult, or was perpetrated a long time ago. Nor can it be said that so late a denunciation can have no effect; for perhaps it will serve for the complement of other preceding denunciations concerning the same confessor, or with other indications for closing the door to dignities against hypocrites of this kind, or at least for the perpetual terror of the confessor, lest by repeated solicitation he complete the measure of sins, since solicitations "committed even a long time before can sometimes be called before the tribunal." But after the solicitor has departed from life, he is not to be denounced, because then the total end of the law ceases, namely both the amendment and the punishment of the guilty party.

e) There must also denounce, but today no longer under excommunication, every witness of this delict, whether by sight or by hearing, and whoever (apart from the case of advice having been asked) has learned the solicitation immediately or mediately from the sayings of the solicitor himself, or of the person solicited (provided this one is worthy of faith), outside Confession.

f) The person solicited or conscious of the solicitation is not excused from denunciation on account of difficulties intrinsic to the denunciation and almost common, such as the shame of the solicited one; fear of suspicion that will arise against oneself in the judge; danger of inconvenience or harm, which is slight relatively to the person denouncing and to the harms probably to be feared for the Church and for souls, or even danger of grave harm, but which is not probable: for these are not of such a kind that they give place to epikeia.

1412. - Practice of the Confessor. a) If it is doubted whether the deed or saying of the confessor was true "solicitation," the penitent is not to be obliged to denunciation, unless either 1) vehement indications of solicitation are added, or 2) the words of themselves present solicitation, and it is only

doubted whether the confessor uttered them for an evil end... See the application of this rule in Resp. S. C. O. a. 1661 ad Dub. 12. 16. p. LXI.

b) Before the Confessor obliges the person solicited to denunciation, which is the condition of absolution, he must seriously weigh whether this person merits belief; because, if there is a grave, just, and very probable suspicion, strengthened by several indications, that she, led by hatred, wishes to calumniate some priest, she would not be obliged to denunciation, but rather would have to be rebuked for her malice. But in every case the person solicited is to be instructed concerning the very great crime reserved to the Supreme Pontiff alone, which she would commit through a false denunciation.

c) Let confessors altogether abstain from inquiring the name of the solicitor, although they are held to question the penitent concerning circumstances that must necessarily be known.

d) But if the confessor certainly knows that the penitent has been solicited, he is held diligently to warn her, although she is existing in good faith (Instr. S. C. O. a. 1867. 3. p. LXII.), concerning the obligation of denouncing, even if he certainly foresees that the solicited one is not going to denounce. - He should also indicate the mode of denunciation more accommodated to the circumstances of the person, place, and time. On this matter Amort gives the following rules: 1) When the Bishop or Vicar General (of the place in which the penitent is staying, says Kenrick) is in the vicinity, so that he can easily be approached by the person solicited herself, she is held to denounce the solicitor in her own person, and to say that N. N., a Priest, Pastor, Religious, solicited her to shameful things in the Sacrament of holy Confession. 2) If the Ordinary cannot conveniently be approached on account of distance or another cause (e.g. the illness of the solicited one, etc.), the person solicited is held to denounce the solicitor by letter, with her own and the solicitor's name written; but letters of this kind are to be transmitted with altogether such caution and security that no prudent fear remains concerning their loss. 3) If the person solicited cannot denounce even by letter, she is held to approach the rural dean, or a confessor, or another prudent man, who in her name may write to the Ordinary, or, through the Sacred Penitentiary or the Sacred Congregation of the Holy Office, to the Holy See (Instr. S. C. O. a. 1867. 7. p. LXIII.). Yet "regularly it is not expedient that the confessor take upon himself this burden of carrying the denunciation in place of the penitent, or of receiving it... Besides, we do not deny that in some case, for instance, if somewhere public harm were imminent, nor another way were open for avoiding it, the confessor could be obliged from the law of charity to undertake a burden of this kind; but this will rarely happen."

When a denunciation of this kind has been made, the Ordinary will write back to some ecclesiastical man, in whose prudence he trusts, that he may receive the testimony of the solicited one under oath, and may remit it with his own testimony concerning the honesty and fitness of the one denouncing to the Ordinary. And in this way the act of denunciation will be completed.

e) Therefore denunciation is never to be made anonymously, and indeed must always be directed personally to the Bishop or to the Vicar General, not to the office of the Ordinariate.

Let confessors diligently take care that they not impart Sacramental absolution to solicited penitents, unless, first bringing the denunciation to effect, they have indicated the delinquent to the competent judge. For since denunciation is a very arduous thing, the confessor must not show himself too credulous toward the promises of the penitent, and the solicited regularly cannot be absolved unless

denunciation has first been made: but if there is an impediment to making the denunciation immediately, they must at least be prepared to denounce as soon as possible; otherwise they sin gravely and incur excommunication. But an impediment will be present if there is a just cause (Instr. S. C. O. a. 1867. 5. p. LXII.) for deferring it, - namely if the Bishop, Vicar General, etc., are far distant, or if there is necessity of communicating in order to avoid scandal or gain a jubilee, - and the person can be believed, that she is going to denounce. But if the penitent is not a faithful and God-fearing person, concerning whom it can be believed that she will satisfy her obligation, - or, even if one could not rightly doubt concerning the person's firm purpose of denouncing immediately, nevertheless there would be no grave inconvenience in deferring absolution, - she will have to be stimulated to making the denunciation as soon as possible by a delay of absolution.

f) If a person certainly solicited has refused denunciation, the confessor must inquire into the cause of the refusal, and, insofar as he can, remove it. In order, e.g., to remove from those denouncing the fear of infamy, he will be able to say: A woman denouncing is not received by the ecclesiastical judge as an accomplice, but as a witness; nor is she held to manifest her own consent; indeed she cannot even be questioned by the judge concerning it; but if from simplicity she declares that she consented, this is not noted in the records (Instr. S. C. O. a. 1867. 6. p. LXIII.). Nor is there danger of infamy for the one denouncing; because, if the confessor denounced, in order to diminish his own delict before the judge, were voluntarily to confess that he had performed dishonest acts with the person denouncing and with her consenting, the judge does not give faith to the confessor, but rather believes that he says this in order to evade judgment or lessen the penalty. On the other hand the woman is not held to manifest her own consent, nor does the judge concern himself with it.

If the penitent, on account of gifts received or to be received, says that she is impeded from denouncing by gratitude or necessity, or adduces other insufficient excuses, the confessor should seriously warn her concerning the gravity of sacrilege, concerning the obligation of obeying ecclesiastical laws enacted for preventing the greatest scandals and harms, - and also concerning the penalty of excommunication, which the person solicited incurs by the fact itself if, without legitimate cause, she does not denounce the solicitor as soon as possible (i.e. within a month), - and he should not easily admit those things which persons of this kind are accustomed to adduce, that they may be freed from the burden of denunciation. But if the solicited one, led by false shame or impious mercy, does not wish to denounce the solicitor, the confessor should not absolve her, but dismiss her as indisposed.

g) But if the confessor discovers that the person solicited is otherwise well disposed for the Sacrament of Penance, but has a just cause for resisting, namely on account of probable danger of grave harm in the goods of reputation, fortune, or body, - or that on account of panic fear or great shame she can in no way be brought to denounce the solicitor by herself or through the confessor, then indeed he should not absolve her, but should make her return to him at another convenient time; meanwhile, however, concealing the penitent's name and adding the causes which suggest her exemption from the obligation of denunciation, he should set forth the whole case to the Bishop: so that he may declare what in the Lord shall have seemed opportune, or, according to the condition of things, may request from the Sacred Penitentiary a dispensation concerning it (Instr. S. C. O. a. 1867. 7. p. LXIII.). For the Holy See sometimes grants the faculty to the confessor of dispensing the penitent for that occasion from the burden of denouncing, especially if the solicitor has already been

amended and has done penance. Indeed then, after a serious promise has been made of standing by what is to be resolved, even in a case of necessity she can be absolved immediately.

Note. - Concerning the mode of proceeding in causes of solicitation, see Instr. S. C. O. a. 1867. 8-16. p. LXIII.-LXV.

Even exempt Regulars are to be denounced to the Ordinaries of places, as is clear from the Constitution of Gregory XV. Cf. n. 1202. O). 2°.

Notes to n. 1412 - note sequence 1. (1) L. VI. n. 702. Prax. Conf. n. 83. (2) L. VI. 615. 694. (3) L. c. q. 12. (4) Tr. XVIII. 245. Notes to n. 1412 - note sequence 3. (1) Cf. Amort. q. 21.

CHAPTER II: ON THE OFFICE OF THE MINISTER

1° In Confession; 2° after Confession.

ARTICLE I: ON THE OFFICE OF THE MINISTER IN CONFESSION

There must be treated 1° of the duties of the confessor in general; 2° of his manner of acting with the various kinds of penitents.

§ I. On the Duties of the Confessor

A fourfold duty or office of the confessor is assigned, namely 1° of Father; 2° of Physician; 3° of Doctor; 4° of Judge.

Point I. On the Office of Father.

1413. - The Confessor is a spiritual father, who gives spiritual life to the penitent, or restores and fosters it; for in the tribunal of Penance he acts in the place of the best of all parents, namely Christ Himself, and therefore by penitents he is called by the sweetest name of father. But that which especially stands out in the true name of father is remarkable and inexhaustible charity. For what affection is stronger than the affection of a father? What is truer, purer, more chaste, more constant, fuller of solicitude and more alien from one's own advantage, indeed readier and more prompt for every kind of privation and inconvenience? Therefore such must be the charity of the confessor, so that, clothed with the bowels of mercy of Christ Jesus, Who came not to call the just, but sinners, he may know how to deal zealously, patiently, and meekly with sinners. Thus, as a good father, he will sustain all things for his spiritual children: for charity is patient, ... bears all things, ... endures all things.

The Confessor must be full of charity toward penitents, both at the beginning, and in the course, and at the end of Confession. It is pleasing to hear St. Alphonsus himself speaking on these things.

Notes to n. 1413. (1) Leo XII, in the Bull for the Jubilee, a. 1825. (2) 1 Cor. 13. 4 sq. Notes to nn. 1413-1419 - note sequence 1. (1) Prax. Conf. n. 10. (2) Eccl. 7. 40. Notes to nn. 1413-1419 - note sequence 2. (1) n. 15. 16. (2) Tr. XXI. 5. 6.

1414. - I. At the beginning of Confession. "First he" (the Confessor) "must employ charity in receiving kindly all, whether they are poor, or rude, or sinners. Some spend time only in hearing the Confessions of certain devout persons or persons of rank, because they have not so much courage as to repel these from themselves. But if some miserable sinner approaches them, he is heard unwillingly and is driven away loaded with reproaches: whence it happens that that wretched one, after he has brought the greatest force upon himself so that he might come to confess his sins, feeling himself so harshly received, conceives hatred for the Sacrament of Penance, and, despairing that he can find someone who may help him and absolve him from sins, rushes headlong with loosened reins into the slippery way of a lost life, and falls into despair of salvation. Good confessors act otherwise. When sinners of this kind flow together to them, they receive them kindly, and, as a victor over captured prey, they exult, considering that the lot has fallen to them to snatch a soul from the hands of the demon. They know that this Sacrament was instituted properly not for the just, but

for sinners; for venial faults, in order to be remitted, do not need sacramental absolution, since they can be blotted out in many other ways. They know also that Christ protested in these words: I came not to call the just, but sinners. Therefore the confessor, clothing himself with the bowels of charity, the more he finds souls stained by the multitude and atrocity of sins, the more, that he may gain them for God, should embrace them with greater charity, and give them courage with these or similar words: Come, brother, be of good courage, do not fear; confess your sins fearlessly. Open all things confidently; be ashamed of nothing: it does not matter if you have not looked into all the recesses of your conscience; it suffices if you answer what is asked. Give thanks to God, Who has awaited you until now for penance. Now your life must be changed. Rejoice, because God certainly remits all sins to you, however great, if you have a good will, and therefore He has awaited you, that He might spare you: therefore say all things with a cheerful soul, cover nothing with wrappings."

Notes to n. 1414. (1) Matt. 9. 13. (2) Prax. Conf. n. 3.

1415. - II. In the course of Confession. "He must show far greater charity in hearing the Confession. Let him take care not to show himself impatient or affected by weariness; nor let him show himself struck with amazement at the sins which are narrated; provided the penitent is not so hard or insolent in soul that he exposes several and more atrocious sins without any shame, and without any displeasure and sense of soul; because then one must labor with all one's powers that the penitent may perceive how great is their deformity and magnitude; and therefore then a sharper correction is required, so that he may be awakened from lethal lethargy. It is indeed true that... in the act of Confession confessors must abstain from making correction, lest perhaps penitents, frightened, hold back sins; nevertheless this is understood when speaking regularly: besides, many times it is expedient not to proceed to further things, and immediately to correct the penitent, especially when he confesses a very enormous sin, or if he has been habituated in some vice, so that he may comprehend the gravity of the sin. Yet let him advert not to exasperate him, nor to terrify him. Wherefore, after he has corrected him as much as shall have been needed, immediately let him give him courage for confessing the remaining sins, saying: Come, brother, do you wish to recover from this vice? Is it not so? And since you are prepared to do this, be of cheerful soul. Therefore narrate the remaining sins, holding back nothing. Take care, I beg you, lest you commit some sacrilege; for this would be the greatest of all the sins which you have committed until now. Therefore say all things with a strong soul; conquer yourself: confess all things sincerely: for God is prepared to spare you."

Notes to n. 1415. (1) Prax. Conf. n. 4.

1416. - III. At the end of Confession. "At the end of Confession also it is necessary that the confessor apply himself with a more vehement ardor and zeal, so that he may make the penitent perceive the gravity and multitude of his sins, and the miserable state of damnation in which he is found; but let this always be done with the greatest charity. Nevertheless it is more fitting then to use graver words, so that thus he may better be able to return to a good fruit of mind; nevertheless he must effect that the penitent understand that what is said to him proceeds not from an angry soul, but from singular love and commiseration toward his soul, which can be expressed in this way: My son, do you consider the life of a damned one which you have led? Do you perceive the evil which you have worked? What evil has your God ever done to you, Whom you have so recklessly despised? If there had been no one more hostile to you than Jesus Christ, could you have borne yourself worse

toward Him? But, I ask you, consider who this Jesus is? He is the one Who, though He was God, needing nothing, was made man for you, wished to die on the cross, that He might redeem you from hell. Ah! son, if meanwhile you had died, if on this night, whither would you have gone? Where would you now be? You would be in the eternal fire of hell. What will become of you, if you go on in the future to live the life you have led until now? Will you be able to be saved thus? Awake and see that, unless you change your morals for the better, you are already damned. What good have you gathered for yourself from so many sins? Do you not consider that you prepare for yourself a double hell, one here of anguish and misery, another there of punishments? Come, son, turn away from evil, cease to sin, and commit yourself wholly into the arms of God, which are extended to receive you: enough, as much as you have sinned against Him. I wish to help you with all my powers and with my whole heart; come to me always and whenever you please, since you will find a father who will receive you kindly. Behold, now firmly resolve that you wish to be made holy. It depends on you. For God is always prepared, and has imparted this time to you for this, that you may turn yourself away from evil and do good. O how good it is to have God as a friend! etc."

To the charity of Father can also be referred the following warning of the Second Plenary Council of Baltimore: "Lest any delay hinder those wishing to confess, we earnestly exhort and beseech pastors of souls that they be present at the confessionals for hearing penitents on each Sabbath, and on the Vigils of Feasts at least in the evening time, and on Sundays and feast days in the morning before the first Mass.... But if the number of the faithful is greater than that all who approach can be heard on one day, let him also choose other times, other days, which he may spend on this necessary work."

Notes to n. 1416. (1) Prax. Conf. n. 5. (2) n. 291.

Point II. On the Office of Physician.

The Confessor is a true physician of souls, since he must rescue them from the various diseases of sin, remove them from the depraved affections of the passions, and restore them to divine grace. Therefore the Confessor, as a skilled physician, must 1° know the cause of the evil; 2° heal it; 3° prevent relapse. Let us hear St. Alphonsus again.

1417. - I. The Confessor must know the cause of the disease. "For the Confessor, that he may meet the infirmities of his penitent with opportune remedies, the origin and cause of all his spiritual diseases must be known. Some... beyond the species and number of sins inquire nothing else: if they see the penitent disposed, they immediately absolve him; but if not, without spending one word, they dismiss him at once, saying with a turned eye: Depart from me, because I cannot absolve you. Good confessors proceed otherwise: for these first begin to investigate the origin and gravity of the disease, by questioning concerning the habit of sinning, concerning occasions, concerning the time, concerning the place, concerning the persons with whom, and with what concurrence of things. For thus they will be better able to correct the penitents, dispose them for absolution, and add salutary remedies."

Notes to n. 1417. (1) Prax. Conf. n. 6.

1418. - II. He must heal the disease. "When the origin and gravity of the disease have been known, let the confessor proceed to make the due admonitions. And although he as Father must listen to penitents with charity, nevertheless as physician he is held, as much as is needed, to warn and correct them, especially those who, burdened with many mortal sins, rarely approach the Sacrament of

Penance.... Nor then must the confessor attend to other penitents who surround him. For, as St. Francis Xavier used to say, it is better to hear the rightly made Confessions of a few than the disordered and fruitless Confessions of many. Here it is necessary to advert how wrongly those confessors act who, if they find a penitent indisposed, immediately order him to go away from them, lest they spend some time with him.... And it matters little that others wait or depart unconfessed; for the confessor must render an account on the day of judgment concerning this one only, who now confesses to him, not concerning others." - I think an exception from this rule conformable to the mind of the holy Doctor in the case in which, on the one side, there is a crowd of penitents who, unless they are heard now, cannot or are foreseen not to be about to return except after a long time, and on the other side, the penitent who needs a longer time, e.g. on account of a necessary general Confession, can easily return and is hoped with foundation to be about to return.

"After due corrections or warnings, it is better that labor be spent on disposing the penitent to absolution through acts of true sorrow and purpose; wherefore I wish confessors to be warned that those penitents are very few, especially the rude, who come to confess with an act of sorrow premised. Some confessors think that they have done enough for their office if they merely question penitents of this kind in the following way: Come, do you ask pardon from God for all these things (which in truth is not a true act of sorrow)? Are you sorry from the heart for all your sins? and, with no other word interposed, they bestow absolution on them. Altogether different from this is the method of good confessors. For these first of all labor so that penitents (the discourse is about those who are held by mortal sins) may conceive true sorrow and detestation of sins. And first they prepare them through an act of attrition, e.g.: My son, where now ought you to be in eternity? In hell. Ah! in that fire you would always be tortured! Nor would any hope remain to you any longer that you could be rescued thence! There you would be dwelling, abandoned by all, rejected by God for all eternity! Therefore, are you sorry that you have offended God on account of the hell which you have deserved?... Afterward let him take care that an act of contrition be elicited, in this way: My son, what have you done? You have sinned against God, the highest and infinite good; you have had no regard for Him; you have turned your face away from Him: you have cast Him behind your back; you have despised His friendship and grace. Come therefore, because you have offended God, infinite goodness, are you now sorry from your whole heart? Detest and hate, above all evils, all the injuries by which undeservedly you have affected so good a God. Are you not now ready to die a thousand times rather than commit these things in the future?"

Notes to n. 1418. (1) Prax. Conf. n. 7.

1419. - III. He must prevent relapse. The confessor will prevent relapse by assigning to the penitent remedies suited to the disease. But remedies are either general or particular.

1° General remedies are 1) pious prayer and love toward God; 2) frequent invocation of the Blessed Virgin Mary, of the holy Guardian Angel, and of the holy Patron; 3) frequency of the Sacraments and Confession as soon as any mortal sin has been committed; 4) consideration of the eternal truths, especially of death and of the last end, according to that saying: Remember thy last things, and thou shalt not sin forever; 5) recollection of God present when temptation presses, by saying: God sees me; 6) evening examination of conscience with sorrow of soul and purpose; 7) mental prayer and pious readings, especially for priests.

2° Particular remedies will be assigned according to the diversity of vices: e.g. to him who is held by some hatred, let it be suggested that daily he commend to God him whom he hates, reciting for him the Lord's Prayer, etc. And when the memory of the injury disturbs him, let him recall the insults by which he himself has affected God. - To him who has fallen into shameful sins, let it be enjoined that he avoid idleness, flee evil companions and depraved occasions. - To him who has contracted a depraved habit through a long time in this vice, let it be prescribed that he avoid not only proximate occasions, but even certain remote ones, which to one so weak are as if proximate. But especially let the confessor take care that this one communicate frequently; because the Eucharist is called: wine bringing forth virgins. And thus concerning others.

The confessor will assign other remedies according to his prudence, the circumstances of occasions, persons, etc., having been inspected. For prudence is the chief quality which must stand out in a physician. - See St. Alphonsus in *Praxis Confessarii*; and in H. A. Cf. n. 1389.

Point III. On the Office of Doctor.

The Confessor, that he may rightly fulfill the duty of doctor, must have sufficient knowledge, so that he may fittingly teach penitents.

SECTION I.

ON THE KNOWLEDGE OF THE CONFESSOR.

1420. Principles. - I. The Confessor is held under grave obligation to know all those things which are required for rightly fulfilling his duty. - Thus all with St. Alphonsus, who speaks thus: "I affirm that that confessor is in a state of damnation who exposes himself to hearing Confessions without sufficient knowledge." The reason is that otherwise a confessor of this kind exposes himself to the evident danger of badly discharging so grave a duty, with injury to the Sacrament and with great detriment to souls.

Therefore God requires special knowledge from His Ministers, as is clear from various words of Sacred Scripture: *The lips of the priest shall keep knowledge, and they shall seek the law from his mouth. - Because thou hast rejected knowledge, I will reject thee, that thou shalt not perform the priesthood for Me. - If the blind offer leadership to the blind, both fall into the pit. - Woe to you, blind guides!* - It is clear also from innumerable testimonies of the Holy Fathers: "No art is presumed to be taught, unless it is first learned by attentive meditation. Therefore the pastoral magisterium is undertaken by the unskilled with great rashness, since the governance of souls is the art of arts." - St. Gregory. Cf. what was said p. XCIII. under IV.

II. Nevertheless the Confessor is not held:

1) To have knowledge so perfect that he can always immediately and by himself solve all doubts that occur; but it suffices if he can do this in cases commonly occurring, and concerning more difficult ones knows at least how to doubt, so that he may consult books or, with due permission (if he has need of it), learned men. For greater knowledge can be had with more difficulty, since not even the more learned themselves are able immediately to solve all cases. Hence in more involved doubts, especially if the case is public or easily to be made public, not only are other learned men and men of greater experience to be consulted, but especially the Bishop is to be heard, if time is available. -

Sometimes also the warning which Lugo gives will be useful: "When counsel must be given for the future, or restitution imposed, or a doubtful contract prohibited, or something similar, if the confessor cannot by himself" (or not immediately) "resolve it, it will be good counsel to ask the penitent whether he is prepared to consult skilled men and to stand by their judgment concerning that doubt" (or to return to himself, the confessor): "but if the penitent promises, let him absolve, telling him the obligation which he has of consulting someone or some persons concerning that doubt" (or of returning to himself, the confessor). Nor even

2) Is the confessor held to discern concerning each of the sins accused whether they are mortal or not; since this is often impossible; but it suffices that he hear each thing as it was done, and know how to judge concerning them, both according to common principles and according to the adjuncts of things set forth by the penitent, and to apply a suitable remedy. Nor ought it then move the confessor that afterward he certainly knows that, while the confession was being made, it was uncertain to him. On the matter St. Alphonsus warns with Suarez, that although in some case the confessor does not discern which things are grave or light; if nevertheless the penitent in good faith says his sin, the Confession is valid; and although afterward it is noticed that it was mortal, there is no reason that it be repeated in another Confession. Nor

3) Is the same knowledge required in all, but greater or lesser according to the diversity of places, penitents, and adjuncts. It is said: a) of places, and thus lesser knowledge is required in small towns. - It is said: b) of penitents, and thus likewise lesser knowledge is required for hearing the Confessions of boys or country people than for hearing merchants, judges, etc., who have more difficult cases. But for the Confessions of a learned Theologian much less knowledge is required, because the confessor can be instructed by the penitent himself, provided nevertheless, I would add, that he is God-fearing, concerning whom you may not legitimately suspect that he chose one less learned in order that he might be absolved more easily. - It is said: c) of adjuncts; for the scarcity of priests will be able to excuse a Bishop, so that, if on account of it the faithful otherwise would have to lack a confessor for a long time, as happens more easily in Mission places, he may send a less sufficient minister.

Nevertheless the less sufficient are held diligently to apply themselves to studies, and they are to be warned by the Bishop concerning this obligation. - Lugo.

It is clear of itself that in the article of death, another being lacking, even an ignorant and unlearned priest must hear the Confession and absolve.

Notes to n. 1420 - note sequence 1. (1) n. 15. 16. (2) Tr. XXI. 5. 6. (3) H. A. Tr. XVI. 100. (4) Malach. 2. 7. (5) Osee 4. 6. (6) Matth. 15. 14. (7) Matth. 23. 16. (8) P. I. C. 1. Notes to n. 1420 - note sequence 2. (1) Disp. 21. n. 71. S. Alph. L. VI. 627. H. A. Tr. XVI. 100. (2) L. VI. 627. (1) Disp. 21. n. 74. S. Alph. L. VI. 627. H. A. Tr. XVI. 100. Notes to nn. 1420-1423 - note sequence 1. (1) L. VI. 610. (2) Ib. 616. (3) Ib. 610. 615. 616. Notes to nn. 1420-1423 - note sequence 2. (1) L. VI. 616. § fin. (2) Ib. (3) H. A. Tr. XVI. 113. (4) Ib. 611. (5) Ib. 611. (6) L. VI. 612. (7) L. VI. 612.

1421. Resolves. - 1° Any Confessor whatsoever is held to know all those things which regard the value, substance, integrity, and effect of the Sacrament of Penance, and which are required for its licit administration, both on his own part and on the part of the penitent. Hence also what is the difference between a Confession simply null or invalid and one which, besides, is sacrilegious.

2° He must know also the common obligations and the proper obligations of states; the various species of sins; their adjuncts changing the species; the principles of discerning between mortal and

venial sins, and what things are mortal and venial in individual precepts, at least according to general principles and the common opinion of Theologians. Likewise which acts are valid and licit. The reason is clear, because he must know that concerning which he must judge; otherwise he will not be able to render an equitable judgment.

3° He must know cases and censures from which he cannot absolve, and with respect to those from which he can absolve, under what conditions he can do this; impediments of Matrimony; conditions of contracts; various causes of restitution; roots and occasions of sins; remedies to be brought to them; salutary and suitable satisfactions to be imposed, etc.

4° Therefore a confessor sins who certainly knows that the aforesaid knowledge is lacking to him, even if he hears Confessions from charity alone and obedience. Nor does the approbation of the Bishop excuse him of itself; for this does not give the knowledge due from the nature of the thing, nor supply its defect. I have said: certainly knows; for he who doubts concerning his aptitude will be able to lay aside the doubt, when the Prelate, who knows him well, imposes that duty on him.

5° The Superior also sins who gives permission to an ignorant confessor to hear Confessions, because he consents to and cooperates with his sin. H. A. Tr. XVI. 99 in fine.

6° The penitent himself also sins who deliberately chooses an inept confessor. Nevertheless, if someone is in good faith, the Confession will be valid; because on the part of the penitent there intervenes an integral declaration of sins and due disposition of soul; on the part of the confessor there intervenes at least cognition of sins under the confused notion of sin, which suffices for the matter of the Sacrament. L. VI. 628 sub 1 and 2.

7° Experience cannot supply knowledge, but only assist it; but where knowledge is destitute of support, it will drive a rash confessor into very many errors, and those most grave.

8° Therefore every Confessor whatsoever is held diligently to apply himself to the study of Moral Theology; and, as St. Alphonsus asserts, he must never interrupt that study; "because from so many diverse things and things disparate among themselves, which pertain to this knowledge, many things, although read, since they happen more rarely, in the progress of time fall from the mind; wherefore it is necessary always by frequent study to recall them into the mind."

9° Hence it is clear how gravely they err who consider the knowledge of Moral Theology easy and hardly worthy of any attention, repeatedly saying that nearly all cases can be solved by some common sense, with knowledge of general principles. - Aptly the same St. Alphonsus says: "Let those who aspire to this duty of hearing Confessions not easily persuade themselves that they can render themselves sufficiently suitable for so great a duty without prolonged study of moral knowledge, for which certainly it does not suffice to run through some little summary of those which are carried about; nor is it enough to know the general principles of this faculty, as certain men think, who (despising Casuists) arrogate to themselves the name of literati. For moral knowledge is not only very necessary to the Christian commonwealth, since the good governance of souls depends upon it, but it is also supremely difficult; both because it requires a general knowledge of all other sciences, offices, and arts; and because it embraces so many diverse matters separated among themselves; and because in great part it consists of so many positive laws, which are found cited only among Casuists, and especially among more recent ones, since laws of this kind come forth day by day. - Finally it becomes most difficult on account of innumerable circumstances of cases, upon which the variation

of resolutions depends: for from the diversity of circumstances diverse principles must be applied, and in this the difficulty consists, since this cannot be done without great discussion, or the accurate reading of several books which examine and elucidate matters."

Notes to n. 1421. (1) H. A. Tr. XVI. 99. 100. (2) Ib. (3) L. VI. 628.

SECTION II.

ON THE OBLIGATION OF TEACHING PENITENTS.

1422. Principles. - I. The confessor is held to teach penitents all those things which pertain to the Sacrament being rightly received here and now. The reason is that, since the priest is the minister of the Sacrament, he must procure its valid and licit reception, and therefore deliver the instruction necessary here and now.

II. He must teach penitents, when he adverts that someone is ignorant of something from those things which are necessary for living Christianly, such as, e.g., the obligations of his own state.

III. Nevertheless, per se and strictly, he is not held to instruct them concerning all things which they ought to know and can learn from elsewhere. The reason is that the duty of doctor in a confessor pertains of itself only to the right administration of the Sacrament of Penance. Yet per accidens there could be an obligation from charity, when with the greatest difficulty the penitent could acquire this knowledge for himself either by himself or through another.

IV. In teaching or warning a penitent concerning the gravity of sin, the confessor should employ these four cautions:

1° That he not set down as mortal that concerning which it is disputed among Doctors with probability on each side whether it is such.

2° Before he makes a conscience for his penitent concerning a mortal sin, let him be sufficiently certain that he has rightly understood the sense of the penitent's words; for not rarely penitents use such expressions which at first sight seem to indicate mortal sins, while in truth there is no question of a mortal sin in any way. Thus, e.g., when the penitent says: I have hatred against my neighbor, sometimes there is question only of displeasure and inevitable antipathy on account of some injury received. The same sometimes happens in girls, who say: I had bad thoughts; I made bad conversations with other girls; I committed immodesties, etc.; - or in boys, who say: I did shameful things.

3° Let him advert whether the sin truly committed by the penitent is also truly mortal. Thus the confessor would act imprudently if, hearing a penitent accusing himself of some sin against the Sixth Precept, immediately and in every case he accused him of mortal sin. For although the principle is most true that in venereal matter there is not smallness of matter, nevertheless it must be understood in the sense in which we spoke n. 484. 485. Wherefore, speaking with St. Alphonsus concerning sins of non-consummated luxury, we taught (n. 486-492 and 503. 3°) that certain things, although, for the most part, especially among persons of different sex, they are not done without mortal sin, nevertheless can sometimes be done without mortal sin, because they are done from curiosity, levity, etc., and with the proximate danger of consent, grave scandal, lustful intention

(under which in practice also comes the intention of merely sensible delight), and grave influence on pollution set aside.

4° Let him advert whether perhaps the penitent is in good faith, insofar, namely, as that which he does is indeed in itself a mortal sin; but he thinks that he either does nothing evil or sins only venially. On this matter let there be the following:

Notes to n. 1422. (1) L. VI. 608 sq. (2) Ib. (1) Berardi, de Recid. n. 225-229.

1423. Questions. - Query 1° Must a penitent laboring under ignorance concerning some obligation always be warned?

Resp. 1° Affirm., if the ignorance seems vincible, i.e. if the confessor adverts that the penitent doubts in such a way that good faith is now lacking. The reason is that in the admonition being made no danger is imminent; but otherwise the penitent, acting with that doubt, is not free from sin.

Resp. 2° If the ignorance of some obligation is invincible, the penitent is to be warned if fruit from the admonition is hoped for; but otherwise, generally speaking, if it is not hoped for. The reason is that on the one hand this admonition would not profit, and on the other hand it would harm him; since, having been warned, he would sin formally in the future. Therefore if no fear of harm is present, it is to be made.

Therefore the penitent is to be warned, 1° whenever he himself asks concerning the malice of some thing; because, since he doubts concerning the licitness of the thing, he is no longer in invincible ignorance, and because the silence of the confessor would often be an approval of error, which is never licit. Yet prudently the confessor will not extend the response beyond that concerning which the penitent asked; 2° whenever the silence of the confessor would harden him in the purpose of performing an evil thing; 3° whenever his ignorance turns upon the primary principles of natural law, or upon their proximate conclusions; because such ignorance, although possible as regards proximate conclusions (n. 167. q. 1°. Resp. 2°), cannot be invincible for long; 4° whenever, the warning omitted, the penitent would remain in a proximate occasion of sinning formally; 5° if the ignorance would yield to the common harm, as in a Pastor, Bishop, confessor, etc., since the public good must prevail over the private good. Besides, there is hope that the penitent, if he is absolved by no one, will finally amend himself; next, public scandal must be met, arising thence e.g., namely that penitents would say that such a thing cannot be impious or iniquitous, because confessors are little solicitous concerning it, and say nothing; rarely, finally, will such ignorance be inculpable; 6° if the penitent is going to obey a brief warning, although in the beginning he does not acquiesce; 7° if the ignorance turns upon those things which must be known by necessity of means, as is clear from what was said n. 257-259 and 1422. I.

Query 2° Must an admonition be made in doubt whether it will profit or harm?

Resp. 1° Affirm., if it is more probably going to profit; otherwise, if it is more probably going to harm.

Resp. 2° In a doubt equal on each side, generally speaking, formal evils are rather to be avoided than material ones.

Query 3° Must a spouse be warned concerning the invalidity of Matrimony on account of an occult impediment which the confessor detects?

Resp. Neg., generally speaking, until the confessor has obtained a dispensation, unless this can be obtained immediately and easily from the Pope or Bishop. The reason is that most often the greatest inconveniences would follow thence, e.g. danger of infamy, scandal, quarrels, or incontinence, etc., and therefore material fornication would become formal. - Thus commonly with St. Alph.

But can the confessor oblige a spouse, ignorant of the impediment and denying the debt, to render it? Resp. affirmative. The reason is that, with the persuasion of the spouse standing that the Matrimony is valid, he is held to render the debt, so that he may follow the dictate of conscience. More safely he will say to the penitent in general, that he cannot be absolved who refuses to satisfy his obligation, and that it is now known that a spouse is held to render the debt.

Query 4° Must a penitent, about to contract Matrimony, be warned concerning an unknown impediment?

Resp. Generally speaking, the warning is to be made. - Thus commonly with St. Alph. - The reason is that after Matrimony ignorance can cease by no means with difficulty, e.g. from the fact that it is detected that consanguinity, affinity, etc., is present between the spouses; and then, besides the easy danger of sinning formally, other most grave inconveniences can follow, namely scandals, quarrels, and perhaps even separation of the spouses, etc. - Yet St. Alphonsus excepts the case in which no fruit at all is hoped for from the warning, nor can the impediment easily be detected; because it is better to permit a material sin until a dispensation is obtained than to furnish the occasion of a certain formal sin.

Note. - Let the Confessor take care that he be neither too easy nor too difficult in supposing the good faith of the penitent. Let him take counsel from probable conjectures, drawn e.g. from the natural character of the penitent, from his instruction, from the nature itself of the sin, and especially from the words and expressions of the penitent himself.

Point IV. On the Office of Judge.

There must be treated 1° of the case to be instructed; 2° of the sentence to be rendered.

SECTION I.

ON THE CASE TO BE INSTRUCTED, OR ON THE OBLIGATION OF QUESTIONING PENITENTS.

1424. - Principle I. The practice of making no questions is not a little to be disapproved, especially for these reasons:

1° It is because that practice redounds to the harm of souls; for: a) it can produce not a few sacrileges, insofar as many are those who, unless they are questioned, do not reveal graver sins. "Frequently," says St. Thomas, "those things which the penitent would be silent about from confusion, when questioned he reveals"; - b) it leaves many without opportune remedies; for the confessor not questioning concerning habit, concerning occasions, concerning causes of sins, concerning diligence employed or not employed for amendment, etc. (which things penitents for the most part pass over in silence), will not be able to assign suitable remedies for preventing relapses; - c) it harms others also than penitents, insofar as penitents, for the most part, do not accuse themselves of scandal, or of most grave omissions in the duties of their own state, e.g. in the education and custody of children;

and thus, unless they are questioned and suitably warned, they do not cease from the same scandals and omissions.

2° It is because it redounds to the prejudice of the Sacrament; for: a) very often it prejudices its integrity, as if the confessor does not question a penitent accusing himself in this way: Father, I have done shameful things, the species and number not having been explained; - b) it often prejudices validity also; for if the confessor does not question penitents, e.g. whether they have employed any care for not relapsing, whether they have fulfilled the remedies assigned, etc., he will never be able prudently to judge whether they are disposed, or whether they need a more fervent exhortation in order that they may be disposed, and thus he will often give absolutions that are altogether invalid.

3° It is because it is opposed to the concordant opinion of Theologians.

4° It is because it is opposed to the authentic rules of the Church, as is clear from the Canon *Omnis* and from the Roman Ritual.

Principle II. Since the confessor must procure three things, i.e. the validity of the Sacrament, the integrity of Confession, and the cure of the penitent: therefore, whenever he reasonably presumes or prudently doubts that something of those things which are required for these has not been sufficiently declared, he is held to inquire concerning it. - Hence:

1° For procuring the validity of the Sacrament, it can be necessary to investigate by questioning - whether sufficient matter is present, e.g. if there is question of imperfections, or of light faults which are often committed without advertence; - whether the penitent holds back anything from shame, as especially happens in boys and girls; - whether sufficient disposition is present, for knowing which it will often be necessary to question the penitent, e.g. whether and how after Confession he has abstained from faults; whether and how he has fulfilled the prescribed means.

2° For the integrity of Confession, it can be necessary to question the penitent - concerning the number of sins, - concerning their species; - concerning circumstances changing either the objective or the theological species (n. 27); - concerning some sins which he is accustomed from thoughtlessness altogether to pass over in silence, e.g. sins of thought, and sins of omission concerning obligations of one's own state.

3° For the cure of the penitent, questions can be necessary through which it becomes known, e.g., what are the causes of his sins, whether namely they proceed from some occasion; from some habit; from a defect of custody of the senses; from impure thoughts, etc.

4° The penitent must not be questioned concerning sins of which it is not likely that he committed them; for then a reasonable presumption and prudent doubt are lacking that those things which must be declared are not sufficiently declared. - But on account of the contrary presumption "he should be questioned concerning the sins which are accustomed to abound in men of such a condition."

5° If the penitent seems sufficiently instructed, as devout persons, Religious, Ecclesiastics, and is sufficiently accurate in explaining his sins, he is to be questioned concerning nothing, unless perhaps there is fear lest he hold back something from shame, or unless it is necessary to add some question for assigning opportune remedies to him. The reason for each part of the resolution is the same as that which was just alleged under 4°.

Principle III. Questioning, where it must be made, should be moderate, prudent, opportune.

1° Moderate. Hence the confessor:

a) Should never ask useless things, nor suffer them to be narrated to him.

b) Should be mindful that he is not held to question the penitent except with ordinary diligence.

c) Should remember besides that a less distinct knowledge is required "from him who either on account of incapacity, or on account of sickness, or on account of the multitude of sins, or for another cause, could render an exact knowledge with more difficulty.... And this is the reason why from a prostitute and a concubinary and the like we ask less exactly and distinctly the number of sins than if for one month or for one week only e.g. they had been in that sin." Besides "it must be adverted," says St. Alphonsus, "concerning the number of sins of which some are held by a depraved habit, since a certain number cannot be had, let the confessor take care to know the state of the penitent, namely the manner of living, the application which he spends on other affairs, the time of habit with the accomplice, the place where he especially stayed; and then let him question concerning the number, questioning the penitent how often approximately he sinned in a day, or in a week, or month, proposing to him several numbers, e.g. three or four times, eight or ten times, so that he may see to which number he rather adheres. And if the penitent adheres to the greater number, the best thing to do will be if he is again questioned concerning a greater number. But in this the confessor should advert not to form a certain judgment concerning the number; let him note the frequency in general, and make a judgment in a confused way, apprehending the sins as many as they are before God. Some Doctors say that concerning the internal sins of the habituated, such as sins of hatred, of depraved delights and desires, it suffices for the most part to question concerning the time through which the evil habit endured; but this altogether does not satisfy me, because it can be that someone is more intent on external business, or stays where fewer occasions of depraved thoughts occur to him; another will be more allured by another passion of soul; and therefore general questions must be employed concerning one's own application, concerning place, concerning inclination of soul, etc., so that he may form a judgment of greater or lesser frequency of internal acts."

d) Those confessors err who, from boys, half-witted persons, the hard of hearing, stammerers, men of confused mind (who now affirm, now deny to the same question), would wish to know how the matter precisely stands. Moreover in this manner, the more they question, the less they understand, and the more they confound both the penitents and themselves. Hence St. Alphonsus wrote: "After two or three questions, the confessor should not be anxious if the judgment which he makes seems to him to be too confused; for from involved and confused consciences it is morally impossible to hope for greater clarity."

2° Prudent. Concerning this quality of questions it will soon be treated more broadly, where there is question of questions concerning shameful things.

3° Opportune. The question, namely, must be made at the time and in the manner in which it is suitable. Hence:

a) Certain questions must be made before Confession, but few, lest the penitent be offended: e.g. from what time has he not confessed? was he absolved? has he fulfilled the penance? is he not anxious about his past life? Yet this last question must be made only when the penitent has not confessed for a long time, or when a general Confession is being instituted from a determinate time. - But questions concerning the condition of life, state, age, etc., if these are not made manifest from

the Confession itself, will be made more suitably when an occasion is given in the course of the Confession: for thus on the one hand every suspicion of curiosity and levity will be avoided; but on the other hand the penitent will more easily respond, since his confidence in the confessor will have grown more.

b) "It is better" if "the confessor examines the sins one by one as soon as the penitent sets them forth, than that he defer the examination until the end; because either the confessor easily forgets those things which he heard, or the penitent would have to be obliged with his own grave burden to repeat the things confessed." Yet this warning of St. Alphonsus, according to the mind of the holy Doctor himself, does not hold where there is question of easier or shorter Confessions, nor in the case in which the penitent accurately declares his sins. For apart from necessity the accusation of the penitent is not to be interrupted by any questions, or even warnings, lest namely fear or confusion be injected into him thence.

c) Those confessors would be vehemently disapproved who would scarcely concede to penitents time for responding to questions, and would urge them with an impatient voice, repeating: What further? Do you know other things? etc. For they would disturb and confound the penitent.

Notes to nn. 1424-1425 - note sequence 1. (1) Prax. Conf. n. 90. (2) De Sacr. Poen. Notes to nn. 1424-1425 - note sequence 2. (1) Prax. Conf. n. 90. (2) C. 24. n. 11. Notes to n. 1424 - note sequence 1. (1) In IV. Dist. XIX. q. II. solutio III. expos. textus. (1) L. V. Decr. T. XXXVIII. c. 12. (2) Ordo ministr. Sacram. Poenit. Notes to n. 1424 - note sequence 2. (1) S. Th. 4. d. 19. S. Alph. L. VI. 607. III. Prax. Conf. n. 19. 20. I. (2) L. VI. 607. II. (3) Lugo, Disp. 16. Sect. 14. n. 594. (4) Prax. Conf. n. 20. IV. Notes to n. 1424 - note sequence 3. (1) Prax. Conf. n. 20. IV. (2) Prax. Conf. n. 20. II. Notes to nn. 1424-1425 - note sequence 3. (1) L. VI. 487. (2) De Recid. n. 199. sq. p. 184 sq. Ed. 1a.

1425. - Principle IV. Questions concerning carnal sins must be: 1) necessary; 2) prudent; 3) modest; 4) such as do not bring grave harm to the confessor himself. I explain each.

1) Necessary, i.e. they must be made from a just cause; for without a just cause it is illicit to expose - oneself to temptations, - the penitent to the same temptations, and besides to the suspicion that the confessor delights in such conversations, or even that he is practically versed in things of this kind, - the Sacrament, Religion, and the priestly body to reproach, insofar as to the penitent an occasion is easily given afterward of laughing and joking concerning inept questions made to him.

But questions are necessary, or are made from a just cause, if they are required either for aiding the shame of the penitent, or for knowing what remedies are to be assigned to him, or for procuring the integrity, even material, of Confession.

1° For aiding the shame of the penitent. This can more easily be present in boys and adolescents. Therefore St. Alphonsus wisely warns: "Many times, even if boys deny" that they have committed shameful things, "it is profitable to use suggestive questions with them, e.g. and now tell me, how often have you done these things? Five times? ten times?" - Yet those confessors exceed who in every Confession make and repeat questions for aiding the shame of the penitent, even with those concerning whom it is not likely that they commit shameful things and hold them back. Indeed, although this suspicion is present, one must beware of questions too often repeated and multiplied. - But much more and in a very worse manner do those confessors exceed who, under the pretext of aiding the shame of penitents, make many particular and minute questions, even when one or another, expressed in generic words, would suffice.

2° For knowing what remedies are to be applied. For this it ordinarily suffices to inquire whether sins arise from some occasion, or from an evil habit, or from freedom of the senses, or from depraved thoughts. - I have said: ordinarily suffices; because if the penitent could employ fasts and other macerations (which indeed is a rarer case), it would be useful also to know whether his sins arise chiefly from carnal motions, and whether these arise from a more robust constitution of body. But it is not necessary to question directly concerning these motions; for if the penitent is asked whether he always rushes into sins on account of evil thoughts, from his response the confessor will be able to infer whether the cause of his sins is to be placed in thoughts of the mind rather than in motions of the body.

3° For procuring the integrity, even material, of Confession. For this not only do questions suffice which are necessary for knowing the species, and, insofar as it can be morally known, the number of mortal sins, but questions concerning other things besides species and number are altogether to be disapproved. Hence confessors exceed when they question: whether a) concerning circumstances only aggravating; - or b) concerning imperfect acts preliminary to copula or done immediately after copula, when the penitent already accuses himself of copula (n. 218. 4°; 222); - or c) concerning the manner in which the sin was committed, if that manner does not change the species; - or d) concerning the number of imperfect acts which were done in the same impulse of passion (n. 220. Note).

I said: the species and... number of mortal sins; for it is not necessary to question concerning simple temptations, concerning carnal motions, concerning involuntary pollutions, concerning light disorders in the use of Matrimony, unless from another head a good reason urges for questioning concerning some of these. Hence, if someone moved by a vain scruple comes to Confession saying that he committed shameful things in childhood without cognition of malice, and now wishes to accuse them because he never confessed them, the confessor will teach him that no obligation is present of accusing such things; yet if the penitent desires to disclose them for greater tranquillity, this can be permitted to him; but it will not be necessary to add questions.

Note. - In questioning penitents concerning the species of sins, the distinctions of Theologians are to be followed as a norm, provided the penitents are not such that concerning them (either on account of childish age, or on account of extraordinary ignorance or stupidity) it cannot be presumed that they have formally contracted those special malices. Cf. n. 199. Resolves 2°.

2) Prudent. For Theologians cry out with one voice that it should rather be permitted that material integrity be lacking to Confession than that scandal be furnished to penitents through imprudent questions. - But an imprudent question is one which contains the danger lest it produce evil rather than good; and especially lest penitents learn the malice which perhaps they are ignorant of, and thus on account of that very question begin to sin. Cf. *Lit. Rom.*

3) Modest. But questions will not be modest if the confessor uses words too free, shameless, and least fitting to priestly modesty.

But what expressions will the confessor be able to use in particular cases, so that with due prudence and modesty he may question penitents?

Behold some particular examples of questions for some cases often occurring in practice.

A girl says: I made indecent jokes with my sister in bed; - the Confessor should ask: were these touches very shameful?

A married woman says: I had copula in a preposterous manner. - The Confessor will ask: in this manner can you conceive offspring?

A husband says: I touch my wife with my hands; - the Confessor will ask: do you linger in these touches, without coming to the conjugal act? On account of these touches did an evil effect happen?

An adolescent says: I did shameful things with my brother in bed; - that the confessor may understand whether sodomy was present, he will ask: therefore did you touch your brother with your hands? To the one responding affirmatively he will add: did you do something worse with him?

A man says: I sinned with a woman, or I slept with a woman, or I did what I wished with a woman; - these things are to be understood of perfect copula, and therefore no question is to be made, except for knowing whether that woman was married, consanguineous, etc.

A married man says: I did shameful things with a girl; - the Confessor will question him, saying: did you make the matrimonial act with her?

A girl says: I did shameful things with a lover; - the Confessor will add: did you do these things with the hands, or also in a worse manner? - Thus he will understand whether there was, or was not, union of bodies, in which there is present the malice of fornication. Yet if the confessor sees the necessity of knowing whether this fornication was effectively completed, he will also be able to say: by that which you did, could you become pregnant? To the one responding affirmatively he can further question, saying whether she actually remained pregnant, that he may forearm her against temptations to abortion, and that he may strive to impede scandal in the best possible way.

A man says: I have a vice of touching women; - the Confessor will be able to add: are these touches very shameful?

A married woman says: I did not well perform the matrimonial act; - the Confessor will be able to say: in the manner in which you bear yourself with your husband, can you conceive offspring? If she affirms, then he will teach her that in that manner there is a light fault, or even none, if the husband wishes to do this; but if she denies, then the confessor will add: explain therefore what you did.

A girl or boy says: I touched myself. - Should it then be inquired whether pollution was present? Certainly not at all. "Let him take care," says St. Alphonsus, "not to inquire of girls or boys whether emission of semen was present," lest namely "they apprehend what they had not yet known, or be placed in curiosity of learning." The same caution is to be had generally with respect to unmarried women, even adult ones; whence P. a Bergamo wrote: "Nevertheless nothing is to be hinted concerning pollution; since this is not equally sensible to all women; indeed to many it is altogether unknown;... whence one must abstain from these words: pollution, corruption, and the like.... Worthy of being known is that the vice of pollution is not so common generally among women as among males, and very many women are in no way infected with this lust. Therefore one must speak more cautiously with women, lest they draw malice from our expressions."

Here finally it can be asked what questions are to be made to girls or young persons who accuse nothing at all concerning faults against the Sixth Precept, if the confessor fears lest they hold something back from shame? He can say: have you heard evil conversations? have you had evil

thoughts? Have you done some indecent thing? Have you made evil jokes? These questions can induce no danger, because, if the penitent does not know the malice, he will not learn it; nor will he be placed in curiosity of learning what these words of the confessor signify, because he will understand that there is question of indecent things and jokes in another kind. Meanwhile, if they respond negatively, sometimes the confessor will be able to use a suggestive question, saying, as was noted above from St. Alphonsus: And now say, how often have you done these things? If they affirm that they have committed indecent things, or have made evil jokes, then the confessor will be able to say, e.g.: explain what these indecent things and these evil jokes are which you did? Did you do them secretly? Were you alone? Where were you? Would you have done thus, if your mother had been there? If your mother had seen you, would you have been suffused with shame? And on account of shame you have never accused these sins; is it not so? Ordinarily from the responses the confessor will know either certainly or almost certainly whether that boy truly did shameful things, and thence, according to the rules given above, he will be able to come to other questions, if they seem necessary. - Some confessors instead of saying: have you done some indecent thing? say: have you committed some dishonesty? or: have you committed something against the virtue of holy purity? I judge that these questions made thus abruptly are not sufficiently prudent; because, if the girl does not know the malice, she will not be able to attach any sense to these questions, and therefore she will easily be in curiosity of learning what those words mean; whence also she will easily seek an explanation from other girls, and thus she will badly learn what she was well ignorant of. - Other confessors behave much worse, and to nearly all boys, girls, and adolescents they say abruptly: have you touched yourself? But they do this because from experience they know that other questions, made in general and under a certain veil, are not effective, as this one is, for extorting the confession of sin. I indeed confess that this open question is more effective, so that, if other questions extort confession from seven or eight boys, this one will extort confession from nine or ten; but I judge altogether that it is not ordinarily to be employed; for if it were ordinarily employed, it would teach malice to very many; but is it fitting, in order to aid some, to inflict harm of this kind on very many others? - At most, therefore, such a question will be able to be made in some rare case, when namely the confessor is certain of the sin committed by the penitent, the confession of which he could not obtain unless by employing the aforesaid question.

4) That they bring no grave harm to the confessor himself. For if the confessor on account of some special questions would be cast into grave danger of sinning mortally, certainly he neither ought, nor would be able, to make them. That he ought not is clear; because, just as a penitent is not held to the material integrity of Confession with his own grave spiritual harm, much less will the confessor be held to procure the same integrity with grave harm to his own soul. Besides, all know that charity begins from oneself. But that then he cannot make those questions is clear from the general obligation itself of avoiding grave dangers of sinning mortally, when it is possible to avoid them. Besides, if there were question only of some temptation or of some carnal motion, through these things the confessor would not be obliged to abstain from necessary, prudent, and modest questions; but rather he should fortify himself with prayer, and, before he begins to hear Confessions, renew his right intention. Thus almost concerning questions Berardi.

1426. Questions. - Query 1° What must the confessor do in doubt concerning the sincerity of the penitent?

Resp. There is a common rule, and as it were a received axiom: The penitent is to be believed, both when speaking for himself and against himself. The reason is that the penitent in the Sacred Tribunal is at once defendant and witness, his own accuser and advocate, and otherwise in doubt is always to be presumed truthful. Wherefore, after opportune questions, the confessor must absolve the penitent denying.

Query 2° What must the confessor do if he knows certainly that some sin is being sacrilegiously held back or denied by the penitent?

Resp. 1° If he knows it from the Confession of another, and has not obtained from this one license to speak with the accomplice concerning the sin declared (which license is not ordinarily to be sought), he must, lest the seal of Confession be violated, only question generally, as he otherwise would have done or ought to have done; but if the penitent questioned has denied it, let him answer nothing, but, where this can be done without suspicion, let him merely exhort generally that the conscience be opened with all confidence. But whether the confessor must absolve such a penitent is controverted. - St. Alphonsus, after reporting the opinions of others, concludes thus: "Better, in my judgment, Croix thinks,... that in that case he should in no way absolve, but only pray something to conceal the denial of absolution." And rightly indeed. For whenever, as in the case, injury to the seal can be avoided, the Sacrament cannot be ministered to one unworthy who asks it occultly.

Resp. 2° If he knows it outside Confession, of itself he must absolve the penitent denying, because the penitent speaking for himself and against himself is to be believed; nor of itself can the report of another make greater faith than the declaration of the penitent himself; nor therefore is the confessor held to believe others more than the penitent himself. For if the penitent committed that sin, the confessor must presume that he either has forgotten his sin, or has confessed it to another, or has a just cause for holding it back, or that the reporters rather were deceived.

I said: of itself; for, if the confessor is altogether certain concerning the sin committed by the penitent, because e.g. he himself saw him stealing, heard him blaspheming, etc., or knows it from the certain report of others, he cannot absolve the one denying, provided he is certain that he had not forgotten his sin, nor has any motive for holding it back; for this rule: The penitent is to be believed, etc., holds indeed in a less certain matter, but not in an evidently certain matter.

In practice let confessors take care not easily to give faith especially to women, although pious, by whom they are informed concerning the sins and the manner of life of those who are going to approach them; for very often some things are exaggerated, and not rarely reports of this kind bend the judgment of the confessor concerning the disposition of those approaching him to the worse side than is fitting.

Notes to n. 1426. (1) L. VI. 681. (2) Ib. Si autem. H. A. Tr. XVI. 120. Cf. Vind. p. 587. Ed. 2a. T. II. p. 209. (1) L. VI. 681. Cf. Vind. p. 287. Ed. 2a. T. II. p. 209.

SECTION II.

ON THE SENTENCE TO BE RENDERED, OR ON ABSOLUTION TO BE GRANTED, DELAYED, OR DENIED.

1427. Principles. - I. Absolution must be granted from justice and under grave obligation to every penitent rightly confessed and disposed. The reason is that in the very act of Confession there is

entered into a certain quasi-contract, by force of which the penitent rightly confessed and disposed has the right to receive the Sacrament. But otherwise an intolerable burden would be imposed on the penitent without just cause, namely that he institute Confession before another, without besides being able certainly to trust that he is going to receive absolution from that new confessor. Moreover this is also required by the end of the institution of the Sacrament and of the tribunal of Penance, which was instituted by Christ for the sake of imparting mercy. Therefore the priest, denying absolution to a penitent disposed, would act unjustly, would abuse the power of the keys, and would render the Sacrament odious.

II. Nevertheless absolution can be delayed for a brief time, even for a penitent sufficiently disposed, and even without his consent, when namely the confessor judges that this is useful for his amendment. The reason is that the delay of absolution is not the denial of the same; and, although a disposed penitent has a right to absolution, nevertheless he does not have a right, at least speaking of itself, to obtaining it immediately. For the confessor is not only judge, but also physician; and therefore, if he judges such a remedy to be going to profit the amendment of the penitent, he will be able to use it prudently; indeed he will be held to use it, when he judges that a remedy of this kind is necessarily useful for the salvation of the penitent. - Thus expressly St. Alphonsus, from whom that Theologians, even older ones before the Sixteenth Century, do not dissent, the *Vindiciae* clearly prove.

I said: at least speaking of itself; because if the delay of absolution 1° is judged more likely to harm than to profit, or 2° cannot be done without a sufficiently notable inconvenience of the penitent, it must be granted immediately: for the penitent is then considered to have a strict right to obtaining it immediately.

III. Absolution is altogether to be denied in every case, even of extreme necessity, to penitents certainly indisposed. But to penitents doubtfully disposed, absolution is to be delayed, or, according to the rules handed down n. 1344. q. 8°. pag. 93. col. 2., can be imparted under condition, or even sometimes must be.

IV. In order that the delay of absolution may be the more profitable, the penitent is gently to be drawn to consent to it.

Notes to n. 1427. (1) L. VI. 462. Prax. Conf. n. 76. (2) Ed. 2a. T. II. p. 303 sq. (3) L. VI. 463. (4) Ib. 482. 461. (5) Ib. 463.

1428. Questions. - Query 1° Is it often expedient to delay absolution for a sufficiently disposed penitent, without his consent?

Resp. Outside the two cases alleged n. 1427. II., "it is better to say," says St. Alphonsus, "that a certain rule cannot be established in this; but the confessor must direct himself from the occurring circumstances, and, after he has commended himself to God, as he shall have been inspired by God, let him delay or impart absolution." Then he distinguishes a twofold kind of recidivists, and for each brings forward its proper resolution, as will be explained n. 1480.

Query 2° Is certitude concerning the disposition of the penitent required, so that he can be absolved?

Resp. 1° Absolute certitude is not required, nor even strict moral certitude, such as is required in other Sacraments, e.g. concerning wine for the consecration of the Eucharist. The reason is that the Sacrament of Penance scarcely admits a more certain judgment of this kind.

Resp. 2° Prudent probability is required and suffices, to which no prudent suspicion of indisposition is opposed. For evidence is not possible.

Query 3° What are the ordinary signs of sufficient disposition?

Resp. A rightly made Confession with a protestation of penance and purpose.

Query 4° Is the confessor held to excite sorrow in the penitent?

Resp. 1° Affirm., if the penitent does not seem sufficiently disposed; the reason is that one absolving an indisposed person exposes the Sacrament to the danger of frustration; "but if he dismisses him without absolution, he exposes him to the danger of remaining long in the state of mortal sin, or even of not returning any more." - Nor is he excused from this because he must spend much time on it, or because others are waiting, provided nevertheless that there is hope that he is to be disposed here and now.

Resp. 2° Neg., if the penitent seems sufficiently instructed and disposed, as are mature penitents, and those who confess frequently. For then the confessor is held to nothing, neither by reason of charity, since the penitent does not need special help, nor by reason of reverence of the Sacrament, which is exposed to no danger.

Query 5° Can, indeed must, a penitent be absolved who wishes to follow an opinion opposed to the sentence of the confessor?

Resp. Affirm., provided 1° the opinion of the penitent is somewhat probable, at least extrinsically; for the confessor is not a judge of opinions; 2° the penitent is not so unlearned that he is unable to form for himself a right conscience from probability, at least extrinsic, e.g. from the response of another learned and prudent man, with whom, against the opinion of the confessor, he wishes to stand: for he would act against conscience; 3° there is not question of a judgment which directly regards the administration of the Sacrament, e.g. the disposition of the penitent or the jurisdiction of the confessor, because then there is question not only of permitting the penitent his own opinion, but of following it in one's own operation: I add, from the mind of St. Alphonsus, 4° the opinion of the penitent must be not only speculatively but also practically probable, or not joined with a certainly probable danger of formal sin, as was said n. 87. Reg. 1. 2°: for then there is question of judgment concerning the disposition of the penitent.

Notes to n. 1428. (1) L. VI. 461. in medio. Vind. p. 649. Ed. 2a. T. II. p. 275. (2) Prax. Conf. n. 71. initio. (3) L. VI. 608. (4) L. VI. 604. H. A. Tr. XVI. n. 118. 119. Bouq. Th. fund. n. 355.

§ II. On the Manner of Acting with Various Kinds of Penitents

There must be treated: **1°** of those in occasions; **2°** of the habituated and recidivists; **3°** of the Confession of children before First Communion; **4°** of the Confession of adolescents after First Communion; **5°** of the Confession of persons of the other sex; **6°** of the Confession of persons of distinguished condition; **7°** of the Confession of persons professing piety.

Point I. On Those Who Are Placed in an Occasion of Sin.

SECTION I.

ON THE OCCASION OF SIN IN GENERAL.

1429. Definition. - An occasion of sin is generally defined: an external circumstance which, whether from its own nature, or from the frailty of the man who is found in it, allures, or induces, to sinning. Hence it differs from the danger of sinning, by which name comes whatever impels to sin, whether that be intrinsic or extrinsic.

Division. - A manifold occasion is distinguished, namely proximate or remote; absolute or relative; present or not present; voluntary or necessary.

1° A proximate occasion is that which induces a probable danger of sinning; remote, however, that which induces a slight [danger], or in which commonly men, for the most part, do not sin.

2° An absolute occasion, or occasion per se, is that which of itself induces to sin, and therefore is such with respect to men taken commonly; but a relative occasion, or occasion per accidens, is that which, although it is not an occasion with respect to others, is nevertheless such with respect to someone, his frailty being considered, or because he has frequently fallen in it. Wherefore, just as an absolute proximate occasion can be a relative remote one for one who is very pious and cautious, so on the contrary an absolute remote occasion can be a relative proximate one for one who is weak and prone to vice, especially shameful vice.

3° A present occasion, or occasion *in esse*, is that which is continually present to someone, without its being sought, e.g. if he keeps a concubine at home, or is accustomed to sin with a maidservant; but a not-present occasion, or one not *in esse*, is that which is absent, and at intervals either is sought or occurs, as a tavern is relative to a drunkard, a mistress with respect to her lover.

4° A voluntary occasion is that which can easily be dismissed; but a necessary one is that which cannot be removed physically or morally.

Moreover the causes which truly render some occasion necessary are nearly these:

1° Complete impossibility of avoiding the occasion, e.g. if a concubine were shut up in a prison of which her concubinary were the guard.

2° If the occasion cannot be avoided without sin, suppose of injustice, or without true and grave scandal, as if a wife were in occasion on account of cohabitation with her husband, and from separation there would follow spiritual ruin in the children or scandal among the people.

I said: a) without TRUE scandal; for fictitious or imaginary scandal is not scandal. Of this kind would be that which a concubinary would invent, alleging that the people, if he cast out the concubine, would be confirmed in the suspicion which it already has concerning his concubinage; for that very suspicion itself is already the scandal, which cannot be removed except by the casting out of the concubine.

I said: b) without scandal ... GRAVE; for a light one is not proportioned to the grave danger of one's own ruin.

3° If the occasion cannot be deserted without grave temporal harm in goods, whether of fortune, of reputation, or of life, or without another grave difficulty.

4° According to Berardi and others. When the person in occasion cannot withdraw himself from one occasion without certainly falling into another equal or worse occasion, or into another equal or

worse spiritual danger. The reason is that no one can be obliged to something useless or to something worse. Hence Gury wrote: "A maidservant would not have to be obliged to depart at once from the house ... for the case in which ... she could not depart except so as to fall into an equal danger and perhaps into a greater one." Yet one must beware of hallucination, which in this matter is very easy; for it is too easy to be deceived, where it is sweet to believe. Thus it is very easy for a concubinary to believe, e.g., that he will sin in an equal way even with a new maidservant, and nevertheless to delude himself; concerning which matter Viva wrote: "Certainly the danger, considered in itself, of sinning with a new maidservant is not the same ... as of sinning with a concubine."

Notes to nn. 1429-1434 - note sequence 1. (1) L. VI. 452. H. A. Tr. ult. n. 2. (2) L. VI. 455. 456. Pr. conf. n. 68. 69. Notes to n. 1429 - note sequence 1. (1) L. VI. 452. H. A. Tr. ult. n. 1. (2) Ib. (3) L. VI. 455. Notes to n. 1429 - note sequence 2. (1) Cas. consc. n. 700. (2) In prop. 41, damn. ab Alex. VII. (3) Berardi de Occas. n. 61 sq. (4) L. VI. 452. Notes to nn. 1429-1434 - note sequence 2. (1) Tr. 6. c. 5. p. 4. n. 59. (2) T. III. n. 472. Notes to nn. 1429-1434 - note sequence 3. (1) L. VI. 455. Pr. C. 68. Ber. 79 sq. (2) L. VI. 454.

1430. - Principle I. In order that a right judgment may be made concerning the probability of the danger which makes some occasion proximate, according to the mind of St. Alphonsus a distinction must be made between an occasion in which someone has already been placed for some time, and an occasion which is now to be approached for the first time.

In the former case the occasion will have to be held proximate if someone has frequently sinned in it; nor is it required that he always or almost always have sinned in it, or even more often than not. But it makes no difference whether the frequency is relative or absolute. Relative frequency is computed according to the number of times in which someone was exposed to the occasion, and it will be present, e.g. if someone in twelve visits is accustomed to sin five or six times. But absolute frequency will be present when the number of falls, considered in itself, is notable, as if two persons who meet on single Sundays fall ten or twelve times in a year, or if for several years you have always sinned in a house which you visit only once in the year.

In the latter case, one must stand by the presumption taken from things which commonly happen: namely, it must be presumed that probable danger of sinning will be present for someone if that very occasion commonly brings that probable danger to other persons placed in the same circumstances. - I said: placed in the same circumstances; for diversity of circumstances, whether on the part of the subject, or on the part of the occasion itself, or on the part of the manner in which the same occasion is approached, induces a difference in the degree of danger.

On the part indeed of the subject, a difference of age, state, sex, temperament, virtue, education, instruction, affections, etc., can have great influence. Thus some things are very dangerous to children and not to adults; to youths and not to old men; to the lustful and not to the cold; to those leading a celibate life and not to the married; to men and not to women, or conversely to women and not to men. Thus some things are very dangerous to common people, but not to persons of distinguished condition and well educated. Thus frail persons and those lacking the fear of God will find grave dangers where persons endowed with virtue and piety will be in slight or no danger. Thus a prolonged conversation with a woman ordinarily exposes those who pursue her with disordered love to grave danger; but not those who do not have such an affection. Thus books of impious men or heretics, which ordinarily would expose secular persons to very grave danger, expose a Religious

man, very grounded in Theology, to slight or no danger. It must also be adverted that habituation produces great differences. For on one side many things are more dangerous to the accustomed than to the unaccustomed, insofar as custom renders consent and fall easier; and on the other side some things are more dangerous to the unaccustomed than to the accustomed, insofar as some things from long use (or from use of worse things) no longer make any impression; whence St. Alphonsus wrote: "Habituation causes that men are less moved to concupiscence from such a sight" (of women showing their breasts), "as is clear from experience."

But on the part of the occasion itself, many circumstances can induce a great difference in the degree of danger. Thus it is one thing to converse with a young, beautiful, adorned, immodest woman, full of allurements; and another thing to converse with an old, deformed, grave, modest, pious woman, etc. Thus it is one thing to be present at a comedy represented with sufficient honesty and sufficient decency; and another thing to be present at a comedy very shameful or represented very shamefully.

Finally, on the part of the manner in which the occasion is approached, many circumstances can likewise induce a difference in danger. Thus it is one thing to speak with a girl secretly, witnesses being removed, frequently, for a long time, and without any caution; and another thing to speak with her in the presence of others, rarely, for a brief time, and with opportune cautions.

Notes to n. 1430. (1) Cf. L. VI. 452. § Notandum vero, quod aliquando, and § Cum occasio externa conjungitur cum passione. (2) Ib. n. 50. (3) Ber. Occ. n. 13.

1431. - Principle II. In order that someone may be treated as constituted in a proximate occasion, it is required that the occasion from proximate has not become remote. But that it has become remote is known from nearly these indications:

1st If from sufficient experience it is clear that the gravity of the danger has vanished; as, for instance, if someone was accustomed almost daily to become drunk in a tavern, and now already for a long time indeed frequents the tavern daily, but, on account of the purpose made, has never become drunk. But a much longer experience is required in chastity.

2nd If some cause has supervened which evidently destroys the gravity of the danger, as if someone had had a custom of sinning with a woman near him, not on account of affection toward her, but on account of the mere discharge of lust; but now has taken as wife her sister, whom he very much loves. I say: evidently or sufficiently certainly, so as to exclude the case, e.g., of one promising amendment yesterday.

3rd According nevertheless to only some Theologians. If the penitent shows extraordinary sorrow and purpose. But I would admit this third indication only if the occasion, which I suppose to be voluntary, a) is not present, nor going to last long; or b) is not very alluring, as if, e.g., there is question of an associate with whom the penitent himself was accustomed first to introduce depraved conversations.

4th If other means sufficient for rendering the occasion remote without separation are present, and it can be presumed that the penitent will in fact employ them.

1432. - Principle III. Absolution is not to be denied to a penitent constituted in a remote occasion, even if he does not wish to desert it. The reason is: **1°** because it does not induce a proximate danger of sinning mortally; **2°** because too hard an obligation would be imposed on the penitent, since such

occasions generally cannot be morally avoided. Yet make an exception, and that per accidens, if the occasion, although remote, unless it is deserted at once, is going shortly to be proximate, as if with the occasion there is joined a vicious habit, or a great temptation or vehement passion.

Notes to n. 1432. (1) Ber. Occ. n. 15 sq. (2) L. VI. 452. H. A. Tr. ult. n. 2.

1433. - Principle IV. A penitent is never to be absolved who refuses to desert a voluntary proximate occasion, whether that occasion is proximate per se or per accidens; whether *in esse*, or not *in esse*. This is clear from propositions 61, 62, 63, condemned by Innocent XI, p. XVII; likewise from the 41st condemned by Alexander VII, p. XIV.

1434. - Principle V. But to a penitent who is placed in a necessary proximate occasion, absolution cannot be denied on account of that occasion, if from elsewhere he is found disposed, and is willing to use the prescribed remedies. The reason is that no one is bound to that which is either physically or morally impossible; and from elsewhere the occasion of sinning is not of itself a sin, nor does it cast a man into the necessity of sinning. And this sentence indeed, according to St. Alphonsus, is most probable; "but," he adds, "in practice all agree that it is expedient that absolution ... be deferred. Indeed ... I would never absolve," thus the holy Doctor continues, "one who is in an extrinsic proximate occasion, ... especially if the occasion is concerning shameful matter, whenever absolution could conveniently be deferred. For I judge that the confessor, as physician, is held to fit to his penitent the more opportune remedies, so that he may work out his salvation; and I think that no other more apt antidote can be ministered to him who is in a proximate occasion than the delay of absolution; since experience teaches that penitents, after they depart absolved, for the most part neglect to employ the prescribed means, and thus very easily relapse." - Note that the holy Doctor says: whenever absolution could conveniently be deferred ... as physician, etc. For which reason, if there is question of a penitent whom the confessor prudently and before God judges not going to return, or not except after a long time, the delay of absolution will no longer have the character of medicine.

I said: is willing to use the prescribed remedies. Here it is asked, what remedies are to be assigned to the penitent who is placed in a necessary occasion? Resp. They are of a threefold kind: **1°** some are directed to diminishing the force of the occasion; **2°** some to diminishing the force of passion; **3°** finally some to increasing spiritual strength.

First indeed it is necessary to diminish the force of the occasion. Not rarely a few words spoken with a strong soul; - not rarely some serious threat or reproach; - not rarely even one opening of the mouth for crying out; - not rarely even once to report the matter to someone who can apply a remedy, - suffice so that the treacherous plotter is cast down in spirit and ceases from every annoyance. The Salmanticenses wrote that such a person in occasion ought "not to mingle long conversations with that woman, and not even to joke lightly." He will also have to avoid looking at her with delay, and, as far as possible, not to speak about her, not to think about her, etc. But especially, says Scavini, "it must be inquired ... whether some circumstances generate the proximate occasion, in which case, by removing the circumstances, the occasion will be removed; e.g. sin is never committed except while in the evening he converses in the kitchen with the maidservant; then entrance into the kitchen at that time should be prohibited, and the occasion will be removed." Moreover these and similar things will be able, if not to destroy the force of the occasion, at least to diminish it not a little.

Secondly it is necessary to diminish the force of passion, by providing it no foment through idleness, through freedom of the senses, through depraved thoughts, through depraved readings, through intemperance, etc.; likewise by subjecting it through labor, through fasts and other macerations, if this is possible.

Thirdly it is necessary to increase spiritual strength. This is done chiefly by prayer, frequency of the Sacraments, and meditation on eternal truths.

As to prayer, care must be taken that the penitent, every morning and evening, and also when temptation comes, earnestly implores God and the Blessed Virgin for grace so necessary to him. But everyone knows how great is the usefulness of novendial prayers, devout assistance at the Sacrifice of the Mass, visitation of the Most Holy [Sacrament], renewal of purpose before the Crucifix, etc. Moreover prayers have greater force if they are joined with alms.

As to frequency of the Sacraments, care must be taken that the penitent choose for himself a stable confessor, learned and pious, as far as possible, and that he confess to him with the greatest frequency with which he can. But especially care must be taken that the penitent return to Confession immediately after a fall.

Finally, as to meditation on eternal truths, care must be taken that the penitent every day seriously think again about death, divine judgment, and eternal torments. But if for the penitent there were an opportune occasion of making spiritual exercises (even privately in his own home), as if he were a priest, or a rich person, or a Religious, then the confessor would have to employ every effort with him, that he may undertake them and perform them rightly; indeed, when possibility is given, there can be a true obligation of recurring to extraordinary means of this kind, namely when the evil and danger of the soul is great and extraordinary.

1435. - Principle VI. Never, i.e. not even the first time, can he be absolved who is placed in an occasion, necessary indeed, but such that, while it stands, amendment cannot be hoped for, or no hope exists that the remedies will be going to profit. The reason is that to wish to remain in such an occasion is to wish the sin, and the removal of the occasion is here the sole means of salvation. Except the occasion which it is altogether impossible to remove. See n. 1429. 4°. 1°. Cf. n. 1436, q. 2°.

1436. Questions. - Query 1° Can a penitent who sincerely promises that he will abandon a voluntary proximate occasion of sin be absolved before he has abandoned it?

Resp. **1° Affirm.,** and that not only once or twice, but even three times, if a) there is question of an occasion not *in esse*; b) the purpose of avoiding the occasion is firm; for if the habituated person otherwise betrays indications of indisposition, as if after the first or second absolution he falls back in the same way and with no effort employed for avoiding the occasion, he will have to be treated as formally a recidivist, and therefore neither the second nor third time will he be absolved without some extraordinary sign, as will be clear from the things to be said n. 1473 sq. - But it must be noted that here only whether he can be absolved is asked; for although the confessor, as judge, can absolve this penitent, as sufficiently disposed, nevertheless he can also, as physician, delay absolution, so that he may see whether the penitent in truth avoids the occasion or at least begins to amend himself; indeed it will be expedient to act thus, even the first time, if the custom of sinning in the occasion is already inveterate. I said: and that not only once, etc. For several times before the real execution of the purpose he cannot be absolved.

Resp. **2° Neg.,** if there is question of a present occasion or one *in esse*, not even the first time. If however the penitent either a) gives extraordinary signs of sorrow AND absolution cannot conveniently be deferred; or b) cannot return to the same confessor, or at least not except after a long time, NOR has been unfaithful to a promise already made before concerning removing the occasion (in which case he is to be treated as a recidivist, i.e. not absolved unless he brings extraordinary signs), he not only can be absolved, but has a right to receive absolution.

The reason of the rule is that "the taking away of the present occasion" is "a greatly arduous matter; ... and therefore, if the occasion is not taken away before absolution, the penitent will easily after absolution deceive himself, falsely persuading himself that he will resist temptations.... For which reason, if such a one wished to be absolved before he deserts the occasion, he would be indisposed, because he would constitute himself," and that voluntarily, as is supposed in the question, "in a probable danger of breaking his purpose; and therefore the confessor" absolving him "would sin both against the office of judge and of physician." And indeed against the office of judge, because he would absolve one indisposed; but against the office of physician, because he would not apply to him the remedy necessary to his salvation.

The reason of the 1st exception is that those extraordinary signs indicate that the penitent has been endowed with more abundant grace, from which he can be hoped to be more constant in removing the occasion. But that absolution even in this case is to be deferred, if it can conveniently be deferred, is from this, that the little cord of occasion is broken with difficulty. - The reason of the 2nd exception is that then the occasion here and now is necessary, since it cannot conveniently be taken away before absolution. But that absolution even in this case is to be deferred, if the penitent has not stood by the promise previously made concerning removing it, will be clear from the principles which we shall hand down concerning recidivists n. 1473 sq.

Query 2° Can he be absolved who, existing in a necessary occasion, after remedies have been employed, always relapses in the same way?

Resp. **Neg.,** if there is no hope of amendment, whatever finally must happen. Thus St. Alphonsus, as the truer [opinion]. The reason is that, although on account of a just cause the danger of sin can be permitted, nevertheless the formal sin itself can never be permitted; but, when no hope of amendment appears, danger and sin become one single thing. - Hence a woman ought rather to perish from poverty than to frequent a house where she receives large alms, but which always degenerate into the wage of prostitutes. I said: if there is no hope of amendment. But this is judged to be present "if in the present [case] the penitent brings extraordinary signs of sorrow."

Notes to n. 1436. (1) L. VI. 454. (2) Ib. (1) L. VI. 457, 458. Cf. Vind. p. 603 sq. and 609 sub 6. Ed. 2a. T. II. p. 227 sq. and p. 233 sub 6.

1437. Resolves. - 1° "A maidservant vividly solicited by her master, ... if ... she is frail and little devout ... is held to depart from his house," although she has not yet sinned. The reason is that the occasion here, although still remote, is shortly going to be proximate. See n. 1432. - But if "she were given to piety, and cautious, and employed opportune remedies for repelling temptations and opposing passion, then I would not bind her to taking away the occasion." St. Alphonsus. The reason is that then the occasion cannot be presumed shortly going to be proximate.

2° Paul has often sinned with his maidservant, and can dismiss her without grave inconvenience. On occasion of spiritual exercises, to which he applies himself far from his own home, he confesses. It is asked whether he can be absolved before he has in fact dismissed the maidservant. Resp. distinguish. Either he has promised others that he will dismiss the maidservant, or not. If the former, he will not be able to be absolved unless he offers extraordinary signs, such as spiritual exercises are not when they have been performed perfunctorily and for this reason only, because the Superior or diocesan statutes compelled him to them. If the latter, he will be able to be absolved. See the reason of this resolution n. 1436. q. 1°. R. 2°.

3° Peter, on account of his business, or because otherwise he would be judged, not without manifest danger of enmities, to disregard those laws of relationship which are accustomed to be observed among relatives, goes two or three times in the year to a house which for him is a proximate occasion of the sin of lust, or to a certain city in which he is accustomed to sin with prostitutes. It is asked, **1°** whether Peter must be obliged no longer to approach that house or city; **2°** whether he can be absolved if he has promised to employ the prescribed remedies?

Resp. to the **1st Neg.,** if he is prepared to use the prescribed remedies.

Resp. to the **2nd Neg.,** if (which nevertheless will be rare in the case) absolution can conveniently be deferred, or if he is a recidivist and does not bring extraordinary signs of sorrow. The reason of each response is clear from the things said n. 1434.

4° Those who are not sui juris, as a son or daughter of a family and a wife, and are placed in a proximate occasion *in esse* with a male servant, a maidservant, a relative, or a husband, can be absolved if they seriously promise to employ the remedies prescribed by the confessor, and absolution cannot conveniently be deferred; otherwise, if either a) absolution can conveniently be deferred, or b) after remedies have been employed in vain, they always fall back in the same way and do not give extraordinary signs of sorrow. This follows from the things said n. 1436.

5° Caia, deprived of parents and destitute of every human hope, lives in concubinage with Peter, to be expelled from his house and to perish from hunger unless she continues to obey Peter's lust. It is asked whether she can be absolved before she has left Peter's house? - Neg. This follows from the things said n. 1436.

Notes to n. 1437. (1) L. VI. 452. § Ex praemissis. (2) Cf. Vind. p. 610. III. 1. 2. Ed. 2a. T. II. p. 233. III. 1. 2.

SECTION II.

ON PARTICULAR OCCASIONS.

Of these some, for the most part, are voluntary; others, for the most part or frequently, are necessary; concerning each kind separately there must be treated.

Note. - While in those things which I hand down in this Section II, I teach that some occasion does not necessarily have to be abandoned, do not understand this as if in no event, and not even in the cases concerning which I treated n. 1435; 1436. q. 2; 1437. 3°. 4°. 5°, it had to be abandoned; but these things must be taken in the sense indicated n. 1434; i.e. it will be lawful to try the remedies concerning which in the same n. 1434, until hope of amendment has vanished.

A. On Those Particular Occasions Which, for the Most Part, Are Voluntary.

There must be treated: **1°** of concubinage; **2°** of dances; **3°** of theatres; **4°** of conversations; **5°** of depraved companions; **6°** of depraved books; **7°** of dice-play; **8°** of taverns.

I. On Concubinage.

1438. Definition. - Concubinage properly so called is the frequent and continued lying together of an unmarried man with an unmarried woman, keeping her as if she were a wife, whether in the same house or in another. - I said: properly so called; for if there were frequent and continued lying together with a married man or a married woman, it would be concubinage improperly so called.

Notes to nn. 1438-1439 - note sequence 1. (1) L. IV. 435. Salm. Tr. XXVI. c. II. n. 21. (2) Casus. n. 692. 693. Notes to nn. 1438-1439 - note sequence 2. (1) L. IV. 436. (2) Ib. Notes to nn. 1438-1439 - note sequence 3. (1) L. IV. 436. (2) Ib. 435. q. I. (3) Ib. Notes to nn. 1438-1439 - note sequence 4. (1) L. IV. 437. 441. L. III. 31. (2) L. IV. 452. Salmant. Tr. XXVI. C. II. n. 35. (3) L. III. 52. Aertnys, De Occasionariis et recidivis, n. 21. q. 2°. Notes to nn. 1438-1444 - note sequence 1. (1) n. 471. (2) L. IV. 427. Notes to nn. 1438-1444 - note sequence 2. (1) L. IV. 427. (2) Conc. Pl. Balt. II. n. 471.

1439. Questions. - Query 1° Is he a concubinary, or at least is he held to separation, who rarely has sinned with a domestic woman?

Resp. **1°** He is not a concubinary, since that frequent and continued lying together is not present which, as was said in the definition, is required for concubinage.

Resp. **2°** He is not held to separation, provided that **1)** the danger of relapse without separation either has already become remote or can be rendered remote; **2)** on account of special circumstances either on the part of the subject, or on the part of the occasion itself (n. 1430), it cannot be presumed that the danger of relapse, although for now remote, will shortly again become proximate; **3)** separation is not necessary for ending or repairing scandal which perhaps has arisen. The reason of the 1st is that the occasion is not, or at least is no longer, proximate; the reason of the 2nd and 3rd is clear from the things said n. 295. 12°; 301; 1432. - In practice, however, on account of the defect of the second condition, separation will often be necessary.

Case. - Lampridius once or twice sinned with his maidservant; he confesses after three months, affirming that he is sorry with his whole heart and that he will employ suitable means for avoiding relapse; but that he cannot cast out the maidservant, who is very useful to him. All these things having been weighed, the confessor absolved him. It is asked: Could Lampridius ... have been absolved? Gury resolves: "Lampridius absolutely could have been absolved, without dismissing the maidservant at once, the circumstances of the case being considered; or some experiment of time could be permitted."

Query 2° Can a concubinary ever be absolved before he has dismissed the concubine; or a concubine, before she has deserted the concubinary?

Resp. Distinguish. For on one side the occasion is either voluntary or necessary; but on the other the concubinage is either public or occult.

If **1)** the concubinage is public and the occasion voluntary, Neg., and that although he gives signs of great sorrow. "The reason is both because it would beget scandal to see him who still keeps a concubine at home, or frequents her house, approach the Eucharist; and because a public sinner

should not be absolved unless he also publicly does penance, and satisfies for the scandal." Therefore, before he is absolved, he must dismiss the concubine, or, if she lives outside the house, not approach her for some notable time.

If **2)** the concubinage is public and the occasion necessary, ordinarily the concubinary will be able to be absolved in one case only; namely, when he lies dangerously ill, and the remedy of Matrimony can be employed. But if there is no place for this remedy, he will indeed be able to be absolved and fortified with the Sacraments of those going forth [from this life], provided nevertheless that a) the presence of the concubine or concubinary is not joined with proximate danger of sinning, or this danger can both be rendered remote and is in fact rendered so; and b) scandal either is not present, or, if it is present, is removed. But scandal is not present if the morally insuperable difficulties which impede the expulsion of the concubine or the desertion of the concubinary are of themselves manifest to the people or altogether presumable by them. But scandal is removed, in the case in which those difficulties were unknown to the people, if the sick person makes them manifest openly to some witnesses. (24) p. 420.

It is clear of itself that here there is question of a sick person in possession of himself; for, if the sick concubinary is found destitute of his senses, he must be absolved under condition, and also anointed with Holy Oil, as is clear from the things said n. 1371. 4°, and will be clear from the things to be said in the Treatise on Extreme Unction, n. 1508. q. 8°.

If **3)** the concubinage is occult and the occasion voluntary, namely such as can easily and immediately be removed before absolution, absolution cannot be given, as is clear from the things said n. 1436. q. 1°. R. 2°, and that although the penitent brings extraordinary signs (except the cases concerning which in the cited place); for "experience shows too much that, absolution having been obtained, the occasion is afterward taken away with difficulty, and thus he very easily returns to the vomit." Except, according to the mind of St. Alphonsus, if the concubine lives outside the house. See n. 1436. q. 1°. R. 1°.

If **4)** the concubinage is occult and the occasion necessary, one must attend to why it is necessary.

If **a)** it is necessary by reason of scandal or infamy, "commonly speaking he is not to be absolved.... The reason is that in prolonged concubinage it is morally impossible for the matter not to become known to others." I said: COMMONLY speaking; for "if otherwise grave damage of reputation cannot be avoided," in this "very rare case" he will be able to be absolved. "But in that case I say that it is altogether expedient that absolution at least be deferred, until the continence of the penitent is proved by experience; unless the case were that the penitent (otherwise sufficiently disposed, as is supposed) could not return any more; ... or if the necessity of communicating were imminent for avoiding positive infamy." The reason of the resolution is clear from the things said n. 1434. - Hence a priest who (which may it be absent!) would live most miserably in concubinage with a female relative or maidservant without any suspicion on the part of the people, will be able to be absolved if, by casting out the concubine forthwith and without delay in the case of grave illness, or immediately after he has returned home from Spiritual Exercises, that which is occult would become public with great scandal. Nevertheless he would have to resolve to dismiss the concubine as soon as he could do so without the aforesaid scandal. Cf. however n. 1437. 2°. - Resolve the same if in the time of a Mission there were question of dismissing a maidservant, in the case in which dismissal, made precisely at that time and immediately, would cause infamy.

If **b)** it is necessary by reason of damage in goods of fortune, a distinction must be made. Namely, he will be able to be absolved if there is question of damage which would make the man fall from his proper state, as if, e.g., a maidservant is very poor and a notable wage, e.g. of many years, is owed to her, which the master will not pay if she departs. The reason is that to fall from one's own state is a sacrifice so grave that practically it cannot have the character of a means for liberating the penitent from sins; for it is easier that he effectively cease from sins, while the occasion remains, than that he dismiss it with so intolerable a sacrifice. "But in these cases regularly" (i.e. except the cases just alleged under a) "absolution is also always to be deferred."

If **c)** it is necessary on account of complete impossibility of removing it, or because it is not possible to withdraw oneself from it without falling into another equal or worse one: recall the things said n. 1429. 4°, and the admonition concerning absolution regularly to be deferred, as in the preceding cases.

Query 3° Would one who was publicly thought to be a concubinary, and was not, be held to dismiss the woman on account of whom such an estimation came upon him?

Resp. **1°.** If he gave occasion to the rumor neither by an evil work nor by one less right, he is not held; but it suffices that he make known that an opinion of this kind is false; for then the scandal, as calumniously excited, either will cease or will become Pharisaic.

Resp. **2°.** If by a work either evil or less right he gave occasion to the opinion, separation, if it can be done without grave damage, must be enjoined; because anyone is held by natural right to remove scandal; but he will be able to accomplish this with difficulty without separation, since he gave cause to the scandal. If separation cannot be done without grave detriment, he is not held to it; since charity, by force of which he must remove scandal, does not oblige with so great an inconvenience; therefore it suffices that he strive to remove the scandal by exemplary life and by making known the truth.

Query 4° What if provision can be made for the salvation of the concubinaries through Matrimony?

Resp. **1°** This remedy is expedient when either **1)** the concubinary or the concubine labors under a certainly lethal disease; or **2)** no unhappy outcome from such a Matrimony can be feared.

Resp. **2°** That remedy ought to be employed in that twofold case, if it is necessary for legitimating offspring. - See the things to be said in the Treatise on Matrimony, n. 1539. q. 4°.

Appendix annotation (24), to n. 1439. q. 2°. p. 167. col. 2. I said: "ordinarily in one case alone ... he can be absolved." For it can happen, even outside danger of death, that 1° the concubine either in no way or here and now cannot be dismissed or avoided, that is, a necessary occasion; 2° the penitent is prepared to remove as soon as possible and in the best way he can the public scandal which exists from the concubinage, and to avoid that which would exist from access to Holy Communion; 3° no good effect can be hoped from the delay of absolution. If these three things are present together, although they will be very rarely present, some teach that the concubinary, or concubine, can be absolved. That the first truly be present, two things are required: 1° that the occasion be truly necessary; for the affection by which concubinaries cling to their filthy pleasures not rarely brings it about that either they oppose specious pretexts to separation or exaggerate the difficulties of it; 2° that it is necessary precisely because from separation there would exist damage in goods of fortune so grave that by force of this he would fall from his proper state or be cast into grave necessity. See the example of the maidservant which I bring forward, p. 168. col. 1. under: If 2). For other damages, for example in reputation, in the case of public scandal, which has already stripped the concubinary of reputation, are not to be attended to. Cf. St. Alphonsus, L. IV. n. 437. 441. The second supposes a penitent who affirms as certain that the base commerce has now ceased for a long time, which nevertheless the people still believes to endure. They say that this man, if the first and third requisite are present,

can be absolved, yet with the conditions of the second requisite being observed. For hence, as is supposed, the occasion is necessary, and by the long interruption of the base commerce there is given an extraordinary sign of disposition; but from that, as likewise is supposed, the scandal which endures he cannot remove for the present, and he is prepared to remove it as soon as he can; nor is he going to give a new scandal, as again is supposed, namely by approaching Holy Communion, for he seriously promises that he will not approach it, at least in the place where he is known. The third requisite would be lacking if, all things considered, the delay of absolution is judged to be the stimulus by which that phrase "as soon as possible and in the best way he can," concerning which in the second requisite, may be completed more quickly. Cf. Berardi, Ed. 2. n. 151; Aertnijs, p. 30.

II. On Dances.

1440. - By the name of dance in Moral [Theology] comes the act of dancing, not insofar as it is considered in itself alone, but insofar as it is joined with diverse circumstances, either depraved or dangerous, on which the whole guilt of dances depends.

Depraved circumstances are, e.g. - obscene embraces, touches, conversations, nakednesses, gestures, - a depraved intention, - the character of scandal (concerning which n. 295. 8°), - grave prohibition of parents, - an ecclesiastical law forbidding them, etc. Circumstances of this kind render dances illicit per se; other circumstances make them more or less dangerous, or an occasion of sin. Here we treat of dances primarily under the character of an occasion of sin.

1441. - The general rule to be held in this matter is this. If the danger which dances bring is grave or probable, and no grave cause is present for approaching it, dances must be avoided under mortal [sin]. - But if the danger is light or not probable, or if a grave cause excuses, then either a light sin or none will be present. Therefore the quantity of the danger and the gravity of the cause must be attended to.

I. The Quantity of Danger. In order that this may be known, the criteria of the probability of danger handed down n. 1430 must be consulted; and hence **1)** it must be considered whether the penitent at other times has been present at dances, and whether on account of them he has sinned frequently or not. If he has sinned frequently, and now the circumstances are not so different that it ought to be presumed that this time he will not sin, it will be most clearly established that the danger is grave. - But if from the particular experience of the penitent no conjecture can be made, then **2)** the rule must be taken from those things which commonly happen. - But what commonly happens? Commonly these are found in grave danger:

a) Both women and men, if they approach dances not only on some one occasion, e.g. once or twice in a year, but with great frequency. The reason is that frequency of this kind is accustomed on one side greatly to excite lust, and on the other side to take away the will of praying, of frequenting the Sacraments, and of employing cautions which would be especially necessary for avoiding sins. Add that in the case no help can be expected from God, because no necessity is accustomed to compel anyone to approach dances frequently and very often.

b) Those girls of common condition who carry before themselves much levity, joined with much beauty or womanliness, especially if they are also very lustful and have their own lovers at those dances. For it is established by experience that young men, with girls of this kind on occasion of dances, abound in special flatteries, - i.e. in closer embraces and claspings of hands; likewise in conversations not only amorous, but also not rarely altogether obscene; - and finally, if they can, they kiss them and shamefully touch them, whether in the intervals when they cease from dancing from

time to time, or even in the very act of dancing, especially when the very quality of the dance offers an opportunity of this kind, whether of kissing or of shamefully touching. But it is established by the same experience that these girls are accustomed to consent to the temptations of men, at least by words and internal delectation. Therefore it must altogether be said that they are placed in grave danger.

c) Those leading the dances called Round dances, as our Bishops warn. See n. 295. 8°.

But what if some girl wishes to approach dances not too frequently, but only once or twice in the year, and is sufficiently well conducted, and does not carry before herself the levity described above; will she cast herself into grave danger?

"I judge," says Berardi, "that grave danger as to a girl of this kind ordinarily is not present. I am moved by experience. For those girls having sufficient fear of God, who once or twice in the year are present at dances, if they are asked whether on account of dances they have committed some mortal sin, whether by deed, by word, by thought, whether in the very act of dancing or afterward, ordinarily respond negatively."

But it is asked whether these things which have been said for girls concerning whom in the case are valid also as to dances called Round dances?

Resp. Those dances, although in general, nevertheless not always and in every case, or among persons of every kind, are immodest; and this especially for this reason, that not all in dancing employ embraces so close, and that proximity of breast and face so indecorous, which commonly are employed; for those dances can take place even if some distance is preserved in the embraces. It is true that the matter greatly depends on the will of the man; but, if an honorable and well conducted girl, such as is supposed in the case, seriously says that she does not wish to be so closely pressed, certainly she will not be pressed in that way by force. Wherefore, as regards our present case, the words which our Bishops use concerning these dances, whether in the decrees of the Plenary Council of Baltimore II, or in the Pastoral Letters cited n. 295. 8°, cannot be objected; for they call those dances immodest only in that sense, that today they commonly, not that they necessarily, are conducted immodestly (as at present carried on). - Therefore, saving a better [judgment], this would be my practice as to those dances. To all indeed I would most vehemently dissuade them, but I would not prohibit them to all indiscriminately, or to each individual, under denial of absolution; nevertheless certainly to those who would lead them either a) immodestly, or b) frequently, or c) with relative proximate danger, or d) with scandal of others in places where either they are not accustomed to be led, or the warning of the Bishops, concerning which n. 295. 8°, is urged. These things concerning the quantity of danger.

II. But for making a judgment concerning the degree of fault in approaching dances, it is not sufficient to weigh the degree of danger which is found in them; but it is necessary also to weigh the cause which impels one to approach the same dances. For if the danger is not of great moment, causes also not of great moment can excuse from every fault, even venial. But if the danger were grave, grave causes alone could excuse. But what will be causes not of great moment, and what kinds will be grave causes? Causes not of great moment are accustomed to be, e.g., the end of relaxing the soul; of more easily finding an occasion of Matrimony; of not displeasing a lover; of satisfying neighbors inviting to dances; of not exposing oneself to some censure or ridicule, etc. But grave

causes can be, e.g., if a woman were going to render her own husband hostile to herself, or if a girl would give occasion of great disturbance in her family, because her parents have announced dances in their own house, or her brothers have already agreed with companions that they are going to lead their sister to dances appointed by common counsel, etc. Yet in order that causes of this kind truly ought to be considered grave, it is necessary that no means be present by which the aforesaid disturbances can be avoided.

1442. - Query. How should confessors and Pastors conduct themselves as to dances?

Resp. **1°** Let them avoid excess and defect of zeal against them. They exceed who inveigh against them with too much force and without any prudence. They are deficient who are touched by no care to impede them.

Resp. **2° Confessors:** a) As to absolution to be denied or conceded, let them follow the rule handed down n. 1441. b) Even in cases in which the confessor does not deny absolution, he would conduct himself badly if he permitted dances with so much facility that he would not even give counsel of abstaining from them. For, however much dances may seem innocent, they are always dangerous, by reason both of the loss of devotion and modesty, and of the danger of implicating oneself in premature and inconsiderate loves. Wherefore the confessor, as much as he prudently will be able, must employ every care so that he may either avert penitents from dances, or at least diminish the aforesaid dangers by some admonitions and opportune means. These admonitions are chiefly the following, namely, that the penitent **1°** form a right intention; **2°** preserve modesty in all things, especially as to clothes, gestures, and conversations; **3°** in no way yield to vicious sympathies, whether of others toward himself, or of himself toward others; **4°** after the dance, revolve in mind holy and congruent reflections, which close entrance to depraved thoughts.

Resp. **3° The Pastor:** a) Let him have persuaded to himself that by dances great dissipation is produced in the Parish, and, whether directly and proximately, or indirectly and remotely, occasion is given to many sins; whence he will take care according to his powers that he impede them, or at least diminish them. b) Let him use the necessary prudence, so that he may choose the more apt way which conduces to this end. - First indeed he will obtain much, if, rightly satisfying all the duties of the office of a good pastor, he instills into the faithful committed to him the fear of God, hatred of sin, care of the soul, and benevolence and esteem toward himself. Then in this matter he will profit especially if he fosters piety in girls.

Notes to n. 1442. (1) De Occas. n. 166. Ed. 1a.

III. On Theatres.

1443. - Of these: **1)** Some are notably shameful - whether on account of notably shameful things either exhibited or recited in them (n. 295. 8°), - or on account of women with breasts and arms enormously uncovered either acting in or present at the spectacle, especially if, as is usual, they are contemplated with telescopic eyeglasses (opera-glass), - or on account of scenic dances (ballets), with which they are commonly intermingled. **2)** Others besides are contrary to our most holy Faith, - whether because they traduce the Catholic Religion, now as tyrannical, bloodthirsty, cruel; now as hostile to knowledge, lights, progress; now as ridiculous, despised, vile; now as false, superstitious, impious, - or because they expose sacred rites, and the Sacraments themselves, to mockery, or exhibit

priests, Pontiffs, Religious men, and nuns as given to shameful things, - or because they extol or excuse crimes, e.g. vengeance, suicide, adultery, vices of the flesh, etc.

1444. - Query. What practice must be held as to theatres?

Resp. **1°** "Let Pastors prudently avert the faithful from theatres ... and scenic games, especially those which are known to be full of evil and danger. Let them take care, however, lest by following opinions too rigorous they restrict Evangelical liberty. For if there are games of this kind which are subject neither to danger of sinning nor to scandal, it can be permitted to laymen to be present at them. But in preaching let them censure in general and grave words those games which, as very often happens, offer nothing except occasion of sinning." Thus the Plenary Council of Baltimore II.

Resp. **2°** Absolution is to be denied in the following cases:

1) To some by reason of scandal (n. 295. 8°), unless a proportionate cause of permitting the scandal is present (n. 296 sq.).

2) To others by reason of cooperation in things notably shameful or gravely adverse to Religion. But cooperation will be either positive, namely by money or applause; or negative, namely by not impeding those things, when either by office there is an obligation of impeding them, or at least otherwise they can conveniently be impeded.

3) To others by reason of a voluntary occasion, namely: a) to spectators of representations which are contrary to Faith and Religion, unless both the character of scandal and the danger of perversion are absent, e.g. in a person most firm in Faith and very well fortified against falsehoods; b) to spectators of comedies even not gravely shameful, namely those to whom they are a relative proximate occasion; c) to spectators of gravely shameful comedies, unless they approach the spectacles only out of curiosity or for vain solace, the danger of consent in shameful delectation being excluded. By reason of this danger St. Alphonsus says: "I would in no way excuse from mortal [sin] an adolescent who without necessity wished, for the sake of curiosity, to be present at" gravely shameful "comedies of this kind, unless someone were very fearful [of God], and moreover had experienced several times that he had never sinned lethally by watching them; provided that by his example he did not furnish other adolescents an occasion of assisting at shameful representations of this kind"; d) today also universally to those who approach a theatre, without having first had certitude concerning the absence of obscenities and impieties. The reason is that, from things commonly happening, they expose themselves to probable danger. But especially fathers of families must make themselves certain concerning this matter before they concede to children the liberty of approaching a theatre.

I said in Resp. 2° under 3): to others by reason of a VOLUNTARY occasion; for if a cause sufficiently grave and sufficient for approaching the theatre is present - as if parents or a husband command, AND at the same time great disturbance and discord would inevitably follow if their will were resisted - those approaching are to be treated according to the principles of necessary occasion. - But a cause sufficiently grave and sufficient will not be that, e.g., the price for entrance through the whole time in which the representations will have place has already been given; - for the price is not recovered by attendance; - or that there is question of a representation from which the profit to be received is destined for a philanthropic end, e.g. for a children's asylum, for a hospital, for the poor, etc.; for, if someone wishes to contribute something to that end, he will be able to do it without approaching the representation, namely by paying the price without attendance. Nevertheless this

cause can sometimes have force, namely as to magnates, whose absence would have to be much noted, so that publicly they would have to be reproached as inhuman, cruel, enemies of the poor, etc.; especially if factions were fervent, and there were question of a matter which greatly interested those factions; in which case it will belong to the prudence of the confessor to determine whether such and so great a necessity is present which excuses both from individual danger and from scandal, or whether a way can easily be found of saving body and soul at the same time, e.g. by removing oneself from the city, by presenting oneself at the theatre for a brief time and afterward departing, etc. - Thus Berardi.

IV. On Conversations (Visits, Parties, etc.).

1445. - A twofold kind of conversations must be distinguished: one of those in which great danger is ordinarily found, such as are: a) in cities those in which either often and very often there are conversations against Religion, or almost always you hear conversations either openly or ambiguously obscene, you see immodest women, and, wherever you turn your eyes, you behold dangerous things; b) those rural ones in which, the parents in no way watching, girls have every liberty of conversing with suitors, etc. - The other kind of conversations is of those in which nothing is done or said against Religion or honesty, so that all things proceed with sufficient decency, the time being spent in play, singing, music, and narration of public or private news. The danger of these conversations is reduced to some possible temptations because of the intervention of persons of diverse sex; to some murmurings; to some levities, by praising, e.g., this or that beautiful girl, by speaking about the theatre, about spectacles, about this or that treatment of Matrimony, etc. To this second kind also belong those rural conversations in which, with the heads of families thus disposing and watching, all things proceed outwardly with sufficient decency.

1446. - "This distinction having been made, I judge," says Berardi, "that, at least ordinarily speaking, he who, without grave cause, wishes to approach conversations of the first kind cannot be excused from mortal sin."

"I said: without grave cause; for if someone for a grave cause should approach one of conversations of this kind (e.g. because otherwise he would render hostile to himself that family especially necessary to him), then perhaps it will be able to be permitted that, instead of deserting the same conversation immediately and totally, he desert it little by little, by finding some excuses (which will never be lacking to one willing), by whose aid he will at length be able sufficiently to free himself from it, without rendering that family hostile to himself."

"But as to the second kind of conversations, the confessor will diligently consider the particular cases and their circumstances. Thus, e.g., if there is question of a married woman who approaches a conversation, the confessor will examine her, whether she furnishes occasion of jealousy to her own husband; whether at the time of conversation she leaves maidservants alone with male servants; whether then she leaves her own sons or daughters in some danger, etc. - If there is question of a girl, he will ask her whether she plays or sits at the side of a lover with danger of furtive touches; whether she indulges malicious looks, etc. - If there is question of a married man, he will ask him whether he furnishes occasion of discord between himself and his own wife; whether he exceeds in play with grave detriment of his family, etc. - If there is question of a son of a family, he will ask him whether he approaches that conversation against the will of his parents; whether there he enters into

friendship with some depraved companion; whether he exposes too much money to play, etc. - Above all, however, the confessor will weigh whether the penitent in those conversations (which outwardly proceed decently) nourishes genial affections in his heart, and consents to depraved desires. From this examination the confessor will be able to collect whether that conversation is immune from every grave danger even in the particular case, or whether it contains grave danger. Afterward he will observe whether this grave danger (if it is present) must be placed in any single time, or whether it must be placed only in the assiduity and excessive frequency of conversation. Likewise whether the danger can be rendered remote by opportune cautions, or whether total separation is necessary."

Notes to n. 1446. (1) De Occas. n. 177 sq. (2) Ib. n. 189, 190.

V. On Depraved Companions.

1447. - Query. How should the confessor conduct himself as to those penitents whom he finds to have evil companions?

Resp. Let him examine: **1)** whether there is truly question of a proximate occasion of mortal sin, concerning which there would undoubtedly be question, a) if the penitent were placed in grave danger of doing gravely depraved actions, whether with the companions themselves (e.g. by committing sodomy with them), or from their instigation (e.g. by going with them to brothels). Say the same if b) there were question of danger of having or hearing conversations which cannot be had or heard without mortal [sin]. Nevertheless in this case judgment would not have to be hastened, but first the quality of the conversations themselves would have to be examined, i.e. whether they are of several species (e.g. against Religion, against charity, against chastity, etc.), and whether they truly contain grave guilt. Recall the things said n. 491. I. 1°-5° and n. 492, where concerning the cases in which foul speaking is mortal.

But in the hypothesis that the conversations cannot be excused from mortal [sin], and there is truly question of a proximate occasion, let him examine: **2)** whether this occasion is voluntary or necessary. Certainly it can be necessary, if companions of this kind are found in the same college, in the same workshop, etc. (and concerning these cases n. 1460-1465), or if those companions are his own neighbors, insofar as (as often happens in the country) it is morally impossible altogether to avoid encounters with them.

VI. On Depraved Books and Newspapers.

1448. - The reading of depraved books and newspapers is interdicted by natural law and by ecclesiastical law. Concerning this latter we shall speak n. 1702 sq.; concerning the former we must treat in this place.

For knowing the degree of fault in reading them, insofar as this is interdicted by natural law, it is necessary to distinguish books into two classes. Some are full of impieties or obscenities: others are only erotic, i.e. treating of loves, without any or almost any impiety or obscenity.

"As to books of the first class I say," says Berardi, "that, ordinarily speaking, and natural law alone being considered, it is a mortal sin to read them, even if they are read only on some one occasion. The reason is that such books are extremely dangerous and fatal."

Books of the second class, "as are many comedies, tragedies, dramas, poems, and some moderate romantic books, in which many things indeed are found very tender and affective, but nothing or almost nothing is present which smacks of impiety or of obscenity," are "all dangerous to youth"; and, ordinarily speaking, grave danger is present for those who are wholly occupied in readings of this kind about loves, but not for those who sometimes read some one of these books. But for the greatest part this matter depends "on particular circumstances, and especially" it is "to be attended to whether the reading is done from a lustful end, or with special danger, the age, temperament of the reader, and especially his morals and experience of falls having been inspected." Cf. above n. 233, Resp. to the 1st.

1449. Questions. - Query 1° What must be said concerning the reading of many newspapers, in which here and there some or many things hostile to the Catholic Religion are found?

Resp. "I judge," says Berardi, "that the reading of those newspapers can be gravely illicit by natural law, the quality of the person reading, the frequency of reading, and the quality of the newspaper itself being inspected, i.e. the multitude of impieties contained in it, the manner of announcing them, etc." Cf. above n. 310, d). (25) p. 420.

Query 2° Can a penitent having a depraved book which is not his own, but another's, return it to the owner?

Resp. Distinguish. "If no," says the same Berardi, "or a small inconvenience will follow from the burning of the book, certainly he will be held to burn it from charity toward the owner, because charity then prevails over that small violation of justice (if there is any). But if notable inconveniences will follow from the burning of the book, then the penitent can return it to the owner." L. IV. 753. § fin.

Notes to n. 1449. (1) De Occas. n. 201. sq. Ed. 1a. (2) De Occas. n. 204. Ed. 1a. (3) Ib. n. 206. Appendix annotation (25), to n. 1449. q. 1°. p. 178. col. 2. I. From the things said it is clear that the confessor, if there is question of books or newspapers professedly impious or obscene, among other things is bound to these: 1° He is bound, when a prudent suspicion is present, to ask a penitent who is silent about this matter whether he reads them, and this even if he is existing in good faith, which can scarcely be admitted. The reason is that omission of the question does not free from formal sin against Faith or morals a penitent reading books or newspapers of this kind, since, as was said, such books or newspapers are maximally dangerous, that is, they cast those reading them into proximate danger of sinning formally against Faith or chastity. 2° He is bound to warn them, even in the case in which he hopes for no fruit from the warning. The reason is that from the warning greater evils are not to be feared than those which are produced from the reading. 3° He is bound to deny absolution to those refusing to abstain from the reading of them. For they are to be compared to those who do not wish to leave a voluntary proximate occasion. 4° He is bound to compel a penitent who retains such books to cast them away, and one who has subscribed to such a newspaper to withdraw his name. If he sincerely promises that he will do this, he can be absolved. But if afterward he shall not have stood by his promises, ordinarily he is not to be absolved before he has satisfied his obligation. This follows from the things said in n. 1436. q. 17. 5° He is bound to prescribe suitable antidotes to a penitent who from necessity and with due license reads books or newspapers professedly impious, lest the poison harm him: namely, that he at the same time read good books or good newspapers which defend Religion; that he pray for the conservation of faith, frequent the Sacraments, etc. I said: "professedly impious," for with respect to books or newspapers professedly obscene there is given no necessity or license of reading them, outside the case excepted in Rule VII of the Index. II. As regards books and newspapers which are not professedly impious or obscene, the confessor must: 1. To the best of his powers impede the reading of them: especially a) when the penitent is conscious of the obligation of abstaining from the reading of them, or doubts about it; b) when he is ignorant of the obligation, yet can be warned with hope of fruit, or at least without fear of a greater evil; c) when the Confessor notices that that continual or frequent reading begins to bring notable detriment to the penitent in Faith or morals, for this he can in no way permit. 2. Sometimes to make the obligation of abstaining from the aforesaid reading, namely when the following conditions have been posited: a) that the

penitent invincibly is ignorant of the grave obligation of abstaining from continual or frequent reading of this kind; this ignorance in many arises from the marvelous prejudices with which they are imbued; b) that from warning no fruit is hoped, but rather greater evils are to be feared, for example alienation from the Sacraments, from Religion; for a lesser evil can be permitted so that a greater may be avoided, and the Confessor must follow the example of Christ, concerning whom Matthew 12. 20 testifies: "The bruised reed He will not break, and smoking flax He will not extinguish"; c) that the Confessor try to draw his penitent away from reading of this kind by admonitions and persuasions, or at least to insinuate distrust concerning depraved little books and newspapers, and to induce him to the study of Religion; for as a physician he is bound to administer antidotes to the penitent, by which he may remove the danger. - Godschalk, De proh. lib., c. 6, apud Aertnijs n. 86.

VII. On Dice-Play.

1450. - Concerning the dangers of play see n. 1050 Note.

Query. Can one who, because of play, is placed in a proximate occasion of disorders, concerning which n. 1050 Note, render this occasion remote by employing cautions and moderation?

Resp. This depends on the circumstances. Sometimes indeed he will be able to do this; but if he is borne to playing by an excessively great passion, or if the quality of the companions or place almost necessarily draws him to play and to excesses, then no remedy remains except in the first hypothesis altogether to desert play, and in the second to desert those companions and that place.

Notes to n. 1450. (1) L. IV. 471.

VIII. On Taverns.

1451. - The dangers of taverns are: **1)** drunkenness, and the disorders which ordinarily accompany drunkenness (see n. 243); **2)** play, and the sins which are accustomed to arise from play; **3)** neglect of prayer, of the obligation of Mass, indeed even of the Paschal precept; **4)** lust; **5)** quarrels, beatings, indeed, especially among us, homicides.

1452. Questions. - Query 1° Can a tavern-goer render this occasion remote by abstaining from excesses, without entirely leaving the tavern?

Resp. "If the tavern-goer," says Berardi, "frequents the tavern without grave necessity, and if from a vice too inveterate he has contracted a great passion for drinking excessively, then in no way can he have hope of rendering this occasion remote without total separation. Indeed it is necessary besides to desert those companions who are accustomed to turn aside to the tavern, and sometimes, especially in the beginning of conversion, it will not be enough to wish to desert the companions, but it will also be necessary to place oneself in the impossibility of complying with their invitations: which can be done by handing over to the wife the money as soon as it has been earned; for thus, destitute of money, he is compelled to repel every temptation of turning aside to the tavern."

Query 2° Are there any causes which render this occasion of the tavern necessary?

Resp. **Affirm.,** namely the necessity of one's own craft, e.g. because someone is a driver, broker, merchant, brewer, etc. (26) p. 421.

Notes to n. 1452. (1) Berardi, de Occas. n. 207. Ed. 1a. (2) Ib. n. 210. Appendix annotation (26), to n. 1452. q. 2°. p. 174. col. 1. There are honest taverns, would that there were many, namely such as not only do not spontaneously offer occasions of sinning, for instance depraved newspapers, irreligious and base conversations, secret rooms for lust, prostitutes, dishonest amusements, but in which the tavern-keepers also strive, to the best of their powers, to impede sins. It is clear of

itself that frequenting taverns of this kind for the sake of relaxing the mind, if moderation is observed in time, in drink, in play, and in conversations, is not unlawful.

B. On Those Particular Occasions Which, for the Most Part or Frequently, Are Necessary.

There must be treated: **1°** of visits of lovers for contracting Matrimony; **2°** of a woman who, on account of violence inflicted or fear struck into her, suffers her own violation; **3°** of some domestic occasions; **4°** of dangers on account of service; **5°** of dangers in schools, colleges, and workshops; **6°** of dangers in arts and offices.

I. On Visits of Lovers for Contracting Matrimony.

1453. - Young men and girls loving one another and keeping company are placed in a proximate voluntary occasion - either a) without the intention of future Matrimony, - or b) without a founded hope of the same. Therefore these are to be treated in the manner which was said n. 1433 and 1436. q. 1°. - But if the intention and hope of Matrimony are present, distinguish. For either they visit one another in such a way that grave sin and its proximate danger are absent, or not. In the former case they can be absolved; in the latter they are to be treated as those who are placed in a proximate necessary occasion. See n. 1434, 1436. q. 2°.

But the cautions to be employed, lest the keeping company become sinful, or a proximate danger of sin, are: - **1)** That they not dwell under the same roof; - **2)** that one alone not be together with one alone, especially at that time (e.g. while the parents have gone out of the house), or in those places (e.g. in a field; in a solitary lane in night hours), where they are not observed by others. For these things, especially if they happen not by chance, but by counsel, will not happen except from an end of lust or with the greatest danger of lust. Wherefore one must act most severely with parents, and especially with the mother, and the grave obligation of vigilant custody and caution must be urged; - **3)** that they not keep company without the knowledge or against the will of parents, or of those who are in the place of parents to them; for then most certainly they are going to visit one another secretly, and at those times and places at which they cannot be observed; - **4)** that the keeping company not be protracted too long: wherefore a prudent confessor should leave no stone unmoved, so that he may avert from keeping company those between whom Matrimony cannot be contracted except after a long time, or is foreseen as having to be contracted after a long time; - **5)** that the visits not be more frequent or more protracted than prudence, especially from the practice of the God-fearing, permits. Nevertheless the girl will be able to tolerate these (special cautions being opposed to the special danger which arises from them), if there is fear lest otherwise she be deprived of prosperous nuptials; - **6)** that lovers not approach each other with proximate danger either of obscene touches, or of kisses, embraces, etc., prohibited under grave [sin] [see concerning the Sixth, n. 487. 488]; - **7)** that lovers fortify themselves in a special way with spiritual helps, but chiefly with frequency of the Sacraments.

Let St. Alphonsus be heard concerning these things. "But generally speaking concerning young men and girls who love one another mutually, all these are not indiscriminately to be condemned for grave fault; but ordinarily I judge that with difficulty are they outside the proximate occasion of sinning lethally. This is too clear by experience; for out of a hundred adolescents scarcely two or three, in that occasion, are found immune from mortal [sins]."

Resolves. - 1° As soon as lovers frequently fall into mortal sin, they are to be treated as those who are placed in a proximate occasion, and therefore the occasion must either be altogether taken away, or from proximate be rendered remote. - It must be taken away, if in fact (all things considered) there is no hope that it will become remote, or it is not necessary, i.e. if without grave damage the lovers can renounce present Matrimony and await an occasion of another Matrimony.

But it is taken away either by renouncing Matrimony, or by contracting it, or by interrupting the visits until it is contracted.

It is rendered remote (supposing that it is necessary), if, the confessor taking care, they soon contract Matrimony, and meanwhile employ greater cautions, first of all diminish visits, are never alone, etc.

2° If lovers cannot converse except alone, suppose because the beloved woman is a maidservant or a widow living alone, they are placed in a necessary occasion from this cause at least, and are to be treated as such.

3° If the parents unjustly resist the Matrimony, the keeping company, provided nothing else stands in the way, is not illicit.

Note. To lovers only honorable kisses are lawful, according to the custom of the country, e.g. on arrival and departure.

Notes to n. 1453. (1) H. A. Tr. ult. n. 3. (2) Aertnys, n. 49, 51.

II. On a Woman Who, on Account of Violence Inflicted or Fear Struck Into Her, Suffers Her Own Violation.

1454. - I say I. In any hypothesis a woman is held not to consent by the will, and therefore to abstain from every act of positive cooperation. The reason is clear of itself. - Hence in no hypothesis will it be lawful for her in any way to compose or accommodate herself to the shameful act, by removing, e.g., clothes, etc. - Hence also, if she foresees that violence will be inflicted on her, in the case, e.g., in which she would approach such a house alone, she must, if she can, not approach the same house alone.

I say II. The cases of this violation can be reduced to three.

The first case is when the violence is total and absolute, so that the woman physically cannot either cry out, or move herself, or in any way impede copula; and in this case she is held only to resist by the will; for no one is held to the impossible.

The second case is when without danger of notable damage, or infamy, or excessive shame she can cry out or resist extrinsically. The resolution of this case we gave n. 20. under 2°. § Women sin gravely, etc.

The third case is when she would indeed have hope of avoiding the foul congress by crying out or otherwise resisting extrinsically, but only with danger of notable damage to herself (e.g. of death), or of infamy, or of excessive shame.

Concerning this case I note the following:

1) As regards the danger of infamy to be feared from crying out, it is necessary that there be question of true infamy, e.g. of the danger lest a girl be held as corrupted; for often not infamy, but rather

honor and praise comes to a woman crying out that she may preserve her honesty.

2) Let the things said n. 462. q. 2° and q. 3° and n. 20 under 2° be recalled, where we hand down the doctrine of St. Alphonsus concerning this case.

3) Lugo notes: "In practice violent oppression, and without fault on the part of the woman, must be believed with difficulty. For it is very rare that, if she wishes, she cannot in some way resist and impede violation; but on account of ... weakness of soul, and sometimes also on account of a hidden affection of lust, which they are altogether ashamed to manifest, they consent."

Nevertheless it can be believed with less difficulty that the oppression of white women by Black men, such as sometimes happens in this region, was altogether unwilling; for they are accustomed to abhor Black men.

From the things said you resolve: **1°** If a woman were shamefully touched by a man with whom she is making a journey in a carriage, certainly she is held to resist in the better way in which she can; but, outside the case of proximate danger of consent, she would not be held to throw herself down from the carriage, while it is moving swiftly, with very grave danger of breaking her bones.

2° A woman permitting herself to be touched by another with a touch which commonly is judged modest, as taking, handling of the hand, embrace and kisses according to the custom of the country, does not sin, unless it is established to her that it is done from a depraved affection; indeed even in this case she will be able to bear herself permissively, if otherwise she would inject suspicion of infamy, or others would be scandalized, which nevertheless certainly is not to be feared when those touches are done openly.

Notes to n. 1454. (1) De Just. D. 10. sect. 10 n. 199.

III. On Some Domestic Dangers.

There is question: **1°** of a woman who is placed in danger on account of a male servant or another living in the same house; **2°** of an adolescent who is placed in danger on account of a brother by whom he is shamefully touched while he lies in bed together with him; **3°** of some other domestic dangers which parents are held to avert from children.

1455. - I. As to the woman concerning whom under 1°, let the confessor weigh whether separation is necessary for taking away the probability of danger, and, if it is necessary, whether the circumstances allow that it be exacted, by procuring namely that the male servant, or he who is for her the occasion of sinning in the house, be expelled. Hence the question can be made whether separation is to be judged morally possible if, in order to obtain it, it is necessary to reveal the matter either to the father or to the husband? I say that one general rule cannot be given in this matter. Ordinarily nevertheless a distinction is to be made between a girl who without grave inconvenience can reveal the matter to her mother (who afterward will manifest the matter itself to the father), and a wife who can have a just repugnance to manifesting it to her husband. The first indeed can fear no damage from her parents, who will have the greatest care of proceeding most cautiously, so that they may guard the honor of their own daughter; but the second can fear the imprudences of the husband, the calumnies of the servant, scandal of the family, publicity of the matter, and similar very grave evils.

But if the circumstances do not allow that the expulsion of the servant or of another familiar be procured, the confessor will have to exact the application of other means, and especially he will

provide that the tempter not find her alone, especially in bed, or in remote places. The cure will be easy if the woman is not very prone to venery, and if she does not have affection toward the tempter; otherwise the cure will be most difficult. For the rest, the confessor will take counsel from the general rules, from the consideration of particular circumstances, and especially from divine light implored by fervent prayers.

1456. - II. The adolescent concerning whom under 2°, I suppose, cannot easily destroy the gravity of this danger so long as he sleeps with that lascivious brother; and I say: if, by warning the parents concerning this wicked action of the brother, he can hope for a change of bed, he will be held to employ this means; but if he cannot hope for this, on account of the extreme poverty or negligence of the parents, it can happen that either the confessor himself or the Pastor can and must provide for this scandal; and, if this hope is present, the penitent will have to be obliged to notify the confessor himself outside Confession, or the Pastor. But if neither this, nor any other way is available for obtaining a change of bed, nor can the adolescent without grave inconvenience to himself (which regularly is present) always or on most nights sleep on the ground or on a bare board, he is to be treated as one placed in a necessary occasion.

1457. - III. 1° Parents, and especially mothers, must be admonished concerning the most grave obligation which they have, of averting or removing from the house, as much as they can, all those things which redound to the scandal of the family, e.g. male servants or maidservants who could be dangerous to the virtue of their children (see n. 447. 2°); books or newspapers harmful to morals or religion; scandalous pictures or sculptures; nakednesses of sons or daughters, etc.

2° As to parents who allow children to sleep with themselves in the same bed or room, or with others of diverse sex in the same bed, see n. 432. 5°.

Notes to n. 1457. (1) L. IV. 430.

IV. On the Dangers of Girls Exercising Service.

1458. - I say I. On account of the dangers which are accustomed to accompany service, especially today, a girl who is not driven to it by necessity should by no means seek service, especially if she lacks singular piety and prudence, except nevertheless in the case in which an occasion is offered to her of entering service there where from certain information she has known that no danger is present.

I say II. But if a girl already exercising service is subjected to temptations, and is exposed to a danger either proximate, or now indeed remote but shortly going to be proximate (see n. 1432), she will have to be treated as constituted in a present proximate occasion, and that either voluntary or necessary, according as the service will be able to be deserted with or without grave difficulty. - But if the occasion were necessary, the special remedies will be nearly these: **1°** To threaten the male servant, or son, or master tempting her that the matter will be reported to the father, mother, master, wife. **2°** If threats are made in vain, or are foreseen to have to be made in vain, to warn the mistress either by herself or through her mother, if thence it is lawful to hope for an efficacious remedy.

1459. - Query. If the tempter is the master, is the maidservant held to warn his wife, although she foresees that from this discord will follow between her and the husband?

Resp. "I judge," says Berardi, "that a maidservant, if she can easily procure for herself another service immune from a similar danger, certainly is held rather to choose this means. But if it is not expedient for her to desert that service, then ordinarily she ought, either by herself or through her own mother, to warn the mistress, if she hopes for fruit (and ordinarily fruit can be hoped for), although she sees that the aforesaid discord will follow. The reason is that, for the most part, discord of this kind is not accustomed to be of such moment that it outweighs the evils arising from this shameful love of the master toward the maidservant. Add that this love cannot for long remain unknown to the wife; whence the discord would not be avoided by the silence of the maidservant."

Concerning the maidservant who is impeded from hearing Mass of precept, or from observing abstinence, recall the things said n. 408. 11°, and n. 573. 6°. - The same is valid concerning a male servant, as is clear of itself.

Notes to n. 1459. (1) De Occ. n. 251. Ed. 1a.

V. On Dangers in Schools, Colleges, Seminaries, etc.

When the so-called public schools must be deserted as proximate occasions was said n. 435. The cases to be treated here pertain chiefly to Catholic colleges, schools, etc.

1460. - The dangers of schools can be reduced to two principal classes. For some are found within the schools themselves; others while boys approach them, or return home from the same. Concerning these latter dangers it must only be said that depraved companions are to be avoided by young persons, and that a grave obligation can fall upon parents of procuring that under the custody of some upright man the children approach school and be led back home from it; for there can be a very great danger lest the children be wholly perverted, if on that occasion they are left without custody.

1461. - Dangers of the former kind - some have place because the teachers themselves furnish scandal to the disciples, or at least are touched by no care concerning the morals of the disciples; - but others, although the teachers are upright and satisfy their own duty.

In the former hypothesis, the gravity of the danger standing, ordinarily there is one remedy only, namely either to desert the school, or, if there is question of a Catholic school, to open the matter by oneself or through the parents to the Pastor; or, if of a public [school], and a remedy is hoped for thence, to some one of the school Trustees, or to another who can provide.

In the latter hypothesis, as if, e.g., a boy is tempted by some companion sitting at his side, recourse must be had to the teacher for a remedy.

1462. - This obligation is much more present if the author of seduction were bringing scandal to several other fellow-disciples, unknown to the teacher; for then there would be question of public scandal, which can be so damaging that it must be impeded even with grave inconvenience. - This rule is valid not only for schools, but also (and much more) for colleges, seminaries, etc., and St. Alphonsus openly adheres to it.

1463. - Query. Is a disciple who is in no way tempted by a fellow-disciple, but himself from his own frailty tempts the fellow-disciple, and, other means having been tried in vain, is placed in continual danger of sinning, nor can contain himself because that fellow-disciple sits at his side, held to reveal his own frailty to the teacher, so that he may change the place for the aforesaid fellow-disciple?

Note. The resolution to be given is valid also for similar cases perhaps occurring in colleges and seminaries, as, e.g., if a collegian or seminarian from his own weakness is placed in danger on account of another collegian or seminarian remaining in the same room. Say the same of a young man or girl who cannot withdraw himself or herself from grave danger unless by revealing his or her own frailty to the father or mother, etc. These things having been noted:

Resp. Before all things the confessor must weigh whether it is to be presumed that the Superior can and wishes to apply that remedy; and in the affirmative case it must also be weighed whether the remedy can be applied so cautiously that the penitent is not going to suffer public infamy. For if public infamy of this kind were going to arise for a penitent enjoying a good name, he could not be compelled to undergo such infamy, because in such a case there would be question of a necessary occasion. But if the whole inconvenience consists only in revealing one's own frailty to the Superior, then the confessor must weigh whether such a revelation constitutes a grave or light inconvenience. Without doubt there are cases in which a revelation of this kind cannot be made by the penitent without the greatest and extreme difficulty, as if, e.g., he enjoys great esteem with the Superior, or is very timid and ashamed; for shame can be so great that some would choose rather to be damned than to manifest their own sin to such a person, as St. Thomas wrote: whence it is no wonder if several are going to have a most grave difficulty in manifesting a shameful sin to the Superior, and much more to father or mother, with whom they must converse daily. But while this great difficulty stands, the penitent is not to be obliged to undergo so great a burden, because then there would be question of a necessary occasion. Sometimes, on the contrary, he would have to be obliged to this revelation, because sometimes cases are given in which a revelation of this kind can be done sufficiently easily, e.g. if other sins of the same kind of the penitent are already known to the Superior; if the penitent has an open temperament and one easy for manifesting sins; if it is easy for him by letters or through a third person to render the Superior more certain concerning that matter, etc. Nevertheless the confessor, as much as possible, will avoid taking upon himself the burden of denunciation of this kind.

Notes to n. 1463. (1) Regol. pei Semin. § 1. n. 3. (1) Suppl. q. 8. a. 4. ad. 6.

VI. On Dangers in Arts and Offices.

1464. - Some arts are not only dangerous, but altogether iniquitous. Such are all superstitious arts, e.g. the art of healings, magical art, divinatory art, etc., to which modern animal magnetism and spiritism are reduced. Such also are the usurious art, shameful pimping, etc. No one does not see that arts of this kind can be made honorable by no reason, and must altogether be deserted. But other arts are not iniquitous per se, but only dangerous. Thus soldiers are exposed to many dangers of sinning because of blasphemies and fornications which are very common to them; likewise merchants and brokers because of frauds, perjuries, etc.; likewise physicians and surgeons because of the treatment of women; likewise farmers because of shameful conversations, bestialities, etc.; likewise carriage-drivers because of blasphemies, drunkennesses, etc.; likewise almost all artisans because of immodest or impious conversations, etc. Say the same concerning various offices in which many dangers are found, as happens, e.g., in the office of Confessor, Advocate, Judge, Magistrate, etc.

1465. - Query. Is someone held to desert an art not iniquitous per se, but gravely dangerous for himself?

Resp. **Neg.,** if either **1)** the gravity of the danger can easily be destroyed by the penitent through other means, e.g. by changing not the art, but the workshop; or **2)** there is a grave reason for not deserting the art, and the penitent is prepared for rendering the danger remote, and for undergoing sacrifices the more grave in proportion as the ruin is greater to the danger of which he is exposed.

C. On Occasions Which Are Proper Especially to These Regions.

Such are:

1466. - I. Certain occasions of drunkenness. The principal are: taverns and drinking-houses; - companions and friends given to this vice; - certain special days, whether of the week or of the year, as the day on which the weekly wage is accustomed to be paid to workers; the Fourth of July; the day designated annually by the Government for public giving of thanks; the first of the year; Carnival; Easter; Monday of Easter and Pentecost; the feast of St. Patrick; days fixed for political elections; - certain fairs; - festivities which come under the name of picnics, excursions, etc.; - the day on which Baptism is conferred on an infant; - banquets or nuptial feasts; - vigils beside the bodies of the dead (wakes); - funerals.

1467. - II. Certain occasions of lust, whether internal or external. Besides those enumerated above under A and B, here must be noted: a) games called kissing plays. b) Many of those which we enumerated n. 1466 among occasions of drunkenness, as excursions, picnics, wakes, etc. c) If one alone with one alone is carried by carriage, or walks through solitary places, such as in the country, especially among us, are most frequent.

1468. - III. Occasions of injustice. Such are: **1°** several public offices which either easily offer a means of becoming rich unjustly, or scarcely can be obtained, carried on, or retained, without indulgence being shown to the unjust cupidity of others (cf. n. 453. 456. 458). **2°** Certain trades, e.g. those which are exercised by those who in English are called pedlers. **3°** Administration of another's property by those who are over workers (foremen), by clerks of bankers or other businessmen (clerks, book-keepers), by conductors of public carriages, etc.

1469. - IV. Occasions of heresy or apostasy. These can be or become of this kind: **1°** Service among heretics, apostates, or infidels. **2°** Reading of certain heretical newspapers or books. **3°** More intimate association with non-Catholics. **4°** Public schools, or those of higher instruction (high schools). **5°** To approach the sermons of non-Catholics. **6°** Mixed marriages and courtship previous to them, etc.

Point II. On the Consuetudinary and Recidivists.

Notes near nn. 1466-1469, particular occasions of drunkenness, lust, injustice, and heresy (printed pp. 178-179).

1 L. VI. 459. | **2** Prax. Conf. n. 70. | **3** De Recid. n. 77. Ed. 1a. | **4** 2. 2. q. 156. a. 3. ad 3.

1470. - A consuetudinary, or habituated person, must carefully be distinguished from a recidivist, and the former is said to be he who, by the repetition of sins of the same kind, concerning which either he has not yet confessed, or (practically speaking) has not yet been confessed and admonished, has contracted a true propensity to those sins, or a depraved habit of them.

How many acts suffice for contracting a depraved habit depends on the nature of the repeated sin itself, and on the mode in which it was committed, namely by thought, word, or deed; - on the longer

or shorter time which intervened between the acts themselves of the same kind of sin; - on the temperament or disposition of the penitent; - on the greater or lesser intensity with which the will placed the acts, etc. - Thus "five times in a month," says St. Alphonsus, "can already constitute an evil habit in some vice of external sin, provided that between the acts themselves some interval intervenes. And in the matter of fornications, sodomies, and bestialities a much smaller number can constitute a habit: one who, e.g., would fornicate once in a month for a year, can well be called habituated." (27) p. 421.

Among the habituated some are such simply, or incontinent; but others are habituated in evil will. - The latter sin a) because of habitual perversity of will; b) without a previous impulse of vehement passion, or from proper election, or at least from only light concupiscence; c) they do not easily detest the sin committed. - But the former, on the contrary, sin **1)** from the impulse of vehement passion; so that **2)** habitually their will itself is good and contrary to sin, which therefore **3)**, the impulse of passion having passed, they very greatly abhor. Thus Berardi from St. Thomas. (28) p. 421.

He is called a recidivist who, although admonished and having promised amendment, has fallen back into the same sin of custom. But according to the mind of St. Alphonsus one must well distinguish between a recidivist such formally and materially. The former is he who has fallen back in the same or almost the same way; the latter, who after his last Confession indeed fell back, but not in the same or almost the same way. - Therefore, that someone may be called a recidivist formally such, three things are required: **1°** That he has contracted a habit of sin; **2°** that in another Confession he was rightly admonished; **3°** that he fell back into the habit or into the sin of habit in the same or almost the same way, no study of amendment having been employed, or prescribed means.

Notes near n. 1470, consuetudinaries and recidivists distinguished (printed p. 179).

1 Vind. Ed. 2a. T. II. p. 276. col. 1 (1). | **2** L. VI. 459. | **3** Ib. | **4** Prax. Conf. n. 70. | **5** L. VI. 459. | **6** Prax. Conf. n. 70. | **7** L. VI. 460.

Appendix annotation (27), to n. 1470. p. 179. col. 2. I say: from the very nature of the sin. Wherefore, other things being equal, that is, the interval which intervenes between the acts, the character of the penitent, the intensity of the acts, etc., n. 1477. Note, p. 182. col. 1, more acts are required for inducing a habit in sins of work not consummated than in consummated sins, for instance in touches than in fornication; likewise, as regards consummated sins, in those which are committed alone, for example pollution, than in those which are perpetrated with another. I say besides: from the manner in which it is committed. - For which reason, other things again being equal, more acts are required in order that a habit exist from sins of the mouth or heart than in order that it exist from sins of work. Thus it can happen that from sins of the mouth or heart a habit is not born unless they are repeated twice or three times in a week. Universally it can be said that the matter depends on the difficulty or facility with which men are accustomed to commit diverse sins; and therefore, other things being equal, as was said above, the more easily some sin is accustomed to be committed by reason of itself, the more acts are required. And from this principle proceed the things just noted and set forth. - Aertnijs, n. 18. Appendix annotation (28), to n. 1470. p. 179. col. 2. The incontinent are found chiefly among those who are habituated in blasphemies and imprecations, and often also among those who have contracted a habit of pollution. You will find those habituated in evil will especially among those who are habituated in hatred, in injustices, and in base love. Aertnijs, n. 13.

1471. - Principle I. A depraved habit is not of itself a sign of indisposition. The reason is that "although ... it renders the sinner more prone to sin, nevertheless it does not give a presumption of his infirm will." - Hence the habituated person can be absolved at once and regularly must be, "even if no amendment has preceded, provided that he seriously proposes it"; i.e. he is disposed "by true sorrow and firm purpose of employing efficacious means for amendment." Moreover sorrow and

purpose of this kind are presumed from the Confession itself, spontaneous indeed; which presumption yields only to some positive presumption to the contrary. - I said: can be absolved AT ONCE and REGULARLY must be. For "if the habit were very rooted," such as it is accustomed to be in him who is habituated in evil will, and universally in those who for a long time were given to some vice, especially of the flesh, "the confessor also can defer absolution for him," a) "for experiencing how constant the penitent is in reducing the prescribed means to practice, and" b) "that he himself may conceive greater horror of his vice."

1472. - Principle II. Nor is it a sign of indisposition that someone has become a recidivist into the sin of habit, provided that he is only such materially (n. 1470). But the following show a recidivist to be only such materially - "the fulfillment of means prescribed by the confessor"; - "a smaller number of sins," ... namely "when the penitent was in the same occasions of sinning," but not when that smaller number of sins is to be attributed to another cause than the purpose of amendment, e.g. to illness, with which he labored after the last Confession; - "if ... after the last Confession he contained himself for a long time, e.g. for 20 or 30 days, when before he was accustomed to fall several times in a week"; - "if the relapse" was only "after a great conflict," or long and energetic resistance, or in a very vehement temptation; - if after relapse and before Confession he abstained from sin for a notable time. - The reason of the principle is that in cases of this kind relapse, even frequent, is deservedly attributed, not to a defect of true sorrow and firm purpose, but to greater infirmity which exists from a depraved habit. - Hence the confessor ought especially to ask a penitent who has fallen back into the sin of habit: a) whether he employed the means prescribed for amendment; b) how often and in what circumstances he fell back. From the response it will be clear whether the relapse is a sign of indisposition or not. But if it is not, he can and must absolve him. But whether at once, we shall soon say.

1473. - Principle III. A recidivist formally such (n. 1470), by the very fact that he has fallen back in the same or almost the same way into the sin of habit, offers a founded presumption of his indisposition; - which presumption, unless it is taken away by a contrary presumption, makes his disposition at least doubtful, and therefore that he must be held and treated as doubtfully disposed.

I say: **1°** he offers a founded presumption of his indisposition. "For he who firmly proposes (Lugo says well) a thing morally possible to himself, does not so easily forget his purpose," or does not act as one who had no purpose at all; "but at least for some time perseveres, and falls with more difficulty or more rarely." Therefore by this very fact that he has fallen back in the same or almost the same way into the sin of habit, he offers a founded presumption of an infirm purpose.

I say: **2°** which presumption, unless it is taken away by a contrary presumption, makes his disposition at least doubtful. But that contrary presumption is not founded by ordinary signs of disposition, namely the usual affirmation or protestation of penitents, that they sincerely are sorry and firmly purpose; but only by extraordinary signs (or some special manifestation of sorrow), and these solid and founded, namely such from which with foundation the will of the penitent can be argued truly to have been changed for the better.

Notes near nn. 1471-1473, habituated persons and formal recidivists (printed p. 180).

1 L. VI. 459. | **2** Prax. Conf. n. 73. Vind. Ed. 2a. T. II. p. 285 sq.

1474. - St. Alphonsus enumerates nine signs of this kind, and here, for the sake of aiding memory, we review them under four headings, according as they are collected, namely either A) as manifesting primarily sorrow of soul; or B) from the motive itself of Confession; or C) from those things which the penitent performed before he approached Confession; or D) from the accusation itself and from the mode in which it is instituted.

1475. - A. Tears, sighs, or cordial words extraordinarily manifest sorrow of soul or compunction of heart. But cordial words "sometimes," says St. Alphonsus, "can be more certain signs than tears"; for tears "sometimes proceed from some passion which penitents set forth; or from the motive of denied absolution, or of damage suffered or imminent." Besides there are those who by their very temperament are more easily moved to tears, and for whom these flow at even the lightest motions of soul and such as are almost immediately to be calmed. Hence regularly they are to be valued less in women than in men. "For the rest," adds St. Alphonsus, "the tears of penitents for the most part arise from compunction of heart, especially if they are poured out after hearing a sermon or the admonition of a confessor offering some motive of compunction."

1476. - B. The motive itself of Confession, namely:

a) "Spontaneous Confession, namely if the penitent approaches, not now to fulfill the Paschal precept, nor on account of some custom of confessing oneself on some feasts, nor does he approach impelled by parents, by a master or teacher: but comes altogether spontaneously, and truly inspired by divine light, for the sole end that he may receive divine grace. Especially if for confessing himself he has undertaken a long journey, has abstained from notable gain," e.g. "from the gain of that day, has sustained a grave inconvenience, or has overcome a great internal or external conflict."

b) "If he has come moved by some extraordinary impulse, suppose on account of a sermon heard," or a Mission frequented, or spiritual exercises performed, "or the death of a friend" or relative, "or on account of fear of some imminent scourge," e.g. of an epidemic disease, or because he was snatched from some proximate danger of death.

Note. - 1° It has been said under a), that that Confession is not spontaneous which is instituted for fulfilling the Paschal precept. Take care nevertheless not to conclude thence that he who has not confessed through the whole year and only in the Paschal time approaches the Sacrament of Penance, by this very fact, or a priori, must be held as indisposed. Rather you will say that he who spontaneously and for the end that he may obey the Church and reconcile himself with God approaches the Sacred Tribunal in the Paschal time, is to be presumed disposed, until this presumption is not destroyed by a contrary presumption. Nevertheless many approach Paschal Confession without any preparation of soul and from mere custom; others, because they are compelled to it; others, because it is their interest that they be judged good Christians. All these indeed commonly show sufficiently, by the very manner of confessing, the defect of due disposition. - Nevertheless let the confessor remember that especially in the Paschal time he is obliged to dispose penitents; for that time is almost the only one in which he can act directly upon the soul of penitents of this kind. - Which persons in this time can be absolved conditionally, see above n. 1344. q. 8°. II Rule.

2° The spontaneity of Confession is to be presumed especially in those regions or nations in which faith has languished; for there human respect does not impel to receiving the Sacraments (as in

others in which religion flourishes), but rather draws back from them. For the rest, even in regions or nations of this kind there are not lacking those who approach the Sacred Tribunal from custom alone, or from other motives also.

Notes near nn. 1474-1476, extraordinary signs and spontaneous confession (printed pp. 180-181).

1 L. VI. 460. Prax. Conf. n. 74. | **2** Ib. | **3** Ib. | **4** Ib.

1477. - C. Those things which the penitent performed before he approached Confession. Such are: "study" (serious indeed or equal, but not some very minimal and scarcely perceptible one) "employed for amendment; ... or if the penitent employed fasts, alms, prayers and Masses, that he might make a good Confession, and dispose himself for absolution; flight" or removal "of occasions; ... fulfillment of means prescribed by the confessor.... If the penitent, before he approaches, has restored the thing or reputation taken away"; has burned or otherwise destroyed depraved books, toward which he was much affected; has renounced a condemned society, etc.

Note as to the study of amendment. - This is not to be judged precisely from the degree of amendment which followed; for it can happen that a lighter amendment must especially be attributed: either **1)** to a very rooted habit; or **2)** to assiduous and vehement temptations; or **3)** to a very light and changeable temperament, which is especially proper to young persons, and by which it happens that they pass with equal facility to good and to evil; or **4)** to the rusticity of the penitent, to his dullness, to his labile memory, to his occupations, and also to the little care of confessors in assigning congruent remedies to him; or **5)** to the condition of the sin itself, suppose because it is most easily committed, as sin of heart and mouth. Indeed even in sins themselves of deed this must be attended to; for someone pollutes himself more easily than he fornicates; he is more easily seduced than he seduces, etc.

Notes near n. 1477, prior efforts toward amendment (printed p. 181).

1 L. VI. 460. Prax. Conf. n. 74. | **2** Vind. Ed. 2a. p. 402. 4. p. 444 (4). T. II.

1478. - D. The accusation itself, and the mode in which it is instituted. a) "If the penitent confesses sins previously kept silent through shame." b) "If on account of the admonition of the confessor he shows that he has apprehended a new knowledge and horror of his sin, and of the danger of his damnation." c) "If he himself" the penitent "asks remedies from the confessor, or new means for amendment; likewise if he promises to fulfill the means which the confessor then suggests to him, especially if he was never admonished to employ them," or if he promises "better to execute the means" previously "given by the confessor.... But I judge that these promises are not to be trusted altogether, if other signs are lacking: since penitents, that they may seize absolution, easily promise, but afterward attend to it with difficulty."

"Others add other signs, as if the penitent gladly accepts a great penance; if he asserts that he repented of the sin as soon as he committed it; if he protests that he wishes to die rather than sin. But I do not know whether these signs alone can be sufficient; rather I would say that they can serve for aiding other signs which alone would not suffice."

From these things conclude that it is not so difficult for a sagacious confessor to find in the penitent - or for a confessor burning with true zeal for souls to induce in the same - some extraordinary, solid,

and founded sign, e.g. that which was brought forward under b) in this number. Wherefore let the confessor well attend to these words of His Holiness Pope Leo XII in the Bull of Jubilee of 1825: "Many indeed present themselves to the ministers of the Sacrament of Penance altogether unprepared, but very often nevertheless such that from unprepared they can become prepared, if only the priest, clothed with the bowels of mercy of Jesus Christ, who came not to call the just, but sinners, knows how to deal with them studiously, patiently, and meekly."

Notes near n. 1478, accusation and mode of confession (printed p. 182).

1 L. VI. 460. Prax. Conf. n. 74. | **2** Ib. | **3** Ib.

1479. - I say: **3°** that he must be held as doubtfully disposed and treated.

Hence: **a)** Absolution here and now is not to be conceded to him; for it is not lawful to administer a Sacrament with doubtful matter; but contrition, which is the matter of the Sacrament of Penance, is doubtful in a recidivist formally such. Therefore.

b) Absolution is to be deferred for him until prudent probability is had, namely solitary [probability] (n. 52. 3°), concerning his disposition, or contrition; in other words, until he brings sufficient signs of amendment. - But as to the time to which absolution is to be deferred, St. Alphonsus hands down this rule: **1°** If there is question of recidivists from intrinsic frailty, regularly a delay of 8 or 10, or at most 15 or 20 days suffices. For if it is protracted beyond that time, it will easily exceed the strength of the penitent, which otherwise is sufficiently weak, and he will fall in spirit and return with difficulty. - If **2°** there is question of recidivists in an extrinsic proximate occasion, a longer experience is required, since the occasion "is a stronger incentive to sinning. But an experience of a month will always suffice." Yet it seems that not even to so long a time is it to be protracted, if within that time the penitent cannot approach the occasion; for so great a delay would be frustrated in this case of its end.

c) Absolution will have to be deferred also for him who already after the first admonition is formally a recidivist; because even here he is doubtfully disposed. Indeed regularly the disposition of this one is more doubtful than of him who falls back after a second or third admonition; for the first, by its own nature, has a greater force for moving than subsequent ones.

For the rest, for other reasons a recidivist returning the first time will be able to be absolved more easily than the second or third time. For extraordinary signs are obtained from a confessor the more easily, the more promptly and quickly he puts the sickle to the root, and moreover the fewer special signs of disposition are exacted, the less multiplied still are the indications of indisposition.

Recall also the things said above n. 1476, Note 2, concerning judgment about the spontaneity of Confession in regions or nations in which faith has languished and frequency of the Sacraments has been greatly diminished.

Note. - Do not wonder that St. Alphonsus is more severe toward a recidivist formally such than toward a penitent who has fallen back from a voluntary occasion not present, whom he teaches can be absolved twice or three times. For: **1°** this latter is supposed not to lack a firm purpose of avoiding the occasion, nor to have neglected all means of amendment, suppose prayer, renewal of purpose, etc. (n. 1436. q. 1°. R. 1°), and therefore he is not judged to be a recidivist formally such. **2°** Relapse (and this is perhaps the stronger reason) from a contracted habit of itself induces a greater suspicion of

indisposition than relapse from a transitory passion; for this latter is determined from the sudden and more vivid presence of the object in the occasion; but on the contrary habit, as St. Thomas teaches, is a quality which according to its own nature has this, that it is not easily changed. - For the rest, as physician, the confessor must be more severe with recidivists from occasion; because the physician attends not to the present disposition (as does the judge), but chiefly to future dangers, or to the very causes of the disease.

d) A recidivist formally such, unless he is certainly indisposed, can or must be absolved under condition in those cases in which one doubtfully disposed can or must be absolved (n. 1344. q. 8°). Advert also that, because faith everywhere is collapsing, in this our age there occurs more often a case to be lamented, in which it is rightly feared lest a penitent doubtfully disposed and dismissed without absolution say farewell to the Sacraments, and waste away in his sins.

Notes near n. 1479, deferring absolution for recidivists (printed p. 182).

1 Conc. Pl. Balt. II. n. 286. Cf. Vind. Ed. 2a. T. II. p. 340. col. 1 (1). | **2** Prax. Conf. n. 72.

Notes near n. 1479, recidivists, habit, and future danger (printed pp. 182-183).

1 Vind. Ed. 2a. T. II. p. 378 sq. | **2** 1. 2. q. 49, art. 2. ad 3. | **3** Prax. Conf. n. 71. Vind. p. 786. 2. Ed. 2a. T. II. p. 399 sq.

1480. - Principle IV. For a recidivist, although disposed sufficiently or enough, i.e. such materially, or even formally, but bringing extraordinary signs, the confessor, as physician, can defer absolution, even without his consent, whenever he prudently judges the delay to be useful for his amendment; indeed he is held to this when he judges such a remedy to be necessarily useful for the salvation of his penitent. See the things said n. 1427. II. But whether it is expedient ORDINARILY to use this remedy or not, without the consent of the penitent? See the things said n. 1428. q. 1°, to which St. Alphonsus adds: "If the penitent has relapsed from intrinsic frailty, ... I say with the most common sentence of the Doctors, that it is rarely expedient to defer absolution for a recidivist, when he is disposed: for the grace of the Sacrament must be hoped to be able to profit him more than the delay of absolution." But "it will always be profitable that the confessor terrify recidivists of this kind" from intrinsic frailty "and show as if he could not absolve them."

St. Alphonsus says: **1°** if the penitent has relapsed from FRAILTY; for from the mind of the holy Doctor I judge that absolution is regularly to be deferred for a penitent, even sufficiently disposed, if he has relapsed into the sin of habit and there is question of one habituated in evil will (n. 1471). For according to the holy Doctor (ibid.) absolution already can be deferred for a habituated non-recidivist, if there is question of a very rooted habit.

I add, from Berardi, the following cases in which I judge according to the mind of St. Alphonsus that regularly it is fitting or even necessary that absolution be deferred, even for a recidivist from intrinsic frailty.

The first case can be if the penitent is placed in great danger of eternal damnation, namely insofar as remedies have indeed already been employed by him for a long time, and with sufficient diligence and perseverance also, but with no or almost no amendment of the depraved custom (which case certainly, as experience shows, is not chimerical), especially if that miserable man, living perpetually thus in the state of mortal sin, is already old, or labors under slow phthisis, and much more if the

danger is present lest at some time sudden death attack him, since, e.g., an apoplectic stroke had already threatened him at other times. For in such and so great a danger reason counsels that, all other remedies having been tried in vain, it is necessary to try (at least for the most part) even the remedy of delaying absolution; for extreme remedies must be applied to extreme evils.

The second case can be if the habituated penitent brings great and extraordinary scandal, as several Theologians note, e.g. Sanchez, Bonacina, Sporer, and Laymann; for hope, even moderate, of impeding the ruin of many souls must prevail over the fear of bringing damage to the penitent; for public damage must be esteemed much more than private.

The third is the case of restitution (especially if there is question of a great sum), as was said n. 719. 4°.

The fourth is the case of reconciliation to be executed with an enemy, or between husband and wife, as St. Francis Xavier and Roncaglia note.

St. Alphonsus says: **2°** if the penitent has relapsed from INTRINSIC frailty: for if he has relapsed on account of an occasion, it will be necessary to act with him as was said n. 1479. b).

Notes near n. 1480, physicianly delay of absolution (printed p. 183).

1 Vind. Ed. 2a. T. II. p. 402. 4. | **2** Prax. Conf. n. 76. | **3** Ib. | **4** Ib. n. 77. L. VI. 464 in fine. Cf. Vind. Ed. 2a. p. 404 sq. et 423 sq. | **5** De Recid. n. 110 sq. Ed. 1a.

1481. - The Manner of Acting with Consuetudinaries and Recidivists.

1° As to admonitions. Those who are of a lighter mind, and do not sufficiently perceive the gravity and danger of the sin of habit and relapse, let the confessor strive to shake and terrify them, and teach with graver words to how great a danger they expose their eternal salvation, unless they inflict serious violence upon themselves. - But to the faint-hearted let him add courage, and let him exhort them not to renounce the purpose of amendment, trusting in the aid of Him who does not desert those who are of good will. Especially let him admonish them that, when they fall back, they beware for themselves of melancholy and faint-heartedness, and rather at once elicit an act of contrition, renew the purpose, and, as soon as it can be done, have recourse to the remedy of Confession, lest namely that first relapse become the cause of many others. But let the confessor himself also take the greatest care that courage and patience not fail him.

2° As to the means of amendment. See the things said n. 1434.

3° As to the delay of absolution. Let the confessor take the greatest care that it be as little hateful to the penitent as can be done. Therefore let him strive to convince him of its necessity or usefulness, and let him dismiss him from himself only with most humane words, and lovingly induce him to return to him at the determined time. For recidivists, since they easily lose heart, when after some time they always fall back into the same sins, will with difficulty return to a confessor by whom they are treated less kindly.

Notes near n. 1481, practical handling of consuetudinaries and recidivists (printed p. 184).

1 L. II. Dec. c. XXXII. n. 45. | **2** De II. Dec. D. IV. q. 1. p. 13. | **3** n. 332. | **4** L. V. Tr. VI. c. IV. n. 10. | **5** L. IV. Ep. 8. n. 14. | **6** Q. 5. c. 4. Reg. 1a. | **7** Cf. Vind. Ed. 2a. T. II. p. 426 sq.

Point III. On the Confession of Children Before First Communion.

1482. - 1° When the annual obligation of the same exists, see n. 115. 548. q. 1°. Very much to be commended is the practice of those pastors who take care that all the little children of their parish, who have already completed their seventh year, are brought to the Sacrament of Penance twice, three times, or even four times a year. But lest these Confessions of little children be frustrated of the fruit hoped for,

2° Due preparation is required for it, or a special instruction concerning the Sacrament of Penance. This: **a)** should take place before the first Confession, and, if it can be done, also before each quarterly Confession of the little children; **b)** should be accommodated to their capacity; **c)** should be so instituted that a provident, not however anxious, solicitude for receiving this Sacrament worthily may be impressed upon the little children, and that they may learn to love it rather than fear it; **d)** should teach the necessity and the manner of the examination of conscience, by running through the precepts of the Decalogue, insofar as these are commonly violated by little children or probably have been violated; - likewise the necessity and motives of contrition, and that it must be obtained from God, as a gift of grace, by fervent prayers; - the most grave obligation of the Sacramental seal, incumbent not only upon the confessor, but also upon all to whom by accident something from another's Confession should have become known, and at the same time should admonish them that they themselves also not disclose anything from their own Confession to others, not even the penance. - Although, however, it is not to be prohibited absolutely to little children that they commit their Confession to writing, care must nevertheless be taken that in the Formula for the Examination of Conscience, which is found in certain books of prayers, they not mark their sins by some sign; that they not present the written Confession to the schoolmaster to be corrected; that they not show it to others, or preserve it. - The little book *Catechism of Christian Doctrine for Beginners*, p. 76 sq., exhibits the best norm of instruction. By M. Müller, C.SS.R., printed by the Brothers Kreuzer, Baltimore, and Fr. Pustet, New York and Cincinnati, published in 1874.

After this instruction let a practical exercise be made with the little children concerning those things which are to be done before Confession, in it, and after it, namely the invocation of the Holy Spirit, the examination, contrition, and Confession. - Let the little children be admitted publicly in the Church to Confession, but on individual days or parts of a day only that number of them which can conveniently be heard; thus, namely, neither will they themselves by waiting be exposed to the danger of weariness, nor the confessor by hearing to the danger of haste. - After Confession let them be occupied for some space of time in giving thanks to God and in performing the penance, separated, however, from companions who have not yet completed Confession.

3° In the very Confession of little children the confessor: **a)** "Must employ all charity and gentler methods," lest, namely, from fear, proper to their age, they keep something back, or shrink from Confession. - **b)** Let him give ear to the little child, waiting until he himself begins to declare his sins; but if he remains silent, he will have to be exhorted gently to begin. But if the confessor shall have exhorted him to this in vain, let him himself take upon himself the whole burden of the Confession. - **c)** In what manner little children are to be questioned concerning the Sixth precept of the Decalogue, see n. 1425. - **d)** Since little children are held to repair the honor of parents which has been injured by asking pardon, "it is better to take care that before absolution they ask this pardon.... But if this act cannot conveniently be exacted from them; ... rather let it be suggested as a counsel,

since certainly parents are presumed, at least for the most part, to remit this obligation to their children, lest the children again incur an offense of God." - **e)** Before absolution the act of contrition should be elicited with the little children by questioning. - **f)** "The penance ... should be light, insofar as it can be."

Concerning absolution to be conceded or not to little children, and that either absolute or conditioned, see n. 1344. q. 8°. IIa Reg. 7°.

Note. Even those little children who are not yet capable of absolution will be heard in the confessional not without fruit, so that thus they may learn to confess, and on this occasion may be taught in what manner thoughts, words, and works ought to be examined, how they ought to pray morning and evening, and how they ought to conduct themselves at home and in church. St. Charles Borromeo commends this practice even with those little children who have not yet completed the fifth or sixth year of age.

Notes to nn. 1482-1484 - note sequence 1. (1) Prax. Conf. n. 119. (2) Ib. (3) Ib. (4) Ib. (5) Ib. n. 120. Notes to n. 1482. (1) Prax. Conf. n. 90. (1) Prax. Conf. n. 34. (2) Ib. n. 91. Notes to nn. 1482-1484 - note sequence 2. (1) Chap. XV.

Point IV. On the Confession of Adolescents After First Communion.

1483. - 1° Let the confessor spare no care that they approach the Sacraments several times a year. For thence the fear of the Lord is increased in them, seduction and the weak fear of men are forestalled, and sincerity of soul in opening the hiding-places of conscience is fostered. Hence

2° Let the confessor beware lest he turn adolescents away from himself by rougher words or harsher rebukes, but rather let him take care to bind their hearts to himself by paternal benevolence, admonishing and exhorting them with benevolent gravity to Christian vigilance, to perseverance in good, and to extirpating the vices into which he shall have learned that they are more inclined.

3° In hearing their Confessions: **a)** Let him see whether and to what dangers their faith and morals are exposed; - with what companions they foster association; - by what, as it were, beginnings they are exposed or have been exposed to sin, whether by thoughts, or by conversations, or by songs, or by sights, or by association with others; - what kind their first mortal sins were, whether of malice or of infirmity. - **b)** Let him exhort to sincerity, to energetic resistance to be opposed to temptations, to flight from dangers and occasions. - **c)** Let him be more employed in teaching and admonishing than in questioning. - **d)** Let him abstain from any little word whatsoever which he would not wish to be heard by others.

4° Let him show no displeasure to them, if at any time they have gone to another confessor; indeed let him even dissemble that he knows this; but let him attend to the cause why he suspects that they did it. But if the penitent of another confessor has come to him, let him hear him for the present; but let him inquire into the cause, and in the case in which he has detected that no sufficient reason for changing confessor is present, let him exhort him to return to the same confessor; for for preserving innocence and changing life for the better, no means is more suitable than regularly always to approach the same confessor.

Concerning the state of life to be chosen by adolescents, consult what was said n. 425. 426. 1150 sq. and 1524.

Point V. On the Confession of Persons of the Other Sex.

1484. - The confessor:

1° "Regularly in the confessional with younger" persons of the other sex "should be rather rigid," i.e. grave, "than gentle."

2° "It is imprudence ... to cast the eyes upon penitents when they withdraw from the confessional, and to look at them for some time."

3° Unless the reason of pastoral office demands it, "outside the confessional let him not even linger to converse with them, ... and let him avoid all familiarity, ... and especially let him never go to their houses."

4° "Let him abstain also from receiving," especially in favor of himself alone, "little gifts."

5° "Let him not be so devoted to the Confessions of women that through this he refuses to hear men," i.e. males, "coming to him," or cannot conveniently hear them. Wherefore the practice existing in certain churches is to be commended, namely that on one side of the confessional, namely on the right of the confessor, men alone stand, on the other women alone, and that to devout persons some day or time be assigned, in which they can conveniently approach, without others being compelled to wait because of them.

6° Letters pertaining to the direction of women should be: **a)** only responsive, and not even these should be employed while direction can be provided otherwise; **b)** grave, and, insofar as it will be possible, brief; **c)** so written that, with the Sacramental seal prescinded, they can be read by the Bishop. Thus Dubois, *Pratique du zèle ecclésiastique*.

Point VI. On the Confession of Persons of Distinguished Condition.

1485. - Here there is question especially of the manner in which the more honorable, for example the principal persons among parishioners, priests, and Prelates are to be treated. "With such persons corrections must be employed in gentler and more discreet words, but with greater fortitude and warmth of soul, since from the sins of these, because of the graver damage which can be brought to others by their bad example, a more pernicious consequent license of crimes is accustomed to arise."

Notes to n. 1485. (2) H. A. Tr. 21, n. 4.

Point VII. On the Confession of Persons Professing Piety.

1486. - Penitents who live free from mortal faults are to be led to perfection, but

1° In order and by degrees. - Hence let them be taught: **a)** "To beware of the smallest deliberate defect, or one admitted with eyes open," yet in such a way that after some light fault has been admitted they do not fall in soul, but rise from the fall by acts of humility, sorrow, and purpose, and this even if they fell a hundred times in the day. **b)** To perform well ordinary actions, or prayers, the duties of their state, etc., and to have a right intention in all things. **c)** First to strive for patience, and only afterward for joy in adversities. **d)** Let them learn to bear light things before they desire grave things.

2° Let them exercise themselves especially in obedience toward the confessor, parents, and husband; in charity toward the neighbor, especially toward domestics; in patience, in the exercise of the

presence of God, in special devotion toward the Blessed Virgin Mary, St. Joseph, the Guardian Angel, and the Patron Saint.

3° a) Let them apply themselves daily for some time to mental prayer according to their capacity, and never omit it, or other exercises of piety or mortification, because of dryness of spirit. **b)** Let them apply themselves to Christian mortification in such a way that they prefer internal to external, but not neglect this latter. But in external positive mortification, for example fasts, disciplines, etc., let them do nothing without the counsel of the confessor. But he in general should concede less than is asked; he should especially intend to restrain gluttony and sensuality; he should be discreet in conceding mortification of sleep; and above all he should exhort to negative mortifications, such as to deprive oneself of the sight or hearing of curious things, etc.

4° As regards the frequentation of the Sacraments: **1)** Let him advise general Confession to those who are not scrupulous and have not yet made it. **2)** Let them confess once, or at most twice in the week. But he who has fallen into venial sin and lacks a suitable occasion of confessing should not on that account abstain from Communion, since venial sins are remitted also by other means. - Indeed certain timorous persons often dispose themselves more usefully for Communion by their own acts, since these are then accustomed to be more fervent, than by Confession. Concerning the contrition required for the Confession of venial sins, see n. 1340. q. 7°, 1350. q. 4°, 1355. q. 4°; concerning the absolution of those who confess only doubtfully venial sins, n. 1344. q. 8°; concerning the frequency of Communion, n. 1313; concerning the direction of those who are endowed with the gift of higher prayer, or Contemplation, *Prax. Conf.*

Recall also what was said concerning the manner of acting with women (n. 1484), and concerning not preventing penitents of this kind (unless they are scrupulous) from sometimes going to another confessor (n. 1483. 4°), whom they must also sometimes be commanded to approach.

Notes to n. 1486. (3) Prax. Conf. n. 121. (4) Prax. Conf. n. 161. (5) Ib. n. 162. (1) Prax. Conf. n. 122-128. (2) Ib. n. 145. 146. (3) Ib. n. 148. (4) Ib. n. 126-144. (5) Ib. n. 100.

Article II. On the Office of the Minister After Confession

The obligation of the confessor after Confession is twofold: **1°** *per accidens*, as to repairing defects committed; **2°** *per se*, as to preserving the Seal.

§ I. On the Obligation of Correcting Defects Committed in Confession

1487. Principles. - I. An error gravely culpable and gravely harmful to the penitent himself, by the confessor, from justice, and therefore also with damage relatively grave to himself, speaking per se, must be repaired.

I say: **1°** *gravely culpable*, because an inculpable or lightly culpable error must be repaired from charity alone, and therefore per se with only light inconvenience.

I say: **2°** *from justice*, as is clear from what was said n. 746. For the error, as in the principle is supposed, was an efficacious and theologically gravely culpable cause of damage; it was moreover an unjust cause, even in him who heard the penitent's Confession from charity alone, because to the obligation of charity there was added the obligation of justice, namely by force of the quasi-contract

concerning the Sacrament to be administered rightly, by which contract the confessor is bound by the very fact that he undertakes the Confession of anyone.

I say: **3°** *speaking per se*: for the case is to be excepted in which he could not repair the error without injuring the seal, for example because he would gravely offend the penitent by renewing discourse about the Confession; likewise the case of a penitent invalidly absolved who afterward either had confessed to another or had received the Most Holy Eucharist, because in either case he is presumed with moral certainty to have been justified (n. 1208. q. 2°), and the damage was repaired.

II. An error harming some third party is to be repaired according to the rules concerning cooperation in damage: namely from justice, if the confessor positively, by command or counsel, cooperated in the damage of the third party (n. 1438. q. 1°. R. 1°. 3°); but from charity alone, if negatively, by not admonishing concerning restitution to be made, since, as confessor, he is bound toward that third party by no bond of office or quasi-contract (n. 774. q. 1°).

III. An error, even gravely culpable, concerning the integrity of Confession is committed either negatively (when the penitent was not questioned concerning species or number, though he ought to have been questioned concerning them), or positively (by inducing him not to explain them).

In the former case it is not to be corrected outside Confession: for the obligation of confessing integrally directly affects not the confessor, but the penitent; hence, although the former is held to question the latter within Confession concerning species and number, nevertheless when the judgment has been finished this obligation ceases in the confessor.

In the latter case a gravely culpable error must be corrected even outside Confession: for by natural law everyone is held to remove the cause why another violates a grave precept, namely of integral Confession. Except if the error cannot be repaired without scandal or grave damage to the confessor; for these things excuse the penitent from integrity, and therefore also the confessor. "But if the error shall not have been gravely culpable, a much slighter cause will excuse from correcting it outside Confession, and this cause will never not be present, since the confessor can never admonish the penitent concerning the error admitted without inconvenience and shame."

Notes to nn. 1487-1488 - note sequence 1. (1) For instance, absolution invalidly conferred; a decision affecting the penitent with grave damage, even only temporal; counsel exposing one's neighbor to the danger of formal sin. (2) It seems otherwise must be said concerning a pastor, since he is held from justice and independently of an error committed to avert grave spiritual damage from subjects. L. VI. 619. (3) Per se, I say; because, if the penitent invalidly absolved were in the article of death or in grave danger of no longer confessing, charity would oblige with even grave inconvenience to the reparation of the error: for there would be question of a neighbor constituted in extreme necessity (n. 279. 2° and 3° Reg.). (4) L. VI. 619. Notes to nn. 1487-1488 - note sequence 2. (1) L. VI. 620. Notes to nn. 1487-1488 - note sequence 3. (1) L. VI. 621. (2) Ib. (3) Ib. (4) Ib. 622. Notes to nn. 1487-1491 - note sequence 1. (1) L. VI. 622. (2) L. V. Decr. T. XXXVIII. c. 12. (3) L. VI. 635. 661. Notes to nn. 1487-1491 - note sequence 2. (1) L. VI. 634. (2) Ib. 636 sq. Notes to nn. 1487-1493 - note sequence 1. (1) L. VI. 647. 648. (2) Ib. 647. (3) Ib. 651 sq. Notes to nn. 1487-1496 - note sequence 1. (1) L. VI. 640. 641. (2) Ib. 642. (3) Ib. 641 sq. Notes to nn. 1487-1491 - note sequence 3. (1) L. VI. 635. (2) Ib. 638. (3) H. A. Tr. XVI. 148. Notes to nn. 1487-1493 - note sequence 2. (1) L. VI. 650. (2) Ib. (3) Ib. 649. (4) Ib. 640. Notes to nn. 1487-1496 - note sequence 2. (1) H. A. Tr. XVI. 154. (2) Ib. (3) L. VI. 643. H. A. Tr. XVI. 154. (4) L. VI. 638. Notes to nn. 1487-1496 - note sequence 3. (1) L. VI. 639.

1488. Questions. - Quaer. 1° To what is a confessor held who unduly released a penitent from making restitution, or on the contrary obliged him to it?

Resp. 1° If with grave fault he unduly released the penitent, he is held to correct the error; but if he does not correct it, or the penitent, who otherwise would have made restitution, meanwhile has become unable to make restitution, the confessor himself is held to restore in his place, because he violated the right of the creditor, namely by impeding the restitution due to him. I said: *who otherwise would have made restitution*. For if, although admonished, he would not have made restitution before the inability, neither will the confessor be bound.

Resp. 2° If with grave fault he obliged the penitent to undue restitution, he is held from justice to retract the error; and, if the penitent has already restored, he is held to make good the damage to him.

Resp. 3° If inculpably or from light negligence he unduly obliged or released the penitent from the obligation, he is held from justice to correct the error, not however with so grave an inconvenience. The reason is that on the one hand everyone is held from justice to impede lest by his action, even inculpable, he cause damage to another which he can easily forestall; but on the other hand from light or only material fault ordinarily there does not arise an obligation with grave inconvenience.

Quaer. 2° To what is a confessor held who omitted to admonish the penitent concerning restitution to be made?

Resp. 1° He is held to admonish the penitent within Confession concerning the obligation, with some inconvenience, if no or only light fault intervened, at least by reason of charity; but with greater inconvenience if in the omission he sinned gravely, or perhaps also if he to whom restitution is to be made would suffer very grave damage thence, although the confessor sinned in no way or only lightly in the omission.

Resp. 2° Whether in that case the confessor is held to restore, see n. 774. q. 1°. and what was said n. 1487. under II.

Quaer. 3° Whether he is held to restitution who from only light fault released the penitent from the obligation of restoring, if afterward he neglects to admonish him, when he easily can?

Resp. Affirmatively. The reason is that, although the confessor without fault, at least grave, exempted the penitent from restitution, nevertheless, since his counsel continues to influence the damage of the creditor, he himself, the error being known, is held from justice to remove the cause of the damage, if he easily can (n. 749. q. 3°).

Quaer. 4° Whether a confessor, without the license of the penitent, can speak with him outside Confession concerning a defect committed?

Resp. Negatively, according to the more probable opinion, to which St. Alphonsus subscribes and which Lugo calls common, if the penitent has already departed; the reason is that that admonition outside Confession is burdensome to the penitent. Besides, since after absolution the judgment has been completed, that admonition would be separated from Confession. Nevertheless, if the confessor had not absolved the penitent, or had not absolved him rightly, i.e. with the form badly pronounced, even without license asked he could, and speaking per se ought, to disclose his error, saying, for example, that he did not absolve; by which manner indeed neither is the seal broken, nor can there be a reasonable offense of the penitent.

§ II. On the Seal of Confession

The Seal of Confession is a religious obligation of preserving secrecy concerning those things which are known from Sacramental Confession.

We must treat **1°** of the obligation of the seal; **2°** of the subject of the seal; **3°** of the object of the seal; **4°** of the various modes of violating it.

Point I. On the Obligation of the Seal.

1489. Principles. - I. There is given a most strict obligation of preserving inviolably the Seal of Confession. It is established **1°** from natural law, and indeed by title both of fidelity, and of justice, and of religion, whence it comes about that he who violates it sins gravely by the sin of sacrilege against the Sacrament, of infidelity against the onerous, although tacit, promise of preserving secrecy, and of detraction, if the sin is not public; **2°** from positive divine law, at least implicit; for from the institution of Christ Confession must be secret: therefore by that very fact there has been imposed by Christ upon confessors the obligation of preserving the seal; **3°** from ecclesiastical law, as is clear from several places of Canon Law, especially from the Fourth Lateran Council, c. 21, *Omnis utriusque sexus*, where it is said: "Let the confessor beware altogether, lest by word or sign, or in any other way whatsoever, he in any degree betray the sinner; but if he should need more prudent counsel, let him cautiously seek it without any expression of the person." - Yet the confessor is not held to avoid every vain suspicion in this matter, but only a probable one.

II. The obligation of the Seal of Confession always presses in every case, even after the death of the penitent, so that in no possible case is it lawful to reveal anything heard and received in Confession. The reason is manifestly clear; for, if some exception could be given, men would always fear lest such a sin were that cause for breaking the seal licitly; and therefore the Sacrament would become odious. Moreover no cause of attaining good, or of fleeing evil, can compensate for that evil of hatred of the Sacrament. Therefore in this the Sacramental secret differs from the natural secret: that although the latter sometimes arises on the occasion of Confession, nevertheless it does not oblige in every case; but the former can be violated in no possible case, as was said.

III. The obligation of the seal arises from every and only Sacramental Confession, namely that which is made with the mind of accusing oneself and obtaining absolution. It is said: **1°** *from every*, because then the whole reason of the precept is present; and this holds, even if absolution had not been conferred from any cause whatsoever, since Confession is made in order to receive absolution at some time. It is said: **2°** *from only*, because only Sacramental Confession includes the reason of the precept, since any other manifestation has no relation with the Sacrament of Penance.

IV. The obligation of the seal ceases if the penitent has given license to use the knowledge from Confession. But this license ought to be **1°** express, **2°** altogether spontaneous, **3°** not revoked, nor **4°** extended beyond the limits permitted by the penitent, **5°** with the conditions at the same time preserved which were placed by him, nor **6°** should it be asked, unless a reasonable cause demands it.

1490. Resolutions. - 1° A Confession which knowingly is made to a layman, or to a priest lacking jurisdiction, does not induce the obligation of the seal, but only of the natural secret. It would have to be said otherwise if the priest were believed to be approved; because the Confession on the part of the penitent is truly Sacramental.

2° If someone approaches a confessor with the mind of deceiving him, ridiculing him, drawing him into sin, or extorting something from him, he does not accuse himself in order to the Sacrament, and consequently there is no obligation of the Sacramental seal.

3° If someone opens his conscience to a confessor without the will of receiving absolution, and neither in order to making Confession, nor by way of continued Confession, but so that he may obtain counsel, or so that in some way he may satisfy the command of a Superior, only the obligation of the natural secret presses, because this is not done in order to absolution to be given or given already.

1491. Questions. - Quaer. 1° Whether there is smallness of matter in violation of the seal?

Resp. Negatively, at least in direct revelation. The reason is that matter, even the lightest, includes the whole reason of the precept.

I said: *at least in direct revelation*; because if the danger of indirect revelation is very remote or little probable, there can be lightness of matter. For revelation, if perhaps some followed then, would be judged to follow by chance and per accidens.

Quaer. 2° Whether it is lawful to use a probable opinion in the matter of the seal?

Resp. Negatively, because it is not lawful to use a probable opinion to the prejudice of the certain right which another possesses, etc. Therefore the confessor is held to the seal even in doubt whether something was said by the penitent in order to Confession.

Quaer. 3° What ought the confessor respond to one questioning him concerning things heard in Confession, or concerning absolution imparted?

Resp. As to the first, let him respond, even with an oath if need be, that he knows nothing, or has heard nothing; because he has no communicable knowledge. - Thus all.

As to the second, let him respond: I have performed my office; or: Are questions of this kind to be asked?

Point II. On the Subject of the Seal.

1492. Principles. - I. Primarily every confessor is held to the seal, whether true, or fictitious and through error esteemed legitimate, and consequently even a layman who would feign himself a priest and hear Confession. The reason is that as often as someone confesses in order to the Sacrament, whoever hears him by that very fact contracts the obligation of the seal; otherwise hatred of the Sacrament would follow thence. - Thus all.

II. Secondarily those who become participants in Confession are held, or all those to whom knowledge of the Confession comes in any way whatsoever, whether from the Confession itself, or from means ordered to it. It is said: **1°** *from the Confession itself*; for the matter accused came to their knowledge by the same occasion or cause on account of which the obligation of the seal is given, namely lest hatred be created against the Sacrament. It is said: **2°** *from the means*; for hatred of the means redounds upon the end itself.

Hence the following are held to the seal: **1°** interpreters employed in performing Confession; **2°** Superiors from whom, outside the Sacrament, a faculty is sought of absolving or of receiving

absolution from a reserved case; **3°** those who, while someone is confessing, hear a sin, whether deliberately or even inculpably, and likewise if some should perhaps hear it from these; **4°** those who write the Confession of the uneducated, or of those ignorant of the language of the confessor, especially if the Confession cannot be made in another way; **5°** doctors consulted by the Confessor, even with the license of the penitent; **6°** all those to whom the confessor sacrilegiously or imprudently had manifested sins heard in Confession.

1493. Questions. - Quaer. 1° Whether the penitent also is bound by the seal with respect to the confessor?

Resp. 1° He is not held to the Sacramental seal, because the obligation of the seal is only in favor of the penitent.

Resp. 2° But he is held to the natural secret concerning those things which he cannot reveal without unjust damage to the confessor, or contrary to his reasonable will, or without injury and contempt of the Sacrament.

Quaer. 2° Whether the confessor can speak with the penitent concerning his Confession?

Resp. 1° He can speak in Confession concerning all past Confessions. Let this nevertheless be done cautiously and from sufficient reason, lest perhaps the penitent be offended.

Resp. 2° He can also speak after absolution before the penitent has departed, or if afterward he has returned. The reason is that although the Sacrament has been completed, nevertheless the judgment still morally perseveres.

Resp. 3° Outside the Sacred Tribunal, he cannot make even any word at all with him without the penitent's license concerning those things which pertain to his Confession. Except if the penitent himself first speaks concerning his conscience, i.e. concerning those things which were the matter of Confession. But then the confessor ought not exceed the matter about which the penitent made words.

Quaer. 3° Whether he is held to the seal who reads a paper in which the penitent wrote a Confession?

Resp. 1° Negatively, per se. The reason is that this is not a means of itself ordered to Confession, and consequently it does not per se bring in the obligation of the Sacramental seal, but only of the natural secret; yet this per se presses under grave, unless there is question of the lightest faults.

Resp. 2° Per accidens the obligation of the seal can be present, if the paper were or had been a necessary means to Confession: for example if it were written by a mute person, or directed to a Superior on account of some reservation; likewise if the paper had already been handed to the priest; but especially if someone were to read it while it is in the hand of the confessor, or in the act of Confession, or it had been lost by the confessor himself, or found in the confessional; for in these cases it pertains to Confession.

Quaer. 4° Whether a doctor consulted by the penitent himself is held to the seal of Confession?

Resp. Negatively, at least more probably, if he is consulted concerning Confession to be made to another; but he is held only to the natural secret. The reason is that the obligation of the seal arises from Sacramental Confession alone, in which the penitent manifests sins in order to absolution. - St.

Alphonsus, against some who therefore affirm, because revelation would render Confession odious. But, as the holy Doctor deservedly replies, not the Confession itself, but the consultation would become odious.

I said: if he is consulted concerning Confession to be made to another; because if the penitent consults him concerning Confession to be made to himself, he is held by the seal, since this consultation must be regarded as Confession begun.

Point III. On the Object of the Seal.

1494. Principles. - I. The object of the seal is all sins confessed, even venial sins, at least in particular, and all things which pertain to the individual explanation of sins. The reason is that the reason of the seal presses not only for sins, but also for all those things which help to explain them, and besides, these constitute one thing with sins. - I said: *even venial sins, at least in particular*. For he certainly would wound the seal who would say that Titius confessed, for example, a lie, or several venial sins; but not he who would say that he confessed venial matter. For by the very fact that he confessed, he is supposed to have confessed matter of this kind. In practice nevertheless the question seems to me, with others, to be decided according to circumstances, by considering whether by such a saying Confession could perhaps be rendered odious.

II. The object of the seal is also whatever has been manifested in Confession, and the revelation of which would yield to the burdening of the penitent or to hatred of the Sacrament; because the seal was introduced lest, from fear of revelation, the faithful be drawn back from the Sacrament of Penance.

III. Those things do not become the object of the seal through Confession which the confessor knows not from Confession alone, but at the same time from elsewhere, and insofar as he knows them in this way.

1495. Resolutions. - Under the seal of Confession fall:

1° All circumstances of sins, even those declared after absolution: for they are morally one thing with the sins already accused; indeed the same must be said even if it were doubtful whether the circumstances had been declared in order to Confession or not.

2° The sins of an accomplice, even if they were revealed without necessity with the sin, because they were said from the intrinsic occasion of Confession.

3° The penances imposed, unless perhaps they are very light, or from those which are accustomed to be imposed for the lightest faults.

4° Defects manifested through Confession for explaining the character of the sin, for example if the penitent says that he received Sacred Orders with an irregularity, because he is illegitimate, etc.

1496. Questions. - Quaer. 1° Whether the virtues and scruples of the penitent fall under the seal?

Resp. to the 1st. Negatively, per se, unless thence there follows a burdening of the penitent or of others. Resolve the same concerning extraordinary gifts of God. But that burdening would follow if these gifts had been manifested for better declaring the malice of one's own sin because of ingratitude.

Resp. to the 2nd. Affirmatively, if scrupulosity is in some way matter of Confession, or elsewhere from such manifestation there would follow a burdening of the penitent. But scrupulosity would be matter of Confession as to acts which the penitent from a scrupulous judgment thought to be sins and confesses; likewise scrupulosity which as a moral defect is subjected to the Sacramental judgment. - But its manifestation would have to be regarded as a burdening of the penitent if there were question of a Prelate, confessor, and the like, but not if of lay persons, to whom this rather turns to praise.

Quaer. 2° Whether natural defects of the penitent fall under the seal?

Resp. 1° Affirmatively, if there is question of "those defects the manifestation of which the penitent can bear with difficulty of itself, as it would be to say that he is dull in mind, irascible by nature, rude, incapable, poor, if he were of civic birth."

Resp. 2° But negatively, if they are "defects which are not to him a source of shame or reproach, such as to be blind, deaf, a beggar, and the like; and, on the contrary, they already commonly are known."

Quaer. 3° Whether sins committed in the very Confession fall under the seal, for example impatience, insult against the confessor?

Resp. 1° Negatively per se, because the penitent does not confess those faults, as is clear.

Resp. 2° Affirmatively nevertheless for the most part, although only per accidens; because, although those sins are not per se matter of the seal, nevertheless often per accidens they involve in some way the danger of revelation: for they furnish a probable judgment that the confessor either was unwilling to absolve the penitent, or on account of a graver fault reproved him more severely, etc.

But theft committed by the penitent to the damage of the confessor himself at the time of Confession would not fall under the seal. Indeed if it were established that the thief came to confess so that he might have an occasion of stealing, the sins accused by him would not be matter of Confession; since such a Confession would not be true, but only simulated.

Quaer. 4° Whether he violates the seal who says that he heard such a person in Confession?

Resp. Negatively; for that someone approaches to confess is recognized externally or outside Confession. Besides, this is not of itself odious, but rather brings praise. Nevertheless the confessor would be held to the natural secret if someone had approached secretly to confess; indeed even to the Sacramental secret, if by word or deed, namely by approaching secretly, he had signified "that he did not wish it to be known that he had confessed."

Quaer. 5° Whether he violates the seal who says that he absolved such a penitent?

Resp. Negatively, per se, because that cannot be burdensome to the penitent in such a case. Nevertheless in certain circumstances it could become burdensome to others, concerning whom the same cannot be said. - Thus commonly. Therefore parents, teachers, masters, questioning concerning absolution given to sons or subjects, are to be referred to the penitents themselves. Similar questions are accustomed to be made by Nuns devoted to the care of the sick in hospitals, so that they may know whether they ought to prepare the things necessary for administering Viaticum: these likewise are to be referred to the sick; or it is better that license be sought from the sick person to admonish

the Nuns or others. But it will suffice to say to the sick person who is going to receive the Holy Eucharist: I shall admonish, etc.

Quaer. 6° Whether a confessor handing to a penitent not absolved a certificate in testimony of Confession can declare that he was absolved?

Resp. By no means. The reason is that it would be a lie, which, since it is intrinsically evil, can never be uttered. Thus St. Alphonsus. The holy Doctor excepts, as probable, if the certificates had been printed and in them it were said that absolution had been given, at least if they are sought publicly; because such certificates would be handed to all, and therefore the confessor would perform "only a material act" by "providing such a certificate."

Quaer. 7° How is a certificate of Confession to be drawn up?

Resp. It is customarily drawn up thus: I, the undersigned, testify that I heard the Confession of N., on such a day, etc.; to this certificate the confessor subscribes his name. Or more briefly: I heard such a one in Confession, on the day, etc. It can also be said: I heard a Sacramental Confession; because every Confession which is made in order to receiving absolution is Sacramental, whether absolution was given or not.

Quaer. 8° Whether a confessor violates the seal who denies a certificate of Confession to an indisposed penitent?

Resp. 1° Affirmatively, as often as he denies a certificate to a penitent asking for it outside Confession. The reason is that he uses knowledge of Confession for acting externally, and indeed with great burdening of the penitent.

Resp. 2° Affirmatively, even if the penitent not absolved asks for the certificate within Confession, and there is question of those circumstances in which it is customary to be given, or it is required by Superiors of the penitent, as often happens in the Paschal time for students of colleges, servants, etc. The reason is that from the denial of the certificate it becomes known to others that the penitent was not rightly confessed nor absolved, and therefore it will be an indirect violation of the seal. - Thus commonly.

Resp. 3° But negatively, if the penitent asks for a certificate in Confession outside the aforesaid circumstances, or when it is not customarily given to all, or is not required by Superiors. The reason is that then the confessor, saying nothing, bears himself merely negatively, and does not approve that Confession by positive testimony, to which he is not held. Besides, the penitent is not compelled by necessity of declaring to others that he was not absolved; hence, if he says this, he himself makes known his indisposition, not the confessor.

Sometimes, however, the confessor can give even to an indisposed penitent a certificate of Confession on account of various inconveniences which would follow from its denial; nor then will he cooperate in the sacrilege of the penitent, who perhaps uses this testimony of Confession for receiving a Sacrament of the living, for example the Eucharist or Matrimony, in the state of sin; the reason is that the penitent will have to attribute this to his own malice.

Resp. 4° Negatively also, as often as the penitent made a simulated Confession, for example to flee punishment, to avoid infamy, or to snatch a certificate, as if a young man with a view to Matrimony should thus confess: "I have done what young men of my condition are accustomed to do: nothing

else remains to be said: I do not ask absolution, but a testimony of Confession performed." For the seal is not broken whether within or outside Confession the certificate is denied. The reason is that the seal arises from Sacramental Confession alone, which here in no way is had. Nor generally can the confessor concede such persons a certificate, because without sufficient reason he would cooperate in their future sacrilege. Besides he would assert what is false, namely that they had confessed, which is not true.

Quaer. 9° What ought the confessor do when detecting that the penitent is deaf?

Resp. See n. 1369. q. 6°. Hence 2°.

Quaer. 10° Whether a confessor can admonish the accomplice, with the license of the penitent, or another person for correcting the accomplice?

Resp. Affirmatively. The reason is that the accomplice from the Confession of the other accomplice acquires no right to the Sacramental seal; for this seal was instituted in favor of penitents only; and consequently the right of secrecy is acquired by him alone who commits it to another.

Ordinarily, however, it is not expedient that the confessor seek such license; but it will be better to induce the penitent to open this matter to him outside Confession; indeed it will be still better that the penitent himself report the matter to another, who can bring a remedy to the evil.

Point IV. On the Various Modes of Violating the Seal.

1497. - The seal can be violated in a twofold mode: **1°** directly, by revealing expressly something pertaining to the secrets of Confession, for example if it is said: Titius did this, etc.; **2°** indirectly, by saying or doing something from which someone can know or suspect either the object of the seal, or from which the Sacrament is rendered odious, or shame, trouble, disgrace, damage, or any burdening whatsoever can arise for the penitent or for others, for example accomplices.

Rule I. - The seal is violated indirectly as often as penitents or others can deservedly be offended by the sayings or deeds of the confessor from knowledge had from Confession alone. But it is not judged to be violated if the penitents would have these things indifferently, and there is no question of the proper matter of the seal. The reason for each is sufficiently clear from what was said above. - Thus commonly.

Rule II. - In doubt whether in such a mode of speaking or acting there is present danger of revelation or offense, one must stand for the safer part, or in favor of the seal. - Thus commonly; and it is clear from what was said above n. 1491. q. 2°.

Rule III. - There is no violation of the seal if someone narrates a sin heard in Confession in such a way that by no indication can the sinners be revealed. Nevertheless, excluding the usefulness of instruction or of asking counsel, one must generally abstain from similar narrations. The reason is that lay hearers, especially the simple, easily are scandalized, suspecting that the seal is violated. And sometimes in these frequent and mixed conversations there is danger lest someone be brought into suspicion of the penitent, indeed that revelation also follow.

Notes to nn. 1497-1499 - note sequence 1. (1) L. VI. 641. (2) Ib. 492. Notes to nn. 1497-1499 - note sequence 2. (1) L. VI. 654. Notes to nn. 1497-1499 - note sequence 3. (1) L. VI. 654. (2) S. C. C. 18 nov. 1681. (3) In 4 Dist. 21. q. 3. a. 1. ad. 1. (4) L. VI. 659. (5) Ib. (6) Disp. 23. n. 110. (7) L. VI. 656. 657. Notes to nn. 1497-1499 - note sequence 4. (1) L. VI. 655 sub 4. Notes to nn. 1497-1499 - note sequence 5. (1) Ps. 140. 3. (2) Sap. 9. 4.

1498. Resolutions. - He indirectly violates the secret of Confession:

1° Who, praising one above the others whom he heard, says that he committed only venial sins; because others thence are easily brought into suspicion of mortal fault.

2° Who speaks with others concerning the sin of a penitent known through Confession alone, though these know it from elsewhere, even if the hearers do not notice that it was received from Confession.

3° Who says that he did not absolve such a one, that he sent him back to such a time, or that he has not yet absolved him, or that the Confession has not yet been completed; the reason for the last is that a long Confession ordinarily denotes many sins, or the indisposition of the penitent, unless it were known to be a general Confession, or one resumed after a long time, and the penitent not bear this with difficulty. Likewise he who concerning Titius, known as a thief, says that he confessed to him his thefts with great contrition.

4° Who in a loud voice, or in another way intelligible to the bystanders, reproves the penitent; for this is both grave for the penitent and suggests to others the suspicion that he confessed grave sins; but *a fortiori* if by raising the voice too much he were to repeat the sins of the penitent, or question concerning their circumstances.

5° Who speaks with another confessor concerning the sins of some penitent, even if he had confessed the same sins to each.

6° Who, after hearing the Confessions of few persons, says that he heard such a sin, although he conceals the person; for the individuals suffer something of suspicion against themselves from that revelation. Likewise he who narrates sins known from Confession in such a way that hearers can by some reason conjecture or suspect who committed them.

7° Who, narrating the sins of some person which he knew outside Confession, adds some circumstance known from Confession alone, or who uses the knowledge of Confession to determine or confirm the matter more.

8° Who would say that in such a monastery he heard a grave sin, even if he did not name the person; because the individual Religious of that convent suffer detriment. *A fortiori* he would violate the seal who would say that in that convent, or even in that Order, such sins are committed. - But it is otherwise if he would say that he heard a grave sin of some Religious in general, without naming his Order, because there is neither revelation of the seal, nor does it redound to the burdening of the penitent or of any Order, since among various Orders there are not lacking some less good Religious. Resolve the same if he were speaking of a grave sin of only one Religious, naming the Religion, provided the Religion is large and notoriously relaxed, and sins of this kind are such as are accustomed to occur among the relaxed, and in this one have notoriously occurred, and also all danger of suspicion concerning some monastery in particular is absent. - But scandal of lay persons must be carefully guarded against.

9° Who after Confession looks at the penitent with a stern eye, does not speak to him as he was accustomed to do before, and shows by harsher words, gestures, or his whole manner of acting that he remembers his sins, is actually thinking about them, and makes less of him than before.

10° Who would decline the Confessions of a penitent because this one, for example, is accustomed to approach less well disposed, unless there is present a just cause altogether independent of

Confession.

1499. Questions. - Quaer. 1° Whether the Confessor can deny Communion to a penitent to whom previously he denied absolution, if this one approaches the Sacred Table, or assistance at the Matrimony of him whose impediment, or Ordination to him whose irregularity, he knows only from Confession?

Resp. Negatively. See n. 1229.

Quaer. 2° Whether he breaks the seal who says that such a vice reigns in a city or village, or that grave crimes are committed there?

Resp. Distinguish. Affirmatively, if the place is sufficiently narrow, for example if it does not contain about three thousand men, i.e. Catholics. Otherwise, if the town is large, and public crimes are often committed there.

Quaer. 3° Whether preachers can use knowledge of Confession for speaking about those things concerning which they would not have thought, unless they had heard Confessions?

Resp. Affirmatively, with danger of revelation and burdening of the penitents excluded. The reason is, **1°** because it can be a burden to no one that sometimes priests direct themselves in sermons from the knowledge of Confession, provided that here and now that burden is not present: therefore they can generally inveigh against vices which secretly spread abroad; **2°** because for the confessor this would be too grave a burden; for he would always fear lest in preaching he use the knowledge of Confession. Nevertheless let the confessor beware lest he speak publicly about entirely particular sins of one or another penitent, especially if he has the sermon before some small community, for example in a monastery of Nuns, etc.; because then a burdening could easily be induced. Moreover Missionaries cannot reveal to the Pastor grave sins heard in Confession in general, that he may watch more. - Yet, according to St. Thomas, "the confessor can say to the Prelate that he should watch more diligently over his flock, yet in such a way that he does not say anything by which by word or nod he betrays the one confessing."

Quaer. 4° Whether a priest who from Confession knows that snares are being prepared for him can flee, or in another way forestall damage?

Resp. 1° Affirmatively, if from such caution the sin accused is not at all manifested to others, nor is any burdening brought to the penitent.

Resp. 2° Negatively, if he cannot flee without in some way manifesting that some sin had been accused by the penitent. The reason is that that flight would be an indirect revelation of a confessed sin; and, although the confessor might simulate flight under some pretext, nevertheless he would always furnish a reasonable suspicion of the sin declared. Lugo nevertheless notes that experience shows that a revelation, even indirect, is never necessary for escaping those dangers, since they can be met either from the license of the penitent or in other ways without breaking the seal.

Quaer. 5° Whether Superiors can use knowledge of Confession for external governance, if it in no way appears that they direct themselves from that knowledge?

Resp. By no means, with St. Alphonsus and others commonly against some older Theologians who defended the affirmative opinion. - The reason is that evidently this would yield to the burdening of

penitents; and those who knew that such doctrine was everywhere taught could be drawn back from Confession. See the Decree of Clement VIII, p. XVII. XVIII.

Quaer. 6° Whether at least sometimes, or when, the confessor can use knowledge of Confession?

Resp. According to all Theologians, this can be done in the following cases: **1°** for praying for the penitent, or acting more benignly toward him; **2°** for consulting books or wise men, prudently however, with danger of revelation excluded; but if this danger is present, he who needs counsel should either propose the case in a suitable manner, for example as fictitious, or ask license from the penitent for using Sacramental knowledge, or seek elsewhere a learned counselor to whom the person of the penitent is altogether unknown, or remit the penitent to another confessor, etc. But if no means is at hand by which the seal may remain intact, nothing remains except that the Confessor, relying on divine aid and employing other suitable means, namely prayer and study, resolve the difficulty himself in the better manner in which he can; **3°** for directing himself through experience acquired from Confessions, for example for increasing or tempering rigor, and for directing himself from the Confession of one toward prudently questioning or instructing others, giving no suspicion of the prior Confession; **4°** for reforming his own morals, for correcting his own defects, or for performing his office better, for example for shaking off sluggishness, for watching more vigilantly over subjects, with suspicion of revelation excluded, etc., because everyone is held to correct his defects as soon as he notices them; nor can any penitent reasonably be offended because the confessor, on account of things heard in Confession, changes his life for the better.

Conclusion. - In a matter so grave, and so dangerous, the confessor must be supremely cautious lest he utter any little word, or do or hint anything, whence there could follow hatred, even the least, of the Sacrament, burdening of the penitent, offense or scandal of any others whatsoever. Therefore let him be prudent and discreet not only in words, but in his whole manner of acting.

Let him frequently pray with the Psalmist: *Set, O Lord, a guard to my mouth, and a door of circumstance to my lips*; or with the Wise Man: *Give me wisdom, the assistant of thy seats*. - Above all let Missionaries beware, and all who, for example in the Prayers of Forty Hours, assist Pastors extraordinarily, of imprudences, of useless loquacity, of boasting concerning many general Confessions heard, concerning great fish caught, etc. But especially let them see that they say nothing concerning anything heard or done in the tribunal of Penance in the midst of gatherings of priests or during dining, notably in the presence of a woman serving at table.

Formula for Denouncing a Solicitor. [See n. 1412 under d).]

N. N. in the year of his or her age ... from the Parish N. (Quasi-parish; Mission), before me the undersigned, outside the Sacrament of Penance, complains that N. N. (Pastor, Quasi-Pastor, Missionary, Priest, Religious) in ... (Parish, Quasi-parish, Mission, College, Monastery) ... solicited her (him) in Confession (on the occasion, etc.) by words (deeds) of this kind ... to dishonest and shameful things, and is prepared to confirm this by oath also before the Episcopal delegate, her (his) own or neighboring Pastor N. N.

N. N., Priest, etc.

Given ...

Treatise on Extreme Unction

Chapter I. On the Nature and Effects of Extreme Unction

1500. - I. Extreme Unction is defined as a Sacrament of the new law instituted by Christ for conferring the salvation of the soul, or even of the body, upon a sick person whose life is in danger, through the anointing of blessed Oil and the prayer of the priest.

II. The effects of the Sacrament of Extreme Unction are:

1° Sanctifying grace, with actual graces proper to the Sacrament, which wonderfully help to recreate the sick person and to strengthen him against the temptations of the devil.

2° Remission of all sins not yet remitted, even mortal sins. It is established from Scripture: *And if he be in sins, they shall be forgiven him.*[1] Hence the Sacrament of Extreme Unction is indeed primarily a Sacrament of the living, but secondarily it is a Sacrament of the dead, namely in the hypothesis of the state of sin. It certainly remits venial sins *per se*; more probably it also remits mortal sins in the same way, although secondarily.[2]

3° The wiping away of the remnants of sin, which are not only the penalties due to sins, but also anxieties of soul, infirmities, languor toward good, torpor, fear, and other similar things which are contracted from sins. But these effects are greater, the better the sick person is disposed in soul.

4° Restoration of the health of the body sometimes, if it is expedient for the salvation of the soul. It is established from Scripture: *The prayer of faith shall save the sick man*,[3] and from Trent.[4] Hence it appears how shamefully they err who do not receive this Sacrament unless when the disease has so prevailed that now they cannot be healed without a miracle.[1]

Notes near n. 1500, final warning concerning delayed reception (printed p. 197; right-column note sequence).

1 L. VI. 731.

Notes to n. 1500. (1) Jac. 5. 14. 15. (2) L. VI. 731. Cf. what is to be said n. 1508. q. 8°. R. 2°. (3) Jac. 5. 14. 15. (4) Sess. 14. de Extr. Unct. c. 2. Notes to nn. 1500-1502 - note sequence 2. (1) S. C. R. 27 Aug. 1836. in Rhedon. and Adnot. Gardell. to this decision n. 4780. (2) De Herdt. T. III. n. 200. (3) L. VI. 708. H. A. Tr. XVII. 9. (4) Ib. (5) Ib. Notes to nn. 1500-1502 - note sequence 3. (1) De Syn. L. VIII. c. I. n. 4. (2) L. VI. 709. (3) Ib. Notes to nn. 1500-1502 - note sequence 4. (1) L. VI. 710. (2) Ib. and Roncagl. (3) Ib. in fine. (4) Pr. Conf. n. 275. I. Notes to nn. 1500-1506 - note sequence 1. (1) L. VI. 722. (2) Sess. 14. Can. 4. de Extr. Unct. (3) L. VI. 722. Notes to nn. 1500-1506 - note sequence 2. (1) L. VI. 722. (2) Ib. 727. (3) Ib. 726. (4) Ib. 729. (5) Ib. 729. Notes to nn. 1500-1506 - note sequence 3. (1) L. VI. 728. (2) Kenr. Tr. XIX. 12. (3) L. VI. 716. (4) S. C. Ind. 5 Feb. 1841. (5) L. VI. 728. (6) Kenr. Tr. XIX. 9. (7) L. VI. 724. (8) L. VI. 724. Notes to nn. 1500-1506 - note sequence 4. (1) De Extr. Unct. q. 18. (2) Collect. p. 324. n. 688. (3) Kenr. Tr. XIX. n. 13.

Chapter II. On the Matter and Form of Extreme Unction

Article I. On the Matter of This Sacrament

1501. Principles. - I. The remote matter is Oil blessed by a Bishop. It is established from the Council of Trent.[2]

II. The Oil of Extreme Unction, or of the sick, is to be blessed by the diocesan Bishop, or, the See being vacant, by another neighboring Bishop, on the Supper of the Lord, just as Chrism is, and is to be renewed every year, not however for the validity of the Sacrament. Thus from the precept of Clement VIII.[3] It is established also from the perpetual practice of the Church, and from the Roman Ritual concerning Extreme Unction.

III. The proximate matter is the anointing of certain parts of the body, which are, at least from the precept of the Church, the five senses. For anointing of the reins is not of the necessity of the Sacrament, but, if circumstances permit, where it is not in custom, it is to be introduced.[4] The same is commonly asserted concerning the anointing of the feet;[5] nevertheless the priest cannot omit this anointing at will, and it ought to be made either on the soles or above the feet, according as either custom bears, or diocesan statutes prescribe, or it can be done more conveniently. Therefore anointing is to be made: **1°** on the eyes, or on the eyebrows or eyelids; **2°** on the ears, i.e. on the lower part of the ear; **3°** on the nostrils, i.e. upon the extremity of the summit of the nose, and with only one anointing, because, although strictly speaking a double organ is spoken of, nevertheless with one anointing made on the summit both are anointed at the same time: this can be deduced from rituals which, when they speak of a double organ, do not make mention of the nostrils; **4°** on the mouth, the lips being pressed together; but if the sick person did not hear, or could not press the lips together without inconvenience, lest breathing be shut off, it will suffice to anoint either lip; **5°** on the hands, above for priests, within, or on the palms, for others.

Notes near n. 1501, matter of Extreme Unction (printed p. 197; right-column note sequence continued).

2 Sess. 14. de Extr. Unct. c. 1. | **3** L. VI. 708. | **4** Collect. p. 322. n. 677. | **5** L. VI. 710 and Rit. Rom.

1502. Questions. - Quaer. 1° Whether the precept of renewing the Oil obliges under grave?

Resp. Affirmatively, more probably, because the matter appears sufficiently grave. Nevertheless, if new Oil cannot be had, it is lawful to use the old.

But if perhaps within the year the blessed Oil is going to fail, and no other can be had, another Oil not blessed can be poured into the blessed Oil which remains, in lesser quantity however. - Roman Ritual. And this can be done several times, although gradually even a much greater quantity is added than was consecrated by the Bishop at the beginning, provided nevertheless that in each mixture it is less than the other part into which it is poured.

Quaer. 2° Whether the Oil must necessarily be of olives?

Resp. Affirmatively. The reason is **1°** because by the name of oil, from common usage, Oil of olives is properly understood. **2°** It is established besides from the Decree of Eugene IV for the Armenians, in which concerning Extreme Unction it is read: its matter is *Oil of olives*. **3°** It is clear also from the whole tradition and the unanimous consensus of Doctors.

Quaer. 3° Whether this Oil must necessarily be blessed by a Bishop?

Resp. Affirmatively, yet in such a way that from Pontifical delegation it can also be blessed by a simple priest. It is established from various Declarations of Paul V, and most recently of Gregory XVI, on September 14, 1842, and from Benedict XIV.

Quaer. 4° Whether the Oil must be blessed in order to Extreme Unction?

Resp. It is disputed. There is a twofold probable opinion, says St. Alphonsus. Some deny, because the Church requires nothing else except that the Oil be blessed by a Bishop. Hence, they say, the Oil of catechumens and Chrism can validly be employed for making anointings. But others affirm, because, just as Chrism is deputed by its own blessing for Confirmation, so also the Oil of the sick for the Sacrament of Extreme Unction. In practice the safer opinion must altogether be followed, except in a case of necessity, in which this Sacrament is to be administered under condition with another blessed Oil, and afterward, if the Oil of the sick can be had, it is to be repeated.

I said: *with another blessed Oil*; for a threefold holy Oil is distinguished, which in the same ceremony on Thursday in the Supper of the Lord is blessed by the Bishop, namely the Oil of the sick, the Oil of catechumens, and holy Chrism, or Oil mixed with balsam. **1°** The Oil of the sick serves only for anointing the sick in danger of death, and for the consecration of bells for the external anointing; for for the internal [anointing] Chrism is employed. **2°** The Oil of catechumens is deputed for anointing catechumens before Baptism on the breast and between the shoulders, for consecrating the hands of newly ordained priests, and also for some other consecrations, for example of kings, etc. **3°** But Chrism is employed in the Sacrament of Confirmation, in the ceremonies of Baptism after the Sacrament has already been conferred, and for other consecrations, for example of chalice, paten, ciborium, altar, bell internally, etc. - See the Roman Pontifical, especially where it treats of the ceremonies of Thursday in the Supper of the Lord.

Quaer. 5° Whether the anointing of the five senses is of the necessity of the Sacrament?

Resp. The safer affirmative must be held with the more common opinion of Theologians, to which the practice of the Church is consonant; and this practice, excluding a case of necessity, in which under condition one anointing can be employed, more advisedly on the head, under the form described n. 1504. q. 3°, must always be observed. Yet the negative opinion is said by St. Alphonsus to be speculatively probable.

Quaer. 6° Whether a double anointing on double parts is required by the necessity of the Sacrament, for example on each eye, each ear, etc.?

Resp. Negatively, because the whole sense is had in one part. Outside a case of necessity, nevertheless, the double anointing is to be observed under grave.

Quaer. 7° How ought the anointings be made?

Resp. The anointings ought to be made with the right thumb of the priest, who anoints the sick person in the manner of a Cross. Thus from the Roman Ritual. But these things pertain to liceity, not however to validity. But in double members the beginning is from the right, for example from the right eye, etc. - Roman Ritual.

Quaer. 8° Whether by necessity of the Sacrament the order among the anointings of the various senses is to be observed?

Resp. Negatively. The reason is that an inversion of this kind in no way impedes the signification of the Sacrament. Nevertheless they commonly say that such an inversion is gravely illicit, because it is against the use of the Church in a notable matter.

Quaer. 9° Whether Extreme Unction can be conferred on those mute, deaf, and blind from birth?

Resp. Affirmatively; for they can be anointed near the organs of the senses which they lack: for, even if exteriorly they have not sinned through those, nevertheless through the interior powers of the soul, to which those correspond, they could have sinned. Moreover there is question not only of those sins which perhaps were committed through those organs and the corresponding powers.

Quaer. 10° How is a sick person who is deprived of a hand or foot to be anointed?

Resp. The anointing is to be made on the part nearer to the mutilated member. It is established from the Roman Ritual.

Quaer. 11° Whether one drop alone of oil suffices for making the anointings?

Resp. Affirmatively, probably. The reason is that he who anoints with one drop of oil truly anoints; for Oil is diffused more than other liquids. - Thus St. Alphonsus speculatively, and others more commonly. - But some deny; because to anoint is to diffuse Oil through various parts, which is not done by a single drop of Oil. But it is answered that Oil is diffused through various parts when the five senses are anointed, even if the same drop is employed. In practice nevertheless the second opinion, as not improbable, at least extrinsically, is to be followed; but certainly for the value of the Sacrament it suffices to dip the extreme part of the finger in the Oil for the individual special anointings, which are made under the repeated form.

Quaer. 12° Whether in time of plague, or of some contagious disease, it is lawful to perform the sacred anointings by means of a little brush?

Resp. Affirmatively. Collect. p. 322. n. 679.

Article II. On the Form of Extreme Unction

1503. - The form of Extreme Unction is this: *Through this holy anointing and His most loving mercy, may the Lord pardon you whatever you have sinned through sight* (by anointing the eye, and so concerning the others). It is established from Trent, and from the Roman Ritual. The form is to be repeated integrally for the individual parts to be anointed, expressing the member which then is anointed, namely *through sight* in anointing the eyes, *through hearing* in the anointing of the ears, etc. But simultaneity between matter and form must be the same as in Baptism. See n. 1211. IV. c). - If the priest fails between the anointings, those which have already been made are not to be repeated by

another, unless that other were to begin after a quarter of an hour, in which case they will have to be repeated under condition.

1504. Questions. - Quaer. 1° Whether for the validity of the Sacrament there is required the expression of each sense, namely, THROUGH SIGHT, THROUGH HEARING, etc.?

Resp. It is disputed. Some deny, because it is not found in the form of the Greeks, which nevertheless is admitted by the Church as valid. Others affirm, because by one anointing and the form corresponding to it there are not remitted the remnants of any sins whatsoever, but only of those which were committed through that sense. Therefore since the matter is doubtful, the expression of the sense is to be employed under grave. - Billuart.

Quaer. 2° What words are essential to the form?

Resp. They are the following: *Through this anointing, may the Lord pardon you whatever you have sinned* (with the word expressing the sense, i.e. *through sight*, etc., at least practically).

Quaer. 3° Whether one form suffices for all the senses, if the individual senses are distinctly expressed and anointed?

Resp. It is disputed. Some affirm, because this form is virtually multiple and equivalent to several particular forms, and thus specially signifies the effect of each special form. But others deny, because since the partial matters, namely the anointings, are distinct, special forms also ought to correspond to the individual ones.

When necessity presses, the more correct form is this: *Through this holy anointing*, etc., *may the Lord pardon you whatever you have sinned through the senses, sight, hearing, taste, smell, and touch*, putting before it the word: *you have sinned*; because, if *you have sinned* is uttered at the end, and meanwhile the sick person dies, there is no Sacrament. - But if time remains, the anointings must be repeated under condition with the form proper to each, and the other prayers omitted must be added, as they are prescribed in the Ritual. - "But if, while he is being anointed, the sick person dies, let the presbyter proceed no further and let him omit the aforesaid prayers." - Roman Ritual.

Notes to n. 1504. (1) L. VI. 710. H. A. Tr. XVII. 3. (2) Sess. 14. c. 1. de Extr. Unct. (3) L. VI. 724.

Chapter III. On the Minister of Extreme Unction

1505. - I. Only a priest is the Minister of this Sacrament. It is established **1°** from the words of St. James already cited: *Is anyone sick among you? Let him bring in the priests of the Church,* etc.; **2°** from the definition of the Church. Trent.

II. Every priest can validly minister that Sacrament, because the power of validly conferring it belongs to the priest by reason of Order itself. He cannot however licitly minister it, except the Pastor alone.

1506. Questions. - Quaer. 1° Whether any priest can minister this Sacrament from the probably presumed consent of the Pastor?

Resp. Affirmatively, more probably, because it does not seem that one must proceed with so great rigor where there is question of delegation for mere liceity, nor is there any question at all about the value of the Sacrament itself. Nevertheless such delegation is not easily to be presumed.

Yet if the priest to whom the administration of this Sacrament belongs is absent, or does not wish to give it, or is bound by excommunication or suspension, any priest in a case of necessity can administer this Sacrament, indeed from charity he ought to, under grave or light according to the necessity of the sick person or the scandal which would follow from administration denied.

Note. - Although to no presbyter among us is the faculty of ministering this Sacrament accustomed to be denied, nevertheless in its use for the benefit of those who belong to another Congregation, the account of pastoral prudence and also of mutual concord among brother priests must be had, and the statutes of the Ordinary must be observed.

Quaer. 2° Whether it is mortal to omit the prayers prescribed in the Ritual, or to minister without sacred vestments?

Resp. to the 1st. Affirmatively, because the matter is very grave. Except a case of necessity; likewise the Litanies and Penitential Psalms, which are only of counsel.

Resp. to the 2nd. Likewise affirmatively, outside necessity; but in necessity probably negatively. - Thus more commonly.

Quaer. 3° Whether or what kind of obligation there is of ministering Extreme Unction?

Resp. The Pastor, unless some grave cause excuses him, is held by reason of office under mortal to minister it to subjects dangerously sick and asking for it. (Cf. n. 1225.) - Indeed also with danger of life he would be held to minister it in the case in which the sick person had not confessed for a long time, and more probably was in mortal sin, nor, because of the privation of the senses, could absolution have been given to him otherwise than under condition. See n. 1508. q. 7°.

Quaer. 4° Whether or what kind of sin it is to minister Extreme Unction without light?

Resp. It is not to be excused from venial, unless necessity presses, both because of the custom of the Church and because of the reverence due to the Sacrament. - Nevertheless it does not exceed venial, because no grave injury seems to be done to the Sacrament. If a supply of wax is not present, oil or tallow can be employed; but if not even this can be had, let it be administered without light.

Quaer. 5° When the sick person receives both Viaticum and Extreme Unction, which Sacrament ought first to be administered?

Resp. Extreme Unction ought to be administered after the Eucharist, but at most only under venial, from which also a reasonable cause excuses. Thus the Rubric of the Roman Ritual expressly establishes. - In that case the *Confiteor* must be recited twice.

Quaer. 6° What kind of sin is it to omit the Sign of the Cross in the anointings?

Resp. It is only venial according to the common opinion, because grave matter is not apprehended there; but in necessity there is no sin.

Quaer. 7° Whether or what kind of sin it is to confer this Sacrament without a minister serving, and whether in necessity a woman can be employed?

Resp. to the 1st. It is not mortal to employ no minister, and in necessity, which among us is always or almost always present, there is no sin. - Thus most commonly. Indeed according to several there is probably no sin even outside the case of necessity. But the opposite is said as more probable by St. Alphonsus.

Resp. to the 2nd. A woman is never to be employed for the office of ministering; and, if a cleric or layman cannot easily be found, let the priest alone perform all the ceremonies, and himself respond to the prayers.

Quaer. 8° Whether the article of death can be waited for in order to confer this Sacrament?

Resp. Negatively. Indeed Theologians commonly teach that Pastors sin gravely who defer it until the sick person is deprived of the use of senses and reason, because thus the sick person lacks that richer fruit which he would have perceived if, in possession of reason, he had received the Sacrament; besides, because he is deprived of spiritual strength for resisting the demon, and for bearing the inconveniences of disease; and also because the sick person, if he were in mortal sin and had received the Sacrament while still in possession of reason, would have obtained grace by the aid of attrition, of which otherwise he is deprived; finally, because by virtue of this Sacrament he could have obtained the health of the body, if it had been conferred on him at a suitable time. Hence the Roman Catechism: "They sin most gravely who are accustomed to observe that time for anointing the sick person when, now all hope of health having been lost, he begins to lack life and senses."

Note. - 1° The Oil of the sick must be preserved in the church, as the Roman Ritual prescribes, "except however the case of great distance from the church: in which case let the Rubric concerning honorable, decent, and safe keeping be altogether observed, even at home." Thus the Sacred Congregation of Rites in Ghent, December 16, 1826.

2° "A new little ball of cotton is to be employed in the anointing of the organ of each sense, and afterward it is to be burned, and the ashes are to be thrown into the Sacrarium: which can scarcely be observed accurately by Missionaries."

Chapter IV. On the Subject of Extreme Unction

1507. - The subject of this Sacrament is all, and only, sinners, i.e. those who are capable of sin or at some time were capable, and these sick persons whose life is in danger. It is established **1°** from the words of St. James: *Is anyone sick among you? Let him bring in the priests of the Church*, etc.; but the Greek word *is sick* signifies a dangerous disease; **2°** from the definition of the Church. For thus in the Decree of Union: This Sacrament ought not to be given except to a sick person, concerning whose death there is fear. Trent agrees. - But that they ought to be sinners is clear from the Form itself.

Hence children before the use of reason are not capable of this Sacrament, nor those perpetually insane, because they have committed no actual sins, nor could they commit them. In doubt concerning capacity, let it be conferred under condition.

Notes to nn. 1507-1508 - note sequence 1. (1) Rit. Rom. L. VI. 732. (2) L. VI. 714. (3) H. A. Tr. XVII. 7. Notes to nn. 1507-1508 - note sequence 2. (1) L. VI. 712. Rit. Rom. (2) De Syn. L. VIII. c. VI. n. 2. (3) L. VI. 719. 732. (4) Sess. 14. c. 3. de Extr. Unct. (5) L. VI. 715. Notes to nn. 1507-1508 - note sequence 3. (1) 2. 2. q. 32. art. 7. (2) P. III. q. LXV. art. 4. (3) De Sacr. in gen. n. 24. (4) L. VI. 733. Prax. Conf. n. 107. (5) Tr. VII. c. III. n. 2. 3. Cf. H. A. Tr. XVII. 9. (6) De Syn. L. VIII. c. VII. n. 3. Notes to nn. 1507-1508 - note sequence 4. (1) L. VI. 82. (2) Ib. 721. (3) Rit. Rom. (4) Rit. Rom. Notes to nn. 1507-1512 - note sequence 1. (1) Rit. Rom. Catal. in Rit. Rom. Tit. V. c. IV. § IV. and XVI. (2) Baruff. Tit. XXX. n. 81. (3) Rit. Rom. (4) Prax. Conf. n. 268. Notes to nn. 1507-1512 - note sequence 2. (1) Prax. Conf. n. 231. 282. (2) Rit. Rom. Notes to nn. 1507-1512 - note sequence 3. (1) Rit. Rom. in the order of ministering the Sacrament of Penance, at the end. (2) Prax. Conf. n. 276 ad 11. Notes to nn. 1507-1512 - note sequence 4. (1) Giraldi apud Gury. Ed. in Germ. 4a. P. II. n. 688. Note (1). S. C. C. 14 Apr. 1821; 9 May 1840. Cf. Nouv. Revue Theol. 2nd year p. 667; 3rd year p. 545. Likewise Conc. Pl. Balt. II. n. 116.

1508. Questions. - Quaer. 1° Whether Extreme Unction ought to be conferred on the delirious sick?

Resp. Affirmatively, if previously they asked for the Sacrament, or probably would have asked for it if they had thought about this, or showed a sign of sorrow for sins. Indeed also to the sick destitute of the senses, as is established from the Roman Ritual. Cf. n. 1240. R. 4°. - But to one laboring under frenzy or insanity, who probably could do something against the reverence of the Sacrament, it is not to be ministered unless the danger is altogether removed, for example by binding him.

Quaer. 2° Whether this Sacrament can licitly be conferred on a sick person in doubtful or probable danger of death?

Resp. Affirmatively, with the common and true opinion, because for ministering this Sacrament validly and licitly it suffices that the sick person labor under a disease so grave that he is prudently judged to be in danger of death. It is confirmed from the Roman Ritual, where it is thus established: this Sacrament ought to be given to the sick who labor so gravely that the danger of death seems to threaten. I said: **1°** that he *is prudently judged to be in danger of death*. For in mere doubt, i.e. unless there is truly probability of danger present, it will not be administered, since then it cannot be said that danger of life is present. - I said: **2°** for ministering this Sacrament validly AND licitly. For St. Alphonsus judges that this Sacrament is always validly conferred if the infirmity is grave. This opinion, especially among us, can be brought into practice in this sense: that the priest ought to be much less anxious in judgment concerning the danger, if he is far distant from the sick person and cannot easily return. (29) p. 421.

Quaer. 3° Whether Extreme Unction can be conferred: **a)** on a woman laboring in childbirth; **b)** on those about to undergo a difficult surgical operation; those failing from old age; those infected by poison; **c)** on those to be punished capitally; those about to join battle; those placed in danger of shipwreck?

Resp. to a) Distinguish. Negatively, if there is question of a woman laboring under ordinary pains in childbirth, even if she gives birth for the first time, or at other times was in danger of life; affirmatively, if she labors under extraordinary and lethal pains. For in the latter case, not in the former, danger exists from disease.

Resp. to b) Affirmatively, because danger exists from disease. (51) p. 430.

Resp. to c) Negatively, for the contrary reason.

Quaer. 4° Whether Extreme Unction can be conferred on children?

Resp. Affirmatively, provided they "are in possession of reason, and are judged capable of deceit and fault." Thus Benedict XIV. Indeed in doubt concerning the use of reason, according to the opinion more probable to St. Alphonsus, they are to be anointed under condition. Cf. n. 1507.

Quaer. 5° Whether, or when, this Sacrament can be repeated?

Resp. 1° Certainly it can be repeated as often as a sick person anointed in a dangerous disease has recovered, and again falls into a dangerous disease. It is established from Trent.

Resp. 2° It can also be repeated in the same infirmity, if it has been long-lasting and the sick person notably recovered, so that he seemed to have been rescued from the danger of death, and again has fallen into the same danger. The reason is that then there is truly a new danger of death. It is established from the Roman Ritual, where it is said: "in the same infirmity this Sacrament ought not be repeated, unless it is long-lasting, as if, when the sick person has recovered, he again falls into danger of death."

Quaer. 6° Whether it can be repeated in the same long-lasting disease, if it is doubted whether the state of the disease has really been changed?

Resp. Affirmatively, more probably, if the doubt is truly positive, namely when it is truly probable that the sick person has come out of the danger of death; for this repetition in these cases is more conformable to the ancient custom of the Church. But a doubt of this kind will be present if the sick person seems to have escaped danger of death for a notable time, say for a month.

Quaer. 7° Whether there is a grave obligation of receiving this Sacrament?

Resp. There is a twofold probable opinion.

The first affirms. **1°** It is clear, they say, from the words of the Apostle James himself: *Is anyone sick among you? Let him bring in the priests of the Church*, etc. But the word *let him bring in* contains a precept. Therefore, etc. **2°** There is added the practice of the Church, which with the greatest solicitude has always taken care that it be received by all the sick. It seems to be established also from the custom and sense of the faithful. **3°** Moreover it is grave, and against the charity which each one owes to himself, to omit a means so efficacious, and a most firm protection, as Trent says, against the efforts of the demon in the last struggle. - Thus Roncaglia with others.

The second denies. The reason is that neither from Tradition nor from the Decrees of Councils is there evidence of a precept of receiving this Sacrament. But what St. James says, *let him bring in the priests*, etc., is received and explained as counsel. Therefore a grave obligation of receiving Extreme Unction cannot be imposed. - Thus Billuart, after St. Thomas, Sporer, and St. Alphonsus, who calls this opinion common. Yet the first pleases St. Alphonsus more, and he calls it very probable in the case in which the sick person, exhortations having been employed, should continue to be unwilling to be anointed.

But he certainly would sin gravely: **1°** who from contempt refused this Sacrament; or **2°** could not overcome grave temptations without it; or **3°** would give grave scandal by not receiving it.

Moreover Extreme Unction would be necessary for salvation to one placed in mortal sin, lacking contrition, and unable to give a sign of Confession. "But Suarez and Palaus say well that this case can scarcely occur," i.e. then indeed the necessity of Extreme Unction for salvation would be present, but not the obligation of asking for it, as being impossible to fulfill.

Quaer. 8° What disposition is required for the reception of this Sacrament?

Resp. 1° Confession of sins, if the sick person is in mortal sin, practically.

Resp. 2° But if the sick person cannot confess his sins, let contrition, at least estimated, precede: for this Sacrament of Extreme Unction is primarily a Sacrament of the living, and was instituted chiefly for taking away the remnants of sins. - But in such a case attrition itself suffices and is required; for it is at the same time a Sacrament of the dead, and can remit mortal sins with attrition. - The Salmanticenses, Benedict XIV, and others.

Hence it is clear that this Sacrament, as the Roman Ritual says, is to be denied to "the impenitent, ... and those who die in manifest mortal sin."

It is said: *to the impenitent and those who die in MANIFEST mortal sin*. But under these words there ought not to be comprehended the dying who, in the act of mortal sin, are destitute of the senses; for it is not altogether certain that they die in manifest sin. Therefore, absolution being given under condition, this Sacrament can be conferred on these conditionally. (30) p. 421.

Note. - He also can be anointed who is baptized in grave infirmity. (31) p. 422.

Appendix annotation (29), to n. 1508. q. 2°. p. 202. col. 1. "Sometimes, when Missionaries are visiting the Christians committed to them, there occurs a sick person laboring under hectic fever or a similar disease, who according to experience will still live for several months, but will die within the year. It is asked whether, in such a case, the Missionary can administer Viaticum and Extreme Unction to him, because when the truer case of receiving them is present, the Missionary will not be able to be had present on account of great distance and other circumstances impeding this?" S. C. de Prop. F. - Affirmatively. February 20. - Collect. p. 184 n. 361. Appendix annotation (51), to n. 1508. q. 3°. R. to b). p. 202. col. 2. The response, as regards a surgical operation, is to be understood with this added: if he who is about to undergo it is at present laboring under an internal and dangerous disease. For which reason he cannot be held as a subject capable of Extreme Unction who allows himself to be cut with danger even of life, if that danger does not exist before the cutting. Nevertheless, he ought to be disposed for the Sacrament by Confession, etc., before the cutting, and the Sacred Oil ought to be at hand, so that when a probable danger of life is present, he may be anointed. Linz. P. Bl., 1882. p. 596-598. Appendix annotation (30), to n. 1508. q. 3°. p. 203. col. 2. Such, for example, are deficient drunkards who are established to be in mortal sin, L. VI. 782. But this seems then only to be established when it is evident that he has made himself perfectly drunk on purpose. But in the case of solitary drunkenness this will scarcely be able to be evident; it can be, however, if there is question of those drunkards who persevered notoriously in the custom of this vice until the end of life. Appendix annotation (31), to n. 1508. q. 8°. p. 203. col. 2. It is always supposed in this case that that adult has "some intention of

receiving Sacred Unction for the benefit of his soul, ordered to the time of death," Collect. p. 323 n. 684; in which case he can also, indeed must, be anointed. Ib. n. 685.

Appendix. On the Visitation and Care of the Sick

1509. Questions. - Quaer. 1° Whether the sick are to be visited, when, how often, and who especially?

Resp. to the 1st. Affirmatively. The reason is **1°** because the sick need priestly care more than the healthy; **2°** because the time of infirmity is most opportune for procuring the salvation of souls; **3°** because the priest receives the stipend of sustenance not only for care in the life of parishioners, but also for care in their death.

Hence the Pastor: **a)** "Let him exhort" publicly and more often "his parishioners," and likewise, if it can be done, the physician, "that they admonish him when it happens that someone in his parish is sick, especially if the disease is more grave." **b)** "But if the Pastor, legitimately impeded, cannot sometimes be free for the visitation of the sick, as when they are several, he will take care that this be performed by other priests, if he has any in his parish, or at least by lay men pious and endowed with Christian charity." **c)** When the disease grows worse, let him admonish even the domestics of the sick person to summon him. **d)** Especially in large parishes, let him have a catalogue of the sick, so that he may know the state and condition of each, and may more easily retain memory of them and assist them opportunely.

Resp. to the 2nd. The Pastor, "as soon as he has known," says the Roman Ritual, "that any of the faithful committed to his care is sick, will not wait until he is called to him," and *a fortiori* he will not by his own manner of acting or that of his people be the cause why the faithful are deterred from summoning him at the opportune time; "but he will go to him of his own accord," at least if the disease is more grave. Yet especially they are to be visited when the disease grows worse and in the article of death.

Resp. to the 3rd. "Not only once," says the Ritual again, "but more often, insofar as there shall be need"; more often, namely, when the disease is more grave, or longer-lasting, or more sharp; likewise more often when the sick person is less well disposed, or more dejected in soul or anxious, or is attacked by graver temptations. - If nevertheless the sick person is insane, phrenetic, or deprived of the use of reason, visits can be rarer.

Resp. to the 4th. Especially to be visited are: **1°** the poor, who, destitute of human helps, require the charity and work of a benign and provident pastor; to these he will succor from his own, as he ought, and if means do not suffice, by the alms of others; **2°** sinners, and those spiritually sick and tempted, especially if they spurn the ministry of the priest, that they may be directed into the way of salvation; **3°** those more gravely sick; **4°** all, other things being equal, are to be visited equally, without acceptance of persons. - It is clear per se that the obligation does not cease, although either the journey is longer, or the way difficult, or the weather stormy, or the disease contagious.

Quaer. 2° What things are to be noted concerning the visitation of the sick?

Resp. 1° "Visiting the sick," says the Roman Ritual, "let him bear himself with that honesty and gravity which befits the priests of the Lord," especially with women, chiefly those who have not yet reached canonical age; namely, let him not enter the room of the sick woman unless she has been

forewarned; without necessity let him not be alone with one alone, and, while he consoles her or testifies compassion to her, let him abstain from every discourse, or even word, which he would not wish to be heard by others. Yet honesty and gravity, especially in the first visitation, ought to be joined to charity, courtesy, and Christian affability, so that the priest may win the soul of the sick person and have easier access to him.

Resp. 2° "But first of all let him undertake the spiritual care of the sick, and place all diligence in this, that he direct them into the way of salvation, and defend and protect them by the help of salutary aids from diabolical snares." Wherefore he ought diligently and prudently to inquire under what disease the soul labors; to what temptations especially or depraved opinions the sick person is subject; what is his nature, defects, and passions, that he may prudently apply suitable remedies. Hence the priest, when he is first called to the sick person, will prudently investigate all those things which concern the same, for example his disease, state, morals, life, etc.; likewise whether he ordered him to be called, or at least knows that he has been called.

Resp. 3° Visits ordinarily should not be too prolonged.

Resp. 4° Let it be the priest's care that dangerous objects be removed from the room of the sick person, and that persons who in some way can furnish an occasion of sin not approach him at all; likewise that he not mention persons loved impurely, held in hatred, or by whom he was injured; nor let him speak about lawsuits, children, goods, and other similar things, unless necessity presses; and if the sick person speaks about these things, let the priest turn the conversation to other things.

Resp. 5° Let the priest take care that images of the Crucified, of the Blessed Virgin Mary, and of the Saint whom the sick person especially venerates be placed before his eyes; likewise that there be present a small vessel of blessed water, with which he may be sprinkled frequently.

Resp. 6° Let him console the sick person both by words and examples, and by saying that he is going to pray for him in Mass and other prayers, and will take care that others likewise do so for him; likewise let him arouse, strengthen, and exhort him.

1510. - Quaer. 3° What things are to be noted concerning exhortations?

Resp. 1° Let them be suggested opportunely and discreetly, lest they bring annoyance to the sick person, but relief; **2°** let the priest approach so prepared that he has ready arguments apt for persuading, and especially examples of the Saints, which have very great force; **3°** let not always the same things be said, but various things according to the various quality and state of the sick person, namely to the learned few and grave things, to the rude common things, to the devout and little ones sweet things, to sinners consolatory, arousing, manifest things; likewise some things before Confession, others after the last Sacraments, others in agony; **4°** let the speech be familiar, candid, and not affected, brief and often interrupted, so that the sick person may be able to meditate on what has been said; **5°** let the sound be not loud, nor clamorous, nor hard, and, if threats and rebukes are required, let them be softened with mild words; **6°** the speech can often be directed to the bystanders concerning the miseries of life, the vanity of the world, etc.

Quaer. 4° To what things ought the priest exhort the sick person?

Resp. 1° a) "That he place all his hope in God, repent of his sins, implore the divine mercy, and patiently bear the pains of infirmity as a paternal visitation of God, and believe that it has happened

for his salvation, that he may institute his life and morals better"; **b)** to eliciting often acts of faith, hope, charity, contrition, patience, and other virtues; **c)** to praying and meditating frequently, as his condition will bear, and to invoking the patronage of the Blessed Virgin Mary and other Saints, at least by ejaculatory prayers and pious sighs; to which end he will propose some brief prayers and pious exercises of the mind toward God; likewise the meditation of the Passion of Our Lord, the martyrdoms and examples of the Saints, and the blessedness of heavenly glory. - To Religious and the learned he will also suggest verses from the Psalms, but to the uneducated the Lord's Prayer, the Angelic Salutation, the Symbol of Faith, and especially the invocation of the Most Holy Names of Jesus, Mary, Joseph, etc. **d)** to exercising good works of which he is capable, to giving alms, to taking care that prayers and Masses be made for him, while nevertheless taking good care concerning the advantage of his own profit, and not taking the burden upon himself unless the sick person of his own accord has asked; in which case he ought not refuse the stipends; **e)** that for bodily health he not employ anything which is turned into detriment of the soul; **f)** concerning Confession, see the question next following.

Resp. 2° If the disease is more grave or dangerous, he will exhort him that, while he is sound of mind, he rightly set in order his whole affair; if he has anything belonging to another, let him restore it; let him pay debts, or take care that they be paid, or at least furnish security; let him establish peace; let him be reconciled to enemies; let him make a just testament, lest any discord arise among heirs, and for the refreshment of his soul let him dispose according to his means what shall please him in the Lord; but in suggesting these things, let every mark of avarice be avoided.

Resp. 3° Where danger threatens, which the sick themselves for the most part are ignorant of, it is incumbent upon the priest, if another does not do it, to reveal the truth to the sick person and indicate the dangerous state; and "he will admonish the sick person that he in no way allow himself to be deceived by the craft of demons, nor by the promises of physicians, nor by the blandishments of relatives or friends; that he not on that account procure opportunely those things which pertain to the salvation of the soul; and that with fitting devotion and speed he religiously receive the Most Holy Sacraments while the mind is sound and the senses intact, without that deceitful and pernicious procrastination, which has led very many to eternal punishments, and day by day, the devil deceiving, leads them." This can be done by addressing the sick person in this or a similar way: my friend, although your health is not despaired of, nevertheless it is in danger; and therefore it is best that, as quickly as you can, you receive the last Sacraments; for Christ will restore you to your former health if this is expedient for your eternal salvation; but if nevertheless you must die, you greatly need graces, and through the Sacraments copious graces will be poured into you, by which you will soon come to the heavenly fatherland.

Resp. 4° After the last Sacraments have been received, he will continue to exhort the sick person to all those things which have been said above, especially to patience, perseverance, resignation, prayers, acts of faith, etc.; likewise to repeated Confession, if there is need, and Holy Communion.

Resp. 5° He will exhort those recovering that before all things they come to church; give thanks to God; rightly confess their sins, if perhaps Confession from a cause of necessity was imperfect or not materially integral; devoutly receive Sacred Communion; and thereafter hold a better discipline of life.

1511. - Quaer. 5° What things are to be noted concerning the Confession of the sick?

Resp. 1° a) Although from natural law there is incumbent upon physicians a grave obligation of timely admonishing the sick in dangerous diseases concerning Confession (see n. 1078. 14° and 1080. q. 1°), not on that account however is the Pastor freed from his care, since he himself, and not the physician, stands for the souls entrusted to him. Therefore, knowing that the infirmity is mortal - even by procuring for himself knowledge of this matter secretly from the physician, if it cannot be done otherwise - he ought to induce the sick person to Confession, although proximate danger is not yet present; yet not ordinarily in the first visit, unless necessity presses, and always with that prudence and charity which is fitting; namely in the beginning not speaking about Confession, but kindly asking how he is, what is the cause of the disease, how great are his pains; then exhorting him to resign himself to the will of God, and patiently to bear the pains in satisfaction for sins; and thus gradually, with the prudence which is fitting, inquiring about the time from which he has confessed; and at the same time little by little bringing it about that the sick person recognize the danger of his infirmity; and finally, by saying that it belongs to the wise to provide for future things, he will take occasion to exhort him to Confession while the mind is strong, proposing at the same time that this will profit the health of the body, if it is expedient for the soul. If the sick person seeks delay, and there is not imminent danger of death, lethargy, or delirium, he can indulge him to a brief determined time, say evening, or the following day; but if danger is imminent, he cannot admit delay; but he ought to admonish him with St. Augustine that God did not promise to wait for sinners, but only to spare them if they do penance. *He did not promise tomorrow; perhaps He will give it, perhaps He will not give it*. But if the sick person cannot be brought to Confession even thus, let the priest not desert him; and let him take care that he be brought to it by the counsels of friends and domestics; but if he is not yet willing, then the matter is not altogether to be despaired of, but, as long as he lives, frequent, varied, and efficacious exhortations of priests and other pious men are to be repeated, and the losses of eternal salvation and the punishments of everlasting death are to be proposed, and the immense mercy of God, provoking him to penance and most ready to forgive, is to be shown. The sick person is also to be commended to the prayers of the faithful, and especially of Religious Communities and of other devout persons. Fervent prayers to God are also to be employed by the priest and the others standing by, who, if this can be obtained, should pray on bent knees in his presence, so that they may be seen and heard by him. If death is at hand and he is not moved, let the priest take on the person of the sick man, praying to God in his name for the remission of sins, eliciting acts of contrition, faith, etc., so that, provided he gives a sign of contrition, he may be absolved at the last instant. Cf. n. 1373. 4°.

Resp. 2° When the sick person consents to Confession, always, if it can be done, he is to be left free to confess to another, and also to be asked whether he wishes to confess to another. But the confessor is held to hear him, even if he wishes to confess the sins of his whole life, and to take care that the last Confession be well made, with vehement contrition, firm purpose, and that integrity which then can be had. He ought to exhort the sick person to confess truthfully and integrally, saying that now he can amend all defects committed, and also by questioning concerning previous Confessions, concerning sins perhaps voluntarily concealed, etc. Besides, the sick person is to be helped in narrating sins, in eliciting acts of contrition, faith, etc. Finally a small penance is to be imposed, which the sick person should immediately fulfill while the confessor is present, imposing only a just penance to be performed at a suitable time if he recovers.

Resp. 3° When the priest visits the sick person after Confession has been made, even if he did not hear his Confession, he prudently asks him again whether nothing remains which troubles his conscience; whether the good disposition of conscience endures, but always skillfully, and never while others are hearing, lest because of shame he not dare to say the truth.

Resp. 4° At the time of agony, while the sick person is still vigorous in his senses, it will help to confer absolution upon him several times after a brief reconciliation, so that thus he may be rendered more secure concerning the state of grace, if perhaps the past Confessions were invalid; or at least he may receive an increase of grace, and also the punishments of purgatory may be diminished for him; and, if perhaps from temptation he falls into sin, he may at once be absolved. See n. 1371. Note.

Quaer. 6° By what rite is the visitation made?

Resp. See *Exc. ex Rit. R.* Ed. 1872, p. 126 (p. 118. Ed. 1874). But note: **1°** that this rite is not of precept, as is clear from the Ritual itself; **2°** that it is very usefully employed, especially with those dangerously bedridden who have already received the last Sacraments; **3°** that the priest, as Baruffaldus rightly notes, can moderately greet the sick person and those standing by before he says: *Peace to this house*, etc.

1512. - Quaer. 7° Whether and how great is the obligation of visiting the sick person even after the Sacraments have been received, of helping the dying or those in agony, and in what way these are to be helped?

Resp. to the 1st. Affirmatively, as is clear from the words of the Ritual: "When the disease grows worse, the pastor will visit the sick person" - even one destitute of the senses, since even this one can be helped by prayers, sacramentals, absolution, etc. - "more frequently, and will not cease diligently to help him unto salvation, and he will admonish that, when danger is at hand, he be called immediately, so that he may be present to the dying person in time."

Resp. to the 2nd. Per se it is grave. The reason is that the sick person, if ever, then certainly needs the help of his pastor, since the devil lies in wait for his heel. Add that not rarely it happens that the sick person needs the confessor again because of a new sin, or because of Confession sacrilegiously performed. - But primarily and from justice this obligation is incumbent upon the Pastor; but upon other priests subsidiarily, i.e. in necessity and from charity alone.

I said: *PER SE it is grave*, i.e. if it can conveniently be fulfilled. But although the words *if it can conveniently be fulfilled* are not to be interpreted broadly, as is clear per se, nevertheless they suggest the excuse which can be given from this obligation of helping the dying, especially those in agony, particularly in these provinces, both in cities on account of the scarcity of priests, and in the country on account of the often great distance. - Nevertheless the priest will take care that, if he himself cannot help those in agony, they be helped by some pious layman, if one can be had.

Resp. to the 3rd. See *Exc. ex Rit. Rom.* p. 149 sq. (p. 141. Ed. 1874) and cf. St. Alphonsus, *Prax. Conf.* n. 276. 277; and besides, note the following: The Litanies can be recited even though death is not so imminent; but the following prayers, *Go forth*, etc., are to be said only when *in the agony of its departure the soul is anxious*, or while the time of expiring is at hand; concerning which last time of life it is certainly difficult to judge, since the most skilled physicians are often mistaken in this. Wherefore the priest ought not be precipitate, but should proceed very cautiously to the recitation of the aforesaid

prayers, the more so because in the prayer *Go forth*, it is announced to the soul that it should leave the body; and this can strike into those who are less strong such trembling that, if they are not in the article of death, by that very fact they may be placed in it, and death itself may be hastened. Therefore if, the litanies having been recited, the sick person is judged more probably not to be constituted in the very agony, the priest can advisedly either repeat the same litanies, or say the litanies of the Blessed Virgin Mary, or other pious prayers; or it is better, if the sick person is in possession of mind, to be occupied in acts of virtues and salutary admonitions.

Note. - Concerning the manner to be held with one condemned to capital punishment, consult St. Alphonsus, *Praxis Conf.* n. 108. 109.

Treatise on Order

We must treat **1°** of the nature and division; **2°** of the matter and form; **3°** of the minister; **4°** of the subject of Order.

Chapter I. On the Nature and Division of Order

1513. - By the name of Order here is understood a grade of Clerics consecrated for special ecclesiastical Offices.

Order is defined: a Sacrament of the new law by which spiritual power is handed over, and grace is conferred for duly undertaking ecclesiastical functions.

1514. Things to be established. - I. Order is a true Sacrament of the new law, properly so called. - See the arguments among the Dogmaticians.

II. Seven Orders are numbered, namely, Presbyterate, Diaconate, Subdiaconate, Acolythate, Exorcistate, Lectorate, and Ostiariate. The first three are called Major or even Sacred; the others Minor. - See the arguments among the Dogmaticians.

1515. Questions. - Quaer. 1° What is the nature and property of these Orders?

Resp. 1° Ostiariate is the Order by which there is conferred a special power of opening or closing the door of the Church, of admitting the worthy, and of excluding the unworthy.

2° Lectorate is the Order by which a special power is handed over of reading psalms and lessons from the pulpit in the Church, and of catechizing the people, or instructing them in matters of Faith.

3° Exorcistate is the Order by which there is conferred on someone a special power of casting out demons through exorcisms instituted by the Church.

Nevertheless today the faculty of exorcizing is reserved to Priests alone, who can use it only with the license of the Ordinary (n. 376).

4° Acolythate is the Order by which there is conferred on someone a special power of serving the Subdeacon during the solemnities of Mass, of lighting candles, and of preparing and presenting the cruets of wine and water.

5° Subdiaconate is the Order by which there is conferred on someone a special power of serving the Deacon in solemn Mass, and of chanting the Epistle with solemn rite.

6° Diaconate is the Order by which there is conferred a special power of immediately assisting the Presbyter in solemn Mass, of chanting the Gospel during solemnities, of preaching, of solemnly baptizing, and of dispensing the Most Holy Eucharist. But whether the Deacon, in order to preach at any time, needs the special license of the Bishop, or whether the license of the Pastor or Rector of the Church suffices, seems to have to be defined from particular statutes or custom. Cf. n. 1257. II. 1287. III.

7° Presbyterate is the Order by which there is conferred a special power of consecrating the Body and Blood of Christ in the celebration of Mass, of absolving from sins, and of feeding subjects by work and doctrine.

To these add Episcopate and First Tonsure, of which the former is the complement of Priesthood itself, but the latter is not an Order, but a disposition to Orders, by which someone is enrolled as a Cleric.

Quaer. 2° Whether Diaconate is a Sacrament?

Resp. Affirmatively, according to the common and certain opinion. - See the Dogmaticians.

Quaer. 3° Whether Subdiaconate also is a Sacrament?

Resp. It is disputed; the more probable OPINION denies. For both the matter of the Sacrament of Order is lacking, namely imposition of hands, and also its form; for in the form of Subdiaconate the conferral of grace is not expressed, but only of spiritual power. Nor does Subdiaconate seem to be numbered among the Major Orders from divine institution, but only ecclesiastical, since among the Greeks it is not held as a Sacred Order.[1]

Say the same concerning the Minor Orders.[2]

Notes to n. 1515. (1) L. VI. 737. (2) Ib.

Chapter II. On the Matter and Form of Order

1516. - Matter and form are various for the various Orders.

I. As regards the Minor Orders, by reason of matter, the Ostiary is ordained by the handing over of the keys of the Church; the Lector by the handing over of the book of lessons; the Exorcist by the handing over of the book of exorcisms; the Acolyte by the handing over of empty cruets, or at least of one, and of a candlestick with an extinguished candle, because it belongs to him to prepare light, wine, and water for Mass. - The form proper to these Orders is contained in the words which the Bishop uses while he hands over the instruments themselves. (32) p. 422.

II. As regards Subdiaconate, among the Greeks the imposition of hands is judged as the matter. Among the Latins it is disputed. According to some, the handing over of the empty chalice with the empty paten is its only proximate matter. But others contend that the handing over of the book of Epistles is likewise the essential matter of this Order. - But the form is contained in these words: *See whose ministry*, etc.; according to the opinion requiring also the handing over of the book of Epistles, the form corresponding to this handing over must be added.

III. As regards Diaconate, the matter is established as twofold, namely the imposition of the right hand of the Bishop, and the handing over of the book of Gospels. Whether each of these is necessary, or only one, is in controversy. Some Theologians judge only the imposition of hands necessary; others, only the handing over of the book; others finally, each. But as regards practice, this last opinion, as the safer one, is to be held. - Consequently the form also is held as twofold. That which is added to the former matter is this: *Receive the Holy Spirit for strength, and for resisting the devil and his temptations. In the name of the Lord.* - That which accompanies the latter matter is of this kind: *Receive the power of reading the Gospel in the Church of God, both for the living and for the dead. In the name of the Lord.*

IV. As regards Presbyterate, its matter among the Greeks is placed in the sole imposition of hands; but among the Latins it is twofold, at least by precept, namely the imposition of the hands of the Bishop, and the handing over of the chalice with wine, and of the paten with the host placed upon it. But it is disputed among Theologians what is the essential matter. More probably it consists in the second imposition of hands alone, which is made by the Bishop with the assisting Presbyters.

The form also varies according to the diversity of matter; wherefore concerning it likewise there is dispute. Hence the form which corresponds to the handing over of the instruments is this: *Receive the power of offering Sacrifice to God, and of celebrating Masses, both for the living and for the dead. In the name of the Lord.* But the form proper to the imposition of hands is the prayer itself which the Bishop recites while he imposes hands upon those to be ordained a second time, or together with the priests.

Appendix annotation (32), to n. 1516. I. p. 209. col. 1. "Although one key can be sufficient matter for the ordination of an Ostiarius, nevertheless the Rubric is to be observed, which prescribes that keys are to be handed over; these, whether they are of silver, iron, or wood, provided they are apt for opening, constitute the remote matter of this Order." S. R. C. Civitaten., to 1, 11 March 1820. It is not strictly necessary that the Ostiarius close and open the doors of the church with the key. S. R. C. Marsorum., 12 Nov. 1831. In the Ordination of an Ostiarius, the keys need not necessarily be the keys of the church, but any key whatever can be employed. S. C. de P. F. to the Vicar Apostolic of Cochin-China, 23 March 1844. Collect. p. 355 n. 818.

1517. Questions. - Quaer. 1° Whether physical touch of the instruments is required?

Resp. St. Alphonsus says that there is given a twofold probable opinion, and consequently that the safer one must be followed in practice. There are some who think the negative opinion safe, on account of a twofold Response of the Sacred Congregation of Rites, the one on December 3, 1661, the other on January 21, 1863. The former sounds thus: "To the scruple of Brother Ephrem Chasteau, pro-agent of the French Recollects, namely that he did not touch with physical touch the chalice in his ordination to the Presbyterate; - the Sacred Congregation responded: That he can continue the celebration of the Most Holy Sacrifice without any scruple, and with altogether safe conscience." The latter response, which is not found in the Collection of Gardellini, is said by the patrons of the negative opinion to be altogether similar to the former both as to the case and as to the response. But from these it is in no way lawful to conclude that the negative opinion is safe. For, as the anonymous annotator of Gury, Roman ed. 1873, rightly notices, "although the doubt concerning the validity of ordination when someone omitted to touch the chalice, even if he touched the paten, is not identical with the proposed general doubt: whether physical touch of the instruments is required; nevertheless, even supposing a connection of each doubt, here it would be necessary to know whether the Sacred Congregation responded concerning a doubt of law, or rather concerning a doubt of fact, since it often happens that responses of this kind regard not questions of law, but a particular case. But that the cited resolution of the Sacred Congregation is to be received in this latter sense is suggested by the mention of scruple which occurs there; for if there had been a question of law, to bring forward a doubt of this kind, on account of the opposed opinions of Theologians, by the name of scruple, would seem alien from the practice of the Sacred Congregation." (33) p. 422.

For the rest, no reasonable and founded scruple can exist in one ordained. For in practice Bishops are accustomed to proceed in such a way that in a matter of such great moment they always hold the safer way. Besides, upon so many Ministers and Officials is incumbent the duty of watching over the rite to be observed in Ordination, so that moral certitude is had that all things were rightly and validly done.

Quaer. 2° Whether the handing over of each species is necessarily required?

Resp. Affirmatively, more probably, because by the handing over of one species the power over the whole Sacrifice is not handed over. - St. Alphonsus.

Quaer. 3° Whether he is validly ordained who touches the host but not the paten; and who touches the chalice and paten, but not the host?

Resp. to the 1st. Affirmatively, with the common opinion, which seems most probable. The reason is that the host and wine are the substantial matter of Order, by which principally the power over the Body of Christ is signified, and only for the sake of fittingness from the precept of the Church are chalice and paten used. Nevertheless in practice the safer part is to be followed.

Resp. to the 2nd. Also affirmatively with the common and truer opinion, says St. Alphonsus. The reason is **1°** because then the host is touched by means of the paten; but immediate touch of the host is not prescribed by the Church, but only of the paten, as is clear from the Pontifical; **2°** because the wine in the chalice is never touched immediately: therefore neither is it required that the host be touched immediately. For the rest, the one to be ordained must take care that he touch the chalice, the paten, and at the same time the host, and thus he will remove himself from every scruple.

Notes near nn. 1516-1517, matter and form of Order and physical touch (printed p. 209).

1 L. VI. 749. | **2** Ib. 739 sq. | **3** Ib. 743. | **4** Gardell. 2143. Vol. I. p. 364.

Notes near n. 1517, touch of instruments and species (printed p. 210).

1 P. II. n. 702. (1). (*). Cf. Vindic. p. 358. 2a Ed. T. I. p. 439 sq. | **2** L. VI. 750. | **3** Ib. 751.

Appendix annotation (33), to n. 1517. q. 1. p. 210. col. 1. Strength is added to the sentence of St. Alphonsus from the Response of the Holy Office, 19 Aug. 1851, in which the imposition of hands in the ordination of Deacon and Presbyter is said to have to be supplied if it was done without corporal touch. Collect. p. 358 n. 824.

Chapter III. On the Minister of the Sacrament of Order

1518. Principles. - I. Only a Bishop is the ordinary Minister of the Sacrament of Order. - See the arguments among the Dogmaticians.

II. A simple priest, when the Supreme Pontiff commits it, can be the extraordinary Minister of Tonsure and the four Minor Orders, and probably also of Subdiaconate, and according to others also of Diaconate.

It is proved as regards Tonsure and Minors from Councils, especially from Trent, where it is said: "It is not lawful for Abbots and any others whatsoever, however exempt and privileged, hereafter ... to confer Tonsure or Minor Orders upon anyone who is not a regular subject to them." Therefore Trent supposes that they can confer those Orders upon their Religious. - As regards Subdiaconate, see St. Alphonsus.

III. A Bishop can licitly ordain only his own subjects, which the Doctors commonly understand also concerning Tonsure.

But others he cannot licitly ordain without the faculty of their Bishop. - It is drawn from Trent.

1519. Questions. - Quaer. 1° Who is judged to be the proper Bishop of the one to be ordained?

Resp. A Bishop can be proper by a fourfold title, namely the title of nativity, domicile, benefice, and familiarity; concerning which, as regards these Provinces, the following must be noted:

1° Since now among us there is no benefice in the strict name, only the titles of nativity or origin and domicile are to be attended to, not of benefice nor of familiarity; for by the title of familiarity no one can be ordained unless also a benefice is at once, i.e. within a month, conferred upon him.

2° Concerning the title of nativity or origin, the Second Plenary Council of Baltimore has these things: "The place of origin is called the city, town, or village where someone was naturally born, namely where the father has true domicile. But if he is born elsewhere per accidens, for example on the occasion of a journey, embassy, trade, or any other temporal delay, then birth of this kind, being fortuitous, must by no means be attended to, but only the true and natural origin of the father. But if the father has remained in a foreign place where the son is born for so long and with such intention that he has there contracted domicile by law, then not the origin of the father but the domicile must be attended to for the ordination of the son. In the newly baptized, converted from heresy or infidelity, the place of origin is judged to be that in which they receive Baptism. For thus it was established by Paul III; and thus the practice of the Roman Curia holds itself." - But if the son is illegitimate, the origin of the mother is attended to; if exposed, the place in which he was exposed.

3° Concerning the title of domicile, the same Council notes these things: "A subject ... by reason of domicile, for the effect of receiving Orders, is judged to be only he who, although he was born elsewhere, nevertheless has established it stably in some place, either by residence of ten years, or by transferring to that place the greater part of his goods with furnished houses, and by dwelling there for a notable time, and moreover affirms by oath that he has the intention of remaining. From this it is clear that several things are required by positive law for constituting domicile properly so called for

those to be Ordained than for those about to receive the other Sacraments. If someone has two domiciles, he will be able to seek Orders from the Bishop of either place, because each is held in place of his own Bishop."

4° "By a foreign Bishop," i.e. in our provinces neither of origin nor of domicile, "no one can be ordained unless he brings with himself the dimissorial letters of his own Bishop." Therefore dispensation from requiring these must be obtained from the Holy See in the case in which there would be question of a European to be ordained, lacking domicile here, and to whom "by the laws of his fatherland it is forbidden that a Bishop, without permission of the civil government, give the faculty of departing."

5° Testimonial letters are also sometimes required, although someone is ordained by the Bishop either of origin or of domicile, and indeed:

a) If someone is to be promoted to further Orders who was assumed to clerical Tonsure, or even to Minor Orders, by another Bishop, by whatever title this one was proper. For this one, if he is ordained by the Bishop of domicile, is held to show to him the testimonials of the Bishop of origin; but the testimonials of the Bishop of domicile if he is ordained by the Bishop of origin.

b) Whoever, whether not yet a cleric, or already promoted to Minors or Tonsure by another Bishop, by whatever title, "has departed from the place of his own origin," situated, for example, in Europe, or in another diocese of these Provinces, "is held to offer testimonial letters of the Ordinary of his origin to the ordaining Bishop," although proper by reason of domicile, or otherwise certain concerning the morals of the one to be ordained. "Nor does it matter whether the one to be ordained departed from the place of origin at that age in which he could have been bound by a canonical impediment, or before, when because of defect of years he could not be subject to an impediment of this kind."

c) "If someone has drawn out a delay for so great a space of time in that place in which he was born not naturally, but per accidens, that he could have contracted some canonical impediment there, then he is held also to show testimonial letters from the Ordinary of that place to the Bishop ordaining." Besides these things the Council established:

d) "That Bishops, and their examiners, ... from all, besides the other requisites, should require also testimonial letters, to be subscribed by the Rectors or Superiors of Colleges and Seminaries" where they were students, "in which it may be disclosed what kind of work they gave to studies; and also by Pastors or priests of proved life of other places in which they spent some notable time."[1]

Quaer. 2° Who can grant dimissorial letters?

Resp. 1° Only the Bishop of the one to be ordained, provided he has taken possession, although not yet consecrated and although existing in a foreign diocese, the See not being vacant, can give dimissorial letters, whether by himself or through his Vicars General, if he acts in remote places or has conferred that power on them. For it belongs to the Bishop alone to govern the diocese and to confer Orders by ordinary right.[2]

Resp. 2° But when the See is vacant, the Chapter indeed has the faculty of conceding dimissorial letters, but not within a year from the day of vacancy, unless someone is constrained to receive Orders within that year on account of a benefice requiring personal service. - Thus from Trent.[3]

The dimissorial letters which the Chapter, the See being vacant, is prohibited from giving within a year from the day of vacancy, the Administrator also is prohibited from giving, who among us is in the place of the Chapter, or rather of the Capitular Vicar; but since in our Provinces there can be no question of those constrained to benefices, Kenrick thinks that the Administrator can give dimissorial letters even within a year from the day of vacancy, if necessity of providing for the care of souls presses.[4]

Quaer. 3° By what Bishop are Regulars to be ordained?

Resp. By the Bishop in whose diocese is the monastery where they are then dwelling. Except if after Trent they have obtained a special privilege, that they can be ordained by any Bishop whatsoever. But that privilege is not acquired by communication.[5]

If nevertheless the Bishop either is absent or will not have an ordination at the next time established by law, or, according to Lucidi T. I. n. 107, the Episcopal See is vacant, the Superior, dimissorials having been handed over, will be able to send subjects to be ordained by any Bishop whatsoever, provided only they show to this Bishop the testimony of the Vicar General, or Chancellor, or Secretary of the proper Bishop, and provided moreover the concession of dimissorials is not by design deferred to a time in which the diocesan Bishop either is going to be absent or will have no ordinations. The one ordaining can examine those to be ordained; he ought not to. - But these things, prescinding from a special privilege, are valid only as regards those Regulars who emit solemn vows, and those professed.[1]

But in the ordination of Regulars, the disposition of the Roman Pontifical is to be observed as regards the formula: *Do you promise obedience to your Ordinary*, etc.[2]

Quaer. 4° What Mass is to be said by the Bishop in the general conferral of Orders, when on the Saturdays of the Four Times, or before Passion Sunday, some feast occurs: namely, of the feria, or indeed of the feast?

Resp. Of the feria. - Thus the Sacred Congregation of Rites has declared many times.

Notes near nn. 1518-1519, minister of Order and the proper Bishop (printed p. 210).

1 L. VI. 752. | **2** Sess. 23. c. 10. Ref. | **3** L. VI. 762. Cf. De Ang. T. I. p. 200, and Zeits. für Th. 1880. p. 527. | **4** L. VI. 769. | **5** Sess. 23. c. 8. Ref.

Notes near n. 1519, title of nativity, domicile, and familiarity (printed p. 211).

1 Sess. 23. c. 9. Ref. C. Speculatores. Innoc. XII. | **2** a. 317. | **3** C. Speculatores. Innoc. XII. | **4** C. Cupientes. | **5** Ib. | **6** a. 318. | **7** Honorante. Prax. Sacr. Trib. Urb. Vicarii, Rome, 1762. p. 21. Pauli III C. Cupientes, which Constitution of Paul afterward Clement XI confirmed and enlarged by C. Propagandae.

Notes near n. 1519, testimonial letters for ordination (printed p. 211).

1 Conc. Pl. Balt. II. a. 319. | **2** Kenr. Tr. XX. 15. | **3** Conc. Pl. Balt. II. a. 320. | **4** Ib. a. 321. | **5** Ib.

Notes near n. 1519, dimissorial letters and Regulars to be ordained (printed p. 212).

1 Conc. Pl. Balt. II. a. 322. | **2** L. VI. 787. | **3** Sess. 7. c. 10. Ref. S. Alph. L. VI. 788. | **4** Tr. XX. 21. | **5** L. VI. 768.

Notes near n. 1519, Regular ordination formula and Mass of ordination (printed p. 212).

1 L. VI. 768. 768. Acta, Vol. I. p. 358 sq. Anal. Jur. Pont. Ser. 2, Col. 2818. Ser. 7; Col. 744 sq. Craisson. Man. n. 2045. 2690. 7°. | **2** S. R. C. 22 Jul. 1848 in Gandav.

Chapter IV. On the Subject of the Sacrament of Order

1520. Principles. - I. The subject of Order is only a baptized male.

The first reason is because women, by divine institution, are altogether incapable of any Order whatever. This is clear from Sacred Scripture.[3] It is proved also from the perpetual practice of the Church, and from the unanimous consent of the Fathers and of all the Doctors.

The second reason is clear. For no one before receiving Baptism is able to receive any other Sacrament whatever.

But a baptized little boy, not yet possessed of reason, would indeed be ordained validly, but illicitly.

1521. - II. In order that someone may duly receive Orders, the following conditions are required:

1° That he be bound by no irregularity, suspension, excommunication, or interdict.

2° That he have attained the age required by the Sacred Canons.

3° That he present fitting knowledge, proved by an examination.[1]

4° That, in the cases set forth in n. 1519. q. 1°, he show either testimonial or dimissorial letters.

5° That he be ordained at the due time, and with the due interstices interposed.

6° That positive probity of life have divine vocation also as its companion.

7° That ordination be made by grades, namely that a higher Order not be received before a lower, and indeed under mortal sin; nevertheless an ordination otherwise received would be valid, if you except the Episcopate, which prerequires Priesthood.[2]

8° That those to be ordained receive the Holy Eucharist; which statute of the Roman Pontifical more truly binds presbyters under mortal sin, deacons and subdeacons under light sin; but for those to be initiated to Minors it is judged to be of counsel alone.[3]

9° That, if there is question of Regulars, those things be observed which were said above n. 1195. C). 5° and n. 1519. q. 3°, and which will be said n. 1522 under 2°. - Regulars have besides the privilege that they can be ordained outside the times.[4]

10° That, if there is question of a married man remaining in the world, he cannot licitly be promoted to any Order, not even to Tonsure, except with the express and spontaneous consent of his consort.[5] Except: **a)** if on account of the wife's adultery a legitimate divorce has been made, and indeed juridically, if the crime is not notorious;[6] **b)** if, on account of heresy or apostasy from the Faith on her part, the judge has decreed perpetual separation (but today perpetual separation scarcely is accustomed to be permitted); likewise generally **c)** if the man has converted himself to the Catholic Faith, the wife remaining in infidelity. - But among us such a married man would be ordained most imprudently, unless first a sentence of divorce had been obtained from the civil judge.

But is it required besides that the wife enter Religion, and in the same solemnly profess?

Resp. 1° Negatively, generally, but the perpetual vow of chastity suffices.

Resp. 2° Affirmatively, if either the wife were young and the man became a religious, or the man were assumed to the Episcopate.

Resp. 3° Neither a vow nor entrance into Religion is required if the wife committed the crime of adultery.

11° That the names of secular clerics who are to be assumed to Sacred Orders be recited in the Church of the parish to which they belong.[2] But this custom does not obtain among us, says Kenrick.[3]

12° That the Order received be exercised before one ascends to a higher one.[4] Nevertheless, as to precept, without a strict mandate of the Bishop, it is not certain, especially as regards Minors, whose exercise has almost become obsolete.[5]

13° That there be the intention of clericating, i.e. the will of permanently devoting oneself to the clerical state.[6]

Notes near n. 1520, subject of the Sacrament of Order (printed p. 212).

3 I Cor. 14. 34. I Tim. 2. II. 12.

Notes near n. 1521, conditions for receiving Orders (printed p. 213).

1 Conc. Pl. Balt. II. a. 316. | **2** L. VI. 793. | **3** Ib. 801. | **4** S. Alph. de Priv. n. 115, 116. | **5** L. VI. 812. | **6** Ib. 969.

Notes near n. 1522, title of support for Subdeacon (printed p. 213).

1 L. VI. 969. | **2** Trid. Sess. 23. c. 5. Ref. | **3** Tr. XX. 33. | **4** Trid. Sess. 23. c. 11. 13. 17. Ref. | **5** L. VI. 801. | **6** Ib. 785. | **7** Instr. cit. n. 2. | **8** Ib. n. 3. | **9** Ib. n. 14.

1522. - For one to be ordained Subdeacon there is required besides a title of honorable support,[1] lest, namely, clerics constituted in Sacred Orders be compelled, either from begged subsidies or from sordid gain, to procure for themselves with dishonor to Sacred Order those things which are necessary for living. It is useful in this matter to hand down a synopsis of the Instruction which the Sacred Congregation de Propaganda Fide issued for Mission places on April 27, 1871.

1° "A twofold title is distinguished: namely the ecclesiastical and the patrimonial. This latter ... obtains when the one to be ordained is furnished with such goods, certain, stable, and fruitful, coming from elsewhere than from the Church, which in the judgment of the Bishop are judged to suffice for his fitting support."[7] - "The ecclesiastical ... title is subdivided into the benefice-title and the title of poverty, to which certain other species, as it were subsidiary and extraordinary, must be added, namely the titles of the Common Table, and of Service of the Church, Mission, Sufficiency, and College."[8] - The titles of Benefice, Service of the Church, Sufficiency, and College being passed over, since they do not occur among us, and the title of Patrimony already having been explained above, which can also be used among us,[9] it remains that we treat of the title of Poverty, and of the Common Table, and also of the title of Mission.

2° "The title of Poverty ... is placed in religious profession, by force of which those who have emitted solemn vows in an approved Religion have all things in common, from the revenues of goods, if the Religion itself possesses any, or from the pious offerings of the faithful, of which they have need for

sustaining life. But what they call the title of the Common Table touches those clerics who, dwelling after the manner of Religious in the discipline of common life, pronounce either no vows, or only simple vows, and accordingly are permitted to go out or to be dismissed from the religious house, and to return to the world. For the title of poverty does not pertain to them, as is gathered from the Constitution *Romanus Pontifex* of St. Pius V, on the day before the Ides of October, 1568. But of these clerics those only can be promoted to Sacred Orders under the title of the Common Table whose Congregations or Institutes have been enriched by the Apostolic See with a special privilege for this." Therefore religious of Orders in which solemn vows are emitted cannot, without a special indult, be promoted to Sacred Orders under the title of poverty so long as they are bound only by simple vows, according to the norm of the Decree of Pius IX (see n. 1187). This is clear also from the Response of the Sacred Congregation of Regulars, January 20, 1866, to the Archbishop of Mexico.

3° "The title of Mission ... is accustomed to be used ... for those who ... devote themselves to the service of Apostolic Missions ... in places ... in which the condition of things is such that the common law of the Church concerning those things which regard the title prerequired for Sacred Ordination cannot be observed to the letter. But those who have been ordained under a title of this kind obtain from the apostolic ministry in the Mission to which they have been assigned the things necessary for life."[2] - In order that someone can be ordained under this title, there is required:

a) A special indult granted by the Holy See to the Ordinary (regularly either for a certain time, or for a fixed number of cases), the conscience of the same being strictly burdened, that it be used "only in favor of those who, by disposition and docility of soul, rectitude of intention, aptitude of mind, progress in sacred studies, integrity of morals, and contempt of worldly things, give hope that they will be strenuous heralds of the Gospel."[1] - An indult of this kind was granted by the Supreme Pontiff to the several Bishops of these Provinces on January 24, 1868, for the term assigned to each of them for the exercise of the other faculties (p. LXX. sq.).[2]

b) An oath[3] [p. LXXIII. note 2 and n. 374. 8°. See several declarations concerning its sense T. I. p. 473 (κ)]. To those emitting it, and likewise to those repeating it on the anniversary day, Pius VI, in an audience of May 7, 1775, granted a plenary indulgence, applicable to the departed, provided in both cases they have confessed and been refreshed by Holy Communion.[4]

4° Just as other titles, so also this one, of which there is question, can be lost according to canonical sanctions, and be taken away by Ordinaries, with the consent, however, of the Sacred Congregation, to which it belongs to release those so ordained from the bond of the oath offered.[5] "But if, the title generally having been lost, or even the title of Mission, another is not substituted for it, the priest does not for that reason remain suspended; but Ordinaries are held to compel those ordained to the substitution of another title, just as provision has been made by the sacred Canons. This Sacred Congregation declared this in the general meetings of September 1, 1856."[6]

"Likewise regular priests who have pronounced solemn vows, and by Apostolic indulgence are permitted to live in the world, or who have issued simple vows and have departed from their Congregations or Institutes, lest they be compelled to beg with dishonor to their proper grade, are bound to provide for themselves concerning a canonical title; but in places of Missions they are bound at least to prove that means are at hand for them by which they may provide for their own support, as is fitting."[7]

"Those who have ascended to ecclesiastical Orders under the title of some certain Mission, when they have dismissed the office of Missionary, without doubt lose their title, and must provide themselves with another; but if they are deputed to the service of another Mission, in order that they may assume the title of this Mission, a new concession of the Holy See will be necessary; for neither does the faculty, if any has been obtained by the Ordinary of that Mission, of ordaining clerics under the mentioned title, suffice for them."[8] See also *Past.-Bl. für N. Amer.*[9]

Notes near n. 1522, title of Mission and canonical title (printed p. 214).

1 Instr. cit. n. 4. | **2** Ib. n. 6. | **3** Instr. cit. n. 7. Conc. Pl. Balt. II. a. 89. | **4** Conc. Pl. Balt. II. a. 323. note 1. | **5** Instr. cit. n. 8. | **6** Ib. n. 15. | **7** Cf. nevertheless Conc. Pl. Balt. II. n. 90. | **8** Ib. n. 11. | **9** Instr. cit. n. 12.

1523. Questions. - Quaer. 1° What knowledge is required in candidates to be promoted to Orders?

Resp. 1° Of those to be initiated to Minors, it is required that they at least understand the Latin speech; **2°** of those to be initiated to Subdiaconate and Diaconate, it is required that they be learned in letters, and in those things which pertain to exercising the Order; **3°** finally, of those to be initiated to Priesthood, it is required that they be found fit to teach the people those things which are necessary for salvation to all, and to minister the Sacraments. - Trent.[3] But the end of the Council, which indicates the lowest limits of knowledge, is to keep the unlettered away from Orders, without its being prohibited to the Bishop to require from those to be ordained a richer knowledge, which deservedly is now required everywhere.[4]

Quaer. 2° What age is required for receiving Orders?

Resp. 1° For receiving Tonsure it is required that the one to be initiated possess the use of reason, namely that he be at least seven years old. - Trent.[5] **2°** As regards Minors, no age is assigned in Canon Law. **3°** Of Subdeacons is required the twenty-second year of age. **4°** Of Deacons, the twenty-third. **5°** Of Priests, the twenty-fifth. **6°** But for the Episcopate the thirtieth year is required. It is gathered from Trent.[6] But it suffices that the indicated year have been begun, with the exception, however, of the Episcopate and Tonsure.[7] But dispensation as regards age is reserved to the Supreme Pontiff.[8] For the faculties usually granted to our Bishops in this matter, see p. LXX. n. 3, and p. LXXII. n. 3.

Quaer. 3° At what time and place can Orders be conferred?

Resp. 1° Tonsure can be conferred on any day, hour, and place (even outside the proper diocese of the one ordaining). - Thus from the Roman Pontifical.

Resp. 2° Minors can be conferred anywhere, but in the proper diocese of the one ordaining,[1] on single Sundays or double Feasts of precept, even suppressed,[2] provided they are conferred in the morning. - See the Roman Pontifical. But this is to be understood of an ordination which is not general; since a general ordination must be made on those days on which Major Orders can be conferred, unless custom permits this on Wednesday or Friday before the general ordination.[3]

Resp. 3° Major Orders by law, and under grave obligation, are to be conferred during the celebration of Mass: **1°** on the Saturday of each of the Four Times; **2°** on the Saturday before Passion Sunday; **3°** on Holy Saturday.[3] But by dispensation obtained from the Pope (for the granting of which a faculty has been conceded to our Bishops. See p. LXX. n. 1), they can also be conferred outside the times, namely on other Sundays or Feasts of precept, even suppressed. - But whether with a dispensation of

this kind Orders, whether Minors or Majors, can be conferred on doubles which are not, nor have been, of precept, is controverted. To St. Alphonsus the opinion denying is more probable,[4] and the Sacred Congregation of the Council followed it in the Caesaraugustana, January 15, 1689.[5]

"But to the Bishops of the Federated Provinces," says Kenrick,[6] "it is indulged that they confer Orders outside the times; wherefore it seems lawful for them to confer them on any day whatever, at the equal judgment of the Bishop." - But in what sense these words of the most illustrious Kenrick are to be understood is not sufficiently clear. If as interpretive of the privilege, as seems to be concluded from the context (see the cited place), we do not acquiesce in the opinion of the most learned man; for neither, according to St. Alphonsus, is any difference to be admitted between the privilege of conferring or receiving Orders on three feast days and the privilege of ordaining outside the times, as also seems to be clear from the Decree of Innocent XII dated December 14, 1693,[8] and from several concessions which may be seen in the Bullarium of the Congregation de Propaganda Fide,[9] and is clearly evident from the declaration in Caesaraugustana above. - But if Kenrick wished to testify only concerning the custom of the Federated States, we admit, with St. Alphonsus, that that custom can be legitimate.[1] - The indult is to be read before the conferral of Sacred Orders. Pontifical.

Addendum and Corrigendum. - The opinion of St. Alphonsus concerning the sense of the indult for conferring Orders outside the times is confirmed by the Response of the Sacred Congregation of Rites of the same day, 18 May 1883, in the Marionopolitana. "Doubt II. Whether the faculty of conferring Sacred Orders outside the times, by force of art. 1, Form. I., generally granted to missionary Bishops, is limited, unless there is a very special indult, to those days alone on which by common law it is lawful to confer Minor Orders, namely feast days of precept, even those abrogated in favor of the faithful? Or whether it extends to all individual days of the year, or at least to all on which an Office of double rite is recited?" The Sacred Congregation responded: "Affirmatively to the first part: negatively to the second."

Note besides concerning the same privilege: **a)** outside the case of contrary custom or indult, Orders to be conferred must be on separated days. L. VI. 796; **b)** a Bishop cannot use the favor of another's subject unless he is fortified with an indult for this. (γ) p. 393.

It is not lawful without reasonable cause to perform general ordinations of Sacred Orders outside the Cathedral, or, in another place of the diocese, outside the more worthy church.

Quaer. 4° What is to be said about interstices?

Resp. 1° Between the Minors certain interstices are to be observed, unless something else seem more expedient to the Bishop. - Thus from Trent.[3] - But the time is not determined. In many places by custom the four Minors are conferred on the same day.

Resp. 2° As regards Majors, this was established by Trent:[4] between the last of the Minors received and Subdiaconate, one year must intervene, computed not mathematically, but ecclesiastically, e.g. from the Four Times of one year to the Four Times of the following year; unless necessity or the utility of the Church, in the judgment of the Bishop, demand otherwise. Say the same between Subdiaconate and Diaconate, unless for any reasonable cause whatever something else seem good to the Bishop. The same also is to be said between Diaconate and Presbyterate, unless the Bishop determine otherwise on account of the notable and certain utility of his own Church. But to our Bishops a fuller power as regards this is conceded. See p. LXX. n. 1.[5]

But he would sin gravely who on the same day, besides the four Minors, also received Subdiaconate, unless a contrary custom excuse, which is to be proved by the Bishop.[6]

Note. - Dispensation in the interstices can be given by the Bishop also to Regulars duly dismissed to him, but not to subjects of another diocese, to whom it must be conceded by their own Ordinary, mention of it having been made in the dimissorials. - Craisson, *Manuale*.[1]

Quaer. 5° Does a Cleric sin who, initiated in Minors, takes a wife?

Resp. Speaking in itself, it is certain that he does not sin gravely, indeed not even lightly, if he does this on account of a just cause, e.g. to end enmities, or temptations of the flesh, or to come to the aid of a poor woman, etc.; otherwise he will not be excused from venial sin.[2] - I said: speaking in itself; for it is greatly to be feared, says St. Alphonsus, lest he be in a bad state who, certain of his vocation to the ecclesiastical state, withdraws from it in order to enjoy the world.

Quaer. 6° Is it required that the one to be ordained be confirmed?

Resp. Trent[3] has these words: "Let those not be initiated with first tonsure who have not received the Sacrament of Confirmation." But it is disputed whether these words are of precept, or only of counsel: "Commonly," says St. Alphonsus,[4] "they say that Confirmation is not required in one to be ordained under grave obligation, but is indeed required under light obligation; because, although the words of Trent rather indicate fittingness than precept, nevertheless he who acts contrary in this matter is not excused from at least a light disorder."

Quaer. 7° Does he sin who receives some Order without the intention of ascending to higher ones?

Resp. 1° He does not sin gravely, even if he receives Major Orders and does not intend to receive Priesthood. - Thus St. Alphonsus, who says that this is certain and common.[5]

Resp. 2° Nor probably does he in itself sin venially, because by no law is it prescribed to anyone that he ascend to higher Orders, unless someone accept a benefice requiring Priesthood or Sacred Order.[6]

See nevertheless what was said concerning those ordained under the title of Mission, n. 374. 8°.

Quaer. 8° Whether and how does an ordained man sin who omits the recitation of the prayers which after ordination are imposed by the Bishop by way of penance?

Resp. The Theologians do not agree on this. For some say that he sins gravely, because the matter of the precept is grave. Others hold that he does not sin at all, because the Bishop does not impose a precept. Finally others judge that omission of this kind at least is not mortal, since this is not certain concerning it, and indeed this opinion is probable to St. Alphonsus.[1]

As regards these prayers, this Declaration of the Sacred Congregation of Rites is had:[2] "The words of the Roman Pontifical: *The Nocturn of such a day*, understand of the single Nocturn in the ferial office, or of the first of Sunday, as in the Psalter, that is, of twelve Psalms with their antiphons of the time, which the ordaining Bishop can designate, either of the very day on which he has the ordination, or of another, according to his judgment." - But when the Bishop expresses nothing other than what the words of the Pontifical relate, the Nocturn of the feria is to be said, which corresponds to that day on which the ordination was made.

Quaer. 9° Whether or how are newly ordained priests held to read the three Masses prescribed by the Bishop?

Resp. 1° They are not held to apply them according to the intention of the Bishop, and therefore can receive a stipend for them.[3]

Resp. 2° Probably the obligation to say them at least is not grave; nor are they to be said before non-impeded days arrive, since they must be votive Masses.[4]

Quaer. 10° What should newly ordained priests, celebrating with the Bishop, especially observe as regards the pronunciation of the form of Consecration?

Resp. 1° That, as far as can be done, they finish the form together with the Bishop; **2°** that they have the intention of consecrating only when they have finished the form at the same time with the Bishop; **3°** that in the Consecration of the Chalice they intend also not to consecrate, if perchance they did not consecrate the bread.[5] Practically, on account of the easy disturbance of those to be ordained, it will be best that one of the assisting ministers form the intention of which under 2° and 3°, and that those to be ordained be forewarned simply to conform their own to this.

Quaer. 11° To what are priests held by force of the obedience which they promised to the Bishop in ordination?

Resp. Benedict XIV explains thus (in the Epistle *Ea quo dilectus*, January 14, 1747): "We acknowledge that a Presbyter, by the force of this promise, is bound by this law, among others, as a strict one, that he cannot depart from the service of the Church to which he has been assigned without the license of the Bishop." (34) p. 422.

Quaer. 12° Can priests, or even Pastors, embrace the religious state when the Bishop refuses?

Resp. See n. 1158.

Quaer. 13° Is absolution to be granted to a Cleric habituated in an occult shameful vice, who wishes to ascend to Sacred Orders, without a previous experiment of continence?

Resp. Negatively, even though he has been sincerely converted to the Lord, and therefore can be absolved at once. And so he will not be able to receive Sacred Order unless he has given some time to work at extirpating the depraved habit. But if he persist in wishing to receive Sacred Order, St. Alphonsus does not judge him disposed for absolution, because he violates the law of the Church in a grave matter. He excepts only the case in which God grants the penitent an extraordinary grace of compunction, which renders him so proved that he himself can at once receive Sacred Order without being proved by the experience of time. But even in this case, for one wishing to be ordained at once, it is more prudent that absolution be deferred, so that he may be more firmly proved by the experience of time, provided there is not reason to fear, from the delay, a proximate danger of infamy. The same concerning a drunkard.

Notes near n. 1523, knowledge, age, time, and place for Orders (printed p. 215).

1 Instr. cit. n. 13. | **2** 16th year, p. 108. | **3** Sess. 23. c. 4 sq. Ref. | **4** L. VI. 792. Adv. 2. | **5** Sess. 23. c. 4. Ref. | **6** Ib. c. 12. Ref. | **7** L. VI. 799. | **8** Ib. 800. | **9** Ib. 798.

Notes near n. 1523, ordination days and the indult outside the times (printed p. 216).

1 L. VI. 798. | **2** S. R. C. 12 Nov. 1831 in Mars. 16 Mar. 1833 in Claremont, etc. | **3** L. VI. 794. | **4** Ib. 797. Dub. 4. de Priv. n. 116. | **5** Apud Lucidi, de visit. T. I. p. 180. | **6** Tr. XX. 34. | **7** De Priv. n. 116. | **8** Bull. Rom. Ed. Taur. T. XX. p. 587. § 5. | **9** App. 1. p. 175 and 305.

Notes near n. 1523, interstices and separated days for Orders (printed p. 217).

1 L. VI. 797. Dub. 4. | **2** Herdt, Pr. Pont. T. III. n. 355. | **3** Sess. 23. c. 11. Ref. | **4** Ib. c. 11. 13. 14. Ref. | **5** Ex. Ord. 44. L. VI. 795. | **6** L. VI. 796.

Notes near n. 1523, confirmation and intention for higher Orders (printed p. 218).

1 n. 2036, 2037. | **2** L. VI. 785. | **3** Sess. 23. c. 4. Ref. | **4** L. VI. 785. | **5** L. VI. 785. | **6** Ib. 785.

Notes near n. 1523, imposed prayers, Masses, and obedience after ordination (printed p. 218).

1 Ex. Ord. 91. | **2** 11 Aug. 1860 in Granat. | **3** L. VI. 829. | **4** Ex. Ord. 91. S. R. C. 11 Apr. 1840 in Barchin. | **5** Ex. Ord. n. 232.

Appendix annotation (gamma), to n. 1523. q. 3°, p. 216, col. 1. The reason is that the faculty granted to a Bishop of conferring Holy Orders outside the times is strictly local, and he cannot exercise it outside the territory of the diocese, either by himself or through another Bishop, although furnished with a similar Indult; for into that Indult, as being contained in n. 1 of the Faculties Form I ([p. LXX](/manuals/konings/iii-faculties#h2)), falls the clause of those faculties: "nor can he use them outside the boundaries of his diocese" ([p. LXXII. n. 29](/manuals/konings/iii-faculties#h2)), concerning the sense of which clause see the Appendix to this volume (p. 398, col. 1, 4°). The same observation holds for dispensation in irregularities ([p. LXX. n. 2](/manuals/konings/iii-faculties#h2)). Both are clear from the grace granted to the Bishops of the Province of Westminster (Collectio Lacensis, T. III. p. 963. XLV. XV.) in favor of those who are staying in a seminary common to several dioceses, yet with the clause: with the consent of the respective Ordinary. The Bishops of the Province of Quebec obtained the same grace. The faculty of dispensing in age, as is clear per se, is subject to the same limitation. Appendix annotation (34), to n. 1523. q. 11°. p. 217. col. 2. The Pontiff says: among other laws; for this is not the only law by which, by force of that promise, they are bound. In order that this may be rightly understood, these things must be noted. I. The promise about which there is speech adds to the obligation of obedience, by which all diocesan and other secular clerics, yes, and Regulars outside the cases in which they are exempt from it, are bound to their Ordinary, the bond of contract. This is clear from the words of Benedict XIV in the praised Constitution Ex quo dilectus, 14 Jan. 1747: "Nor do We think that that solemn pledge of obedience and reverence, which the Presbyter makes into the hands of the one ordaining, according to the most ancient custom of the Church, is to be held as a bare and empty formula." II. Obedience embraces the strict obligation of executing whatever the Ordinary, within the limits of his right, prescribes. - I say: within the limits of his right. - Hence: A. To reject the command of the Ordinary: a) he would be bound, if there were question of a thing evidently evil; b) he could licitly do so if the Ordinary certainly exceeded the limits of his right. I said: evidently and certainly; for in doubt either concerning the liceity of the thing commanded or concerning the right of the one commanding, one must obey. Cf. the things said in n. 101. IV; n. 1171. III; n. 1664. q. 1°. § In doubt concerning obedience. B. The rights of the Ordinary to which that obligation of obeying responds are reduced to these: 1. The right of teaching; 2. The right of commanding; 3. The right of judging; 4. The right of correcting and punishing; 5. The right of administering, and these indeed are said to be comprehended in the law which they call of jurisdiction; 6. The right of diocesan law, in which are contained the emoluments which pertain to the Bishop. The Ordinary does not transgress the limits of his power, and therefore he is to be obeyed: 1° In the exercise of the right of teaching, when he condemns depraved opinions which are spread abroad in his diocese against sound doctrine, or concerning which there is danger that they be spread abroad, or when he prohibits books or newspapers by which dangerous novelties, etc., are disseminated. He decides the same when he prescribes a Catechism for procuring uniformity in teaching children. - But a Bishop would transcend the limits of his power if he wished to interdict in his diocese the defense of those opinions concerning which, with Faith and the rule of morals safe, one can freely dispute. This, however, is not so to be understood as if the Bishop did not have the right of interdicting by law, for example, some kind of dances or the manner in which lovers visit one another, etc., if he prudently judges that kind or this manner to be full of danger; for in such things there is no question of licit or illicit by reason of

itself, but of licit or illicit by reason of danger. Besides, if even indifferent acts, according to the certain sentence of all theologians, can be the object of a prohibiting law when the prohibition of them conduces notably to the common good, n. 104. II, why not a fortiori dangerous acts? Therefore when the Ordinary prudently judges that such things are to be interdicted by law in his diocese, he acts not from a freely disputed opinion, but from a sentence altogether certain. 2° The right of commanding, or of making laws, embraces: 1) The right of procuring by opportune statutes the execution of the laws of the Church, for example, concerning the residence of pastors, n. 1139, concerning the negative obligations of clerics, n. 1132, etc.; for Bishops are the executors of the Canons in their diocese. 2) The right of decreeing those things which have been left aside by Common Law, or those things which are not against the Canons but outside the Canons, Benedict XIV, de Syn., L. 12. c. 6. n. 1. For although Bishops cannot prohibit those things which are expressly and certainly permitted by Common Law, for example, access to taverns in an itinerary on account of necessity, nor concede by law what is forbidden by the same Common Law, for example, access to taverns in whatever case, nevertheless they can: a. fill up, so to speak, the gaps of Common Law; for Common Law could not foresee all and singular necessities of whatever dioceses, and provide for them. Thus a Bishop, if he has judged it opportune, will be able to interdict to his clergy assistance at horse races. They can also b. in those things which are not passed over by Law, sometimes define by their laws the time, place, and mode not defined by Common Law. Thus Eugenius IV in his Constitution Cantate, 4 Feb. 1441. § 13, and the Roman Ritual, Tit. 2, command that newly born infants be baptized as soon as conveniently can be done; but they do not define the precise time, which nevertheless it is whole and entire for Bishops to determine. Benedict XIV, l. c. n. 7. Indeed, there are not a few heads of universal discipline in which Law itself expressly leaves to Bishops the mode in which they are to be observed to prescribe. Thus Trent, Sess. 14. c. 6 de Ref., indeed prescribes the clerical habit, but wishes the form of this to be determined by the Bishop: "according to the ordination of the Bishop himself." They can besides c. assist Common Law by their decrees, adding penalties, or increasing those which have been established by Common Law; for thus "they do nothing against the Canons, but protect and foster the Canons themselves." Benedict XIV, l. c. n. 2. Finally, they can d. sometimes prohibit certain things concerning which it is controverted among Doctors whether they are contained by Common Law. Let an example be quiet or non-noisy hunting, n. 1132. 2°, which, for example, the Provincial Council of Vienna permits if it is moderate, Coll. Lac. T. V. col. 199. b, but Cologne absolutely forbids, ib. col. 378. c. Cf. Benedict XIV, ib. L. 11. c. 10. n. 8. In commanding, however, the Bishop must avoid lest the sanction by which he confirms his laws be immoderate and too grave, especially by inflicting censures. Benedict XIV, ib. L. 10. c. 1. 2. 3. 3° The right of judging regards either the internal forum, concerning which we treated in n. 1390 sq., or the external forum, concerning which in the Treatise on Censures. 4° The right of correcting and punishing belongs to the Bishop with regard to all things which have been introduced in the diocese against Faith, good morals, or ecclesiastical discipline; and to this extent this right differs from the right of judging, because in some things, for example in cases in which suspension from informed conscience is brought, n. 1686. 17, it can be exercised by him extrajudicially, especially in the very act of visitation of the diocese, n. 1136. § In all. To this also pertains the right of the Bishop "without the noise and figure of judgment, and with the truth of the fact alone inspected," that is, even the form of summary judgment being omitted, to proceed against Clerics who "dare to keep at home or outside women concerning whom suspicion can be had, or to have any familiarity with them." Trent, Sess. 25. c. 14 de Ref. 5° The right of administration includes among other things the power of the Bishop, with the rules of law, whether common or particular recognized by the Holy See, being observed, such as, for example, is that which was established in the Second Plenary Council of Baltimore, of conferring benefices of free collation, or among us quasi-parishes or other ecclesiastical offices, for example of coadjutors or assistants; the right of transferring a Rector to other quasi-parishes; the right of erecting, uniting, dismembering parishes or quasi-parishes; the right of protecting and caring for the temporal goods pertaining to pious places or churches; the right of erecting schools, orphanages, hospitals, etc. 6° Concerning the right belonging to the Bishop from diocesan law, see the things said in n. 631. Cf. De Angelis, Præl. Jur. Can., L. I. Tit. XXXI. 12° sq., and Linz. Quart. Schr., 1882. p. 15 sq.

Appendix. On Clerical Vocation

Notes near n. 1524, clerical vocation from Scripture (printed p. 218).

1 L. VI. 823. Cf. Conc. Pl. Balt. II. a. 108, 109. | **2** L. VI. 63-77. Concerning the drunkard n. 67. § Prob. 3. Cf. Vind. p. 778. Ed. 2a. T. II. p. 433. | **3** Hebr. 5. 4. | **4** Act. 1. 24. | **5** Joan. 10. 1. | **6** Ib. 15. 16.

Notes near n. 1524, signs of clerical vocation (printed p. 219).

1 Luc. 10. 2. | **2** 23. 21. | **3** L. VI. 802. | **4** L. VI. 73. 802. | **5** I Tim. 5. 22. | **6** Dist. 24. c. 2. | **7** L. VI. 803.

1524. - I. The necessity of divine vocation is proved first of all from Sacred Scripture: *Nor does anyone take the honor to himself, but he who is called by God, as Aaron was.*[3] - Hence the Apostles, in order that they might substitute another Apostle into the place of Judas the traitor, prayed thus to God: *Thou, Lord, show whom thou hast chosen.*[4] Christ Himself said: *He who does not enter by the door into the sheepfold is a thief and a robber; but he who enters by the door is the Shepherd of the sheep.*[5] - Again: *You have not chosen me, but I have chosen you.*[6] - Again: *Pray ye the Lord of the harvest, that he send laborers into his harvest.*[1] Therefore those who have not been called by God intrude themselves, and they themselves are those concerning whom the Lord says through Jeremiah: *I was not sending the prophets, and they themselves were running.*[2]

II. The chief signs of divine vocation to the ecclesiastical state are the following: fitting knowledge; probity of life; right intention, or the desire of devoting oneself to the divine glory and the salvation of souls.[4]

He who, without vocation explored from such signs, intrudes himself into the sacred ministry, or wishes to be enrolled in the Sacred Militia principally on account of human ends, as if he were going to live without care when he has arrived at cures, cannot be excused from great presumption and from grave fault, since he exposes himself to great danger of damnation. But Bishops commit themselves to greater danger who promote to Sacred Orders those not called, from that word of the Apostle: *Impose hands quickly on no one, nor communicate in the sins of others.*[5] Hence in Canon Law it is prescribed that *no one be ordained unless he has been proved.*[6]

Quaer. What must be done by the Bishop, in order that he may sufficiently prove candidates for Sacred Orders?

Resp. Thus St. Alphonsus:[2] "For this proof to be sought by the Bishop, it is not enough that he himself know nothing evil about the one to be ordained, but he must be made certain concerning his positive probity, according to the sublimity of the grade to which he strives to ascend. ... In this matter Bishops in seeking this proof ought not to be content with the simple attestation of Pastors, who, led by human considerations, easily indulge Clerics in granting attestations of this kind, lest they draw upon themselves their hatred and that of their relatives; but besides, from others worthy of trust, by taking secret information, they must be made certain not only that the one to be initiated is not evil, ... but also that he is positively good, namely that he lives a spiritual life, is assiduous in the

Churches, frequents the Sacraments and prayer, lives separated from secular persons, is accompanied by well-mannered companions, devotes himself to study, uses modest dress, etc."

Treatise on Matrimony

Matrimony is so called from the office of the mother, as Theologians commonly have it with St. Thomas; because in this society the principal parts seem to pertain to the mother. Matrimony is also called *conjugium* from the common yoke to which man and woman are subjected. Likewise it is called *nuptiae* or *connubium* from the word *nubere*, because spouses formerly were veiled when they were handed over to their husbands. Likewise it is called consortship, because man and woman have a common lot.

We must treat **1°** of betrothals; **2°** of the proclamation of banns; **3°** of the nature and properties of Matrimony; **4°** of its matter and form; **5°** of its minister and subject; **6°** of the impediments of Matrimony; **7°** of the revalidation of an invalid Matrimony; **8°** of the conjugal debt.

Chapter I. On Betrothals

1° Of the nature; **2°** of the effects; **3°** of the dissolution of betrothals.

Article I. On the Nature of Betrothals

1525. - Definition. Betrothals are a deliberate, mutual promise, expressed by a sensible sign, of future Matrimony between capable persons.

It is said: **1° deliberate**, namely with the deliberation required for a vow (see n. 379).

It is said: **2° mutual.** Hence, if one only of the contracting parties promises, the other simply accepting but not promising in return, there will be no betrothals. - Nevertheless acceptance is equivalent to a return-promise if a woman, who is honorable, is led into so great a dishonor to herself that after acceptance of the promise she suffers defloration, at least if it is not clear that she acted thus merely for the sake of fulfilling lust.[1]

It is said: **3° expressed by a sensible sign.** Hence there is no need of words; but tacit consent, not expressed by a suitable sign, does not suffice, unless, as Canon Law[2] disposes for the external forum, parents (i.e. father or mother) contract for children present and not contradicting, although they could easily contradict. - I said: **a)** for the EXTERNAL forum; for for the internal forum betrothals cannot be valid unless the children positively (i.e. not only by conducting themselves negatively) and internally consent. - I said: **b)** father OR mother; for the value of the betrothals, or the consent of the children, is presumed in Law, not from paternal power, by which children cannot be compelled to these things (see n. 425), but from parental affection, which is equally in the mother and in the father, and whose dispositions, as having been made in their favor, children are judged to admit. - I said: **c)** for children PRESENT; for although to St. Alphonsus the more probable opinion is that which affirms that parents can also contract for absent children (to be made more certain by themselves, or by letter or messenger), nevertheless he also holds the negative as probable. - I said: **d)** not contradicting, ALTHOUGH THEY COULD EASILY CONTRADICT; for betrothals would not be valid if there were a reason why they do not contradict, e.g. fear.[3]

It is said: **4° of future Matrimony.** Hence betrothals would not be valid if the parties pledged only that they would never enter Matrimony with some other person, unless from the circumstances it is clear that such persons truly wished to contract betrothals, as if the words are of the present, namely: *I want no one but you*.[1]

It is said: **5° between capable persons**, i.e. persons prohibited by no impediment, whether diriment or impedient. Hence they are not valid if they are made between a Catholic and a non-Catholic, unless their execution has been remitted to the time at which this latter will have received the Catholic Faith.

Notes to nn. 1525-1528 - note sequence 1. (1) Acta T. I. p. 77 sq.; p. 342 sub fine n. 2. T. II. p. 145 sq. (2) L. IV. T. II. c. unic. § finali. in 6°. (3) L. VI. 838, 839. H. A. Tr. XVIII. 5. Notes to nn. 1525-1528 - note sequence 2. (1) L. VI. 842. (2) Kenr. Tr. XXI. 27. Notes to nn. 1525-1528 - note sequence 3. (1) L. VI. 840. Acta. T. I. pp. 336, 525. T. II. p. 142. (2) L. VI. 834. H. A. Tr. XVIII. 3. (3) Cf. Vind. p. 925 and 789. Ed. 2a. T. II. p. 583 and p. 449. (4) L. VI. 859. Vind. pp. 945, 946. 1). Ed. 2a. T.

II. pp. 605, 606. 1). (5) L. VI. 882, 883. (6) Knopp. Eherecht. § 34. S. 324 and Ferraris. V. Sponsalia, n. 12, 16 sq. H. A. Tr. XVIII. 1. Notes to nn. 1525-1528 - note sequence 4. (1) L. VI. 885. (2) Acta, T. I. p. 342. note 2 sub fine.

1526. - Division. They are: **1° Ecclesiastical** or solemn, and private, according as they are celebrated either in the face of the Church, i.e. before the Pastor and witnesses; or are perfected privately by the consent alone of the contracting parties, or before parents in the midst of the family. **2° Absolute** and conditioned, according as they are made without any condition, or with some condition added.

1527. Principles. - I. For the validity of betrothals all the conditions contained in the definition are required, so that, if one of them is lacking, the betrothal contract must be held as null. The reason is clear from what was said concerning the nature of a contract, n. 828, 845.

II. Betrothals are valid in the same way, whether they are solemn or ecclesiastical, or private or clandestine, because the consent of two suffices for a true contract; nor has the Church ever invalidated private betrothals. Indeed now in most places solemn betrothals have gone into desuetude, nor are they ever contracted among us.[2]

III. Betrothals entered under a condition concerning the present are valid here and now, if the condition is verified; but if they are contracted under a condition concerning the future, they will be valid as soon as the condition is fulfilled, without a new consent of the contracting parties, provided neither has revoked the consent previously given. Meanwhile the contracting parties are held to await the fulfillment of the condition, if it is honorable and possible, and does not oppose the nature of this contract or of future Matrimony.

IV. When the words or signs are doubtful, in the forum of conscience one must stand by the intention of the contracting parties, if it is clear; but in the external forum, by the common understanding and sense of the words. But if doubt remains, one must incline in favor of liberty.[1]

1528. Questions. - Quaer. 1° Are betrothals contracted from grave fear valid?

Resp. Negatively, more probably, provided the fear is from without, unjustly, and inflicted in order to contracting. The reason is because Matrimony contracted from such fear is null, as is clear from Canon Law, and will be explained below. Therefore by that very fact betrothals entered from such fear also ought to be null. Cf. n. 854.

Quaer. 2° Are betrothals entered from light fear valid?

Resp. See n. 853. III.[3]

Quaer. 3° Among those having a diriment impediment, without new consent, are betrothals valid under the express condition: if the Pope shall have dispensed?

Resp. Affirmatively, once the condition has been fulfilled and the dispensation committed to execution. The reason is because the consent perseveres until the fulfillment of the condition.[4]

Quaer. 4° Are fictitious betrothals valid?

Resp. The question is to be resolved in almost the same way as the question concerning a fictitious oath (see n. 367. 1°. 2°). Therefore they are valid if someone had the intention of celebrating betrothals and binding himself, but not of satisfying the obligation. But otherwise, if internally he did not wish either to contract betrothals or to bind himself. Nevertheless through a fiction of this kind

he sins gravely, and is bound to repair damages, indeed also to celebrate Matrimony if damages cannot otherwise be repaired.[5] See nevertheless what was said n. 810.

Quaer. 5° Are betrothals valid: **1)** of those not of puberty; **2)** of those not seven years old?

Resp. to the 1st. Affirmatively in itself, because even in the betrothals of those not of puberty all essentials (n. 1525) can be present.

Resp. to the 2nd. Affirmatively, more probably, by natural law, if the one promising has the perfect use of reason and in some way comprehends the burdens of the conjugal state.[6]

Quaer. 6° Are they valid between absentees through an intermediary, letters, or procurator?

Resp. Affirmatively, provided, if there is question of a procurator, he **1)** has a special mandate; **2)** the mandate is concerning contracting with a determinate person; **3)** the procurator contracts by himself; **4)** the mandate has not been revoked by the mandator before the betrothals were contracted, whether mentally or tacitly, e.g. by celebrating betrothals with another; **5)** the procurator does not exceed the limits of the mandate.[1]

Quaer. 7° Must promises which are customarily made concerning entering Matrimony always be held as true betrothals?

Resp. It seems they must be denied; for often those promises bear the appearance rather of intention than of true promise. Therefore in practice attention must be paid to the particular intention of the promisors.[2]

Article II. On the Obligation and Effects of Betrothals

1529. Principles. - I. Betrothals oblige from justice, under grave obligation, to enter Matrimony, at the determined time, if any has been determined; but if no time has been fixed, as soon as one party reasonably demands. The reason is because, where there are true betrothals, there is a true contract in a grave matter, and thence follows a grave obligation. But this obligation presses both in the forum of conscience and in the external forum. Therefore the one withdrawing can be compelled by the judge to Matrimony, even by censures,[3] although exhortations and admonitions ought first to precede,[4] and coercion also must be abstained from if, the circumstances having been inspected, the judge prudently judges that from unwilling nuptials grave evils and scandals are to be feared, e.g. perpetual quarrels, the departure of the man from the wife, or even the murder of the spouse; for it is expedient that a lesser evil be permitted in order to guard against a graver one, and thus favor is also bestowed by the judge upon the Plaintiff.[5]

II. Betrothals induce an impedient impediment of Matrimony, or one prohibiting lest Matrimony be contracted licitly with another person, unless the prior betrothals have been legitimately dissolved. The reason is because, from what has been said, betrothals beget an obligation of justice.

III. Betrothals induce also an impediment which in law is called public honesty, by which, namely, one of the betrothed persons is rendered incapable of contracting Matrimony with the blood relatives of the other in the first degree.

IV. Betrothals, in places where the decree of Trent concerning the form of Matrimony does not have force, when carnal copula follows, become betrothals of the present or presumed Matrimony,

concerning which below more fully.

Note. From betrothals among us there is no action in the civil forum, except for the reparation of damage coming to the innocent party from their dissolution.[1]

Notes to nn. 1529-1532 - note sequence 1. (1) New Amer. Encyclop. v. Marriage. (2) L. VI. 848. Cf. Ben. XIV. Inst. XLVI. § Secundo illud. (3) L. VI. 848. (4) Ib. 852. Notes to nn. 1529-1532 - note sequence 2. (1) L. VI. 853. (2) Ib. (3) L. IV. Decr. T. II. c. 7. 8. (4) L. VI. 855, 856. (5) Ib. 857, 858. (6) Ib. 869-874. Notes to nn. 1529-1532 - note sequence 3. (1) L. VI. 860-862. H. A. Tr. XVIII. 18. (2) L. VI. 865. (3) Sanchez. de Matrim. L. I. Disp. 62. n. 6. Pirhing. L. IV. T. I. n. 63. Schmalzgr. eod. tit. n. 188. (4) L. VI. 863, 865 § Ad videndum. (5) Arguit. L. IV. Decr. T. I. c. 22. (6) L. VI. 846. (7) Ib. 866. (8) H. A. Tr. XVIII. 19. L. VI. 876. Vind. p. 797 sq. Ed. 2a. T. II. p. 457. Notes to nn. 1529-1532 - note sequence 4. (1) L. VI. 873. (2) Ib. 877. (3) Tr. XXI. 11. (4) Tr. XXI. 6. (5) L. VI. 864. Notes to nn. 1529-1532 - note sequence 5. (1) L. VI. 865. (2) Ib. (3) H. A. Tr. XVIII. 13. Cf. Vind. p. 946. Ed. 2a. T. II. p. 606.

1530. Questions. - Quaer. 1° If someone has contracted betrothals with two women, and has sinned with the second, which one ought he to marry?

Resp. 1° Certainly Matrimony is to be contracted with the first, if, when the second was contracting, she was conscious of the prior betrothals. The reason is because then the second was not deceived, but wished to be deceived.

Resp. 2° More probably Matrimony is also to be contracted with the first, although the second was not conscious of the promise made to the other. The reason is because the promise made to the second is always null, as being concerning an illicit thing; nor does an injury inflicted upon another take away the right of the first; and this is valid even if the second promise was confirmed by oath.[2]

Quaer. 2° Must the prior betrothed woman then yield her right, if the other is going to suffer grave damage from defloration?

Resp. Negatively, not improbably. Namely, the second betrothed woman ought to impute damage of this kind to her own weakness. Nevertheless it would be advisable to the first that she renounce her right spontaneously, unless perhaps she herself would incur notable damage from this.[3]

Quaer. 3° Are earnest-gifts licit in betrothals?

Resp. Affirmatively. The reason is because they are neither prohibited by Canon Law, nor opposed to natural law.[4]

Quaer. 4° Must a penalty attached to betrothals be paid by one withdrawing, and can it, having been paid, be retained?

Resp. to the 1st. Affirmatively, more probably, if there is question of one withdrawing unjustly, since the attaching of a penalty against one unjustly withdrawing is prohibited by no law. Nevertheless the opinion of St. Alphonsus[1] denying is sufficiently probable, because even by the just attaching of a penalty the liberty of Matrimony suffers some lesion. - But negatively, if there is question of one withdrawing justly.

Resp. to the 2nd. Negatively, more probably, if there is question of a penalty paid by one justly withdrawing; because no title legitimizes retention of this kind.[2]

Quaer. 5° Must a betrothed woman return gifts accepted from the betrothed man, if Matrimony does not follow?

Resp. 1° Negatively, if the betrothals are dissolved from the fault of the betrothed man; because he, by culpably withdrawing from the promise, is deservedly judged to make the loss of these gifts. Thus common practice.

Resp. 2° Affirmatively, speaking in itself, if the betrothals are dissolved without fault of the betrothed man, and, a fortiori, if from the fault of the betrothed woman; for the betrothed woman cannot retain them without injustice, since they were conferred only in view of Matrimony. The same would have to be said if one of the betrothed persons, who accepted gifts or earnest-gifts from the other, is overtaken by death before Matrimony is entered; for according to what has just been said, the parents of the deceased are held to restore all things to the surviving betrothed person.

I said: speaking in itself; because, if, in view of the condition of the betrothed man, the gifts are of little moment, and he does not reclaim them, he is judged to remit them.

Quaer. 6° Must he who promised Matrimony to a girl, on the condition that he sin with her, marry her?

Resp. See n. 810.

Article III. On the Dissolution of Betrothals

1531. - Betrothals, according to the opinion of all, can be dissolved for just causes. But the principal causes are:

1° Mutual consent, freely emitted (without grave fear and deceit [see n. 1528. q. 1°. 2°]) between persons of puberty. I say: between persons of puberty; for the betrothals of those not of puberty, when puberty has been reached and either one only reclaims within three days before a judge or witnesses, are dissolved, namely from the privilege conceded by Law.[1] But that triduum begins to run from the time not now of puberty, but of the acquired knowledge of the privilege.[2]

2° A supervening impediment, namely a diriment one, and indeed one diriment by divine law, as e.g. a valid Matrimony contracted with another, at least while it lasts. I say: by divine law; for, if the impediment is diriment only by ecclesiastical law, the obligation indeed ceases on the part of the innocent party, even by the mere report of the impediment; nevertheless it does not cease on the part of him who induced the impediment by his own fault, but is only suspended; so that he, even excluding the damage of the innocent party (cf. n. 810), is held, if the injured party still wishes, to seek dispensation of the impediment, if it can be obtained easily and shortly, and once this has been removed, to fulfill the faith given to her.[3]

3° The choice of a more perfect state, e.g. religious Profession, reception of Sacred Order, a vow of Religion, and, probably, even of chastity or of receiving Orders. But by the mere entrance into Religion before Profession, betrothals, according to the opinion which St. Alphonsus calls the more common and to which he adheres, are dissolved only on the part of the one remaining in the world.[4]

4° A grave crime of the other, e.g. grave theft, homicide, or the like, which begets grave damage or infamy; likewise fornication of the betrothed woman, whether it preceded the betrothals (provided it was then unknown to the betrothed man, or even known, but the report was afterwards spread), or followed them; whether it was voluntary, or (according to the common and truer opinion) involuntary. I said: of the betrothed woman; for fornication of the betrothed man, even after the

betrothals, according to the more common and more probable opinion, does not give the betrothed woman a right of withdrawing. The reason of each is that fornication renders the betrothed woman, but not likewise the betrothed man, more base according to the common estimation of men. - What was said concerning the betrothed woman who committed fornication, say the same of her who after the betrothals so conducts herself that she makes doubtful faith concerning her virtue, permitting herself to be touched immodestly by others, or otherwise acting less cautiously. - For the same reason the betrothed woman can withdraw if, after the betrothals have been celebrated, she learns that the betrothed man "has had offspring from another woman, or has frequently fallen" into fornication, "by having intercourse with many"; or even if, after betrothals, kisses or touches have intervened so frequently between the betrothed man and another "that they indicate a mind of the betrothed man very inclined toward the other," and "it can deservedly be feared that he will not keep faith with the betrothed woman."[1]

5° A notable change of state, namely a circumstance which, if it had been known or foreseen, would have deterred from the betrothals.[2] For the external forum this can be determined by the judgment of prudent persons, or, if that cannot be had, by oath.[3] But if ignorance did not give cause to the contract, i.e. if the betrothed man would have contracted even if the cause had been known beforehand, it would by no means be lawful to withdraw from the betrothals.[4]

6° An excessive delay of Matrimony. But delay is made either with a time for celebrating Matrimony having been attached to the betrothals, or without such a time having been attached; and, if a time is attached, it is attached either to end the obligation of the betrothals, or only to urge it.

If: **a)** to end the obligation, once the term has elapsed through the fault of one, certainly the other party is liberated;[5] indeed, according to the more common and more probable opinion, even if the term has elapsed without fault of the betrothed man, suppose because he was detained by a just impediment. The reason is because the term is attached precisely for this, lest the party prepared remain long without nuptials. I said: the other party is liberated; for, according to the opinion which St. Alphonsus calls by far the more common and, with attention to the intrinsic reason, by far the more probable (although the opposite, as he says, "is not lacking in its probability, especially from the authority of St. Thomas"), the party who culpably placed the delay does not remain free. The reason is because no one ought to derive advantage from his own fault.

If: **b)** a time has been added to the betrothals only for urging the obligation, once the term has elapsed the betrothals still oblige. But when, in the case of further delay by one party, it is lawful for the other to withdraw, seems to have to be decided especially from the circumstances.

If: **c)** no time has been established, and the nuptials are delayed excessively, nor can dissolution of the betrothals by mutual counsel be obtained, the cause will better be remitted to the ecclesiastical judge, so that he may establish the things which he judges suitable.[7]

Note. - If the Confessor sees that Matrimony has been deliberately delayed without sufficient cause, let him not importunately exact the fulfillment of the faith given, but sometimes according to the circumstances let him rather advise reparation of damage or a free composition, since an unsuccessful Matrimony is to be feared.[1]

7° The departure of the betrothed man to a far country, without the other having been consulted; for he who so departs is judged to yield to his right. But if he has gone to a nearby country, a

distinction must be made. For either he has thus gone without the intention of returning, or with it. In the former case, it is to be resolved as concerning him who has gone to a far country; but in the latter, either his return must be awaited for a time to be determined by the judgment of a prudent man (or, if it can be done, of a judge), or he is to be admonished, and a certain time, as above, is to be fixed beforehand, within which he should return, and, once it has elapsed, the betrothed woman is liberated.[2]

1532. Questions. - Quaer. 1° Is it a sufficient cause of dissolving betrothals if a rich inheritance comes to the betrothed man?

Resp. Some affirm; others most commonly deny, because the betrothed man has not been deceived in the condition of the betrothed woman, in which no change has occurred. But in the case in which a marriage with another richer woman is afterwards offered to the betrothed man, St. Alphonsus would not dare wholly to condemn the betrothed man, if the quality of the other betrothed woman were exceedingly better; but nevertheless he concludes that he would never dare to advise departing from the contrary opinion.[3]

Quaer. 2° Are betrothals dissolved by a vow of chastity, or a vow of receiving Sacred Orders?

Resp. 1° If the vow precedes the betrothals, it is certain that they are invalid. The reason is because the promise of Matrimony is concerning an illicit thing, and therefore does not oblige. - Thus commonly.

Resp. 2° If the vow follows, likewise the betrothals are probably dissolved. The reason is because the promise of betrothals is always judged to have been made under the tacit condition, unless a better state is chosen. But certainly they are dissolved on the part of the one not vowing.[1]

Quaer. 3° Is dissent of parents a sufficient cause of withdrawing from betrothals?

Resp. Negatively, if the parents dissent unjustly, because the right of the children would be injured. But otherwise, if the dissent of the parents is just, e.g. if the other party does not befit the family by reason of condition, honor, etc.[2]

For our provinces, nevertheless, Kenrick[3] notes the following: "Betrothals are for the most part made without the parents knowing, whose rights, according to our customs, can scarcely be said to be gravely infringed; and therefore those promising are excused from grave sin, although not from every fault, if nothing else occurs that is to be reprehended."

But as regards the dissent of parents on account of disparity of condition, the same author remarks:[4] "In this region indeed, where no noble stock is acknowledged, all are judged to be of the same grade, although in reality they are very much distinguished among themselves either by birth, or by wealth, or by public office. The diversity of conditions having been neglected, for the most part it will be lawful to fulfill betrothals; for the objections of parents and relatives ought not" (here) "easily to obtain force against a certain right arising from betrothals; nevertheless sometimes they will have to be rescinded."

Quaer. 4° Is a party laboring under an occult defect held to disclose it before betrothals, or, these having been contracted, before Matrimony?

Resp. 1° Affirmatively, if that defect would be harmful or injurious to the other party, e.g. if the girl is pregnant, if the betrothed man labors under venereal disease, or is burdened with debt, etc. The reason is because, just as he sins against justice who, to one believing himself to be buying good wares, sells harmful ones, so a fortiori does he who with a harmful defect wishes to contract Matrimony. Therefore if he does not wish to disclose the defect, he ought to abstain from contracting. Except, unless the other party labors under the same defect.[5]

Resp. 2° But negatively, if the defect does not render the nuptials harmful, but only less desirable, e.g. if a girl who is thought to be a virgin is corrupted. The reason is because it has been received by custom that no one is held to manifest defects of this kind to the other. Besides, no one is held to manifest his own defect with his own infamy, when the defect does not injure the grave right of the other.[1] Nevertheless the other party, once the defect is known, has the right of withdrawing.[2]

Quaer. 5° Are betrothals dissolved by a subsequent Matrimony, so that, once the Matrimony is dissolved, they do not revive?

Resp. Negatively, with the opinion which St. Alphonsus thinks absolutely more probable.[3] - The reason is because it is proved by no law that betrothals are altogether dissolved by a subsequent Matrimony; whence only the obligation of the betrothals is suspended while such Matrimony lasts, as happens in one who contracts Matrimony with a vow of chastity. Moreover in practice the betrothed person unjustly abandoned will rarely seek such an unfaithful one, nor would a happy outcome of a Matrimony of this kind be hoped for.

Concerning the judge in a cause of betrothals, see L. VI. 878.

Chapter II. On the Proclamation of Banns

A bann is a German word which signifies the same as public proclamation. Therefore banns are public announcements by which the faithful are admonished concerning Matrimony to be contracted between certain persons.

We must treat **1°** of the necessity of banns; **2°** of their circumstances; **3°** of their dispensation; **4°** of the revelation of impediments.

Article I. On the Necessity of Banns

1533. Principles. - I. From the precept of the Church there is a grave obligation of proclaiming banns. This is clear **1°** as to the precept from the Fourth Lateran Council and from Trent.[4] - It is clear **2°** as to grave obligation, because a general discipline prescribed by two General Councils, and supported by grave motives, begets grave obligation. - Nevertheless the decrees of the Lateran and Tridentine Councils differ in this: that from the Lateran at least one announcement had to be made; from Trent, three, and these in the way which the Tridentine law, which also had to be introduced among us after the Easter feasts in the year 1853,[1] prescribed. As regards the number of proclamations in places where Mass is not celebrated on single Sundays, consult the diocesan statutes.

II. The proclamation of banns is not required from the necessity of the Sacrament. For no law can be cited from which it is clear that the proclamation is required for the validity of Matrimony.

1534. Questions. - Quaer. 1° Does the Pastor sin gravely by omitting the announcement, if he knows that no impediment is present?

Resp. Affirmatively. The reason is **1°** because with difficulty can a Pastor be altogether certain that no impediment of Matrimony is present; **2°** because, even if no impediment appears before the proclamation of banns, it can happen that, when they have been proclaimed, some impediment supervenes; **3°** because, even if these reasons did not subsist, there always subsists the reason that the end of the law in the case ceases only privatively, as was said n. 165. 2°. I say: 2).[2]

Quaer. 2° Does the Pastor sin gravely if he omits only one proclamation without dispensation?

Resp. It is controverted. Some affirm, because one proclamation out of the three is to be held as a grave part of the whole precept. But others deny, whose opinion St. Alphonsus calls probable.[3] It is more probable, however, that the omission of two announcements is a mortal sin.[4]

Notes near nn. 1533-1534, necessity of banns and omitted proclamations (printed pp. 224-225).

1 Conc. Pl. Balt. II. a. 331-333. | **2** L. VI. 990. | **3** Ib. | **4** Ib. | **5** Sess. 24. c. 1. de Ref. Matr.

Article II. On the Circumstances of Banns

A threefold circumstance must be considered here, namely **1°** of time; **2°** of place; **3°** of persons.

I. Circumstance of Time.

1535. - Proclamations must be made on feast days of precept - continuously - during the solemnities of Masses. - Trent.[5]

It is said: **1° on feast days**, i.e. on feast days of precept, at least in the place of the proclamations. Among feasts of precept can be numbered those suppressed feasts on which the functions and solemnities still have to be performed as before the suppression, and the people still come frequently to the churches. Thus from various resolutions of the Sacred Congregation of the Council, which the illustrious Feije reports and explains.[1] - Indeed, St. Alphonsus[2] teaches that probably this can be done also on a ferial day, at least without mortal sin, if for some reason a great concourse of people is made to the Church, because thus also the end of the Council is sufficiently obtained.

It is said: **2° continuously**, i.e. with no feast day omitted from the first proclamation to the last. Nevertheless St. Alphonsus judges probable, and several others hold, that there is no grave sin if the feast days, with one or another interposed, are not continuous. The reason is because the danger that the people forget is slight, and the matter of transgression is judged light. But whether proclamations can be made on feast days immediately succeeding one another, if they occur, is controverted: there is a twofold probable opinion.[4]

It is said: **3° during the solemnities of Masses**, i.e. in the parochial or conventual Mass, from the Decree of the Sacred Congregation of the Council. - Proclamations cannot be made in private Masses, nor at Vespers. - Roman Ritual. If nevertheless the Pastor had forgotten to make the last proclamation at Mass, and the nuptials press, he could supply it at Vespers. This is permitted from the Decision of the Sacred Congregation of the Council, October 25, 1586. - Ferraris. St. Alphonsus admits that probably proclamations can also be made in a sermon or on the occasion of a procession, when the people have been gathered.[5]

If, the proclamations having been made, Matrimony is not celebrated within two months, the proclamations are to be repeated, unless it seem otherwise to the Bishop. - Roman Ritual. - It is also advisable not to contract Matrimony immediately after the last proclamation, or on the same day on which this was made.

II. Circumstance of Place.

Notes near nn. 1535-1536, time and place of banns (printed pp. 225-226).

1 De Imp. n. 241-245. | **2** L. VI. 992. | **3** L. VI. 992. | **4** Ib. | **5** Ib. 991.

1536. - From the Council of Trent, the proclamations of banns must be made in the Church, i.e. in the parochial Church of the contracting parties; but not in chapels, whether public or private, unless they hold the place of a parish, and parochial Mass is celebrated there. - The Pastor can make them either by himself or through another; nevertheless care must be taken lest they be made by a layman. - The opinion of several Doctors seems probable to St. Alphonsus, who say that proclamations can be made (at least without mortal sin, and, with cause, even without venial sin) outside the Church in a place of great concourse, because thus the end of the Council is already obtained.[1] But by parish is not understood the parish in which someone was born, or the parish of origin, but the parish of actual domicile, if the one to be proclaimed has lived there for a notable time.

Hence: **1°** If the betrothed persons dwell in different parishes, the proclamation must be made in each. **2°** If one or both have approximately equal domicile in two places, the banns also must be proclaimed in both. But if one of the two domiciles is principal, or properly so called, a double proclamation is not for that reason required. If someone, however, besides domicile, has quasi-domicile elsewhere, proclamations must be made also in the quasi-domicile.[2] **3°** If the contracting parties have recently fixed domicile in the actual parish, the banns, much more probably,[3] must also be published in the parish where they previously lived. But what domicile in this matter is to be called recent must be known from the diocesan statutes, or, these failing, from usage, Feije teaches.[3]

III. Circumstance of Persons, Namely of Minors, Soldiers, Wanderers, and Servants.

1537. - 1° Minors. The banns of minors (n. 836), for the sake of prudence, ought not to be proclaimed except with the express consent of parents or tutors. I say: for the sake of prudence; but not from the necessity of any ecclesiastical law. Proclamation is to be made both in the domicile of fact and in the domicile of law, that is, both in the place where the minors here and now dwell, and in the place where the parents or their tutors live. But minors, by Canon Law, are males who have not yet completed the twenty-fifth year of age, and females who have not yet completed the twenty-first. Nevertheless a male orphaned of ascendants becomes a major as soon as he has completed the twenty-first year.

2° Soldiers. The banns of soldiers are to be proclaimed **1°** in the place where they are in garrisons; **2°** besides in the domicile of the parents, if they are minors; but if they are majors, in the place where they were residing before they took up military service; because they have not acquired another domicile of law. - Thus commonly.

3° Wanderers and foreigners. Their banns, according to the common opinion, are to be published in the domicile of fact and in the place of origin, if they have not obtained true domicile elsewhere, or at least in the place in which they dwelt for a longer time. Besides, authentic testimony concerning their free state is to be had, nor are wanderers to be joined in Matrimony without the license of the Ordinary, as Trent has.[1]

Note. - I. Around those things which we have said in this and the preceding Number, the illustrious Heiss[2] remarks the following: "Since in these regions it is too difficult to observe this law strictly, it seems to us that this at least must be insisted on in diocesan statutes: **1)** that announcements must always be made in each parish, if the betrothed persons are from different parishes; **2)** that, if the betrothed persons besides true domicile also have quasi-domicile in some place, and it is not too distant, the nuptials should be announced in each place; **3)** that, if because of too great a distance or a similar cause the announcements cannot be made in the way said, the defect should be supplied by some precaution, whether through witnesses or through oath."[3]

II. The form of the announcements ought to be such that with intelligible voice and accurately the persons and their parish are indicated, and which announcement it is, and this especially when dispensation has been made in some one, so that then it is expressed, e.g. that the one which is now made is the first and second. It is also preferable to make mention of the end of the announcements, namely, that those who know an impediment disclose it; but if this is done, let it be done uniformly

for all, lest, if only sometimes, the Pastor seem to suspect an impediment, as "Past.-Blatt für Nordamerika" rightly admonishes.[4]

Article III. On Dispensation of Banns

Notes near nn. 1537-1538, persons and dispensation of banns (printed p. 226).

1 L. VI. 991. | **2** Ib. | **3** De Imp. n. 251. 3°. | **4** Sess. 24. c. 7. de Ref. Matr. Collect. p. 437. n. 968. | **5** De Matr. § 21. V. p. 64. 4). | **6** Feije, de Imp. n. 252. | **7** 7 Jahrg. S. 68.

1538. Principles. - I. For a just cause dispensation can be made from the law of banns - Trent.[1] - But dispensation is made more easily from one or another proclamation than from all. But Benedict XIV[2] forbade Bishops to dispense from all, "unless a legitimate, most grave, and inescapable cause presses, as is clear from the Tridentine." But such a cause, since it is relative, will exist much more easily among us than elsewhere.

II. Dispensation of banns pertains to the Bishop as Ordinary. - It is likewise drawn from the Tridentine,[3] where it is said that the faculty of dispensing is left to the prudence and judgment of the Ordinary.

III. But the legitimate causes of dispensation are some on account of which the Bishop ought to dispense, and others on account of which he can. Of the former kind are: **1°** lest Matrimony be maliciously impeded; **2°** grave damage, infamy, or scandal imminent from delay of Matrimony; **3°** fear lest the man abandon a girl violated by him; **4°** if, Matrimony already having been contracted civilly, the betrothed man does not wish to consent to three proclamations, and other similar things.[4] - Of the latter kind are: **1°** if nuptials are to be contracted among the great; **2°** if the betrothed persons are very old, or very disparate in condition, age, wealth, or quality; **3°** if it is morally certain that no impediment is present.[5]

Notes near n. 1539, delegation and epikeia for dispensation of banns (printed p. 227).

1 Sess. 24. c. 1. de Ref. Matr. | **2** Bulla, Nimiam licentiam. 18 Maii 1743. Item C. Satis vobis. 17 Nov. 1741. | **3** Sess. 24. c. 1. de Ref. Matr. | **4** L. VI. 1005. | **5** Ib. 1006. | **6** Ib. Vide Feije, n. 266.

1539. Questions. - Quaer. 1° When the betrothed persons are from different dioceses, must dispensation be obtained from each Bishop?

Resp. Affirmatively, as it seems. The reason is because there is no connection between the dispensation of one and that of the other. From another source, only the Ordinary of the place can know concerning the cause of dispensation: for there can be reasons for dispensing for one party, without their being present for the other; and, if impediments are not detected from one side, it does not follow that they cannot be detected from the other. - Nevertheless St. Alphonsus[6] does not correct those teaching the contrary.

Quaer. 2° Can the Vicar General, and likewise the Capitular Vicar (or among us the Administrator of the diocese), dispense from the proclamations of banns?

Resp. to the 1st. Affirmatively, more probably, according to the most common opinion, provided the Bishop has not reserved this to himself, or does not contradict. The reason is because the Synod

concedes this faculty to the Ordinary; but under the name of Ordinary, if the matter belongs to his office and he himself is not expressly excluded, comes also the Vicar General, since he constitutes one tribunal with the Bishop.[1]

Resp. to the 2nd. Affirmatively, and this is certain from the decree of the Sacred Congregation of the Council, March 2, 1624.

Quaer. 3° Whether and by whom can this faculty be delegated?

Resp. Affirmatively, by those who have it by ordinary right; therefore by the Bishop, by the Vicar General and Capitular Vicar, and, since his jurisdiction is quasi-ordinary or to the universality of causes, also by the Administrator of the diocese. Cf. n. 149, 150. - In very many dioceses this faculty is delegated, at least as regards one or another announcement, to all priests. Let each consult the letters of his Jurisdiction or the diocesan statutes.

Quaer. 4° Whether and when can proclamations be omitted through epikeia, without a preceding dispensation of the Ordinary?

Resp. Affirmatively, VERY probably, provided the following conditions concur: **1st** that there be present a cause on account of which the Bishop ought to dispense (n. 1538. III.); **2nd** that he (or, if he unjustly refuses dispensation, his Superior) cannot be approached; **3rd** that there be danger in delay; **4th** that it be clear that no impediment is present.[2] - Nevertheless Reiffenstuel[3] rightly warns that omission is almost not to be advised when the Ordinary (outside the case of a concubinary dying, Feije[4] aptly adds) has denied dispensation; for it belongs to the Ordinary to judge whether the alleged cause is of such a kind that dispensation is owed. - I add that it is also to be dissuaded in States in which proclamations are prescribed by civil law.

Here again I admonish that the aforesaid conditions occur more easily among us. Wherefore I adhere to the resolutions which Smith hands down on this matter.[5]

Note. - The Tridentine sometimes posits that dispensation be made in such a way that the announcements have place after Matrimony has been contracted, but before it has been consummated. Nevertheless it leaves to the judgment of the Ordinary that, if he prefers, he dispense simply. But today generally only this latter mode is used.

Article IV. On the Revelation of Impediments

Notes near Article IV, revelation of impediments before Matrimony (printed p. 228).

1 L. VI. 1007. H. A. Tr. XVIII. 59. | **2** L. VI. 1007. | **3** L. IV. T. III. n. 46. | **4** De Imped. n. 268. | **5** Notes on the Sec. Plen. Counc. n. 302-304.

Notes near nn. 1540-1541, obligation and limits of revealing impediments (printed p. 228).

1 L. VI. 994. | **2** c. 3. | **3** c. 4. art. 4. | **4** n. 409. | **5** L. VI. 995. | **6** Ib. 994. | **7** De Imped. n. 269. | **8** Ib. | **9** L. VI. 995.

1540. Principles. - I. There is in itself a grave obligation of revealing impediments of Matrimony, however occult. The reason is drawn from the motive of Religion and charity, and also from the precept itself of banns.[1]

II. The obligation generally regards all the faithful of whatever sex, age, parish or diocese, etc., and also blood relatives and friends. The reason is because that law is borne in the name of the Church, to which all Christians are subject, and it rests upon the natural precept of Religion and charity, which regards all. Indeed, although, once Matrimony has been celebrated, the positive law of announcing ceases, nevertheless the law of charity can, according to the circumstances, demand the said revelation.

III. That obligation is to be fulfilled as soon as morally possible; because, if the betrothed persons perhaps obtain dispensation from one or another proclamation and contract sooner, time for making the revelation will not remain, etc.

1541. Questions. - Quaer. 1° Must impediments known under even a committed secret be revealed?

Resp. Affirmatively, even if an oath not to reveal them has been added. The reason is because a natural secret, even committed and sworn, does not oblige when grave damage threatens the community or a third person. - If nevertheless the impediment is infamous, those about to marry themselves must first be admonished, unless either the admonition is probably not going to be profitable, or there is danger in delay.[1] Cf. n. 541. q. 1°.

Except, more probably, the secret of counsel, or a secret committed to a man exercising a public office for the sake of seeking counsel, e.g. to a physician, advocate, Pastor, etc., provided this is done by reason of their profession. For thus the common good seems to demand. - Collet,[2] Bouvier,[3] Carriere,[4] and others, against others. But even those who under a secret of this kind know the impediment ought at least to admonish the betrothed persons that they desist from Matrimony, unless the admonition probably is not going to be profitable.

Quaer. 2° Are you held to reveal an impediment with your grave inconvenience or detriment?

Resp. Negatively, generally speaking, because the law of the Church and charity do not oblige with so great an inconvenience. - Thus commonly.[1] The Doctors commonly excuse also in these other cases, namely: **1°** when someone has only heard of the impediment, but does not know from whom, or has heard of it from a person not worthy of faith; - **2°** if he probably judges that revelation is going to beget grave scandal among others; - **3°** if he knows that the contracting parties have obtained an occult dispensation for the forum of conscience in an impediment whose report is not public,[2] and (Feije adds)[3] which probably cannot be brought to the external forum; **4°** if in another way he can impede the Matrimony and truly does impede it, or efficaciously sees to obtaining dispensation.[4]

Quaer. 3° Are you held to reveal an impediment if you alone know it and cannot prove it?

Resp. Affirmatively, because in the present matter the testimony of one person can suffice, at least for further investigation. - Thus the most common and truer opinion.[5]

Quaer. 4° Are the contracting parties themselves held to reveal an impediment?

Resp. Affirmatively. The reason is because here there is no question of a penalty to be inflicted, but of sin to be avoided; wherefore it is necessary either that they abstain from Matrimony, or disclose the impediments.

Quaer. 5° What must the Pastor do if he has knowledge of an impediment which is known or probably feared to be present, whether by himself or through others?

Resp. 1° If he acquired the knowledge outside Confession, he cannot pass on to the celebration of Matrimony, but must communicate the affair suitably to the betrothed persons, and, if doubt remains, refer it to the Ordinary.

Resp. 2° If it is clear to the Pastor concerning an occult impediment outside Confession, but the one who is bound by the impediment denies it, he will not be able to assist, whether Matrimony is sought secretly before witnesses, or (more truly according to St. Alphonsus) publicly. Cf. what was said n. 1229. Rule III. Except 2°.

Resp. 3° If he knows an impediment outside Confession, and at the same time knows that dispensation has been obtained for the forum of conscience, he can assist if the impediment is of such a kind that it cannot be brought to the external forum, or at least no probable reason for fearing this is present; otherwise, before he assisted, dispensation would have to be obtained for the external forum.

Resp. 4° Whether he ought immediately to cease from continuing the proclamations depends on the certitude or likelihood of the impediment. See Bangen.

Resp. 5° If he acquires the knowledge in Confession, see what is to be said n. 1556. q. 3°.

I. On the Inquiry into Impediments to be Premitted. - II. On the Necessary Instruction of the Contracting Parties in Christian Doctrine. - III. On the Confession to be Premitted to Nuptials.

Notes near the appendix to banns, inquiry and preparatory duties (printed p. 229).

1 L. VI. 1002. Dub. 1°. | **2** p. 71 sq. | **3** Bulla: Nimiam licentiam, 18 Maii 1743. § 10.

Notes near n. 1542, inquiry into impediments before proclamations (printed p. 229).

1 L. VI. 54. | **2** Heiss. de Matr. § 68. I. | **3** De Syn. L. VIII. c. XIV. n. 5. 6. | **4** Tr. VIII. 48.

Notes near n. 1542, Tridentine admonition and impediment inquiry (printed p. 229).

1 Sess. 24. c. 1. Ref. Matr. De hujus Tridentini moniti fine agit Nouvelle Revue Theol. T. V. p. 301 sv. | **2** Cf. Conc. Pl. Balt. II. n. 329. 330.

Appendix

1542. I. - 1. The obligation of inquiring into impediments is clear both from the very nature of the matter, or of the Sacrament (n. 1228. II. I said: 1°), and from the Roman Ritual.[1]

2. The time, from the Roman Ritual, is that very time at which the Pastor is admonished concerning some Matrimony to be contracted in his parish. Therefore at least before he proceeds to the proclamations.[2]

3. The following mode, or one similar, is to be used, Benedict XIV[3] admonishing. Witnesses having been removed, let the priest strive to explore carefully, and, as it is said, at the ear, both the betrothed man and the betrothed woman separately concerning the impediments which perhaps can be present; and let him especially press those things which, according to his own knowledge of the betrothed persons, he can prudently suspect to be present. First, let him inquire whether those about to marry have already given faith to another; whether thence an impediment of public honesty has not occurred; whether some impediment of cognation or affinity does not intervene? Likewise with due prudence and modest words let him advert to the impediment of affinity from illicit copula (but concerning this rather in the preparatory Confession), and, if one party has already been married, to the impediment of bond, crime, etc. - Then, if it can conveniently be done, let him also call witnesses, or relatives, or others well known to the betrothed persons, and similarly ask of them whether they have knowledge of some impediment intervening between the betrothed persons.

Note. - Prudence also demands that the Pastor inquire whether those things have been observed which are established by the civil law of the State in which Matrimony is contracted.

Notes near n. 1543, instruction of the contracting parties (printed p. 230).

1 Feije, de Imp. n. 276, 277. | **2** L. VI. 54. Cf. Vind. Ed. 2a. T. II. 607. CLVII. | **3** Feije, de Imp. n. 277. | **4** De Matr. § 69. III. p. 264. 2).

1543. II. - 1. The obligation of instructing those about to marry before the proclamations in Christian doctrine: **a)** does not press in the case in which those about to marry are sufficiently instructed; **b)** as regards the rest, it presses, even by divine law, concerning those things which must necessarily be known by necessity either of means or of precept. For Matrimony is a Sacrament of the living; therefore no one can, without grave sacrilege, celebrate it in the state of mortal sin, nor can a Pastor licitly assist at the same Matrimony; but he who is ignorant of those necessary things, so long as he does not learn them when he can, remains in the state of mortal sin.[1] - I said: when he can; for, as Benedict XIV[2] remarks, those who are of dull mind, so that they do not admit of fuller Catechesis, should be taught at least the principal heads of faith. - But as regards those who lack knowledge of those things which are necessary by necessity of precept, the things which we said n. 261 can sometimes be used, especially among us. For, as Kenrick[3] rightly observes, "since there is so great an ease of entering Matrimony before a heretical minister or magistrate, it is generally not expedient to repel them, although every effort must be applied that they be instructed as much as possible." I add that it is necessary that for the present they know, or be taught, those things which they ought to

know in order that they may validly and licitly receive the Sacraments which they are to receive here and now. Cf. n. 260. 4).[4]

2. In the instruction of those about to marry, especially in these Provinces, the things on which one must especially insist are nearly the following.

The indissolubility of the matrimonial bond, - the right mode of baptizing offspring or a fetus in necessity, - the calling of a truly Catholic midwife, if she can be had, in childbirth, - the timely Baptism of offspring, - a nurse, if one is to be used, endowed with good morals, - the timely instruction of offspring in those things which must be known by necessity either of means or of precept, - the dangers of public schools, and how much it matters that, when they change residences, they prefer those places where a Catholic school can be approached, - the evils which are accustomed to follow from intemperance and frequenting taverns, - the horror with which secret societies are to be fled, - the obligation of contributing according to one's means to the support of Religion.

Besides these things, which are more proper to our regions, these things must be inculcated: - due preparation for the Sacrament through sincere Confession, and, if it can be obtained, a general one, the betrothed persons having been taught that those things which perhaps have been committed by them against chastity are equally sinful as if they had been perpetrated among persons not betrothed, and they having been admonished concerning avoiding suspected or solitary conversation both between themselves and with others, and cohabitation before Matrimony having been most severely interdicted, - the use of Matrimony commanded and licit, - concerning what things one must beware in time of pregnancy, - the danger of suffocation of offspring if, before the first year of age has been completed, it sleeps in the same bed with the mother, - the danger of perversion of children in the case in which they are not corrected when they transgress against modesty, even lightly, - the danger of the same perversion when those seven years old, or often even six years old, sleep in the same bed with parents or with children of the other sex, - caution to be applied when necessity compels that they sleep in the same room with the parents, - the obligation of going before one another and the offspring with good example, - mutual love and fidelity of the spouses, and the things contrary to these.

Nevertheless not all are to be taught all things, nor all in the same way; for the uneducated are to be instructed one way, but the cultivated another; the more honorable one way, the common people another.

Nor all things at the same time. For although instruction is not to be deferred to the day which immediately precedes Matrimony, nevertheless those things which pertain to the commanded and licit use of Matrimony must almost necessarily be remitted to that Confession which immediately precedes Matrimony. But the things which regard the choice of a truly Catholic midwife and of a good nurse, and also the danger of suffocating offspring, generally, and unless there is fear lest the occasion otherwise slip away, are more prudently deferred to the last months of pregnancy. Finally the dangers which threaten the offspring from modesty not very well observed, or from the same bed or room with parents or with children of diverse sex, generally can be relegated to that age of the children at which the danger is accustomed to arise.

The mode by which they are to be taught the commanded and licit use of Matrimony ought to be various according to the various condition of those about to marry. For if they have been of a freer

life, that instruction can be somewhat more open, but always honorable, in words of this kind, e.g.: "In those things which pertain to receiving offspring, the consort is to be obeyed, and all things which conduce to this are lawful. If any doubts afterwards arise for you, disclose them candidly to the confessor; but meanwhile" (if there is question of instructing the betrothed woman) "obey your husband, as Superior, unless you clearly understand that something evil is being prescribed to you or demanded of you." - To betrothed persons who were not of a freer life, the same things can be said; but in place of the words: *to receiving offspring*, these are rather to be used: *to the end of Matrimony*; and in place of: *to this*, let it be said: *to this end*.

Notes near n. 1544, premitted Confession and Communion before Matrimony (printed p. 231).

1 Apud Heiss. de Matr. § 73. | **2** Heiss, de Matr. § 69. V. | **3** Past.-Bl. für N. Amer. 12th Jahrg. S. 140.

1544. III. "It must also be striven for, and the Council of Trent earnestly exhorts, that those about to marry, before the celebration of Matrimony, and that not immediately but at least three days before" (its consummation) "approach the Sacraments of Penance and Eucharist. In many diocesan statutes there is also found either a counsel or a precept concerning this matter. That also is an excellent means of opportunely detecting an impediment, especially an occult one" (see above n. 1542 under 3), "or a circumstance to be expressed in the petition for obtaining dispensation, and of preventing grave inconveniences otherwise going to arise."

"If either party refuses to approach the Sacrament of Penance, the pastor will labor that he change his mind; but if he profits nothing, he will exhort that party at least to elicit contrition for sins before the celebration of Matrimony. But if each party refuses to approach the Sacrament of Penance, and the pastor does not profit by his admonitions, the judgment of the Ordinary must be invoked in places where Confession is prescribed; but outside this case the pastor will assist."[1]

But if there is question of public sinners, the Pastor will be able to assist at their Matrimony "to avoid death, or other graver evils of the community, or of the contracting parties themselves, for example lest they themselves persevere in sin."[2] Therefore generally in this case assistance is to be denied, and it "will always be denied ... if each party openly refuses to confess in contempt of Religion or the Church, or if the very celebration of Matrimony of this kind is going to be a true scandal."[3] Kenrick also excuses the assistance of the Pastor if there is reason to fear that those about to marry approach magistrates or heretical ministers; which opinion seems deservedly less probable to the illustrious Heiss,[4] at least (I add) if there is question of places where the impediment of clandestinity does not have force.

In the case in which there were question of those who have notoriously incurred ecclesiastical censures, apply what was said n. 1231. q. 4°. But if there is speech concerning these, the celebration of Mass must always be excluded, as the Sacred Penitentiary adds in the Response which is related in the cited n. 1231; and, on account of parity of reason, it seems to me that the same must be applied also to the case of public sinners, although they have not notoriously incurred censures.

I said: that Confession be made advisedly at least three days before Matrimony, etc.; and this not only that impediments, especially occult ones, may be opportunely detected, but also that the contracting parties, who up to this point were living in the state of sin, not rarely as in quasi-concubinage, may

more securely be disposed to receive the Sacraments worthily and fruitfully. Hence several advise that already before the first promulgation of the banns the contracting parties be induced (for the first time) to Confession, and indeed, if it can be done, to a general Confession, to be made either in the place of the contract, or elsewhere; and then again on the day before the celebration of Matrimony, on which occasion the altogether necessary instruction concerning the licit and due use of Matrimony can suitably be handed down. Holy Communion, if it is received, according to the Rubrics of the Missal (in the Mass for spouses, where it is read, "after the priest has received the Blood, let him communicate the spouses") ought to be received on the nuptial day itself, and this, if the nuptials are solemnly blessed, within the Mass, and indeed, as is inferred from the Response of the Sacred Congregation of Rites, June 23, 1853, in the case of Limburg,[1] by way of the Sacrifice, namely in this way, that two small hosts be consecrated in this Mass itself for the betrothed man and the betrothed woman.[2] - Nevertheless Mass can be celebrated and within it the blessing given, although the spouses do not communicate within this Mass. S. C. R. March 21, 1874.[3]

Chapter III. On the Nature and Properties of Matrimony

Article I. On the Nature of Matrimony

1545. - Definition. Matrimony can be considered in two ways, namely as contract, and as Sacrament.

1° Matrimony as contract is a convention by which a man and a woman legitimately hand over to one another dominion over their bodies in order to acts of themselves apt for the generation of offspring, and oblige themselves to an undivided society of life.

2° Matrimony as Sacrament is defined: A Sacrament of the new law conferring grace for sanctifying the legitimate conjunction of man and woman, and for piously receiving offspring and educating it holily.

But Matrimony is of precept as regards the community in general, but not as regards the individual members of the same, except accidentally on account of some other debt of justice or charity, for instance for legitimating offspring, for repairing the damage of defloration, or if someone were unwilling to employ other means for preserving continence. L. IV. 209.

Appendix annotation (35), to n. 1545. q. 8°. p. 235. col. 2. The conditions which the Church imposes in conceding a dispensation for mixed Marriages or upon the impediment of disparity of cult express obligations to be assumed in the celebration of the union, rather than conditions properly so called concerning the future which are able to suspend the value of the Matrimony.

1546. - Division. Matrimony can be considered both as regards the conjunction of man and woman, and as regards the bond which arises from it; hence it is called:

1° In fieri or in facto esse. Matrimony *in fieri* is called the actual contract itself, which is perfected by the mutual consent of man and woman. But the continuing wedlock in the bond which proceeds from the matrimonial contract is called *in facto esse*.

2° Legitimate, ratified, and consummated. Matrimony is called legitimate when it is contracted according to the norm of natural and civil law, yet does not have the ratification of the Church or the character of a Sacrament, such as was once entered in the law of nature and the Mosaic law, and even now is entered among Jews and Gentiles. - Matrimony is ratified when it is contracted between Christians entangled by no impediment, between whom, however, after the contract, conjugal intercourse has not yet intervened. It is called ratified because not only nature and civil law, but also the Church approves it and holds it ratified. - Matrimony is called consummated when it has been completed by the copula of the spouses had after Matrimony has been contracted, and that, for the internal forum, probably perfected on each side; such copula is always presumed in the external forum, and in doubt is to be presumed also for the internal forum.[1]

3° True, presumed, and putative.

It is called true when it has really and validly been contracted, and as such is proved by some one of those arguments by which other affairs also are wont to be proved, of which kind is the testimony of the Pastor or others, the book of Marriages, the confession of the spouses, etc.

It is called presumed when it is presumed by law; and this presumption of law has place especially in a threefold case, but only in places where the decree of Trent concerning the form of Matrimony is not in force, namely: **1°** when, after betrothals absolutely entered between two capable persons, copula has followed, even if imperfect;[2] for then the consent concerning the future is presumed to have passed into consent concerning the present, and the copula is presumed to have been admitted with conjugal affection.[3] **2°** When, after betrothals entered under a condition, before the event of that condition, carnal intercourse has intervened between the betrothed persons; for then the Church presumes that the betrothed persons have receded from the condition, and therefore have wished purely and absolutely to contract Matrimony.[1] **3°** When, after betrothals concerning the present invalidly contracted by the impubes (in whom malice does not supply age), signs of ratified consent intervene between the same persons when they have attained puberty; of which kind are not only carnal copula, but also kisses, embraces, cohabitation, etc.[2]

Finally, Matrimony is called putative when it is thought to have been legitimately contracted, while nevertheless on the side of the thing, on account of some latent impediment, it is null. The Doctors therefore inquire concerning this, that it may be clear when it has the force of legitimating offspring thence received, and the other effects of law. Moreover two things are necessary for this: **1°** that it was contracted in good faith at least by one of the spouses, who was unaware of the impediment.[3] Indeed neither error of law, nor doubt concerning the value of the Matrimony, excludes this good faith, as Covarruvias[4] proves; but in doubt this good faith is presumed. **2°** That the Matrimony was contracted publicly and in the face of the Church, i.e. before the Pastor and witnesses, and with the denunciations premitted, or at least dispensed.[5]

4° Canonical, political or civil, of conscience, and morganatic.

They call that canonical in which all things concur which are prescribed by the Sacred Canons for Matrimony.

They call that political or civil in which those things also concur which are required by civil law, namely certain solemnities, dotal agreements, etc.; without these Matrimony indeed is canonically valid, yet civilly is reputed illegitimate, and accordingly lacks civil effects.

Matrimony of conscience is celebrated secretly before the Pastor or another priest deputed by the Bishop, with two faithful witnesses, the banns omitted. Besides a most urgent cause (e.g. Matrimony to be contracted by concubinaries who are held as legitimate spouses), there is also required the license of the Bishop, to whom there must be sent a written document of the Matrimony so celebrated; this is to be kept by him and inscribed in the book of secret Matrimonies, with those things observed which Benedict XIV prescribes on this matter in the constitution *Satis vobis*, November 17, 1741, §§ 10, 11.[1]

Morganatic Matrimony is that which a noble man enters before the Pastor and witnesses, with dispensation from the banns obtained, with a woman of a lower order, with this condition added: that both the woman and the children to be born from that Matrimony can acquire nothing of the right which coheres with the nobility of the man, and that they be content with those things which are necessary for living, or with a nuptial gift, or with a certain portion of goods determined by antenuptial agreement.[2]

Notes to n. 1546 - note sequence 1. (1) L. VI. 958. 1086. 1075. (2) Collect. p. 459. n. 989. (3) L. IV. Decr. T. I. c. 30. Notes to n. 1546 - note sequence 2. (1) L. IV. Decr. T. V. c. 6. (2) L. IV. T. II. c. unic. § Idem quoque in 6°. (3) L. VI. Decr. T. XVII. c. 14. (4) De Spons. P. II. c. VIII. § 1. n. 9. (5) L. IV. Decr. T. III. c. fin. § 1. Cf. Feije, de Imped. n. 264. Notes to n. 1546 - note sequence 3. (1) Cf. Heiss, De Matr. § 74. II. Feije, De Imp. n. 343 sq. Van de Burgt, De Matr. n. 412 sq. (2) Cf. Feije, De Imp. n. 346, where p. 228 (1) are cited authors who treat of the origin of the word morganatic. (3) L. IV. Decr. T. I. c. 31.

1547. Principles. - I. The Matrimony of Christians, celebrated by the legitimate rite, is a true and properly so called Sacrament of the new law. See the arguments among the Dogmaticians.

II. For the validity of Matrimony there is required true consent on the part of each contracting party; because Matrimony, as contract, is a convention between a man and a woman: but consent constitutes the essence of convention.

III. But the consent must be:

1° Mutual; for it consists in a contract, which is essentially the consent of two, or mutual consent. Hence, if it is lacking on one side, the Matrimony will be null.

2° Concerning the present; because by a promise concerning the future there are made only betrothals, not Matrimony.[3]

3° Deliberate and voluntary; because it is a contract concerning a grave matter, and therefore inducing a grave obligation; but no one is judged to impose a grave obligation on himself unless he freely and fully consents. This is clear from Canon Law, which invalidates Marriages contracted from grave fear, as will be said below concerning impediments.

4° Manifested by external signs; because every convention among men ought to be known by some external sign; for convention necessarily supposes mutual acceptance among the contracting parties.

1548. Questions. - Quaer. 1° What manner is to be observed with those faithful who, in those places of our Provinces where the Tridentine decree concerning the form of Matrimony is not in force, after absolute and valid betrothals and copula had with one party, either wish to enter, or have entered, nuptials with another either civilly or in the face of the Church?

Resp. The copula was had either with marital affection, or with fornicatorial affection. - If with marital affection, they are to be prohibited from any other Matrimony. The reason is clear from what was said n. 1546. 3°. Yet in the external forum they would be compelled to remain with her with whom they had contracted nuptials in the face of the Church, if they could not prove the copula had with the first; but they could exercise no carnal intercourse with the second. - If with fornicatorial affection, distinguish between the external forum and the internal. - If the copula has been brought into the external forum, they could be held by the ecclesiastical judge as in the likeness of legitimate spouses, and therefore be prohibited from any other Matrimony, and, if they had already contracted nuptials with another, be compelled to return to the first, with whom, nevertheless, they will be able to exercise no carnal intercourse. The reason is because in the external forum a delict is not presumed, and therefore the copula is presumed to have been had with marital affection. - But that carnal intercourse cannot be exercised with the first is from this, that the copula, although presumed to have been had with marital affection, in reality was had with fornicatorial affection. - If there is question of the internal forum, the Matrimony with the other will be valid, and also licit, if a legitimate occasion for dissolving the preceding betrothals has offered itself. - See the Instruction of

the Congregation de Propaganda Fide, p. LXV sq., which was communicated also to the Bishop of Alton, for the information of one recurring. Likewise Heiss.[1]

Note. - 1° In the question it is said: after VALID betrothals; for while, e.g., Titius, after having contracted betrothals with Anna, contracted betrothals with Maria against Anna's will, and then knew each woman, that copula had with Maria could not be a sign of Matrimony contracted with her, because the betrothals with her were null; but that copula had with Anna could be a sign of Matrimony contracted with her; for although he had the will of receding from her betrothals by contracting betrothals with Maria, yet in fact he did not recede, and having copula with her, he must be judged to have approved the aforesaid contract and to have amended the attempted recession.[2]

2° For the internal forum the persuasion of the penitent that he can enter a valid Matrimony with another, in doubt, will be an argument that the copula was had with fornicatorial affection.

Quaer. 2° Must consent be expressed in words?

Resp. 1° Negatively, as regards validity, because by natural law in a contract it suffices that consent be certainly expressed by some sign,[1] e.g. by marital cohabitation or by writing.

Resp. 2° Affirmatively, as regards liceity, because otherwise one would act against the Rubric and the custom of the Church. Nevertheless it does not seem to exceed a venial sin if words are not employed; indeed shame or another reasonable cause would excuse from every fault.[2]

Quaer. 3° Does consent through a procurator suffice?

Resp. 1° As regards validity, affirmatively, provided the required conditions are present, because Matrimony has the whole character of a natural contract. But any contract can be made through a procurator.

But the conditions for contracting Matrimony in that mode are the same as those which are required for valid betrothals to be contracted in that mode (see n. 1528. q. 6°); to which, for places where the decree of Trent concerning the form of Matrimony is in force, there is to be added this sixth: that the procurator appear with the other party before the Pastor and two witnesses.

Resp. 2° As regards liceity, negatively, unless a very grave cause urges. The reason is because this mode of contracting is contrary to the ordinary practice of the Church, and scarcely are Marriages so made among others than Princes and Magnates. Hence the Pastor ought not by his own authority to bless Matrimonies of this kind, as is clear from the practice of the Church and the Ritual.[3]

Quaer. 4° Is Matrimony entered UNDER A CONDITION valid?

Resp. 1° It is certain that it is valid if the condition is concerning the past or concerning the present, and it is verified. The reason is because that conditioned consent immediately passes into absolute consent, and therefore nothing is lacking to the value of the Sacrament.[4]

Resp. 2° If an honest and possible condition concerning the future is added, I say: **1°** The Matrimony is not perfected until the condition is fulfilled; because the contract ought to transfer a mutual right over the bodies concerning the present, as I said n. 1547, and hence, if one before the verification of the condition retracts consent, the Matrimony is null, since at the time in which the contract is perfected, mutual consent is lacking. I say: **2°** But when the condition has been fulfilled, the Matrimony is valid; because a conditioned contract, when the condition has been accomplished,

passes into an absolute contract, and by that very fact is valid by reason of the Sacrament, because among Christians the contract of Matrimony cannot be disjoined from the Sacrament. Hence more probably there is then no need of new consent; nevertheless more advisedly it is renewed.[1] (35) p. 423.

Quaer. 5° Is it licit to contract with conditioned consent?

Resp. Negatively. Such a mode of contracting is illicit, especially if the condition is concerning the future, unless perhaps, as St. Alphonsus[2] has it, there is present a most urgent cause which does not suffer delay, as if there is question of Matrimony with a dying person for legitimating offspring, in a case in which the death of the prior spouse is doubtful. The reason is because many and grave inconveniences can easily follow from such a mode of contracting, namely scandal, quarrels, complications, difficulties, etc. - Thus the more common opinion.

Quaer. 6° Is Matrimony entered under a base condition valid?

Things to be noted beforehand. - As regards the ends of Matrimony they distinguish: **1°** intrinsic essential ends, namely **a)** the mutual handing over of bodies with the obligation of rendering the debt, if the other asks by right, and **b)** the indissoluble bond; - **2°** intrinsic accidental ends, and indeed, as primary, the procreation of offspring; as secondary, the remedy of concupiscence; - **3°** extrinsic accidental ends, as are, e.g., the peace of families, the obtaining of riches, etc.

Moreover the positive exclusion of essential ends in the celebration of nuptials renders Matrimony void; but not of itself the exclusion of accidental ends; indeed principally (with the relation of works to God saved) to seek nuptials either as a remedy of concupiscence (without, however, the end of procreating offspring being excluded), or on account of an extrinsic end, provided it is in itself honest, is no sin.[3]

With these things noted beforehand:

Resp. 1° Negatively, if the condition is repugnant to the substance or essence of Matrimony, namely to its threefold good, i.e. **1°** to the good of Sacrament; **2°** to the good of fidelity; **3°** to the good of offspring; as it would be if the spouses, in contracting Matrimony, excluded the generation of offspring in the very use of Matrimony (but not if, out of love of continence, they excluded the use itself), or fidelity in marriage, or perpetuity in Matrimony. But for this it is required that a condition of this kind (namely for the external forum) be expressly posited, as is done in the formula of certain sects, by which perpetuity is excluded,[1] and that the spouses intend in mind to oblige themselves in no other way. But the Matrimony will be valid if this condition has itself concomitantly, and therefore is not the motive why the Matrimony is contracted, and otherwise there is present some general will of validly contracting. - Hence:

a) "The error of non-Catholics, by which very many think marriages can be dissolved by reason of adultery, or on some other account, by the authority of the State, does not obstruct the value of the contract; for the intention of contracting according to the law of nature and of Christ is stronger."

b) Matrimony is valid, although one of the spouses afterwards says that he had been ignorant of the Matrimonial debt, and, this having been known, affirms that he would not have entered Matrimony.[2]

c) The marriages of former "slaves, if the condition were added, 'so long as you shall have conducted yourself well,' are void."[3]

d) There was related to me the case of those contracting Matrimony before a magistrate or little heretical minister for this reason, that they believed the bond would thus be dissoluble, persuaded that it would be indissoluble if they contracted before a priest, whose ministry for that precise reason they did not use. I do not at all doubt that this Matrimony is null in the internal forum; for in this case error has itself antecedently to the contract, or they did not wish to enter any Matrimony other than a dissoluble one. But for the external forum, it would have to be clear concerning that matter from the confession or declaration of each spouse, against which the presumption of collusion does not militate. But if, as can easily happen among us, the confession of one party cannot be had, either because it is unknown where the party is, or because he refuses to appear, the sworn declaration of the other seems to suffice.[4]

Resp. 2° But if the base or impossible condition is not repugnant to the substance of Matrimony, distinguish. **1°** It is judged valid in the external forum, unless the condition is proved to have been seriously posited; the reason is because in that case the condition is held as not added. **2°** As regards the internal forum, distinguish. If it has been indubitably and seriously posited, it will be invalid: otherwise not. But in doubt a condition of this kind is presumed either not to have been posited, or not seriously, since in doubt judgment must always be made in favor of the value of Matrimony. Cf. n. 870. 2°. (36) p. 424.

Quaer. 7° What must be done if someone says that he consented fictitiously?

Resp. 1° As regards the external forum, faith is not given to him, unless either from the circumstances it is clear that he was deceived by fraud or induced by grave fear to contract, or by conjectures (which nevertheless is most difficult) fictitious consent is sufficiently proved. The reason is because it cannot be supposed that he who freely entered Matrimony consented fictitiously.

Resp. 2° As regards the internal forum, he who asserts that he consented fictitiously is to be obliged **1°** to abstain from asking and rendering the debt until he truly consents; **2°** ordinarily also to posit true consent, that thus he may repair the injury brought upon the other party. I say: ordinarily, because if the other party consents to separation, or fiction intervened also on the part of this party, or no damage is going to come to the party, or he who consented fictitiously was forced to contract, he is not held to supply consent.[2]

Besides, the spouse who posited true assent is not obliged to believe the other asserting that he consented fictitiously, even though he confirmed it by oath; and therefore would licitly ask the debt until the defect of consent was sufficiently proved.[3]

Quaer. 8° Is the consent of parents required for the validity or liceity of the matrimonial contract?

Resp. 1° As regards validity, negatively altogether; because the consent of parents is required neither by natural nor positive law. And **1°** not by natural law; because the contracting parties have power over their own body, nor do parents have power over the body of their children in order to Matrimony; otherwise they could void the Marriages of these, whether justly or unjustly, which is altogether repugnant and adverse to the common sense of men. **2°** Nor by positive law; for Trent[1] struck with anathema those who "falsely affirm that Marriages contracted by children of a family without the consent of parents are void, and that parents can make them ratified or void." But if civil law required the consent of parents for the value of Matrimony, its force would extend only to merely civil effects.[2] - Thus commonly all Catholic Theologians. Cf. n. 425.

Resp. 2° As regards liceity, affirmatively, generally speaking. This is clear from natural law, because children owe parents honor, reverence, and obedience, especially in those things which look to the whole family, of which kind is Matrimony, upon which very often depend the honor and peace of families, etc.

Quaer. 9° Can children sometimes contract Matrimony against the will of parents?

Resp. Affirmatively, if the parents unjustly refuse consent. But, since in this matter children of a family easily deceive themselves, before they celebrate nuptials they ought to consult prudent men and especially confessors, lest in a matter so grave and full of such great dangers they act imprudently, trusting their own judgment.

Quaer. 10° What must be done by the confessor or Pastor when children of a family wish to enter Matrimony against the will of parents?

Resp. 1° As regards the confessor, if he judges the reclamation of the parents just, he will persuade the children to accommodate themselves to the will of the parents. But if they are unwilling, and the conditions required by law in some State do not obstruct, he ought not to disturb them; for it would be imprudent, in a matter so difficult, to constitute himself judge between the father or mother and their children. Thus Gousset[3] practically resolves the matter. But if the children, while the parents are unjustly opposing Matrimony, "betake themselves outside the limits of the State ... for contracting nuptials, or seek by another compact to evade the penalties of the laws, with truth uninjured, they do not seem to be blamed; otherwise if they accomplish the matter by false oath or false witnesses." Thus Kenrick.[4]

Resp. 2° As regards the Pastor, he ought not to assist at Matrimony unless the conditions prescribed by civil law have been fulfilled, on account of the inconveniences otherwise going to arise. See n. 426. q. 4°. R. II. a).

Notes to n. 1548 - note sequence 1. (1) De Matr. § 16. (2) Heiss, de Matr. § 16. p. 51. Notes to n. 1548 - note sequence 2. (1) L. VI. 887. (2) Ib. 888. (3) Ib. 885. (4) Ib. 890. Notes to n. 1548 - note sequence 3. (1) L. VI. 892. 895. (2) Ib. 892. (3) Ib. 882. 883. Notes to n. 1548 - note sequence 4. (1) S. C. O. Instr. 18 Dec. 1872. (2) Kenr. Tr. XXI. 40 and Letter of Pius VI to the Archbishop of Prague, July 11, 1789. (3) Acta, T. V. p. 551 sq. (4) Kenr. Tr. XXI. 40. Notes to n. 1548 - note sequence 5. (1) L. VI. 891. (2) Ib. 887. 1113. (3) Ib. 907. 908. Notes to n. 1548 - note sequence 6. (1) Sess. 24. c. 1. de Ref. Matr. (2) L. VI. 849. 850. (3) n. 839. (4) Tr. XXI. 41. 42. Appendix annotation (36), to n. 1548. q. 6°. R. 2°. p. 235. col. 2. Some contend that an agreement, on the occasion of a mixed Matrimony, of educating all or part of the offspring in heresy, is repugnant to the substance of Matrimony; but the sentence denying this is most common. The reason is that the good of offspring, insofar as substantial to Matrimony, is to be understood as the physical good. Thus Feije, n. 566, who adds: "in practice we judge that Matrimony" with such an agreement "can safely be held as valid, but cannot be held as invalid without consulting the Apostolic See."

Article II. On the Properties of Matrimony, Namely, On Its Unity and Firmness

§ I. On the Unity of Matrimony

1549. - The unity of Matrimony is placed in this, that Matrimony is the conjunction of one man with one woman.

1° It is certain that polyandry conflicts with the natural law, because it is adverse to the principal ends of Matrimony, namely the generation of offspring and its good education. - Thus all.

2° It is certain that simultaneous polygamy is prohibited and void in every case, at least by the positive divine law of the new law, as is clear from Luke[1]: *Everyone who dismisses his wife and marries another commits adultery.* It is likewise clear from Trent.[2]

3° It is certain that second nuptials and further ones are licit both for the man and for the woman, even under the Evangelical law. This is clear from the authority and practice of the Church, and also from Sacred Scripture[3]: *A woman is bound to the law for so long a time as her husband lives; but if her husband shall have fallen asleep, she is freed: let her marry whom she wishes, only in the Lord.*

Notes to n. 1549. (1) Luke 16. 18. (2) Sess. 24. can. 2. (3) 1 Cor. 7. 39.

§ II. On the Firmness of Matrimony

A twofold firmness of Matrimony is distinguished: for one regards the bond, the other the bed.

Point I. On the Firmness of Matrimony Insofar as It Regards the Bond.

1550. - Matrimony is indissoluble, i.e. once Matrimony has been contracted, divorce as regards the bond cannot be made, at least by positive divine law. It is of faith. It is proved: **1°** from the words of Christ[4]: *Therefore now they are not two, but one flesh. What therefore God has joined, let not man separate.* **2°** From the words of the divine Paul[5]: *But to those who are joined in Matrimony I command, not I, but the Lord, that the wife not depart from the husband; but if she departs, that she remain unmarried, or be reconciled to her husband. And let not the man dismiss his wife.* **3°** From Trent.[1] Cf. n. 456. 9°, and n. 1053. q. 2°.

Notes to n. 1550. (4) Matt. 19. 6. (5) 1 Cor. 7. 10. (1) Sess. 24 sub initio.

1551. - Nevertheless a threefold case is to be excepted; for:

1° Ratified and non-consummated Matrimony of Christians can be dissolved, for a most grave cause, by dispensation of the Pope, from power divinely conceded to him. This is clear from this, that the Supreme Pontiffs have already very many times used this power, as can be seen in the illustrious Feije.[2] Nevertheless dispensation is not granted unless full proof is exhibited to the Holy See that the Matrimony has not been consummated, and sufficient causes are alleged. - The *Acta*[3] hand down what particular causes today are held sufficient. But the consent of the other party is not needed. - Non-consummation is to be proved judicially, yet only summarily. On this matter the *Collectanea juris missionis*[4] will usefully be consulted.

2° Ratified and non-consummated Matrimony of the faithful can be dissolved by solemn religious profession[5] of one spouse entering Religion within the first two months, and this from a special privilege conceded by Christ and declared by the Church.[6] Cf. also the things to be said in this number under 3°. 9.

I said: within the first two months. Namely, that the spouses may deliberate concerning the use of this privilege, the two months after the nuptials are conceded to them by the Law itself[7] (it can be prolonged by the judge, the cause being known), during which time they are not obliged to render the debt, provided nevertheless that Matrimony perhaps is not necessary for repairing scandal or the honor of the bride.[8] - Fornication had between the betrothed persons before the celebration of Matrimony does not impede this privilege, if nothing else obstructs. - Nevertheless he sins in kind who contracts Matrimony with the intention of entering Religion, without warning the other party.[9]

See several other things pertaining here, if you like, in the illustrious Feije.

3° Even consummated Matrimony of infidels[1] can be dissolved from divine concession when one of the spouses is converted to the Christian Faith[2] through the reception of Baptism, and the other, having been interrogated, refuses peacefully to cohabit with that one, or does not cohabit except with injury of the Creator and contempt of the Christian Religion, or applies an attempt to pervert the faithful party. This is deduced from the Declaration of Innocent III.[3] But this divine concession is drawn from the words of the Apostle[4]: *If any brother has an unbelieving wife, and she consents to dwell with him, let him not dismiss her; ... but if the unbeliever departs, let him depart; for a brother or sister is not subject to servitude in such things: but God has called us in peace.*

Many decrees and decisions[5] of the Supreme Pontiffs and of the Sacred Congregations exist on this matter. From these with the theologians we conclude:

1. (a) When, after true Matrimony entered in the infidelity of each party, one party or each is converted and baptized, the Matrimony remains valid, and there is no need of new consent. - **(b)** If there was not a true Matrimony between them, the converted person can enter Matrimony either with that same person, but first baptized and (as regards liceity) Catholic, or with any other baptized and Catholic person, with mutual consent first offered and with those things observed which elsewhere we shall set forth concerning clandestinity.

2. If an infidel has several women, or respectively men, then either after conversion he does not remember which one he first took, and he can, mutual consent first having been offered in due form, retain one of those with whom he truly wished to be joined in Matrimony; or he remembers which one he first took, in which case apply to this one what was said under 1. (a). Yet in this hypothesis there can be place for the case of the Apostle. - But if an infidel, having several women, entered true Matrimony with none, after conversion he can contract with any baptized and Catholic woman, with mutual consent having been offered in due form.

3. When one party has been converted and baptized, the unbelieving one is to be interrogated whether that one wishes either also to be converted to the Faith, or at least to cohabit without contumely of the Creator. If the unbelieving one refuses to do either, or after cohabitation changes mind, or departs without fault of the faithful one (such as, e.g., adultery of this person after Baptism would be [see under 6]), this faithful one will be able to enter a new Matrimony. - But that the unbelieving person can truly be said to wish to cohabit without contumely of the Creator, it is necessary that he not draw the converted party to mortal sin; that he desist from concubinage in which, e.g., he was already living before the conversion of the other party; that he not bring troubles upon the Religion of the converted person or the Catholic education of offspring, etc.[1]

But Matrimony entered in infidelity is not dissolved except at the very moment in which another valid Matrimony is contracted.

4. The faithful party cannot, without dispensation, validly enter a new Matrimony except with a party already baptized; otherwise there would be present the diriment impediment of disparity of cult, from which Bishops, by force of faculties Form D. n. 3 (T. I. p. LXXIV.), cannot dispense, and the Holy See does not dispense except for most grave causes.[2] Besides, that a new Matrimony be licitly entered, it must be contracted with a Catholic woman. By dispensation, indeed, it could licitly be

contracted with a non-Catholic, but concerning this dispensation also what was said around disparity of cult is valid.

But when a faithful person by dispensation has contracted Matrimony with an infidel, and that one thereafter refuses to cohabit peacefully and without contumely of the Creator, Kenrick[3] thinks that there is place for the case of the Apostle; but the contrary is certain from the Holy Office, June 14, 1708; August 1, 1759, to 4; year 1854, Dub. II, to 2; August 21, 1878.

5. The interrogation of the infidel:

a) Is altogether necessary (even if in reality it could not be made or would be useless), and that one's response, with a competent term fixed for the same, must be had, so that one can proceed to new nuptials, unless dispensation has been made by the Holy See, or among us, in the case set out p. LXX. 11, by the Bishop. Yet Bishops will be permitted to use this faculty only according to the norm of the Brief *Populis* of Gregory XIII. In this case it suffices to interrogate concerning the will of conversion.[1]

b) It is to be made: in the presence of two witnesses; by the converted person himself or by another in his name, with the Ordinary intervening; the purpose of the converted person being notified (in the case in which the unbelieving person is going to refuse both conversion and cohabitation without injury of the Creator) either of passing to other nuptials, or, if this is the person's intention, of entering Religion, receiving Sacred Orders, or living in celibacy.[2]

c) Dispensation from the interrogation can be obtained from the Holy See as often as the unbelieving person, after being interrogated, has not responded within the time prefixed, or cannot be interrogated; for instance because it is unknown where that one is living, whether still alive, or because it is judged morally impossible that due interrogation should reach that one, or because from the interrogation most grave inconveniences are feared. But concerning these things it must be clear by summary process, the omission of which nevertheless renders the nuptials only illicit, if it is clear to the delegate for dispensing concerning the circumstances rendering interrogation impossible or difficult or useless.[3]

d) If a new Matrimony with a faithful person, the interrogation having been omitted or the response not having been received, had been celebrated without permission of the Holy See, this See alone could define whether one may remain in it.[4]

e) The interrogation is to be made (or dispensation from it sought) after Baptism,[5] and it cannot be made before Baptism except for a grave cause and with previous permission of the Holy See.[6]

6. The privilege of the Faith remains to the converted party, even if because of adultery or another criminal cause posited by that party before conversion, the unbelieving one denies cohabitation; for crimes committed before Baptism can never be objected.

But adultery committed in infidelity by the party who, having been interrogated, wishes indeed to cohabit without injury of the Creator, but not to be converted, does not furnish to the converted person the faculty of a new marriage; nevertheless, in that case this converted person is not held to cohabit with the unbeliever, although asking pardon, as will be clear from things to be said n. 1552. III. under 3°.[1]

7. After a new Matrimony has been entered by the faithful person, the unbelieving party, if thereafter also converted, can contract Matrimony with another Catholic. - But whether, if the person remains an unbeliever, he can enter a new Matrimony with another, even an unbeliever, is disputed.[2] "Today," says Feije, "the common doctrine is that in this case the unbeliever enters Matrimony with another unbeliever both validly and licitly."

8. But if the faithful person has not entered a new Matrimony, the unbelieving one invalidly marries another, nor can Baptism be conferred upon that one if afterwards converted, unless, with adulterous bonds cast off, the person has separated from the new party. Holy Office, January 23, 1805. And this is true even if this new party also is converted, and the prior spouse consents.

9. The converted person who has not entered a new Matrimony cannot after the conversion of the other party enter Matrimony with another; indeed from charity[3] he is held to return to the other party if otherwise this person's conversion would be endangered. Is he also held from justice? It is disputed.[4]

But what if the other party is converted after the party first converted has either professed Religion, or received Sacred Orders, or even only vowed perpetual chastity?

Resp. Without pontifical dispensation, or, if among us there were question of only the simple vow of chastity, without dispensation of the Bishop, he cannot return to the other party.

Note. - If among us one of the three cases occurs in which, according to the things said in this number, Matrimony can be dissolved, prudence will require that, before the free party pass to other nuptials, civil divorce be obtained. (6), p. 394.

Notes to n. 1551 - note sequence 1. (2) De Imp. n. 601. p. 490 (1) and p. 808. VII. Cf. Vind. p. 800 sq. Ed. 2a. T. II. p. 461 sq. (3) Tom. XIV. p. 154. sub IV-VI. (4) p. 434. col. 2. § Instructio; p. 435. n. 965; p. 436. n. 966, 967. (5) Trid. Sess. 24. Can. 6. Ben. XIV. de Syn. L. XIII. c. XII. n. 9. (6) Trid. Sess. 24. Can. 6. (7) Sanchez, de Matr. L. II. D. 24. (8) L. VI. 870. Dub. 2. 958. (9) Feije, n. 520. Notes to n. 1551 - note sequence 2. (1) L. VI. 958. (2) De Imp. n. 519. (3) L. IV. Decr. T. XIX. c. 7. L. VI. 956. (4) 1 Cor. 7. 12. 15. (5) Feije, n. 472 sq. Collect. p. 407 sq. Notes to n. 1551 - note sequence 3. (1) Collect. p. 424. n. 946 and p. 427. col. 2. § Praeterea. (2) Ib. p. 425. n. 949 and p. 430. col. 2. Quaesit. secund. (3) Tr. XXI. 110. Notes to n. 1551 - note sequence 4. (1) Feije, n. 481. 494 sq. (2) V. d. Burgt, de Matr. n. 462. (3) Feije, n. 488. (4) V. d. Burgt, ib. n. 459. (5) Collect. p. 429. n. 955. (6) Ib. p. 432. n. 958-960. Notes to n. 1551 - note sequence 5. (1) Feije, n. 492. (2) Vide Ben. XIV. C. Probe, February 28, 1747. (3) De Imp. n. 501. (4) Feije, De Imp. n. 499. Appendix annotation (delta), to n. 1551, p. 239, col. 1. It is pleasing here to add a double case. John and Paulina, unbelievers, entered legitimate Matrimony. Paulina, after obtaining from a civil judge a sentence of divorce on account of John's adultery, is converted to the Catholic Faith. It is asked whether, since Paulina is not held to cohabit with John on account of his adultery, she ought to interrogate him before she can contract with another? I respond yes; for the end of the law of interrogation has ceased only partially, since the unbeliever is to be interrogated so that it may be known both whether he wishes to be converted, and whether he wishes to cohabit peacefully; and in the case in which he is converted, cohabitation cannot be refused on account of adultery committed in infidelity, which is washed away through Baptism. Cornelius, a Jew, took Iphigenia, an unbeliever, as wife. A sentence of divorce having been issued by a civil judge, Cornelius after some time embraced the sect of the Episcopalians, and, Iphigenia having been interrogated in vain for cohabitation, contracted with Lucia, a follower of the same sect. But after several years Iphigenia is converted to the Catholic Faith; afterward, however, Cornelius and Lucia also desired to be received into the bosom of the Catholic Church. - It is asked whether they can be received without being separated? - Resp. "Those are not lacking who opine(1) that then also the privilege of faith is valid when someone passes from infidelity to non-Catholics and is validly baptized. This can deservedly be defended for cases in which all things required by divine law as regards interrogation have been fulfilled, and in which no license of the Roman Pontiff or declaration of divine law is needed, at least so that the new Matrimony may safely be held as valid. But in the remaining cases it seems that the privilege of faith cannot be acknowledged, at least in such a way that the new nuptials may safely be held as valid. But that license, or dispensation, or declaration of divine law, that new Christian certainly would never obtain

from the Roman Pontiff, and the faculties of dispensing granted by him to others are restricted to converts to the Catholic Faith."(2) After I had written these things, I learned from a certain Bishop that the Matrimony of Cornelius with Lucia, in the year 1876, had been declared valid by the Holy See. Cf. n. 1551. p. 238, col. 1 under 4. > Notes to appendix annotation - note sequence 3. > > 1 Cf. Perrone in Giovine, T. I. p. 528. Ballerini on Gury, T. II. n. 759 under 8° at the end. | 2 Feije, de Imp., n. 502.

Point II. On the Firmness of Matrimony Insofar as It Regards the Bed, and On Divorce from the Bed.

1552. Principles. - I. By reason of the Matrimonial bond spouses are held to cohabit together and to lead a social life. The reason is drawn from the very definition of Matrimony.[1]

II. Nevertheless divorce, or separation from bed or habitation, can be made for grave causes, while the conjugal bond remains nonetheless, so that neither party can enter another Matrimony before the death of the other. This is declared by Trent.[2]

III. Causes giving honor to a divorce of this kind are: mutual consent, grave danger of soul or body, and adultery or heresy of either party (concerning which see n. 1521. 10°); you will understand these causes thus for practice.

1° Mutual consent: namely, each spouse together can renounce his or her proper right as regards the bed, whether for a time or perpetually, provided that, mature deliberation and long experience having been premitted, it is clear that the danger of incontinence is absent, and they are separated from bed. Likewise they can be separated even as regards habitation, whether for a time on account of business, or perpetually on account of a desire for a more perfect life; this desire can be fulfilled in two ways, namely either by the reception of Sacred Orders (concerning which mode see n. 1521. 10°), or by entrance into Religion. Concerning this note that it is necessary that the other party also enter a monastery and there emit regular profession, unless perhaps already of advanced age and immune from every suspicion of incontinence; for then it suffices if the person bind himself or herself by perpetual simple vow of chastity (before an ecclesiastical Superior and witnesses). Except if pontifical dispensation frees from this vow.[3]

Can spouses by mutual consent enter a Congregation in which only simple vows, yet of themselves perpetual, are emitted? - I think that, prudence being observed in individual cases, nothing obstructs; for even while remaining in the world both can vow continence.

2° Grave danger of soul, if danger of perversion in one from the cause of the other is present; or of body, if danger of life or mutilation is imminent, or if cohabitation on the part of one toward the other is made so troublesome that it is rendered morally impossible. This would happen if a spouse were compelled to suffer relatively grave or frequent cruelties, or if the wife were expelled without cause.[4]

3° Adultery of either party, namely such that it is: **1°** morally[1] certain; **2°** voluntary, and not perpetrated from violence inflicted;[2] **3°** not condoned either expressly or implicitly, e.g. by the conjugal act, or by other signs, exhibited by the innocent party knowing and remembering the adultery (for the internal forum, with the mind of condoning);[3] **4°** not mutual, because then compensation would exist;[4] **5°** as St. Alphonsus thinks more probably, consummated;[5] **6°** committed without the consent of the other party.[6] - This is clear from the words of Christ[7]: *He who shall dismiss*

his wife, except for the cause of fornication, makes her commit adultery, etc. But what is licit for the man ought by the same reason to be licit also for the woman.

Observe from the more common and at least extrinsically more probable opinion of the Doctors that under the name of adultery here comes any division of the flesh, even if it does not have the character of adultery properly so called, of which kind is sodomy and bestiality.[8]

Notes to n. 1552 - note sequence 1. (1) V. Acta. T. I. p. 218. (2) Sess. 24. Can. 8. (3) L. VI. 968. H. A. Tr. XVIII. 92. Ben. XIV. de Syn. L. XIII. c. XII. n. 10 sq. (4) L. VI. 970-974. Acta, T. II. p. 136. 1). Notes to n. 1552 - note sequence 2. (1) L. VI. 961. Acta, T. II. p. 136. (2) L. VI. 966. (3) Ib. (4) Ib. (5) Ib. (6) Ib. (7) Matt. 5. 32. (8) L. VI. 962. (9) Ib. 963. (10) Ib. 963. 964. Notes to nn. 1552-1553. (1) L. VI. 967. (2) Sanchez, de Matr. L. X. Disp. X. n. 12. 18. (3) L. VI. 969. (4) Ib. (5) Tr. XXI. 115.

1553. Questions. - Quaer. 1° Is a man, when the adultery of his wife is known, held to dismiss her?

Resp. 1° It is certain that he is not held by reason of adultery, because divorce was conceded in favor of the innocent party, not for his punishment. - Thus commonly.[9]

Resp. 2° Sometimes the man can be held to dismiss an adulterous wife by reason of fraternal correction or avoiding scandal, and say the same of the wife, if founded hope of amendment is present and the husband can be dismissed without grave inconvenience; but this former case is rare, both because other means can be employed for correcting the wife or avoiding scandal, and because grave scandal or another grave inconvenience to be feared from separation can excuse. Besides, the wife cast out would be exposed to greater danger, at least for the most part. But the latter case will be most rare.[10]

Quaer. 2° Once divorce has been made, can the innocent party compel the other to return to himself or herself?

Resp. 1° Affirmatively, if there is question of non-juridical separation, because this is not strengthened by sentence of the judge.

Resp. 2° Affirmatively, more probably, even in the very case of juridical separation. The reason is because the sentence of juridical separation is borne in favor of the innocent party, and therefore does not take away the right of recalling the other; nor for this is a new sentence of the judge needed. Nevertheless an adulterous woman is not to be compelled to return as often as she can reasonably fear that she will be treated harshly, bitterly, or even cruelly.[1]

Nevertheless one must observe:

1) Although after divorce juridically made, according to the common doctrine, the innocent party can, even against the will of the adulterous party, enter Religion or receive Sacred Orders, nevertheless this is not conceded to the adulterer dismissed; who therefore can neither enter Religion nor be initiated in Sacred Orders unless the innocent party either expressly consents, or has already assumed an irrevocable state; and if the adulterer were to enter Religion, he could be recalled by the innocent party even after profession.[2] Nevertheless St. Alphonsus[3] admonishes that tacit consent also suffices for this, namely if the innocent party knows this and does not contradict when he or she can; nevertheless in the case he or she is not held either to enter Religion or to bind himself or herself by a vow of chastity. St. Alphonsus concedes this very thing to the guilty party when the

innocent party, having been asked, was unwilling to admit reconciliation, or even if the innocent party has not recalled the guilty party after two years have already elapsed.[4]

2) "If divorce has been made by civil authority" as regards the bond, "the spouses renewing domestic intercourse, without new nuptials, will be liable to the penalties of adultery. But this can be asked: whether, for escaping the penalties of the law and recovering rights, it is licit to give consent again to Matrimony. It seems licit before the priest to refer to consent once given, so that he can testify concerning the Matrimony; but the consent itself must not be renewed, since it is the form of the Sacrament; for the rest, words can be used in a broad sense for satisfying the law. While care is employed that civil testimony be had concerning the Matrimony, caution must be taken that no sacred rites be performed again, or that anything be done by which favor is given to the error of a bond dissolved." Thus Kenrick.[5]

Quaer. 3° Once juridical separation has been made on account of adultery, is the innocent spouse held to return to the other party recalling him or her, if he or she afterwards has also fallen?

Resp. Negatively, more probably. The reason is because the first adulterer, by the sentence of the judge, was already entirely stripped of every right toward the innocent party.[1]

Quaer. 4° Can divorce be made by private authority?

Resp. 1° Affirmatively as regards the bed, if a grave cause underlies, as was said above; and specifically by reason of adultery, even occult adultery, because the rights of Matrimony can be denied perpetually to the unfaithful spouse.

Resp. 2° As regards habitation: **1°** affirmatively, by reason of adultery, even if the crime is occult (at least more probably, if the adultery is on the part of the woman), because Christ, by permitting divorce for this cause, did not distinguish between public and private adultery. But for this it is required that the crime be certain, and that scandal not intervene from the separation which cannot be otherwise repaired.[2] - Yet several say that divorce is not licit on account of occult adultery; because it is not licit to injure the fame of the adulterer by making manifest, even tacitly, a secret crime. **2°** Affirmatively also, by reason of danger either of soul or of body, provided the danger is in delay, or the innocent party cannot litigate, or approach the judge, or easily prove the cause.[3] But in practice it is expedient that the counsel of a prudent man, especially of the confessor, be sought. But the confessor ought to proceed very cautiously in this matter. Let him beware lest too easily he believe the complaints of wives against husbands; and let him strive to restrain them, and avert them, insofar as it can be done, from divorce. - Besides, diocesan statutes, if there are any, are to be observed. - "Nor do I think those spouses should be disturbed," says Müller, Th. Mor. III. § 227. n. 4, "who have been separated by civil authority only, if they are in good faith; for scarcely any fruit of admonition is to be hoped for."

Notes to n. 1553. (1) L. VI. 967. (2) Ib. 968. (3) Ib. 971.

Chapter IV. On the Matter and Form of Matrimony

1554. Principles. - I. The remote matter of Matrimony is the bodies of the contracting parties, insofar as they are mutually handed over to one another in order to the generation of offspring. - Thus commonly.

But the proximate matter is the handing over itself of the bodies, which is perfected by the words or signs expressing consent. - Thus commonly. Benedict XIV, Constitution *Paucis abhinc*.

II. The form consists in the mutual acceptance of the contracting parties expressed by words or signs. - Thus likewise more commonly.

See the Dogmaticians.

Chapter V. On the Minister and Subject of Matrimony

Article I. On the Minister

1555. - I. It is certain that for the value of Matrimony the presence of the Pastor or delegate is required wherever the Decree of the Council of Trent concerning clandestine Marriages has been duly published.

II. Even if somewhere this decree of Trent has not been promulgated, nevertheless it is certain: **1°** that the Church has always willed that the priest deputed for this assist at the Marriages of the faithful; **2°** that the Pastor cannot omit his assistance at the nuptials of the faithful, and that he is obliged to impart the blessing according to the rite received in the proper place; **3°** that the faithful who enter Matrimony clandestinely sin gravely. This is evinced from Trent.[1]

III. Today, whatever some previously said according to an obsolete opinion, it is certain also, and, according to the Annotator of Gury,[2] proximate to Faith, that the contracting parties themselves are the ministers of Matrimony. See the arguments, if you like, in the cited Annotator.[3]

1556. Questions. - Quaer. 1° Can the Pastor assist at the Matrimony of those who are public sinners?

Resp. See n. 1231. q. 4°. For those things which are there said concerning those who have notoriously fallen into censures are valid concerning public sinners of whatever kind. - But the affirmative exception, if grave damages seem to threaten from this, appended by the Sacred Penitentiary, according to the doctrine of St. Alphonsus, confirms the general rule of denying assistance.[4]

The difficulty would be less if one of the spouses were innocent, or changed into a better life; for then it would be licit for the Pastor to assist at the Matrimony in favor of the innocent party. - Cf. the things said n. 1544.

Quaer. 2° What must be observed concerning the nuptial blessing?

Note beforehand. The nuptial blessing, which is conferred only in Mass, is to be distinguished from the blessing of the ring, and from the other rites which are expressed in the Ritual. With this noted beforehand:

Resp. 1° In contracting Matrimony the rites described in the Ritual always have place. See *Excerpta ex Rit. Rom. Baltim.* 1872. p. 204-212; Ed. 1874, p. 196-204.

Resp. 2° "Vehemently," say the Fathers of the Second Plenary Council of Baltimore,[1] "we exhort pastors that they introduce everywhere the practice of blessing Marriages within Mass."

Resp. 3° When and to whom the blessing, which is conferred only in Mass, can be given; likewise when, in what manner, and for whom this Mass can be celebrated outside the closed time,[2] see the same *Excerpta*, Ed. 1872. p. 212-214; Ed. 1874. p. 204-206.

Add to these: **1)** Provided there is question of first nuptials, the nuptial blessing can be given in Mass, although the woman is pregnant, or has begotten children, whether from a legitimate

Matrimony contracted without such blessing, or has conceived from fornication itself, or even has begotten children, and at present Matrimony is contracted. This is clear from the resolution of the Sacred Congregation de Propaganda Fide, June 5, 1841. (37) p. 424.

2) The use of a white veil to be spread over the bride is prohibited and reproved. S. R. C. September 7, 1850 in Rupell.

Quaer. 3° What must be done by the Pastor if all things are already prepared for the nuptials and from the Confession of the spouses he detects that an occult impediment is present?

Resp. 1° If there is question of an impediment in which the Holy See is accustomed to dispense, and the nuptials cannot be deferred without danger of infamy or other most grave inconveniences, and the penitent is in invincible ignorance of the impediment, the admonition is to be omitted, and the celebration of Matrimony is to be permitted until dispensation or sanation in the root is obtained.[3]

Resp. 2° If the penitent is in vincible ignorance, or if he clearly knows the impediment, and the Matrimony cannot be deferred, not even for obtaining dispensation from the Bishop, without infamy or scandal, then the difficulty is very great. - According to the opinion which St. Alphonsus[1] calls not unfounded, the confessor, or Pastor, could declare that the law of the Church concerning impediments does not oblige in such great straits, and proceed to the celebration of Matrimony. Nevertheless as soon as possible, at least for caution, dispensation ought to be sought. - According to others, and, as it seems, also according to St. Alphonsus,[2] simulation of the contract of Matrimony could be permitted with the intention of seeking dispensation from the impediment as soon as possible. But then no small difficulty will arise by reason of the danger of incontinence, unless perhaps dispensation can be had opportunely on the same day. But as often as the Bishop can be approached, he must be approached, because, according to the common opinion, in that case he can dispense from ecclesiastical impediments.[3] - Others have devised besides other ways, which see, if you like, in Feije.[4]

Every difficulty would cease in practice if the Bishop were to delegate to all priests laboring for the care of souls the faculty which he has for a case of this kind, and which, as ordinary or delegated by law (n. 154. 2°), according to the probable and common opinion,[5] he can communicate generally.

Notes near nn. 1555-1556, minister of Matrimony and nuptial blessing (printed pp. 241-242).

1 Sess. 24. de Ref. Matr. c. 1. | **2** Ed. Rom. 1873. T. II. p. 644 (E). | **3** Ib. and N. Rev. Th. T. 12. p. 307. (2). | **4** Vind. Ed. 2a. T. II. p. 607.

Notes to n. 1556 - note sequence 2. (1) a. 333. (2) Conc. Pl. Balt. II. p. 310. § fin. (3) L. VI. 613. Notes to n. 1556 - note sequence 3. (1) H. A. Tr. XVI. 114. (2) L. VI. 62. III. H. A. Tr. XVIII. 29. Exam. Ord. n. 17. (3) L. VI. 613. Cf. Vind. p. 807 sq. Ed. 2a. T. II. p. 471 sq. (4) De Imp. n. 640 sq. (5) L. VI. 613. 1125. De priv. n. 58. Appendix annotation (37), to n. 1556. q. 2°. p. 242. col. 1. General decree concerning the nuptial blessing. - S. C. S. R. U. Inq., Wednesday, 31 Aug. 1881. "The Eminent and Most Reverend Lords decreed: "That the nuptial blessing, which the Roman Missal exhibits in the Mass for bridegroom and bride, is always to be imparted in the Marriages of Catholics, yet within the celebration of Mass, according to the rubrics, and outside forbidden time, to all those spouses who, in contracting Matrimony, from whatever cause did not obtain it; even if they ask after they have already lived for a long time in Matrimony, provided the woman, if a widow, has not accepted the blessing itself in other nuptials. "Besides, that the same Catholic spouses who have not obtained the blessing of their Matrimony are to be exhorted to seek it at the first possible time. But it is to be signified to them, especially if they are neophytes or contracted validly before conversion from heresy, that the blessing itself pertains to

the rite and solemnity, but not to the substance and validity, of the union. "All things to the contrary notwithstanding. "Fr. VINCENTIUS LEO SALLUA, "Archbishop of Chalcedon, "S. R. and Un. Inquis. Comm. Gener. "JUVENALIS PELAMI, "S. R. U. Inq. Not."

Article II. On the Subject of Matrimony

1557. Principles. - I. The subject of the Sacrament of Matrimony is every baptized man or woman laboring under no impediment, whether natural, divine, or canonical.

I said: **1° every BAPTIZED man or woman;** for men not baptized are not capable of the Sacraments of the Church, as is clear. I said: **2° laboring under no impediment;** for although of itself every baptized man or woman is a capable subject of the Sacrament of Matrimony, yet accidentally many are barred from validly contracting Matrimony on account of diverse impediments, whether of natural law, divine law, or ecclesiastical law, as will be said below in its place.

Hence: **1)** The Matrimony of infidels, although it can be valid in the character of a contract, nevertheless is not a Sacrament. Indeed, the faithful person himself contracting Matrimony with an infidel, even by dispensation of the Pope, according to the common opinion against a few, will not receive the Sacrament. For the sign of the union of Christ with the Church, conferring sacramental grace, consists neither in the union of the man, nor in the union of the woman, but in the union of each.

2) Heretics and schismatics, who in entering Matrimony accurately and integrally observe the laws of the Church which pertain to the substance of Matrimony, validly contract and are fortified with the Sacrament, since there is nothing which can obstruct the value of this Sacrament. This very thing is confirmed by the practice of the Church, which in no way forces them to renew consent if, repenting, they return to the unity of the Catholic Church. - Thus all.

II. The spouses contracting Matrimony ought to be in the state of grace, because Matrimony is a Sacrament of the living. Those who contract stained with mortal sin become guilty of sacrilege, nor do they perceive the sacramental graces necessary for spouses. More truly, nevertheless, those graces are only suspended and, the obstacle or mortal sin being removed, are applied to the soul, as we said n. 1242. - For practice, if no fruit is hoped for from admonition, it will almost be better not to admonish the unworthy person concerning the sacrilege of the one approaching unworthily, so that thus at least he may sin less; and he will rather have to be induced that at least as soon as possible he approach to confess.

1558. Questions. - Quaer. 1° Ought the Pastor to require that Confession be premitted to Matrimony, or that a certificate of Confession be exhibited by the spouses?

Resp. See the things said n. 1544.

Quaer. 2° Is it licit to enter Matrimony with a public sinner?

Resp. Affirmatively, if **1)** one cannot recede from Matrimony without grave inconvenience, and **2)** there is not question of one excommunicated by name. The reason for the first is because it is only material cooperation and from a proportionate cause; the reason for the second, because with such persons it is not licit to communicate in Sacred things.[1] See the exception as regards one excommunicated by name, n. 1243. q. 5°.

Notes to n. 1558. (1) L. III. 60. L. VI. 55.

Chapter VI. On the Impediments of Matrimony

1559. - The impediments of Matrimony are: **1°** diriment or impedient; **2°** of divine law (whether natural or positive) or ecclesiastical law; **3°** absolute or relative (respective); **4°** antecedent or supervening; **5°** public or occult.

1560. - A diriment impediment is so called, not because it dirimes a true Matrimony, but because it makes the act void by which someone, while it is subsisting, would undertake to enter Matrimony in fact. - Impedient impediments render Matrimony not invalid, but illicit.

1561. - Impediments of NATURAL divine law are more strictly taken from the very substance of the thing; and such certainly are defect of consent, impotence, and conditions adverse to the substance of Matrimony. - Impediments of positive divine law and of ecclesiastical law are those which have for their cause the express will of the legislator, whether divine or ecclesiastical. The impediment of bond is more commonly called of positive divine law; nevertheless it is so closely connected with natural law and is derived from it that rather it must be called of natural law. It is also most commonly taught that the impediment of consanguinity in the first degree IN THE STRAIGHT LINE is of natural law; concerning some others there is dispute, as we shall see in their own place; but nearly all the remaining impediments certainly are of ecclesiastical law.

There is by far a different effect of an impediment of natural or divine law upon natural consent than of an impediment of ecclesiastical law. When consent itself is lacking, there can be no speech concerning the effect of natural consent. But if there is question of another impediment of natural or divine law, natural consent indeed exists, but by the impediment it is so radically infected that it can never have any force, and is null as regards every effect, even a future one, because either it is contrary to the substance of Matrimony, or there is no power on earth which can attribute an effect to it. But when the impediment is of ecclesiastical law, natural consent indeed has no effect while it is offered, but it can, if it perseveres, have an effect afterwards, when by competent power, in a certain determined mode to be indicated by us afterwards, the impediment is removed.

1562. - Absolute impediments, e.g. Order, render someone incapable with respect to all; relative (respective) impediments, e.g. crime, render someone incapable only with respect to certain persons.

1563. - Antecedent impediments exist before the celebration of Matrimony; supervening impediments arise after it has been contracted. Indeed the force of diriming belongs regularly to an impediment only if it precedes Matrimony; if nevertheless it supervenes, it has certain notable, although diverse, effects. There are only three cases in which Matrimony validly contracted is dissolved: religious profession emitted by solemn vows when Matrimony has not yet been consummated; dissolution of non-consummated Matrimony made by the Roman Pontiff; and the case of the Apostle. Nevertheless a supervening impediment in diverse other cases has very notable effects, e.g. privation of the right of asking or rendering the conjugal debt, or privation of each.

1564. - Public and occult impediments. This division is especially to be noted for dispensations. - For the sake of brevity, for practice, we call public that which in no way is occult. Therefore the only question, for practice, is what here is called occult.

Occult is twofold, namely altogether occult and quasi-occult, or occult without addition. - Altogether occult is that which cannot be proved by two witnesses,[1] or which is known to only one besides the parties and the confessor. - Quasi-occult is that which is known to few. But how many come under the name of few? I respond that circumstances are to be attended to, but chiefly the following:

1° The place, by reason of which that is called occult which in a town is known only to six persons, in a city only to seven or eight. Indeed St. Alphonsus writes that he knows that the Sacred Penitentiary, which dispenses only in occult matters, dispensed in an impediment of consanguinity known to about ten persons.

2° Probable danger, or prudent fear, lest the matter be brought to the external forum or divulged. "Hence," Reiffenstuel[1] rightly says, "in practice one must altogether attend not only to how many persons, but also to what kind of persons, the impediment is known, because it can well happen that with respect to five prudent persons fearing God, who know the impediment, there is altogether no danger of further divulgation; and, on the contrary, with respect to two or three, e.g. talkative persons, or enemies, etc., the danger of divulgation may seem truly present, especially if other circumstances also threaten such danger."

3° The mode by which the fact from which the impediment arises is known; for a public fact which has not become known as criminal does not prevent the impediment from being judged occult.[2] The case would be, e.g., in the impediment of crime from homicide deliberately perpetrated, but which the people judges to have been perpetrated by accident. - But if the crime is public, yet almost everyone is ignorant of the penalty imposed upon it or the impediment annexed to it, some deny that it is occult; others, as St. Alphonsus,[3] affirm. But the holy Doctor seems to rely only on the doctrine of Benedict XIV, whom he supposes to adhere to the affirmative opinion; yet Benedict XIV, in the place cited by St. Alphonsus, namely *Inst. Eccl.* 87. n. 42, sets forth not his own opinion, but that of others; but his own in n. 48, namely the negative, to which the practice of the Sacred Penitentiary, at least in the time of Benedict, was conformed. - For the rest, although Benedict XIV, as a particular doctor, does not accept the affirmative opinion, nevertheless he is forced to testify (*Inst.* cited, n. 42) that it is handed down by nearly all writers. Therefore the Bishop also safely follows it in a case in which he dispenses by force of quasi-ordinary power.[4]

4° The nature of the impediment itself; for if by its very nature it is public, as consanguinity, affinity from licit copula, and spiritual cognation, although accidentally it would be occult, it is judged public as often as there is question of Matrimony to be contracted.[5]

Notes near nn. 1559-1564, divisions of matrimonial impediments (printed p. 243).

1 L. VI. 605. Cf. 1116.

Notes to n. 1564 - note sequence 1. (1) L. VI. 1111. Notes to n. 1564 - note sequence 2. (1) Append. de disp. super imped. (at the end of L. IV.), n. 46. (2) Ben. XIV. Inst. 87. n. 48. (3) L. VI. 1111 in fine. (4) Acta, T. XIV. p. 155 sq. (5) Feije, de Imp. n. 97.

Article I. On Impediments Impeding Matrimony

1565. - Today four impediments impeding Matrimony are numbered, namely **1°** prohibition of the Church made for various causes; **2°** likewise prohibition of the Church lest at a certain determined time the solemnities of Matrimony be celebrated; **3°** a betrothal contract already entered with another

person and not legitimately dissolved; **4°** a vow which, from its nature, cannot be observed in the contract or society of marriage. These four are comprehended in the following verse:

The Church's prohibition, time, betrothals, vow.

It will be enough to append a few things concerning each.

I. Prohibition of the Church.

1566. - It is a prohibition, whether particular or general, made by the Church or by some ecclesiastical Superior, lest some Matrimony be celebrated.

1° Particular prohibition is had when, from a just and special cause, Matrimony is interdicted to someone, whether by the Pastor or by the Bishop;[1] e.g. because probable suspicion of a diriment impediment has arisen. But suspicion here will be probable if there is present either rumor, such as moves grave and prudent men, or one witness, sworn nevertheless and not from hearing only; this nevertheless suffices if there is question of the impediment of consanguinity and there is another witness from certain knowledge, even if not sworn.[2]

2° General prohibition is had especially in a threefold case, namely **1°** lest Matrimony be contracted between a heretic and a Catholic woman, and conversely; **2°** lest it be contracted without the proclamation of banns; **3°** lest it be contracted without the duly required consent of parents. Concerning banns we have already spoken above, n. 1533; likewise concerning the consent of parents, n. 1548. q. 8°. 9°. But concerning the impediment of mixed Communion we speak below.

Notes to n. 1566. (1) L. IV. Decr. T. III. c. 3. (2) L. V. 257. I.

II. Time.

1567. - It is some determined time in the course of the year, which is called ferial or closed, and in which the Church forbids the solemnities of nuptials. Trent.[1] Such now is the time which flows from the First Vespers of the First Sunday of Advent up to Epiphany inclusively, and from Ash Wednesday up to the Octave of Easter likewise inclusively.

For the rest, Trent prohibits only the solemnities of nuptials in the aforesaid time, namely to bless them solemnly, to lead the bride home with noise, and to arrange more solemn nuptial banquets. But it does not forbid the Pastor privately to join the spouses, although in various places, because of custom or through Episcopal constitutions, outside the case of urgent necessity or dispensation of the Ordinary, this also is prohibited.

Notes to n. 1567. (1) Sess. 24. c. 10. de Ref. Matr.

III. Betrothals.

See n. 1529. II.

IV. Vow.

A fourfold vow impeding Matrimony is distinguished, namely **1°** vow of chastity; **2°** vow of not marrying; **3°** vow of entering Religion; **4°** vow of receiving Sacred Orders.

1568. - I. Vow of chastity.

1° He who has emitted such a vow sins gravely by entering Matrimony with the intention of consummating it, because he violates the vow.

2° He also sins gravely, even excluding this intention, because he exposes himself to the danger of violating the vow, and deceives the other party.

3° Once Matrimony has been contracted, he can neither ask nor render the debt while the first two months are running, because from divine privilege spouses at this time are exempt from the obligation of the conjugal debt, according to the things said above n. 1551. 2°. But after this time has elapsed, he can (indeed, is held to) render and satisfy the right of the other, yet not ask without dispensation from the vow or without irritation of the vow made by the other spouse.

4° He ought altogether to abstain if the other consents, or loses the right of asking, e.g. on account of adultery or incest. But if he can abstain with difficulty, he ought as soon as possible to seek dispensation or to seek the aforesaid irritation from the other spouse.

5° If the other spouse dies, he cannot proceed to new nuptials unless he has obtained dispensation from his vow also for this effect. - Lacroix.[1]

Notes to n. 1568. (1) n. 357.

1569. - II. Vow of not marrying, or vow of virginity.

1° He who, after emitting this vow, contracts Matrimony, sins gravely, as is manifest.

2° Once Matrimony has been contracted, he can render and also ask the debt, because the observance of the vow has now been made impossible. - But if he strictly vowed virginity, he cannot ask the first time.

3° For the same reason (namely because the observance of the vow has been made impossible), the spouse having died, he can at least probably contract a new Matrimony. - Heiss[2] excepts, with the Instruction of Eichstaett, if the vow was of not marrying; we assent to him, because the reason of impossibility does not militate for it.

In practice it is sometimes doubtful whether someone vowed virginity or celibacy, or rather chastity. The penitent will have to be interrogated whether he was led by the intention of freeing himself from the burdens of Matrimony and of serving God more holily, or only by love and affection of purity; in the first case he is to be judged to have vowed celibacy and virginity, but in the second truly chastity. - Lacroix.[3]

Notes to n. 1569. (2) § 18. III. 4). (3) n. 358.

1570. - III. Vow of entering Religion.

1° He who has emitted such a vow sins gravely by entering Matrimony, both because he deceives the other party and because he exposes himself to the danger of violating the vow.

2° Before the consummation of Matrimony he is held to enter Religion; and therefore he sins mortally when for the first time, whether by asking or rendering the debt, he consummates the Matrimony; because he ought to fulfill the vow when he can. But he can fulfill it by not consummating Matrimony in the first two months, since then from divine privilege anyone can enter

Religion, and the other party, the spouse solemnly professing, is freed from the bond of Matrimony, according to the things said above n. 1551. 2°.

3° After Matrimony has been consummated he can ask and render the debt, because the execution of the vow has been made impossible, and the asking of the conjugal act is not against that vow, since he did not vow chastity, but Religion.

4° Even after Matrimony has been consummated, of itself he is held to enter Religion as often as he can do this without injury to the right of the other party, e.g. if the other consents, or loses the right of asking the debt in perpetuity, or if the Matrimony is dissolved by death; because the obligation of the vow always subsists. But in practice, in these cases it is more expedient that recourse be had to dispensation, unless nevertheless the circumstances, by reason of age, offspring perhaps received from Matrimony, the state of fortune, and capability also for religious offices, are so changed that the matter of the vow has certainly been made impossible.

1571. - IV. Vow of receiving Orders.

1° He who emitted that vow sins gravely by entering Matrimony, as is well known.

2° He is held to receive Orders if he can, e.g. if he obtains the consent of the other. According to several he is held to enter Religion before the consummation of Matrimony, even against the will of the other, so that he can fulfill the vow. But others more probably deny this.[1]

3° Matrimony having been entered, he can consummate it if he can no longer fulfill the vow.

Notes to n. 1571. (1) L. VI. 987.

1572. Questions. - Quaer. 1° Who can dispense in impedient impediments?

Resp. 1° No one can dispense [except the Pope. Feije, n. 601 (2)] from the impediment arising from valid betrothals, since in this matter there is question of a strict debt of justice. The same must be said of the necessity of the consent of parents, which is to be taken from natural law; nevertheless this naturally ceases if the parents dissent unjustly.

Resp. 2° Bishops, or ordinary Pastors of souls enjoying full jurisdiction in the external forum, can dispense **1°** in the obligation of banns; **2°** as regards the contract (but not as regards the solemn blessing) of Matrimony during the ferial time, where custom or particular constitution also interdicts this; **3°** in a vow of temporary chastity, and of virginity and of not marrying.

But they cannot dispense **1°** as regards the vow of perpetual chastity; **2°** as regards the vow of entering Religion; **3°** as regards the impediment of mixed Communion. For this threefold impediment is reserved to the Pope. - But our Bishops can dispense in **1°** and **2°** (p. LXX. n. 4), and, if there is question of Marriages to be contracted to which no other diriment impediment obstructs, also in **3°** (p. LXXIV. n. 4. 5).

Resp. 3° What Regulars can do, see n. 1203. I. 2°. 3°.

Quaer. 2° Can the Bishop, when necessity is urgent, namely when there is danger in delay, dispense in a vow of perpetual chastity for contracting Matrimony?

Resp. Affirmatively, provided that that danger is truly present, and access to the Pontiff is not easily open. For the rest, the question as regards our Bishops is useless, as is clear from the things said in

the preceding question.

Article II. On Diriment Impediments

We must treat **1°** of diriment impediments in general; **2°** of diriment impediments in species; **3°** of dispensation from these impediments.

§ I. On Diriment Impediments in General

1573. Principles. - I. The Church has power of constituting impediments not only impeding Matrimony, but also diriment impediments. It is of faith. - See the arguments among the Dogmaticians.

II. The Church alone can constitute diriment impediments of Matrimony, and consequently secular Princes as regards Christian subjects cannot constitute impediments, except as to merely civil effects. Likewise see the Dogmaticians.

III. The subject of diriment impediments of divine law, whether natural or positive, are all men; of ecclesiastical law, all the baptized, except clandestinity in certain cases. - See n. 109. 110.

1574. Questions. - Quaer. 1° Can the civil legislator constitute impediments diriment of the Matrimony of infidels?

Resp. Affirmatively, with the more common opinion. The reason is because the Matrimony of infidels is a natural contract. St. Alphonsus[1] also seems to be of this opinion, although he does not treat the question expressly. - Nevertheless among more recent authors Martin, Perrone, and Feije[2] follow the negative opinion, relying on this reason, that the Matrimony even of infidels is a sacred contract, not to be compared with profane contracts.

Quaer. 2° Does an impediment invincibly unknown void Matrimony contracted with that impediment?

Resp. Affirmatively. The reason is clear from the things said n. 182. q. 2.

Quaer. 3° Are those impediments also incurred, although unknown, which seem to have the character of a penalty, as the impediment of crime?

Resp. Affirmatively. Thus more commonly with Lacroix.[3] The reason is because those impediments do not have only the character of a penalty; and consequently they are always incurred, although ignorance excuses from the penalty according to the common opinion where there is question of a merely prohibiting law. Cf. n. 182. q. 2°. § *Except, however*. - Others deny, relying on reasons not to be despised. Nevertheless, since the probability, if any arises from them, is not universally or certainly received, the negative opinion cannot be brought into practice,[4] according to the things to be said q. 5°. R. 1°.

Quaer. 4° Do the laws of the Church constituting diriment impediments urge even in a case of most grave inconvenience, e.g. danger of death, etc.?

Resp. Affirmatively. See the reason n. 182. q. 3°. - Recall nevertheless also the things said n. 1556. q. 3°.

Quaer. 5° Is it licit to contract Matrimony with a doubtful or probable impediment?

Resp. 1° Affirmatively, according to the common opinion, in a doubt or probability of ecclesiastical law, provided that that probability is universally or certainly received by Authors. The reason is because, if perhaps the impediment were really present, the Church is judged to supply the defect of a contract void by Canon Law, just as it supplies defect of jurisdiction as often as Doctors commonly hold that she supplies jurisdiction in the Sacrament of Penance, where common error intervenes (n. 60. I.). Moreover the opinion teaching that the Church supplies also in the present case of a doubtful impediment is generally received as probable, and according to several as morally certain, by innumerable Doctors who favor it.[1]

Resp. 2° Negatively, if there is question of a probability of divine law, whether positive or natural, e.g. in the impediment of bond or impotence; because then the Church cannot supply the probable defect, since that impediment does not depend on the Church. Therefore Matrimony so contracted would remain doubtful; and consequently it is never licit to receive a Sacrament with such doubt. Therefore. The case can be given with former slaves, "who were sometimes" joined "in several marriages among themselves, with this compact nevertheless, that it would not" be clear "that some true marriage had been entered by them."[3] St. Alphonsus[2] says that it belongs to the Pontiff alone to explain divine law in this matter, in special and rare circumstances of things.

Resp. 3° Negatively also, if there is question of probability of fact. The reason is because in probability of this kind the Church is not presumed to dispense. But the contrary opinion is not commonly received as probable; and from another source too many inconveniences would follow if, after Matrimony had been contracted, the error were discovered. - Thus commonly.[4] - For the rest, in more difficult and implicated cases, the Bishop should be consulted.[5] - But in doubt concerning an impedient impediment, the principles of Probabilism are simply to be applied.

Quaer. 6° Is it licit for spouses to use Matrimony if, after nuptials have been entered, probable doubt arises concerning some impediment?

Resp. 1° Negatively, before due inquiry concerning the truth. Nevertheless, if only one doubts, this one ought to render the debt to the other as to a legitimate possessor, provided the other asks in good faith and does not lack the right of asking (e.g. in the first two months, etc.).[6]

Resp. 2° Affirmatively, if, after due inquiry, the doubt perseveres and Matrimony has been entered in good faith (n. 739. II.), indeed, quite probably, even in doubtful faith: for in doubt one must stand for the value of the act. - Except: **a)** the case concerning which n. 1619. under 4°; **b)** the case of doubt concerning the death of a prior spouse, and this, as St. Alphonsus[1] teaches against others, "whether the nuptials were entered with good faith or with doubtful faith." The reason is "because then there remains probable danger of injury to the prior spouse," and "because in that case the prior Matrimony possesses." Nevertheless the one doubting, as was said under Resp. 1°, is held to render the debt to the other party asking in good faith and not lacking the right of asking, although he is prohibited from asking.[2]

Quaer. 7° Is Matrimony valid when contracted with a supposed impediment, but one not existing?

Resp. 1° If the contracting party is not altogether certain concerning the impediment, but doubts about it in some way, the Matrimony is valid. - Thus commonly with Lacroix.[3] - The reason is because he contracts at least conditionally, namely *insofar as I can*, although he does not reflect on that condition: therefore, the impediment not existing, consent is now absolute.

Resp. 2° If he contracts with certainty of an impediment which he little esteems, so that he resolves to live in concubinage, it is certain that the Matrimony is invalid. The reason is because then the will of contracting Matrimony is not predominant.

Resp. 3° If indeed he contracts with certainty of an impediment, but grieving over the impediment and not daring to disclose it, lest the Matrimony be impeded, or lest he be defamed, or from some inadvertence, it is controverted. More probably the Matrimony is valid on account of the predominant will of contracting it. - Thus Lacroix.[4] - Nevertheless for caution in practice he would have to be induced to renew consent. (38) p. 424.

Notes to n. 1574 - note sequence 1. (1) L. VI. 956. § certum est 2. and n. 981. (2) De Imp. n. 67. (3) n. 525. (4) Vind. p. 792. 1). Ed. 2a. T. II. p. 452. col. 2 (1). Notes to n. 1574 - note sequence 2. (1) L. VI. 901. Cf. Vind. p. 947. Ed. 2a. T. II. p. 607. (2) L. VI. 902. (3) Kenr. Tr. XXI. 51. (4) L. VI. 902. (5) Heiss. § 12. (6) L. VI. 903. (7) Ib. 904. 906. Notes to n. 1574 - note sequence 3. (1) L. VI. 904. 906. (2) Ib. (3) n. 531. (4) n. 531. Appendix annotation (38), to n. 1574. q. 7°. p. 248. col. 2. Besides the rules handed down in this number, in solving doubts concerning the value of Matrimony let those also be observed which we add here. I. A negative doubt is never to be attended to. The rule is valid both concerning Matrimony contracted and concerning Matrimony to be contracted. Consequently its value or nullity is to be retained according as either liberty or the law of the impediment is in possession, n. 49. I. Wherefore, for example, a spouse negatively doubting about the death of the other party cannot fly to other nuptials; for the law of the impediment of bond possesses. On the contrary, a vain suspicion that a sister contracted betrothal with the bridegroom does not prohibit her from entering nuptials with him, because not the law of the impediment of public honesty, but liberty, is in possession. To a negative doubt is equated, at least practically, that which is conceived from the saying of persons who are not worthy of faith; and this both as regards Matrimony to be contracted and as regards Matrimony contracted. The reason is that such a saying is not a prudent reason of doubting, nor consequently a positive doubt, but merely a negative one, n. 48 under 1. - The same, for the same reason, is regularly to be said concerning a doubt conceived from the assertion of the other party that he or she consented fictitiously. See the things said in n. 1548. q. 7°. I say: regularly, that is, unless, on account of the circumstances, the truth of the assertion is to be presumed. Ib. and St. Alphonsus. The same, again for the same reason, is to be said if there is question of a doubt which would exist from fame arisen from no certain author, or from rumor concerning an impediment. See n. 1566. 1°. Yet in this case, as regards practice, careful inquiry must be made whether the fame truly has arisen from no certain author; in other words, it must be asked from what sources the rumor came forth. But if the rumor stands firm, and the truth cannot be investigated by witnesses, the ecclesiastical Superior, before the celebration of Matrimony, will be able to defer oaths against this rumor both to the relatives and to the contracting parties themselves. II. A positive doubt arisen from the saying of one witness worthy of faith, or from public fame which has a certain author, suffices for the celebration of Matrimony to be inhibited, n. 1566. 1°. But what the effects of a doubt of this kind are upon Matrimony already contracted, see n. 1574. q. 6°. III. A positive doubt, by reason both of Matrimony to be contracted and of Matrimony contracted, is sometimes solved by proofs sought from presumption, and this either for Matrimony or against it. The cases more obvious than the rest are these: 1° The case in which the impediment is established and it is doubted whether a dispensation was given in it. Then namely the presumption stands for the impediment; for in doubt "a fact," the dispensation, "is not presumed, but must be proved," n. 67. 1°. b. On the contrary, if the dispensation is established and there is doubt concerning the value of it, the presumption stands for the dispensation, according to that very well-known principle: "in doubt one must stand for the value of the act," n. 67. 2° and n. 162. 5°. 2° The case about which there is treatment in n. 1589. II. § As regards practice. 3° The case about which there is speech in n. 1601. q. 3°. R. 3°. In that place a vehement presumption is understood as one which renders the death most probable, so that only a tenuous probability remains that the other party is still surviving. 4° The case of the other party asserting that he or she consented fictitiously, as we said above under I, v. I say: regularly. > Notes to appendix annotation - note sequence 12. > > 1 L. VI. 908. § Secunda. | 2 Ib. § Prima. | 3 Ib. § Secunda. | 4 Decr. L. IV. T. I. c. 27. Heiss, De Matr., § 70. III.

§ II. On Impediments in Species

1575. - Fifteen diriment impediments of Matrimony are numbered, expressed in these verses:

Error, condition, vow, cognation, crime,
Disparity of cult, force, order, bond, honesty,
Age, affinity, if clandestine, and incapable,
Or a woman has been abducted, and not safely restored to the party:
These forbid marriages to be joined, and retract them when made.

We shall institute a discourse concerning each separately.

Point I. On the Impediment of Error and Condition.

A twofold error concerning Matrimony is distinguished, namely: **1°** substantial error, which is concerned with the person; **2°** accidental error, which affects qualities of the person. But condition is understood as servile, unknown to the other party.

1576. Principles. - I. Every error concerning the person makes Matrimony null by natural law, even if the error is altogether vincible, or only concomitant, or most crass.[1] The reason is because, on the part of the contracting party, it removes the voluntary concerning the object of the contract, and therefore, consent failing, the contract is void. - Except if someone intends actually to contract with the present woman, whoever she finally is.

II. Error concerning the qualities of the person, of whatever kind it is, even if it gave cause to the contract, does not of itself void Matrimony. Thus the common and truer opinion.[2] The reason is **1°** because error concerning qualities does not fall upon the object of the contract; for that object is the very person with whom one contracts, as was just said; it is not the person's qualities; **2°** because in those things which constitute a state firm and irrevocable from its nature, such as Profession and Matrimony, the will, according to the nature of the thing in question, accommodates itself and consents without restriction or condition, and altogether absolutely and independently of other conditions besides those which are of the substance of the same contract.[3] For from these conditions Matrimonies and Professions would remain uncertain, and accordingly the state itself, which is not according to the nature of the thing in question. Except unless either **a)** a quality is explicitly intended as a condition *without which not* (as they say), or **b)** error of quality redounds into the substance, whether because one errs in a quality not now common, but proper and individual to some determinate person, as if you wished to contract with the first-born and the second-born were presented to you, or because consent is borne directly and principally upon the quality, and less principally upon the person, as if you wished to marry a noble woman, such as you falsely think Titia to be, but not if you wished to marry Titia, whom you falsely think noble. Thus in the internal forum.[1]

III. Error concerning the servile condition of the other party dirimes Matrimony by ecclesiastical law, as is clear from L. IV. Decr. T. IX.

Notes to n. 1576 - note sequence 1. (1) L. VI. 1010. (2) Ib. 1011. 1012. (3) Ib. 1012. Notes to n. 1576 - note sequence 2. (1) L. VI. 1013-1016. Acta, T. I. pp. 257. 371 sq.

1577. Resolves. - 1° If someone thinks he is contracting nuptials with Anna, and marries Agatha, the Matrimony is invalid. It is otherwise if, thinking that he has married a noble, rich, virgin, peaceful girl, he finds her on the contrary plebeian, poor, corrupted, quarrelsome.

2° Matrimony is valid if someone marries a widow, thinking that he is marrying an unmarried woman, even if he was induced into this error by fraud; for fraud indeed induces the obligation of repairing the injury, but does not effect that consent is not concerned with the substance of the thing in question. Indeed this is valid even if he certainly would not have contracted if he had known beforehand that she was a widow; for one must attend not to that which perhaps or even certainly someone would have done, but to that which he really did.

3° A noble girl validly contracts with a wandering man who falsely boasts that he is noble and the possessor of many goods, and proves it by false testimonies. But that woman is not held to cohabit with him, and can immediately make perpetual divorce as regards bed and habitation.

4° Since slaves have obtained liberty among us, there can be no speech of the impediment of condition as regards Marriages contracted from this time onward; nevertheless attention must be given when there is question of Marriages formerly entered between free persons and slaves who perhaps were by error held as free; for the contract which did not subsist from the beginning is not strengthened without new and free consent (and in the case which will be treated under n. 1634, q. 2, offered before the Pastor and two witnesses). Resolve the same concerning similar Marriages entered in those places of South America in which slavery still has force, when the parties immigrate into our provinces. For the rest, cases of this kind will be most rare.

Concerning other unions of former slaves entered in servitude, judgment is for the most part difficult; for often they fostered intercourse among themselves without any mind of marriage, or contracted under this condition, that the Matrimony would subsist only so long as each conducted himself or herself rightly, or until the masters separated them, namely by one being sold and the other retained, or each being sold to different masters. At other times they seem to have wished to enter a perpetual partnership; but whether they were then free from a prior bond can scarcely be known. If it is clear that at some time they seriously entered marriage, with the mind of obliging themselves in perpetuity, it will have to be held valid; nor will it be licit to pass to other nuptials until there is certainty concerning the death of the prior spouse. For the rest, most of their contracts did not have the force of marriage, since they lacked the mind of contracting a perpetual bond, or the condition concerning which above was added to the consent. Wherefore those who come to the Catholic Faith, or are reduced to a good way of living, are not immediately to be compelled to desert the person whom they have under the name of spouse, even if others with whom they already had intercourse are living, or there is no certainty concerning their death; but the matter is to be diligently investigated.[1]

Notes to n. 1577. (1) Kenr. Tr. XXI. 141.

Point II. On the Impediment of Vow and Order.

1578. - I. The vow diriment of Matrimony is only the solemn vow of perfect chastity (and not of conjugal chastity only, such as is emitted in certain Equestrian Orders), emitted through profession in an approved Religion. For the simple vow of chastity, even perfect and perpetual, does not dirime Matrimony, but only impedes it, according to the things said n. 1568.

II. But Order diriment of Matrimony is Sacred Order. Concerning each impediment the Lateran Council I and II and Trent speak.[2]

III. The solemn vow of chastity emitted in religious Profession, and Sacred Order, dirime Matrimony in diverse ways. For the former dirimes Matrimony both to be contracted[3] and also contracted, provided it was only ratified,[4] but not consummated.[5] But Order dirimes Matrimony to be contracted, not Matrimony contracted, even if only ratified.

Notes to n. 1578. (2) Sess. 24. Can. 9. (3) Ib. Can. 6. (4) Ib. Can. 9. (5) Extr. Joan. XXII. T. VI. c. unic.

1579. Questions. - Quaer. 1° By what law do the aforesaid impediments dirime Matrimony?

Resp. 1° The impediment of Order, according to the common opinion, dirimes only by ecclesiastical law. The reason is because, on one side, Order of itself is not repugnant to the conjugal state; nor, on the other side, is there any divine prohibition which is found in the Scriptures or in tradition.

Resp. 2° Since the solemnity of the vow is of ecclesiastical law, by that very fact the Pope can dispense, provided there is a sufficient cause, i.e. one proportioned to the gravity of the matter.

Quaer. 2° What conditions are required that solemn vow and Order dirime Matrimony?

Resp. 1° As regards the vow, it must have been emitted in valid Profession (n. 1159. I.).

Resp. 2° As regards Order, there is required: **1°** that it was received validly; **2°** that it was received voluntarily. - Thus all.

Point III. On the Impediment of Cognation.

Cognation is distinguished of three kinds, namely: **1°** natural; **2°** spiritual; **3°** legal. Concerning each separately.

Section I. On Natural Cognation.

1580. - Natural cognation, or consanguinity, is the bond of persons descending by carnal generation from the same proximate stock, which namely arises from the unity and participation of the same blood.[1]

In consanguinity three things are to be distinguished, namely: **1°** the stock, or the person from whom others draw origin; **2°** the degree, or the measure of distance of one person from another; **3°** the line, or series of persons descending from the same stock.

The line is twofold: one straight, the other collateral or transverse. The former is the series of persons of whom some descend from others, either immediately, as children from parents, or mediately, as grandchildren from grandparents, or from great-grandparents, etc. But the latter is the series of persons who, although they have a common stock, nevertheless some do not descend from the others, as are brothers, cousins, etc.

The collateral line is equal or unequal, according as blood relatives are equally distant from the common stock, or unequally.

Notes to n. 1580. (1) L. VI. 1059.

1581. Things To Be Established. - I. Consanguinity in the straight line, at least by positive law, dirimes Matrimony indefinitely in whatever degree. This is clear from Canon Law in the Response of Nicholas I to the Bulgarians, c. 37.

II. Consanguinity in the collateral line dirimes Matrimony up to the fourth degree inclusively, and not beyond. This is clear from Lateran Council IV and many places of Canon Law.

III. Consanguinity dirimes Matrimony also between those who were born either only from the same father or only from the same mother; likewise between blood relatives begotten from illegitimate births. The reason is because diversity of father or mother, or illegitimacy, does not prevent carnal consanguinity from existing between them.

Rule for Computing the Degrees of Consanguinity.

1582. - First Rule. In the straight line there are numbered as many degrees as persons, the stock being removed, or there are as many degrees as there are generations. Hence between father and son there is one degree, because there is one generation, or one person of the son, the father excluded, as being the stock. Between grandson and grandfather two degrees are numbered, because there are two generations, although three persons intervene, namely the grandfather, the father, and his son, or grandson with respect to the grandfather. Suppose likewise a great-grandfather or great-great-grandfather, and you will have three or four degrees.

Second Rule. In the equal collateral line there are as many degrees as there are persons on one side, the stock being removed. Hence brother and sister are in the first degree: because, if the common stock or father is set aside, one person remains on each side; and, since each is distant by one degree from the stock, they are also distant from one another by one degree. Likewise paternal cousins, or sons of two brothers, are each distant by two degrees from the common stock, or from the grandfather, and therefore are blood relatives between themselves in the second degree. Thus also must one speak concerning the others.

Third Rule. In the unequal collateral line there are as many degrees as there are persons on the more remote side, the stock always being removed. Hence if one is distant from the common stock by two degrees, and his blood relative by three, they will be blood relatives between themselves in the third degree, according to the saying: *The more remote degree draws the nearer to itself.* Therefore Berta will be related by blood in the second degree with her paternal uncle, or brother of her father, because she is distant by two degrees from the common stock, namely from her grandfather, although the uncle himself is separated by one degree from the same stock, since he is the son of the stock, or brother of Berta's father. Thus also concerning all others whatever must it be established.

"In most of the Federal States," says Kenrick,[1] "the Levitical prohibitions have been adopted by the authority of civil law," i.e. Roman law; "in others the prohibition of marrying consists within narrower limits." But these are valid only as regards civil effects.

For computing degrees according to civil law, i.e. Roman law, the number, or sum of all persons in each line, the stock being removed, is taken. Therefore in the straight line they are computed in the same way as canonical degrees; in the equal collateral line the canonical degrees are doubled; in the unequal collateral line the lesser line is doubled and the excess of the greater is added. Cf. n. 905. X.

Notes to n. 1582. (1) Tr. XXI. 153.

1583. Questions. - Quaer. 1° By what law does consanguinity in the aforesaid degrees dirime Matrimony?

Resp. 1° It is certain that consanguinity in the straight line dirimes Matrimony by natural law in the first degree, but probably according to St. Alphonsus[2] not indefinitely in the remaining degrees. For the rest, the case, as is clear, is very far from practice.

Resp. 2° As regards the collateral line, in the first degree, according to the opinion which St. Alphonsus[3] judges equally probable with the opposite, it does not dirime by divine law. In the other degrees, according to all, it dirimes by ecclesiastical law, as is deduced from the practice of the Church, which dispenses from them.

Quaer. 2° How can the degrees of consanguinity easily be found?

Resp. 1° If the common stock is known, write that person's name on paper, and below it report on this side and that the generations and names of the persons descending, until you arrive at those persons who are to be joined in marriage; from this you will easily compute the degrees.

Resp. 2° If the stock is unknown, proceed thus: Write in the lower part of the paper or tablet the name of the bridegroom on one side, and the name of the bride on the other; then above the name of the bridegroom note the names of his blood relatives who perhaps can be the cause why some cognation exists with the bride; do the same as regards the bride. This notation having been made, ascend from one side and see whether they agree in a common principle or stock, from which the bridegroom and bride are mediately begotten. Hence, after you have found it, and at the same time observed whether the spouses are in an equal or unequal line, finally apply the rules proposed below, and the resolution of the doubt will be clear. For these let the following example be given:

Line	Harvey side	Johnson side
Great-great-grandfather	Didacus Johnson	Didacus Johnson
Great-grandparent	Julia Johnson, wife of Titius Harvey	Arthur Johnson
Grandparent	Mevius Harvey	Maurus Johnson
Parent	Paulus Harvey	Hector Johnson
Spouse	Peter Harvey	Mary Johnson

In this example Peter Harvey and Mary Johnson are blood relatives in the fourth equal degree. But if Mary Johnson descended immediately from Maurus Johnson, Arthur Johnson would be her grandfather and Didacus Johnson her great-grandfather, and therefore they would indeed be blood relatives in the fourth degree, but touching the third.

Another method is also indicated for discerning degrees of cognation, namely with a table of genealogy, or tree of consanguinity. Inspect the table on p. 254, and see in what line and in what cells you find the persons concerning whose cognation there is question, and attend by how many degrees they are distant from the common stock. Example: You ask, e.g., in what degree the bridegroom Titius is related by blood with respect to the bride Berta, when you already know that the grandfather of the former was the brother of the great-grandfather of the latter. Place Titius in the middle cell N.; ascend to his grandfather; his brother on the right side, in the cell where paternal uncle is noted, will be Berta's great-grandfather; descend through his straight line by numbering the grandfather, father, and bride herself; hence the common stock will be the one who is found in the third cell above the middle line. Thus you will number three degrees on the part of the bridegroom, and four on the part of the bride; hence you conclude that they are blood relatives in the fourth degree touching the third.

Imagine any other similar examples, supposing one or the other spouse in any cell whether middle or at one side, and ascending to the common stock, so that from there you descend to the other spouse; but do not at all attend to the names which you will find in the various cells occurring, because for the selected cell all things will vary, as is clear.

Consanguinity between the same persons can arise from a double or even multiple head, and then there is a double or multiple propinquity, or impediment to be disclosed in the petition of dispensation; thus, e.g., if two brothers marry two women related to each other by blood, the children proceeding from each Matrimony will be related to each other by blood in two ways, and this circumstance must necessarily be declared.

Quaer. 3° Who are collateral blood relatives?

Resp. They are the following, namely:

1° On the part of the father.

Latin term	English equivalent
Propatruus, or brother of the great-grandfather	great-grandfather's brother, great grand-uncle
Proamita, or sister of the great-grandfather	great-grandfather's sister, great grand-aunt
Patruus magnus, brother of the grandfather	grandfather's brother, great uncle
Proamita, sister of the grandfather	grandfather's sister, great aunt
Patruus, brother of the father	paternal uncle, uncle by the father's side, a father's brother
Amita, sister of the father	paternal aunt, aunt by the father's side, a father's sister
Patrueles, children of brothers on the father's side	cousins-german, first cousins

2° On the part of the mother.

Latin term	English equivalent
Proavunculus, brother of the great-grandmother	great-grandmother's brother
Promatertera, sister of the great-grandmother	great-grandmother's sister
Avunculus magnus, brother of the grandmother	grandmother's brother
Matertera magna, sister of the grandmother	grandmother's sister
Avunculus, brother of the mother	maternal uncle, uncle by the mother's side, a mother's brother
Matertera, sister of the mother	maternal aunt, aunt by the mother's side, a mother's sister
Consobrini, children of brothers on the mother's side	cousins-german, first cousins

3° On each side.

Latin term	English equivalent
Amitini, children of brothers	cousins-german, first cousins, cousins by blood (children of brothers)
Sobrini, their children	children of cousins-german, second cousins

Latin term	English equivalent
Nepotes, children of brothers	a brother's or sister's children, nephews
Pronepotes, their children	children of nephews, second nephews

Degrees of Consanguinity.

The printed genealogical tree places **N** as the central person. The straight line above and below N is:

Degree	Ascending straight line	Descending straight line
4	Abavus / Abavia	Abnepos / Abneptis
3	Proavus / Proavia	Pronepos / Proneptis
2	Avus / Avia	Nepos / Neptis
1	Pater / Mater	Filius / Filia
Center	N	N

The principal collateral cells are:

Degree	Father's side	Mother's side
1	Frater	Soror
2	Patruus / Amita; Patrueles / Amitini; Fratris filii	Avunculus / Matertera; Consobrini / Amitini; Sororis filii
3	Patruus / Amita major; Horum filii; Nepotes; Sobrini; Fratris nepotes	Avunculus / Matertera major; Horum filii; Nepotes; Sobrini; Sororis nepotes
4	Propatruus / Proamita; Horum filii; Nepotes; Pronepotes; Fratris pronepotes	Proavunculus / Promatertera; Horum filii; Nepotes; Pronepotes; Sororis pronepotes

Note. - 1° Persons who are joined by a line are among themselves in the straight line; with the rest, in the collateral line.

2° Where lines are joined, there the stock is had.

Notes to n. 1583. (2) L. VI. 470. (3) Ib.

Section II. On Spiritual Cognation.

Spiritual cognation is a certain propinquity which arises from the statute of the Church, from the administration and reception of Baptism or Confirmation, between certain persons determined in Canon Law.

1584. Principle. - Spiritual cognation dirimes Matrimony by ecclesiastical law: **1°** between the Minister of the Sacrament and the subject and the subject's parents; **2°** between the godfather or godmother and the goddaughter or godson, and their parents. Thus from Trent.[1] - See the conditions n. 1265. II; to which add that this impediment arises only from valid Baptism, and, if there is question of Confirmation, it is also required that the sponsor have been confirmed.[1]

Notes to n. 1584 - note sequence 1. (1) Sess. 24. c. 2. de Ref. Notes to n. 1584 - note sequence 2. (1) L. VI. 151. 186. Dub. 2.

1585. Resolves. - 1° The godfather and godmother can enter Matrimony between themselves, but not with the father or mother of the baptized person.

2° They do not contract spiritual cognation who exercise the office of godfather and godmother in supplying the solemnities of Baptism, as the Sacred Congregation de Propaganda Fide[2] declared in

express words, nor those who only in the name of another receive the baptized person from the sacred font.

3° Sponsors designated by the parents and unjustly rejected by the Pastor contract true spiritual cognation if they actually hold the infant; otherwise, if they were justly rejected by the Pastor.

4° A man baptizing a girl in a case of necessity and privately can marry neither her nor her mother. Say the same of a woman privately baptizing a boy, and of a parent baptizing illegitimate offspring.

5° To the doubt: "Whether the disposition of the council, c. 2. S. 24. Ref. Matr., decreeing that in the Sacrament of Baptism spiritual cognation is contracted between the one receiving and the father and mother of the one received, has place in Baptism without solemnities, conferred at home on account of necessity? The Sacred Congregation judged: Affirmatively. March 5, 1678." Thus also the same Sacred Congregation of the Council, April 17, 1603.

6° Parents baptizing children in necessity or in good faith contract no spiritual cognation by which they are prohibited from the use of marriage; for this prohibition has the character of a penalty, which is not incurred without fault. Indeed, to St. Alphonsus it is quite probable that they do not contract cognation even if deliberately, necessity excluded, they baptized offspring. Others contradict.

7° From conditional Baptism cognation arises if there is a negative doubt concerning the prior Baptism; for, since no reason urges for the value of this one, the presumption stands for the value of that one. Otherwise, if the doubt is positive (cf. n. 1574. q. 5°. R. 1°), as if Baptism is repeated because it was not conferred on the head.

Notes to n. 1585. (2) Apud Gury. Ed. Rom. 1873. T. II. p. 452 ().

Section III. On Legal Cognation.

1586. - Legal cognation is the propinquity of extraneous persons which arises from legal adoption. A twofold adoption is distinguished:

1° Perfect adoption or arrogation, by which a person of his own right, in legal form, passes into the power and family of the adopter, and acquires all the rights of a legitimate son.

2° Imperfect adoption or adoption, by which an extraneous person who is not of his own right is assumed as son or grandson, yet does not pass into the family and power of the adopter, and therefore is not made the latter's necessary heir by testament, although he succeeds to him *ab intestato*.

If a question arises whether in this or that case there is an impediment of legal cognation, recourse must necessarily be had to the civil laws of the State, i.e. there will be an impediment if the civil law admits adoption and the solemnities prescribed by it were observed. De Angelis, L. 4. T. 12.

Principles. - I. Legal cognation constitutes a diriment impediment by ecclesiastical law, although it was first established in Roman Law. This is drawn from the Response of Nicholas I to the Bulgarians, etc.

II. Legal cognation, after the likeness of natural cognation from Roman Law, dirimes Matrimony between the following persons:

1° As in the straight line, between the adopter and the adopted person and the latter's children, while they are constituted under paternal power; **2°** between the adopted person and the children of the adopter, as in the collateral line, while the latter's children are under paternal power; **3°** between the adopter and the wife of the adopted person, and conversely between the adopted person and the wife of the adopter, as in the straight line by way of affinity, as is clear from the declaration of the Sacred Congregation in Hortana, September 25, 1734.

Notes near nn. 1586-1587, legal cognation and adoption (printed p. 257).

1 L. VI. 154. | **2** Ib. 149. Ferr. V. Bapt. a. 7. n. 20. | **3** Murray, De imp. n. 72 sq. Therefore the opinion of St. Alphonsus L. VI. 149 is to be relinquished. | **4** L. VI. 150. | **5** Ib. | **6** Apud Feije, de Imp. n. 426. 427. | **7** L. VI. 151. 902. H. A. Tr. XIV. 33.

1587. Questions. - Quaer. 1° Does legal cognation dirime Matrimony up to the fourth degree between the adopter and the descendants of the adopted person, or conversely?

Resp. 1° Certainly it is restricted to the first degree as regards the adopted person and the descendants of the adopter. This is clear from Canon Law.

Resp. 2° It is controverted as regards the adopter and the descendants of the adopted person. Probably cognation is not extended beyond the first degree, or beyond the adopted person, unless he has descendants constituted under his power; for nothing is found in law opposed to this decision.

Quaer. 2° Does imperfect adoption dirime Matrimony?

Resp. Negatively, more probably with St. Alphonsus and several others, because only perfect adoption is to be judged adoption properly so called. Nevertheless De Angelis, in the cited place, contends from the acts of the Sacred Penitentiary that it is sufficiently clear that any adoption which is admitted by the law of the country induces an impediment.

Point IV. On the Impediment of Affinity.

1588. - Affinity is the propinquity which someone contracts with the blood relatives of the person with whom he has carnal intercourse; or, it is propinquity arisen from carnal copula between one or the other of the copulated persons and the blood relatives of the other. Therefore affinity arises between the man and the blood relatives of the woman, and conversely.

But multiple affinity can happen with the same person, and then it constitutes just as many bonds necessarily to be expressed, so that the dispensation may be valid. The cause of this multiplicity can be various. For it arises: **1°** when copula has been had with several persons related by blood to the other party; **2°** when it has been had with a person related by blood to the other party in multiple ways; **3°** when copula has been had on each side with a person related by blood to the other party; **4°** when copula, both licit and illicit, has been had with a person related by blood to the other party.

Nevertheless in the fourth case, namely when before Matrimony copula was had with a person with whom Matrimony was afterwards contracted and consummated, the Apostolic See removed the necessity of expressing this double affinity by letters of March 29, 1842, communicated to the individual Bishops of Belgium, which are valid everywhere.[3]

This impediment also arises from copula between the old and the sterile; likewise from copula with a woman forced, or not in control of herself, insane, etc.; nor is it dissolved by the death of either.[4]

Hence: **1°** Affinity arises both from licit copula, that is, conjugal, and from illicit copula, namely from fornication, adultery, incest, etc.

2° Affinity can also be contracted between the spouses themselves, if either party has relations with someone from the blood relatives of the other.

Notes near nn. 1588-1589, affinity from licit and illicit copula (printed p. 258).

1 L. VI. 1027. | **2** Ib. | **3** Acta, T. X. p. 295 sub 7. | **4** Heiss. § 40. I. 2). | **5** Sess. 24. c. 4. de Ref. Matr.

1589. Principles. - I. Affinity from licit copula dirimes Matrimony up to the fourth degree inclusively; but from illicit copula only up to the second degree inclusively. This is evinced from Lateran Council IV and from Trent.[5]

II. Affinity is not contracted except by perfect and consummated copula, because otherwise the man and woman are not strictly made one flesh. The Doctors agree unanimously in denying affinity if only the woman has emitted seed; not likewise if the man alone emitted seed. Concerning this controversy St. Alphonsus concludes that each opposite opinion is probable, and it is certain that St. Thomas stands for those who require the act to be perfected on each side. Wherefore, since there is question of an impediment, by the general principle it would have to be defined that the matter is doubtful, and therefore the impediment is not present.

But as regards practice the rules which St. Alphonsus also has ought to be valid, namely: **1°** When copula is certain, in the external forum it is always presumed in favor of the impediment contracted; **2°** the same is presumed also in the internal forum, when the contrary is not certain, because judgment is prudently made from things commonly occurring, especially if the woman confesses that she experienced a great sense of pleasure, even though she did not advert to seminal emission; **3°** if it is certain that in fact emission of seed did not follow on one or the other side, in the forum of conscience judgment cannot be borne in favor of the impediment.

III. Affinity contracted between spouses cannot dirime their Matrimony, since it supervenes upon this as already contracted indissolubly; nevertheless it impedes the use of the same in punishment of the adulterous or incestuous spouse. This is clear from several places of Canon Law. But this, as arising from illicit copula, by force of the Tridentine Decree, is not contracted except from copula with the blood relatives of the other in the first and second degree. This is confirmed from the express Declaration of Gregory XIII in St. Alphonsus.

Nevertheless it is required that the incest be: **1)** culpable; **2)** consummated as above II.; **3)** not coerced by grave fear; **4)** committed without ignorance, even crass ignorance, of law, fact, and penalty. The general reason is because there is question of a penal law.

1590. Rules. - First. Persons who are carnally joined are not properly affinities between themselves, but are the principle of affinity and hold, as it were, the place of the stock.

Second. Affinity cannot exist between two persons, neither of whom has had copula with a blood relative of the other; therefore the blood relatives of one spouse have no affinity with the blood relatives of the other.

Third. Two brothers can marry two sisters; father and son can marry mother and daughter; indeed the son can marry the mother and the father her daughter. Hence today the axiom: Affinity does not beget affinity.

Fourth. The degrees of affinity are computed in the same mode as the degrees of consanguinity; indeed affinity does not have degrees of itself, but only by reason of consanguinity; therefore such as is the degree of consanguinity with one person, such is the degree of affinity with the other.

Fifth. He who sinned with two sisters, or with first cousins, or with mother and daughter, can marry none of these. (53) p. 430.

Sixth. A man who sinned with the sister, first cousin, or paternal aunt of his other party is held to render the debt to one asking, although he himself cannot ask. The reason is because, since there is question of a merely prohibiting law, the innocent person ought not to suffer from the fault of the guilty.

Seventh. He is not deprived of the right of asking the debt who sins with his own blood relatives, because from this he contracts no affinity with his wife.

Eighth. If each spouse has contracted affinity with the other through incest, neither can ask the debt, because each has lost his or her right; and therefore neither is held, indeed neither can, render the debt to the other.

Degrees of Affinity.

The printed table shows the consanguinei of the man and the consanguinei of the woman around the two persons carnally joined. Lines drawn from one center to the opposite relatives exhibit the affinity of one with the blood relatives of the other, and conversely. It represents blood relatives in the straight line up to the fourth degree, with collateral lines such as brothers and cousins to be added in the same way.

Notes near nn. 1590-1591, degrees and questions on affinity (printed p. 259).

1 L. VI. 1075. | **2** Ib. and n. 902. § Dicunt. | **3** L. IV. Decr. T. XIII. c. 1. | **4** Sess. 24. c. 4. de Ref. Matr. | **5** L. VI. 1070. | **6** Ib. 1071-1075.

Appendix annotation (53), to n. 1590. 5°. p. 257. col. 1. From the things said under rules 2, 3, 4, and 5, it is clear whether and how the following persons are connected by affinity. "1. Two brothers with two sisters. "2. Father and son with mother and daughter. "3. A stepfather with the widow of a prior stepchild. "4. A stepmother with the husband of the stepdaughter. "5. The son of Titius from a first wife with the daughter, stepdaughter, of the same Titius. "6. Two co-stepchildren, or the children of spouses received from another marriage-bed. Think, namely, that a widower and a widow, each having children from another Matrimony, were married. "7. The brother of a stepfather with the latter's stepdaughter. "8. Caius with the mother of his stepfather. Lucia with the father of her stepmother. "9. Martin with the widow whom the brother of Martin's wife left behind. "10. George successively with Sophia and Gertrude, whose husbands were two brothers. "11. The surviving spouses of brother and sister. "12. A widower with the daughter of his widow from the prior Matrimony of the widow. "13. With the same daughter, the son of the same widower from a prior Matrimony. "14. That widower with the daughter of the said daughter, or with the granddaughter in the direct line from the prior nuptials of his widow. "The persons designated under the first eleven numbers and under the thirteenth are free from the impediment of affinity; but those described under the twelfth are bound in the first degree of the direct line from matrimonial copula, and those described under the fourteenth are bound by affinity in the second degree of the direct line, likewise from matrimonial copula." Van de Burgt, De Matr., n. 194.

1591. Questions. - Quaer. 1° By what law does affinity dirime?

Resp. 1° From the certain opinion of all, it dirimes by the law of the Church alone in the collateral line, and much more probably also in the straight line, if perhaps you except the first degree from licit copula.

But since affinity, by reason of the copula whence it proceeds licitly or illicitly, is a certain natural propinquity and as it were mediate consanguinity, therefore whether it dirimes by natural law or not, it is nevertheless as regards the baptized a diriment impediment, although contracted in infidelity. This is clear from the declaration of the Sacred Congregation de Propaganda Fide under the date August 23, 1852. (C), p. 394.

Resp. 2° It is controverted as regards the first degree of the straight line. Nevertheless the Church, although she has been very many times earnestly asked, has never wished to dispense if affinity arises from legitimate Matrimony, as Benedict XIV also testifies. Moreover, because very grave Doctors deny that Matrimony with an affinity of this kind is void by natural law, therefore if two infidels, after contracting such a Matrimony, came to the Faith, it would not be safe to separate them without dispensation of the Pontiff, unless perhaps these marriages among infidels were void by positive law. But even in this case it is safer, as I think, to have recourse to the Holy See, on account of the not unfounded opinion of some by which power of establishing diriment impediments of Matrimony, even of infidels, is denied to the civil legislator. Cf. the things said n. 1574. q. 1°. - Not rarely has the Church dispensed in affinity of this kind arisen from illicit intercourse, e.g. if someone marries a wife after he has fornicated with her daughter or mother, provided nevertheless that copula with the mother did not precede the birth of the daughter; this condition is always accustomed to be posited in the dispensation. Nevertheless this condition is judged sufficiently fulfilled if copula with the mother preceded the birth of the daughter at such a time that the danger that she could be the daughter of the spouse is altogether absent, or, as the faculty usually conceded to our Bishops sounds (p. LXXV. 4): "no doubt underlies that the spouse is offspring generated by the other of the contracting parties."

Quaer. 2° Who are the various affinities?

Resp. They are the following, namely:

Latin term	English equivalent
Socer, father by reason of affinity, whether of the married man or married woman	father-in-law
Socrus, mother by affinity, as above	mother-in-law
Prosocer, grandfather by affinity	wife's grandfather
Prosocrus, grandmother by affinity	wife's grandmother
Gener, husband of the daughter	son-in-law
Nurus, wife of the son	daughter-in-law
Progener, husband of the granddaughter	granddaughter's husband
Pronurus, wife of the grandson	grandson's wife
Levir, brother of the husband or wife	brother-in-law
Glos, sister of the husband	sister-in-law
Fratria, wife of the brother	sister-in-law, a brother's wife

Latin term	English equivalent
Sororius, husband of the sister	brother-in-law, a sister's husband
Vitricus, husband of the mother	step-father
Privignus, son from the first Matrimony of the father or mother	step-son, step-daughter, step-child
Noverca, wife of the father	step-mother

The printed page also gives the following German and French equivalents:

German	French
Schwiegervater	beau-pere
Schwiegermutter	belle-mere
Gross-schwiegervater	aieul par affinite
Gross-schwiegermutter	aieule par affinite
Tochtermann (Eidam), Schwiegersohn	gendre
Schwiegertochter, Schnur	bru, belle-fille
Kindestochtermann	mari de la petite-fille
Gross-schwiegertochter	femme du petit fils
des Mannes Bruder, Schwager	beau-frere
des Mannes Schwester, Schwagerin	belle-soeur
Bruders Frau, Schwagerin	belle-soeur
Schwager, der Schwester Mann	beau-frere
Stiefvater	beau-pere
Stiefsohn, Stieftochter, Stiefkind	beau-fils
Stiefmutter	belle-mere, maratre

Quaer. 3° Does affinity from Matrimony consummated, but invalid, dirime Matrimony to the fourth degree, or only to the second?

Resp. 1° By reason of affinity it dirimes to the fourth degree if each party was of good faith, as is clear from the declaration of the Sacred Congregation of the Council in *Brixien. Matr.*, December 3, 1667. - But whether only to the second degree, if either each party or one party was of bad faith, or in the case in which Matrimony was invalid because of clandestinity, is disputed. We think with the illustrious Feije that, when the case occurs, the matter is to be referred to the Apostolic See, or dispensation is to be made.

Resp. 2° But by reason of public honesty it dirimes up to the fourth degree, because Matrimony, even invalid, by force of public honesty dirimes to the fourth degree. - See the things soon to be said n. 1593. q. 3°.

Appendix annotation (epsilon), to n. 1591. q. 1°. R. 1°, p. 258, col. 1. It is pleasing here to transcribe the declaration of which there is question. Namely, the following doubts having been proposed: "1. Can an unbelieving man, who while still placed in infidelity knew, either publicly or privately, but illicitly, some woman, whether faithful or unbelieving, after receiving Baptism validly and licitly contract Matrimony with the blood relative of that same woman known, if this blood relative received Baptism either before or after the intercourse of which there is question? 2. And insofar as affirmatively (concerning which there is great doubt), could the same unbeliever converted to the faith after the death of his legitimate unbelieving wife contract Matrimony with the blood relative (up to the 4th degree inclusive) of that same deceased wife,

whether that blood relative received Baptism before or after the death of the aforesaid unbelieving wife?" S. C. responded: To 1. negatively. To 2. negatively. The decision given by S. C. O. to the second doubt of the Archbishop of Quebec, Feria V, September 16, 1824, agrees with this; in it the following reason of the decision is given: "For affinity in itself and physically considered must be distinguished from the impediment of affinity. Moreover affinity in itself is contracted even by unbelievers; because even among unbelievers it is true that a man and a woman through carnal intercourse become one flesh. Therefore, as is had in cap. Fraternitatis, 35, question 10, if they shall have been one flesh, how could someone near to one of them pertain to one, unless he pertained to the other? ... This only is the difference, that affinity does not bring forth an ecclesiastical impediment for unbelievers, but it does for the faithful. Therefore, since through Baptism there is not removed from Balbina the affinity already physically contracted by her with Paul, this very affinity radically inhering in her, which for the same unbeliever was not an impediment to contracting, becomes an impediment after Baptism, by which she is subject to the Church, and consequently subject to its laws."

Point V. On the Impediment of Public Honesty.

Notes near n. 1592, impediment of public honesty (printed p. 259).

1 L. VI. 1069 sq. | **2** Apud Gury. Ed. Rom. 1873. T. II. p. 456 (*). | **3** De Syn. L. IX. c. XIII. n. 4. | **4** De Imp. n. 377. 378. | **5** L. VI. 1061. | **6** Sess. 24. c. 3. de Ref. Matr.

1592. - Public honesty is propinquity, or a certain quasi-affinity, which arises through the conjunction not of bodies but of minds, both from betrothals between one betrothed person and the blood relatives of the other, and from ratified Matrimony between one spouse and the blood relatives of the other party. By ecclesiastical law it dirimes.

Rule. - 1° Public honesty arising from valid betrothals celebrated with an individually determined person, by the new law of Trent, dirimes Matrimony only up to the first degree.

2° Public honesty arising from ratified Matrimony dirimes Matrimony to the fourth degree inclusively.

Notes near n. 1593, questions on public honesty (printed p. 260).

1 L. VI. 1061. | **2** Ib. 1063. | **3** S. Pen. apud De Angelis, V. 3. L. 4. T. 4. 7°. | **4** L. VI. 1062. C. un. de Spons. in 6°. | **5** L. VI. 1064. | **6** V. n. 1592. 2°. | **7** L. VI. 1064 and De Angelis, V. 3. L. 4. T. 4. 8°. | **8** Acta, T. XIII. p. 126.

1593. Questions. - Quaer. 1° Does PUBLIC HONESTY arise from conditioned betrothals, or from betrothals dissolved by mutual consent, or for any just cause?

Resp. to the 1st. Negatively, unless the condition has been fulfilled; because, the condition not having been fulfilled, true betrothals are not had.

Resp. to the 2nd. Affirmatively. The reason is because the impediment is contracted immediately after valid betrothals have been entered, and an impediment once induced cannot be taken away by the will of the betrothed persons or by another supervening cause. Thus from the Declaration of the Sacred Congregation in St. Alphonsus.

Quaer. 2° Does PUBLIC HONESTY arise from NON-SOLEMN betrothals?

Resp. Affirmatively. The reason is because the Church admits no distinction between private and solemn betrothals.

Quaer. 3° Does PUBLIC HONESTY arise from an INVALID Matrimony?

Resp. Affirmatively, because before Trent honesty arose from a Matrimony of this kind. But the Council changed nothing concerning this, although it restricted the ancient law as to betrothals concerning the future. Thus St. Pius V declared in the Constitution *Ad Romanum*, July 1, 1568.

Except: **1°** if the invalidity arises from defect of consent. Thus from Canon Law. - Hence there is no impediment of public honesty if Matrimony was contracted either from error, or from fear, or with fictitious consent.

Except: **2°** if the invalidity comes from a prior impediment of public honesty, arising from validly contracted betrothals; in this case an impediment is not induced to the prejudice of prior betrothals. Hence if Titius, after entering betrothals with Berta, and leaving her, marries her sister, he can, indeed must, return to the first; nor does he need dispensation unless he has consummated the Matrimony. But there is present an impediment as regards other blood relatives of the wife whom he invalidly married, up to the fourth degree.

Except: **3°** according to several, a Matrimony null on account of the Tridentine form not being observed. Nevertheless the opinion more true to St. Alphonsus does not admit this exception, "because by ancient law, c. unic. de Spons. in 6., which even now has force, as St. Pius V declared" (*C. ad Romanum*), "only from Matrimony null directly on account of defect of consent, and not from another cause, is the impediment excused."

Quaer. 4° Does PUBLIC HONESTY arise from the act which is commonly called civil marriage?

Resp. Negatively, "in places where the decree of the Council of Trent, S. 24. c. 1. Ref. Matr., has been promulgated, whether the faithful performing the act intend ... to perform a merely civil ceremony, or intend to enter betrothals concerning the future, or finally from ignorance, or in contempt of ecclesiastical laws, intend to contract Matrimony concerning the present." Thus from the Decree of Our Most Holy Lord Pope Leo XIII, dated March 17, 1879.

Point VI. On the Impediment of Crime.

Crime diriment of Matrimony is threefold, namely **1°** adultery, **2°** homicide of a spouse, **3°** each together, provided the conditions which we append certainly concur.

Note. - Since this impediment is of ecclesiastical law, and does not suppose, as affinity does, any natural bond, two persons now baptized who perpetrated a crime of this kind while they were still infidels are not affected by it. Sacred Congregation de Propaganda Fide, August 23, 1852.

I. Adultery Alone.

1594. - To incur an impediment from this head there is required:

1° That the adultery be true, formal, consummated. And first, indeed, true, i.e. that at least one of the fornicators be joined by a Matrimony not merely putative, but legitimate and valid, even if perhaps not consummated. Then formal, and indeed on each side, i.e. that each know, or, as is probable to St. Alphonsus, not affectedly be ignorant, that the other is married. Finally consummated, namely with perfect carnal copula intervening, i.e. such as was described n. 1589. II. I said: consummated and formal on each side, because odious things are to be restricted. - Thus commonly.

2° That there be present a promise of Matrimony, more probably true (not fictitious), and absolute (not conditioned), made by one adulterer and accepted by the other at least by some sign (for probably it does not suffice that the other be silent), as the common opinion has it; whether this promise precedes, accompanies, or follows the adultery. But if it precedes, it is required that it was not retracted before the adultery. More probably a reciprocal promise is not required. But whether a promise under condition, verified before the death of the spouse, suffices is disputed. The intrinsic reason of the affirmative opinion is not approved by St. Alphonsus; yet, since it is common, the holy Doctor remits himself to the wise.

3° That both the promise of Matrimony and the adultery be made while the prior spouse is living, or while the same Matrimony is continuing. - Thus from several places of Canon Law.

Under the same circumstances, the diriment impediment is induced also through adultery with the attempted Matrimony (e.g. through consent concerning the present and the will of celebrating marriage, whether made before or after the adultery; whether before the Pastor, or clandestinely). It suffices also if, knowledge concerning the marriage of the other having been had after the adulterous Matrimony, they use the Matrimony without retracting it. - But the promise of entering Matrimony before the death of the spouse does not suffice.

Notes to nn. 1594-1602 - note sequence 1. (1) L. IV. Decr. T. VII. S. Th. in 4. D. 37, q. 2. a. 2. (2) Collect. p. 381. n. 880. (3) L. VI. 1036. (4) Ib. 1039. (5) Ib. 1040. (6) Ib. 1038. (7) Ib. 1037. 1040. (8) Caus. 31. q. 1. L. IV. Decr. T. VII. c. 1. S. Alph. L. VI. 1037 sq. Notes to nn. 1594-1602 - note sequence 2. (1) L. VI. 1042. Collect. p. 380. n. 879. (2) Heiss. de Matr. § 42. III. Feije, n. 452. (3) Feije, n. 449. (4) Ib. 1033. (5) Schmalzer. L. IV. T. VII. n. 56 sq. (6) L. VI. 1034. H. A. Tr. XVIII. 68. I. (7) Ib. 1031. (8) L. VI. 1035. 1036. Requir. VI. (9) Ib. 1036. (10) Ib. 1044. Notes to nn. 1594-1602 - note sequence 3. (1) Pius IX, November 15, 1858. App. Conc. Pl. Balt. II. p. 311, and S. C. de P. F. March 25, 1868, ib. p. 344. Cf. Collect. p. 401. n. 908. (2) a. 335. (3) a. 336. (4) a. 338. (5) De Imp. n. 569. Notes to nn. 1594-1602 - note sequence 4. (1) L. VI. 1047. 1048. (2) Ib. 1047. (3) L. IV. Decr. T. I. c. 14. (4) In 4. D. 29. Q. 1. art. 3. q. 2. ad 2. (5) L. IV. Decr. T. I. c. 21. (6) L. VI. 1049-1053. Acta, T. V. p. 348 sq. (7) L. VI. 1055. (8) L. VI. 1056. Notes to nn. 1594-1602 - note sequence 5. (1) a. 328 and p. 308. XII. (2) Feije, de Imp. n. 446. (3) L. IV. Decr. T. II. c. 7. 10. 11.

II. Homicide Alone.

1595. - Three conditions are required that from this an impediment be present:

1° Mutual conspiracy; hence it does not suffice that a spouse kills his or her spouse, if the person with whom he or she is going to enter Matrimony is ignorant of this action, or contradicts it, or afterwards approves it and holds it ratified.

2° Intention of Matrimony. Thus commonly, although it is not expressed in law. The reason is because the end of the law is that no one kill his own spouse or the spouse of another in hope of Matrimony. - This second condition is verified through intention on the part of one, and it probably suffices that certain indications of this intention preceded, e.g. familiarities, love letters, etc.

3° Death really following from the physical or moral action (and therefore from counsel or mandate given to someone) of one or the other accomplice. This is clear from Canon Law. - Thus commonly.

III. Each Together.

1596. - When the crimes of adultery and spouse-killing are found conjoined, mutual conspiracy to the killing of the spouse is not required, nor a promise of Matrimony, but these three suffice:

1° Adultery, such as was set forth above (n. 1594. 1°). Hence it ought to precede the killing of the spouse; for if the death of the spouse precedes, adultery, which consists in copula with the spouse of another (certainly living), will no longer be able to have place. - It is not necessary, however, that it precede the machination of death.

2° Machination of death by one of the adulterers from the intention of Matrimony; it suffices, however, that this intention be had by one, which nevertheless more probably must be manifested to the other, for which indications suffice, as above n. 1595.

3° Death following from the machination of one of the adulterers, in the same way as was said above concerning homicide alone. Thus from the same Canon Law.

This impediment, which because of the double united crime is called *each together*, constitutes one impediment. On the contrary, if both adultery and homicide have their own proper conditions separately, as they have been set forth in n. 1594 and 1595 (respectively 1596), they introduce a double impediment.

Point VII. On the Impediment of Disparity of Cult.

Disparity of cult is understood in general as diversity of Religion between the contracting parties. But here that disparity is properly understood which intervenes between a baptized and an unbaptized person. Nevertheless here we shall also speak of disparity of cult between baptized persons contracting Matrimony, or of mixed Marriages.

1597. Principles. - I. Disparity of cult which exists between a baptized person (whether this person is Catholic or not) and an infidel, or unbaptized person, makes Matrimony invalid. Thus from unwritten law, i.e. from custom having the force of law.

II. But diversity of Religion between baptized persons does not constitute a diriment impediment. It is proved from the fact that by no law or custom are Marriages between Catholics and heretics declared void. - Thus the unanimous consensus of theologians.

III. Diversity of Religion between Catholics and heretics or schismatics constitutes an impedient impediment. This is drawn both from the practice of the Church, which always with the greatest solicitude turns the faithful away from these Marriages, and from the express Declaration of Benedict XIV, who calls these unions detestable, which holy Mother Church has perpetually condemned and interdicted. (Second Plenary Council of Baltimore, p. 314.)

1598. Questions. - Quaer. 1° By what law are marriages between Catholics and heretics or schismatics forbidden?

Resp. By both divine and ecclesiastical law. By divine law, namely as often as in an individual case the danger of perversion of the Catholic party or of offspring is proximate and cannot be removed; but by ecclesiastical law, because the universal prohibition of the Church obstructs. Its motives are forbidden communication in sacred things and the danger mentioned above, and this not particular or existing here and now in an individual case, but common. Wherefore, although the prohibition of divine law ceases when the danger has been removed, nevertheless the prohibition of the Church does not cease without dispensation. Feije, n. 567.

Quaer. 2° To whom belongs the faculty of dispensing from such an impediment and from the impedient impediment of mixed communion?

Resp. To the Roman Pontiff alone, Bishops being altogether excluded, unless they have obtained this faculty from the Supreme Pontiff. In what manner it is accustomed to be conceded to our Bishops, see p. LXXIV. n. 3. 4. 5.

Quaer. 3° Under what conditions is the aforesaid dispensation conceded?

Resp. Besides a grave cause, all and single conditions recounted p. LXXIV. n. 3. 4. 5 must also be present. (39) p. 425.

Quaer. 4° Is Matrimony entered between Catholics and heretics valid if, dispensation having been obtained, the heretical party is unwilling to acquiesce in the condition imposed by the Church, namely that children OF EACH SEX be educated in the Catholic Religion?

Resp. Affirmatively. For there is question of a merely impedient impediment, and consequently this condition does not affect the validity of the Matrimony. But the Pastor ought in this case to abstain from every intervention, as the Sacred Congregation of Inquisition speaks, June 17, 1829.

Quaer. 5° In what manner in our Provinces must one assist at mixed Marriages if dispensation has intervened?

Resp. 1° See *Excerpta ex Rit. Rom.* p. 208. () *and p. 242 sq. Ed. 1872, or Ed. 1874. p. 200.* () and p. 234 sq., where among other things it is observed: "In entering nuptials of this kind the Church has generally ordered those things to be omitted by which the Marriages of Catholics are adorned." It is said: generally; for the rite prescribed in the Ritual for Marriages to be contracted can be permitted tolerantly by way only of exception, and always with celebration of Mass excluded, if graver damages and evils are to be feared, by the Ordinary, whose conscience is burdened in this matter. (g), p. 395.

Resp. 2° As regards the mode of exacting the prescribed promises, the Fathers of the Second Plenary Council of Baltimore admonish that pastors of souls "conduct themselves indeed strongly in the matter, yet suavely in the manner, lest ... they exasperate each spouse, and thence graver evils arise; and this is to be guarded against the more, since it is clear that rarely in these regions is dispensation for entering nuptials of this kind sought from the Bishop or priest until the matter has already proceeded so far that it can scarcely be hoped that the Matrimony can be broken off through the admonitions of the Church." - "Every effort must rather be placed in this, that the faithful be altogether deterred from these mixed marriages. Therefore we exhort pastors of souls that at least once in the year, especially in the time of Advent or Lent, by grave discourse they teach the flocks committed to them the evils which spring from them." Confessors also should opportunely admonish parents, young men, and girls for this end. (40) p. 426.

Resp. 3° "We do not wish," say the same Fathers, "that priests furnish their work to those whom they know are going to approach a little minister for the sake of repeating the matrimonial covenant, or who, after a covenant has been so entered, without signs of penitence, seek the priestly blessing."

Quaer. 6° What must be done if a purpose of entering a mixed Matrimony is detected in a Catholic man or Catholic woman?

Resp. In every better way, yet with Christian charity and suavity, in all patience and doctrine, not only Ordinaries but also pastors and confessors ought to turn their own away from these. But if the person persists in the purpose, and either **a)** it is clear that not only common danger, but proximate danger which cannot be removed, exists in the individual case, or **b)** no reasonable cause for seeking dispensation can be alleged (in doubt the Ordinary is to be approached), or **c)** Matrimony is intended to be contracted without dispensation or the necessary cautions, or **d)** the penitent, about to seek dispensation and satisfy the cautions, is unwilling to abstain from frequent conversation of such a kind which either is culpable from another source or is going to render empty the hope of the purpose of dismissing the matter in the case that dispensation is denied: indeed the benefit of absolution is to be denied to the penitent, yet care and solicitude concerning his miserable state is not to be cast away, but rather increased. Thus Feije.

Quaer. 7° What must be done if, after a mixed Matrimony has been contracted, the condition of educating offspring Catholic is neglected?

Resp. The Catholic party cannot be absolved unless that party does or seriously promises to do whatever, morally speaking, he or she will be able to do, that the offspring be duly baptized and instructed Catholic. Indeed, in a public case this person is to be numbered among public sinners. From this principle, which does not need proof, you will resolve:

1. If the father is Catholic and the offspring has not yet so grown up that, although not withdrawn from power, it ought nevertheless to be called withdrawn from paternal influence, he cannot be absolved unless first he sees to it, or, if now he cannot, seriously promises to see to it, that the offspring **a)** if not yet baptized or certainly validly baptized, be baptized; **b)** assist at divine offices in a Catholic church, frequent a Catholic school if this can be done, etc.

Resolve the same concerning a Catholic tutor.

2. If the mother is Catholic, while the non-Catholic father is still living, she is to be judged to perform her office and can be absolved if she applies, or seriously promises to apply, maternal influence upon the offspring and conjugal influence upon the husband, that the offspring, as above, be duly baptized and educated Catholic. For she cannot use power, which by civil law resides entirely with the father.

3. The non-Catholic father having died, the surviving Catholic mother, unless she lacks the office of tutor, is held to the same thing to which a Catholic father is held.

Quaer. 8° Are Calvinists and Lutherans, and universally heretics living in places where Baptism is doubtful and suspect, to be held as infidels, so that the diriment impediment of disparity of cult is judged to be present between Catholics and them?

Resp. See *Excerpta ex Rit.* Ed. 1874. p. 234 (+), where the rules to be observed in this case are found. (41) p. 426.

Note. - If in these regions there is question of a Catholic about to enter Matrimony with a non-Catholic party, one must carefully attend not only to the aforesaid rules, but besides inquire concerning the very fact of Baptism conferred or not conferred. Cf. n. 1264. III.

Appendix annotation (39), to n. 1598. q. 3°. p. 261. col. 2. ### Concerning dispensation in the diriment impediment of disparity of cult, when Matrimony has already been contracted and the unbelieving party refuses to offer the cautions.

Henry, not baptized, contracted before a civil magistrate or petty minister with Ludmilla, a Catholic. After some time she, repenting of the deed, by the persuasion of the pastor approaches the Ordinary, urgently asking from him a remedy for her miserable condition. There is indeed no difficulty in this case if, with a grave cause standing, Henry is prepared to renew consent and to promise what by law in this case must be promised. But what if he wishes to offer neither? Resp. 1° "When from separation grave inconveniences are foreseen as going to follow, - the spouse remaining in infidelity refuses to be baptized," - a dispensation can be indulged to the party "truly" Catholic, yet in such a way that to this party "there be commended and enjoined also the Catholic education of the offspring, and that they ought to take care, in the way in which it can be done, of the conversion of the unbelieving spouse," with consent renewed, and "the nullity of the prior Matrimony being made known, insofar as it can be done, also to the unbelieving party." Thus nearly the Instruction of the Holy Inquisition, 12 Jan. 1769, apud Collect. p. 388. 389. n. 888 under 2. Cf. the same Collect., p. 383. col. 1. § Hucusque. - It is said: with consent renewed; which I understand according to the things said in n. 1633. III. Rule. Resp. 2° If Henry not only refuses to offer the cautions, but is also going to impede, for example, the Catholic education of offspring born or to be born, at least of male offspring, a dispensation can be granted only when Ludmilla is found placed in danger of death and there is no other way in which provision can be made for the salvation of her soul, "provided nevertheless" then "she promises that, if she recovers, she will take care by all means of the conversion of the unbelieving party and of the education of whatever offspring in the Catholic religion." - From the letters of S. C. de Prop. Fide, 8 May 1828, to the Vicar Apostolic of Eastern Tonkin, apud Collect. p. 392. n. 896. Resp. 3° If Henry is conscious of the impediment, no other remedy remains except sanation in the root, n. 1636 under 3. 1°. But this could not be given in this case by our Bishops by force of faculty D, [n. 6, T. I. p. LXXIV](/manuals/konings/iii-faculties#h4), since its tenor, "the party conscious of the impediment having been warned," openly implies that it cannot have place when both parties know the impediment. ### Concerning dispensation from the impediment of mixed religion as regards Matrimony already contracted. Rescript of S. C. of the Holy Office to the Vicar Apostolic of Bombay. "The Most Eminent and Most Reverend Lords Cardinals of the Holy Roman Church, General Inquisitors against heretical depravity, in the General Congregation held on Wednesday, the 9th day of the current month of March, having read the letters of Your Excellency, by which you were reporting to the Eminent Cardinal Prefect of the Sacred Congregation de Propaganda Fide that, in a certain Instruction to your Clergy, you had prescribed to all presbyters exercising the care of souls that they not omit to warn spouses who, grieving and penitent for their mixed Matrimony entered clandestinely, desire to be reconciled to God, concerning the necessity of obtaining from the Bishop a dispensation, so that in the future they may be able licitly to use their Matrimony, contracted validly indeed but illicitly; but that this prescription gave some missionaries occasion to doubt whether an obligation of this kind could be imposed by you: the matter having been carefully and maturely weighed, they judged that the Instruction is to be declared by you thus, namely, that it is fitting that satisfaction be made by the aforesaid spouses to the Church, whose most holy law has been violated, and that the cautions concerning the danger of eternal salvation to be removed from themselves and from their offspring be offered also in the external forum; and that for this end recourse to the Bishop be asked. "While I signify these things to Your Excellency, I wish the devoted sentiments of my soul to be testified to the same, for whom I pray all favorable things from the Lord. "Most devoted as a Brother to Your Excellency, "P. Card. CATALINI. "Rome, 12 March 1881." Appendix annotation (zeta), to n. 1598. q. 5°. R. 1°, p. 262, col. 1. EXTRACTS. 1. From the Letter of I. Cardinal Antonelli, February 28, 1874, to the Archbishop of Oregon. ... S. C. of the Holy Office, Feria IV, May 11, 1864, wrote back to the Bishop of Natchez: "that proclamations can be made in mixed nuptials which are contracted with Apostolic dispensation, but with the mention of the religion of the contracting parties suppressed." And when in the month of May of the year 1871 it called back for examination the Acts and Decrees of the Provincial Synod of Smyrna, this S. Congregation of Propaganda Fide decreed: "the proclamations which are premised in Matrimonies are not to be made in mixed marriages, except when they seem necessary and opportune, in the judgment of the Ordinary, for detecting impediments, and with mention of the religion of those who are to contract nuptials omitted." 2. From the Letter of the Same Cardinal Franchi, September 28, 1874, to the same. After those things which this same S. Congregation was writing to Your Excellency under the day February 28 just past, concerning the authenticity of the letters of the same S. Council of the day July 3, 1847, in that which pertains to proclamations in mixed Matrimonies, you asked again how this can be composed with the Note which appears in the Baltimore Ritual printed in the year 1866, p. 189. But the matter will be easily explained if you observe that that Note was affixed to the Ritual without this S. Congregation knowing it. ... I shall add also that in the aforesaid letters it is not simply read, as the Note reports, "that proclamations be made even when there is question of mixed Matrimonies," which words would contain an absolute precept, "but since this publication of banns ought to be held as having the place of a caution and as a prudential remedy, no sufficiently firm reason seems to stand in the way why proclamations should be made even when there is question of mixed Matrimonies." From this it is clear that the Note is to be rejected from a double head. Therefore, all hesitation being set aside, hold what long ago was signified to

you, namely, that proclamations can be made also in mixed marriages which are contracted with previous permission of the Church, with mention of the religion of the spouses however suppressed, but only when, for detecting impediments, if any there are, the Ordinary in the Lord shall have judged them necessary and opportune. ... 3. From the Letters of the Same Cardinal Franchi to the Archbishop of Baltimore, January 30, 1875. ... It is certain that the Holy See in these most recent times has declared that proclamations can be made in mixed nuptials which are contracted by Apostolic dispensation. Appendix annotation (40), to n. 1598. q. 5°. R. 2°. p. 262. col. 1. You will compose a solid instruction concerning the dangers which are joined with mixed Marriages from the letters of Clement XIII, dated 16 Nov. 1763, to the Bishop of Strasbourg, which Collect. p. 394. n. 902 exhibits. Likewise from the booklet An Instruction on Mixed Marriages, by Rt. Rev. Ullathorne, Benziger, New York. Appendix annotation (41), to n. 1598. q. 8°. p. 262. col. 2. But what in doubt whether Baptism, I do not say validly, but in fact, was conferred upon the non-Catholic party? Resp. 1° If there is question of Matrimony to be contracted with a Catholic party, the doubt persevering after diligence has been employed, there can be place for a dispensation in the diriment impediment of disparity of cult, and this, with a grave cause subsisting, is to be procured. It is clear from the things said in n. 1574. q. 5°. R. 3°. Resp. 2° Resolve the same if there is question of a Matrimony contracted in the same circumstances without dispensation. It is clear from Resp. 1°. Resp. 3° Although Matrimony was contracted without dispensation, and not afterward convalidated, nevertheless the party certainly baptized, who has flown or wishes to fly to other nuptials, contracts these nuptials illicitly and remains in them illicitly, unless it has been sufficiently proved that Baptism was not conferred upon the prior party. But sufficient proof of this matter, in my judgment, could also be had from vehement presumption. But a presumption of this kind, as it seems, would be present, for example, if the prior other party had parents who both pertained to a sect which rejects Baptism, for instance to the sect of the Quakers; likewise if they pertained to a sect, for example of the Baptists, which does not admit Baptism of infants; if, namely, in this supposition, the prior other party had been baptized, he or she would have no doubt concerning that matter, as being one which would have been done in adult age; likewise if he or she had parents who never pertained to any sect, who did not belong to any religion, as the common people say. What likewise if in doubt concerning the value of Baptism certainly conferred, Matrimony was contracted, and afterward the presumption concerning value yields to truth, or the invalidity of Baptism becomes certainly known? Ballerini responds: "The validity" of Baptism "is to be retained.... For then the Church is judged to dispense." Finally it is asked "how one must act in the case of the conversion of a non-Catholic joined in Matrimony with another non-Catholic, when a doubt concerning Baptism occurs?" "Resp. It will have to be distinguished whether the doubt is concerning the Baptism of one or of both spouses; likewise whether it is a doubt of law or of fact? "I say: 1) If there is doubt concerning the reception of Baptism on each side, the Matrimony will not have to be revalidated by dispensation, because the ecclesiastical law concerning disparity of cult, until the reception of Baptism is proved, does not oblige them, and consequently the Matrimony previously contracted by them was valid. 2) If there is doubt on each side concerning the value of Baptism certainly received, the Matrimony would have to be held as valid. 3) If there is doubt concerning the reception of Baptism on one side, and concerning the value of Baptism received on the other, the Matrimony would have to be revalidated, and indeed by the sole renewal of consent, if the former were converted; and by dispensation, if the latter party returned to the Church. - But the Matrimony could not be dissolved as to the bond, on account of doubt concerning the bond standing in the way of a new Matrimony. - 4) If it is certainly established concerning the Baptism of one party, but the reception of Baptism is doubtful on the other side, the Matrimony must be revalidated, either by renewal of consent, if the second party is converted, or by dispensation, if the first returns to the Faith." > Notes to appendix annotation - note sequence 13. > > 1 Note (a) to Gury, P. II. n. 881. | 2 "The privilege, however, promulgated by Ap. I. Cor. 7 for non-converts in this case, if one party is converted to the Catholic Faith, would scarcely have place, because this privilege, since it is against divine law, is deservedly to be held of strict interpretation." Heiss, § 36. III. Quaer. 2°. | 3 Heiss, § 36. III. Quaer. 2°.

Point VIII. On the Impediment of Force or Fear.

These things are to be established:

1599. - I. Grave fear certainly dirimes Matrimony by ecclesiastical law, and perhaps more probably also by natural law; and this even if the one suffering fear truly consented, or an oath intervened, or fear was inflicted by a third person.

But that fear be grave:

1) It is required that the evil **a)** cannot otherwise be avoided; **b)** be feared prudently (not vainly and lightly), and as to be inflicted proximately; **c)** be grave, such as death or grave torment, exile, long or atrocious prison, loss of status, violation of an honest virgin or widow, removal of reputation, loss of goods of great moment, loss of great profit to which someone has a right or from which at least he is unjustly impeded.

2) It suffices that the evil **a)** be grave with respect to the one suffering fear; **b)** be grave by the common opinion of men; **c)** be absolute, or grave in itself, i.e. it is not required that it be comparatively grave, or graver than that which is chosen; **d)** be feared either for yourself or for your blood relatives or affinities up to the fourth degree.

Note. - Whichever law you say dirimes Matrimony by fear, whether natural or only ecclesiastical, this impediment does not admit dispensation, but it is necessary that the cause of fear be removed. Therefore, while the cause of fear perseveres, Matrimony invalidly contracted is not convalidated either by copula or by cohabitation (for these are otherwise presumed to have been extorted by fear); for during fear, just as Matrimony cannot validly be contracted, so neither can it be convalidated when invalidly contracted. It must be said otherwise if copula is admitted altogether freely and with marital affection, as the Doctors commonly have after St. Thomas, or also if cohabitation is spontaneous, which is accepted as ratification of consent.

II. But that fear, even grave fear, dirime Matrimony, the following conditions are further required, namely that fear be inflicted **1°** by an external and free cause; **2°** unjustly; for an injury is not inflicted when the one causing fear uses his right. But he uses his right when these two things concur: **a)** if the person, whether public or private, has the right of exacting this Matrimony, and **b)** if that person has the right of threatening and executing what he threatens; **3°** for the end of contracting Matrimony, as is commonly held against a few.

III. Light fear, even unjust, does not dirime Matrimony. The reason is **1°** because light fear is not judged gravely and efficaciously to influence consent; **2°** because by positive law grave fear alone makes Matrimony void; **3°** because otherwise innumerable Marriages would become void, with the greatest detriment to society.

IV. Reverential fear, according to the common opinion, of itself, i.e. unless to it are joined either blows, or threats, or fear of some grave evil, for instance hatred, lasting indignation, etc., does not dirime Matrimony. The reason is because not only is it not of itself grave fear, but it is not even fear, but rather reverence.

Case. Titius several times had relations with Berta. She, after offspring had been begotten, denounces Titius to the Magistrate, because he refuses to enter Matrimony with her and to provide for the offspring. Titius, since he could neither provide for the offspring nor wished to marry Berta, is delivered to prison. Tired of prison, Titius marries Berta.

Quaer. 1° Is the Matrimony valid?

2° What if Berta at the same time had fornicated with others?

3° What if under promise of Matrimony Berta gave Titius the use of her body?

Resp. to the 1st. It is valid generally speaking, at least for the external forum; because, generally speaking, fear in this case is justly inflicted.

To the 2nd. It is not valid, because it is not certain that fear was justly inflicted; for the offspring does not certainly belong to him, and not he, but Berta, by admitting several fornicators, was the cause of doubt concerning the father of the offspring.

To the 3rd. This circumstance does not change the case as regards fear justly or unjustly inflicted, unless in favor of Titius in the supposition of the second question. For he is not held to stand by the promise, even a sponsalitial one, in the case in which Berta has fornicated with another (n. 1531. 4).

In practice, in this and similar cases, one must carefully attend: **a)** whether the one suffering fear perhaps gave only fictitious consent when he contracted nuptials; **b)** whether cohabitation followed the nuptials so entered or not; **c)** whether there is not given a reason excusing from contracting Matrimony according to the things said n. 810. If this is present, the things said concerning him who asserts that he consented fictitiously, n. 1548. q. 7°, will be able to be applied; or if he really consented and cohabitation did not follow the nuptials, dispensation in a ratified, non-consummated Matrimony will be able to be sought; **d)** whether presumed Matrimony is not present.

Point IX. On the Impediment of Bond.

1600. - By bond is understood the bond of Matrimony by which spouses are so bound together that, while each is living, neither can validly enter Matrimony with anyone else.

The impediment of bond is founded on two attributes of Matrimony, which are indissolubility and unity. Hence it is deduced that the impediment of bond is of divine law.

Cases pertaining here can occur in various ways, especially among us. Hence let the following questions be:

1601. Questions. - Quaer. 1° What must the Pastor do when, for contracting Matrimony, there presents himself to him a wanderer or foreigner asserting that he is not held by the impediment of bond?

Resp. Let him observe those things which we said are to be observed n. 1536, 1537, and, as the case may be, let him advert to those things which are observed in Note I added to n. 1537 for this region.

Quaer. 2° What likewise if someone presents himself for second or further nuptials?

Resp. Distinguish. Either the other party is certainly still living, or is morally certainly dead, or there is doubt concerning that person's death.

If the first, inquiry must be made whether the Matrimony with the other party still living was perhaps entered invalidly, whether because of the impediment of clandestinity having force in the place or case in which it was entered, or because of the impediment of disparity of cult, or because of the impediment of fear, or because of defect of consent given under fear otherwise not voiding (n. 1599. Case), or because of a condition contrary to the substance of Matrimony (n. 1548. q. 6°). If, on account of one of these, it is certainly detected invalid, it will be licit for the Pastor to assist at the second nuptials; but in doubt let him recur to the Ordinary.

If the second, there is no difficulty.

If the third, either the doubt perseveres after diligent inquiry, or not. If not, let him act as was said in the first or second member of the distinction; if the doubt perseveres, he ought to consult the

Ordinary and await his response.

Quaer. 3° Whence in doubt is the Pastor to procure for himself moral certitude concerning the death of the other party?

Resp. 1° It is CERTAINLY not procured **a)** from the mere absence, even long, of the other party; **b)** precisely from one witness, although by sight; **c)** precisely from several witnesses by hearing; **d)** from mere report.

Resp. 2° It is certainly procured either **a)** from the testimony of a legitimate magistrate, ecclesiastical or civil, or of another person having public authority, or of the Pastor testifying concerning burial; or **b)** from the statement of two witnesses worthy of faith (among whom blood relatives also are admitted, and indeed ordinarily before others, but not the other party), asserting that they saw the death or burial.

Resp. 3° Those things which, taken singly (see Resp. 1°), would certainly not suffice for producing moral certitude of the death of the other party, when all are joined together, or, in certain cases, only some of them, do produce it. - Thus one witness, even by sight and worthy of faith, does not suffice of itself; nevertheless his sworn testimony will be able to suffice for the Bishop if there concur with it other likely indications, such as, e.g., that the other party, who disappeared long ago, at the time of departure was already old or sick; that he undertook a dangerous voyage; that he tarried in places where a raging plague was taking many out of the midst. - Thus likewise mere report of itself does not suffice, but it will suffice if with it there concur conjectures which constitute a vehement presumption. Note nevertheless that report itself also, whenever it is invoked, although corroborated by other conjectures, must be proved. But for this **1)** it is required that two witnesses greater than every exception depose that they have heard from persons worthy of faith that a report of this kind exists; **2)** that there concur a reasonable cause from which the report has its origin, e.g. that the husband sailed the sea and, a storm having arisen, after he was expected for a suitable time and sought through likely places, he did not appear, nor was there any report concerning the ship by which he was carried, or that wreckage was found. For no account is taken of report unless it is proved to draw its origin from a reasonable cause.

See the Second Plenary Council of Baltimore, where there is special treatment concerning doubt of the death of the other party if he has given his name to military service; and this case of doubt can more easily occur among us after the civil war.

Note. - 1° Not even the Ordinary, if doubt remains after diligent inquiry, can permit the celebration of Matrimony.

2° The doctrine of a few persons is to be rejected who think that Matrimony contracted without sufficient certitude concerning the death of the other party, who in reality is dead, is void. Nevertheless true mutual consent must have been present (cf. n. 1574. q. 7°), and the celebration of a Matrimony of this kind would besides be gravely illicit.

3° Whether spouses may use Matrimony if after nuptials have been entered doubt concerning the death of a prior spouse arises, resolve from the things said n. 1574. q. 6°. - Whether and when, doubt remaining, Matrimony can be entered under condition, see n. 1548. q. 5°. - Concerning whether or not a spouse is to be left in good faith after nuptials have been entered, see n. 1638.

Point X. On the Impediment of Age.

1602. - The impediment of age consists in the defect of age sufficient for fulfilling the offices of Matrimony. It dirimes the Matrimony of the impubes (n. 911) by ecclesiastical law.

Except: if malice (by the judgment of the Holy See or of the Ordinary, so that the Matrimony be licit) does not supply age; which is understood of the impubes who are already capable of generation, and otherwise can sufficiently understand the burden of the conjugal bond.

Since this impediment is of ecclesiastical law, the Matrimony of impubes among infidels is valid (yet here also returns what was said n. 1574. q. 1°), and the Pope can dispense in it. When it has the force of betrothals, see L. VI. 841 and Feije, n. 534.

Point XI. On the Impediment of Clandestinity.

1603. - A clandestine Matrimony is called that which is contracted without the solemnity required by the Church, namely without the assistance of the Pastor and simultaneously of at least two witnesses. This impediment is of ecclesiastical law alone, since it was constituted by Trent.

For the validity of Matrimony any witnesses whatsoever suffice, whether they are males or females; whether of greater age, or minors, provided they have the use of reason and are able to testify concerning the Matrimony contracted. Hence St. Alphonsus teaches that even infidels can exercise the office of witnesses; nor is it necessary that they be called for this, but even if by chance they pass by or are present there, provided they advert to that which is done; indeed they suffice, although they were called by deceit and for another end; yes, even although unwilling and detained by force they are present.

We must treat **1°** of the force of the Decree of the Council of Trent; **2°** of the assistance of the Pastor.

Notes to nn. 1603-1607 - note sequence 1. (1) Sess. 24. c. 1. de Ref. Matr. (2) L. VI. 1085. (3) Ben. XIV. de Syn. L. XII. c. V. n. 6. Notes to nn. 1603-1607 - note sequence 2. (1) L. VI. 1081 (1). (2) Feije, de Imp. n. 301. (3) Heiss, de Matr. § 44. (4) L. VI. 1079. (5) Anal. J. P. Ser. 2. col. 1870. Ser. 9. col. 646. n. 51. Notes to nn. 1603-1607 - note sequence 3. (1) L. VI. 1079 (1). Cf. this Comp. n. 182. q. 3°. (2) Trid. Sess. 21. c. 4. Ref. (3) Resp. Mor. L. I. Dub. 36. Tom. VIII, p. 59, Ed. Paris. 1869. Notes to nn. 1603-1607 - note sequence 4. (1) De Imp. n. 335. Notes to nn. 1603-1607 - note sequence 5. (1) VII. Jahrg. S. 3. (2) p. 453. (3) Tr. XXI. 184. 185. (4) Tr. VIII. 44.

Section I. On the Force of the Decree of the Council of Trent.

1604. - The Council thus establishes: "Those who shall attempt to contract Matrimony otherwise than in the presence of the Pastor, or of another priest with the license of the Pastor himself or of the Ordinary, and of two or three witnesses, the holy Synod renders altogether incapable of contracting in this way, and decrees contracts of this kind to be void and null. ... It decrees besides that a Decree of this kind begin to have its force in each parish after thirty days, to be numbered from the day of the first publication made in the same parish."

1605. Practical Rules for North America. - I. The Tridentine Decree concerning the clandestinity of Marriages:

a) Is presumed to have been promulgated, or certainly, as if it had been promulgated, has force, where at some time it was observed as a condition *sine qua non* of the validity of Matrimony. The reason is that it would not be observed in this way unless it had been promulgated either formally, or virtually, namely by force of a custom introducing the law.

b) Its obligation is not hindered by the fact that in the place where it was promulgated there is no true Pastor; for it suffices, namely, that the priest who resides near some church exercise care of souls after the manner of a Pastor. This is clear from the Response of the Holy See, May 17, 1804, concerning the priests of Holland, apud P. Heilig.

c) A new promulgation is not at all needed in a parish created by way of dismemberment from another in which the Decree was in force. The reason is that promulgation inheres in the territory. For the same reason, a place remains free in which the Decree was not obliging, if it is joined to a parish where it is in force; while, conversely, a place remains bound in which it was obliging, when joined to a parish where it is not in force.

Appendix annotation (42), to n. 1605. c) p. 266. col. 2. The Bishop of Heliopolis had proposed the following doubt, the third: "Since in some dominion there are very few churches, yet many are to be erected in the future, whether, when the Decree of the Council has been published in those few churches, it is judged published in the whole dominion; or rather, in whatever village in which afterward a church is to be erected, with Christians gathered in some decent house, as is accustomed to be done in celebrations of Mass, publication must be made there, so that meanwhile, since publication is not made in the individual villages, they can contract Matrimony without the pastor and witnesses?" S. C. de Prop. F. responds, 7 July 1670: "That the publication already made suffices, unless new peoples and inhabitants are added and new parishes are erected for them." Collect. p. 446. n. 981.

1606. - II. On the contrary, the Decree does not have force:

a) Where either its formal or its virtual promulgation is doubtful. The reason is that a doubtful law does not oblige.

b) If, the parish in which it had been promulgated having been extinguished, a new one was created which cannot be called a continuation of the former one and in which it was not promulgated anew. The reason is that, when the parish has been destroyed, the moral person to whom the promulgation had been made has also been destroyed, and therefore the promulgation also. (gamma), p. 395.

c) Where it was promulgated by a Pastor without the mandate of the Ordinary, for promulgation is an act of supreme jurisdiction of the external forum, which the Pastor lacks. (42) p. 427.

d) Where the memory of the promulgation has been utterly obliterated. But if there exists the memory of a custom of celebrating Marriages in execution of the Council of Trent before the Pastor, etc., promulgation is presumed. For in the former case it is judged to have been abolished by custom, but in the latter to have been introduced by the same.

e) Where it has been abrogated by a Pontifical declaration or dispensation. The reason is clear of itself. See n. 1608-1611.

f) Where there is present a moral impossibility, and one general in a certain place, of observing the Decree, namely when the Pastor or another competent person cannot be approached for a month, or can be approached only with the greatest difficulty and with grave danger, and this difficulty or impossibility is general in some place. Nevertheless the presence of two witnesses is then necessary for validity. Besides, it is expedient that, if another priest can then or afterwards be had, the nuptial blessing be asked from him. (delta), p. 395.

Appendix annotation (eta), to n. 1606. b), p. 266, col. 1. These things are confirmed and illustrated by the following words, which I took from an Instruction of S. C. de P. F. given to the Archbishop of San Francisco in California from the resolution of the Holy Office on Feria IV, December 14, 1859, and kindly communicated to me. "Perhaps the case could be excepted in which, with the lapse of time, Missionaries and Faithful being lacking in the aforesaid territory, others had come, especially

if they were non-Catholics, and knowingly or unknowingly had begun to contract Matrimonies without the form of the Council being observed, bringing the past and published law into desuetude; since the Tridentine law, although territorial, nevertheless affects men, and where they either are lacking, or bring it into desuetude by general non-observance, the sanction of the same would be urged in vain." Appendix annotation (theta), to n. 1606. f), p. 266, col. 2. I said: for a month, as is clear from the Resp. of S. C. Off., Feria IV, given on the day July 1, in the year 1863, to the Most Rev. O'Connell, Bishop of Grass Valley in California, and kindly communicated to me. Namely to question II: "The same Eminent Fathers declared: When access is difficult and not safe, and it is unknown when the Pastor can be had, and it is foreseen that he will be absent from the place for a space of at least one month, and there is no other who may supply the place of the Pastor, the Matrimony is valid without the presence of the Pastor, the form of the Council however being observed insofar as possible, namely by employing at least two witnesses."

1607. - And these things indeed are certain; but it can be asked whether the Decree, without a special Pontifical Indult, can be, or could have been, validly published outside parishes properly so called, for instance in so-called quasi-parishes? - I respond that the negative opinion seems to me and to certain others, whose judgments concerning this matter have been communicated with me, to be at least certainly probable. The reason is that, for promulgation to be valid, none of those things must be lacking which are required for its substantial form; but for this it is expressly required by Trent that it be made *in ... the parish* (see the text of the Council, n. 1604); and parish here is to be understood as strictly so called, or in that obvious and single sense in which it was understood at the time of Trent, and in which it is employed in that very decree of the Council in which parishes are ordered to be erected; and this all the more because here there is question of a matter of strict interpretation, namely of a decree which - derogates from the law previously in force, - restricts the liberty of Matrimony, - and makes void an act which from the very beginning of the Church was valid everywhere on earth. - And this reason indeed renders the promulgation of the Decree outside parishes properly so called at least doubtfully valid; but a law doubtfully promulgated does not oblige. Therefore.

Addendum and Corrigendum. - I hold as probable the opinion that the Decree *Tametsi*, without a special Pontifical indult, can validly be promulgated only in parishes strictly so called. Yet I add that it would be very desirable for the Holy See to be consulted on the matter. Here is the response given to Bishop N. N. "Bishop N. N., in the Canadian region, set forth to the Sacred Congregation of the Inquisition that now doubts arise concerning the validity of certain marriages contracted without the solemnity required by the Decree *Tametsi* of the Council of Trent in the missions or quasi-parishes of this diocese. For before the year 1872 many places of the diocese N. N., commonly called Cantons or Townships, had not yet been canonically divided into parishes. In these places there were: 1° Missions properly so called, namely without a resident priest, but visited through the year, at times both fixed and unequal, by a missionary delegated for this purpose; 2° quasi-parishes, by which must be understood a territory which, as to external appearance, more or less approached the likeness of a parish, inasmuch as it had a church near which a priest ordinarily, or at least principally, resided, and boundaries designated by the Bishop. - Nevertheless, in these missions and quasi-parishes, just as also in parishes properly so called, the Decree *Tametsi* of the Council of Trent had been published annually by the priests placed over their care. For to this end the Bishops of the Province of Quebec had commanded: 'Since the Tridentine Council, by the solemn decree (*Tametsi*, Sess. 24 de Ref. matrim.), declared null and invalid marriages entered otherwise than in the presence of the parish priest and witnesses, whose number it determines, we judge it a matter of greatest moment that parish priests and missionaries announce so salutary a decree to the people. We will, therefore, that

they read it on the first Sunday after Epiphany, on the occasion of the sermon. In parishes especially, and in newly erected missions, this decree will be published opportunely, as the very tenor of the same decree and the response of the Sacred Congregation de Propaganda Fide, given to the Bishop of Quebec on 16 Nov. 1824, prescribe.' But since there is doubt whether the Tridentine Decree can validly be published outside parishes properly so called, it is humbly asked of the Sacred Congregation to declare: Whether the promulgation of the Decree *Tametsi* of the Council of Trent in the missions and quasi-parishes above mentioned was valid?

"The response was given on Wednesday, 14 Nov. 1883. 'According to the things set forth, affirmatively, and according to the mind. The mind is that in places where a Parish Priest cannot be had, a marriage entered before two witnesses is valid, with the obligation, however, upon the contracting parties of receiving the nuptial blessing as soon as they conveniently can, and of taking care that the marriage be entered in the sacramental registers of the mission or nearer church on which they depend.

"This resolution was confirmed by Our Most Holy Lord on the same feria and day.'

"If I have been rightly, although not authentically, instructed, the reason for the response of the Sacred Congregation is this. The Decree *Tametsi* must indeed be interpreted strictly, but according to the mind of the Tridentine Fathers. But their mind in composing that Decree was not that parishes should be distinguished from missions among Catholics, but that the Catholic assemblies of the same city or region should be distinguished from the assemblies of heretics, because they did not wish heretics to be comprehended in this Decree where they had distinct assemblies and congregations; and this is the simple and true signification of the word Parish in this Decree according to the mind of the Tridentine Fathers."

The opinion is confirmed: **a)** From the authority of Lugo, who, speaking of the obligation of the Decree, expressly has: "when there is no parish in which publication is made, the obligation never began."

b) From the authority of the celebrated Feije, who has these words: "In ... the case in which the notion of parochiality does not exist, the Matrimony contracted without priest and witnesses must be called valid. ... We judge this to be so true that in a place of this kind not even the publication itself" (of the Decree) "is ever to be made." But for the notion of parochiality to exist, the celebrated Author requires "that the faithful be held by law itself to receive Easter Communion and other parochial rights either from a determinate missionary, or from at least one out of diverse missionaries set over diverse churches within a certain place" (I would add: or for certain families).

c) From the authority of the celebrated Perrone, who in a letter (July 1873), which a theologian friend testifies to me was read by him, embraces the same opinion.

d) From the authority of St. Alphonsus. See the things said n. 1606. b).

e) From the Response of the Sacred Congregation of Inquisition. - Namely, the Archbishop of Quebec had proposed the following doubt: "5° Is the Matrimony of two Catholics contracted between themselves alone, without any witness, valid?" The Sacred Congregation of Inquisition, November 17, 1835, responded: "It is valid for those inhabitants of the diocese of Quebec who use missionaries. For the Sacred Congregation de Propaganda Fide, in the year 1820, decreed: 'for the inhabitants of the

diocese of Quebec who use missionaries only, and as long as they do so, there is no place for the decree *Tametsi* of the Council of Trent, without any respect being had to greater or lesser distance'; from which words" (the Sacred Congregation of Inquisition continues) "it is clear that the aforesaid inhabitants can enter Marriages neither the Pastor standing by, nor any witnesses. ... But the contrary must be affirmed concerning those inhabitants who dwell in places where parishes have been constituted; for they can in no way be held immune from the law of the Tridentine Decree."

That the force of the argument sought from this Response may be clear, I posit a threefold sense which can be attributed to the word *parish* in the Tridentine decree. The first is that strict sense which I attribute to it. The second is that broad one which we attribute to our quasi-parishes, by which we understand a territory which, as regards external appearance, more or less approaches the likeness of a parish, having a church near which the priest ordinarily, or at least principally, resides, and limits designated by the Bishop. The third is that very broad one which excludes no place where there is some congregation of the faithful, and which is proper to simple Missions. - I said: I posit a threefold sense; for I do not admit that it is truly canonical; for there is no strictly canonical difference, but only a customary one, between a quasi-parish and a simple Mission, or in vain would rules be sought in the common law for distinguishing them. - Nor do the Sacred Congregations of the Holy Inquisition and of Propaganda Fide, in the cited Responses, admit that threefold sense; for they do not suppose that some middle thing exists between parishes properly so called and Missions.

Objection I. Where the reason is the same, the disposition of the law runs the same; but the reason for publishing the Decree outside parishes properly so called is the same as within them. Therefore. - The minor is proved from this, that from the publication of the Decree outside parishes properly so called no greater inconveniences are to be feared, nor is lesser utility to be hoped for, than from publication within them.

Resp. 1° I distinguish the major according to the things said n. 145. For by common law a parish and a quasi-parish cannot be called either correlatives, or equated, or connected, or contained, so that those things which are established concerning the former fully by right pertain to the latter. Thus, e.g., ordinary jurisdiction in the internal forum and the obligation of applying Mass for the people do not pertain to quasi-parishes.

Resp. 2° I deny the minor. For an identity of reason with regard to Missions most certainly does not exist; for when recourse to a priest would be impossible, Marriages would nevertheless be certainly valid. But very often, while the Missionary, at certain or uncertain times, passes successively through the parts of his Mission, it will be truly doubtful whether his absence is sufficiently prolonged or the distance sufficiently long that the betrothed be constituted in the impossibility of recurring to him, and accordingly whether the Matrimony entered without him in such circumstances is valid; while on the contrary in parishes properly so called the pastor habitually resides in the center of a small territory. Therefore there is a great disparity. - But as regards quasi-parishes, a twofold supposition can be made; for they either comprehend, or they do not comprehend, a Catholic population so stable and condensed, and such a number of priests, etc., that the normal exercise of the pastoral ministry can have place in them. In the former case let a parish properly so called be erected, not, if it shall so seem to the Holy See, with an irremovable pastor instituted, and the Decree will be able to be promulgated in a manner certainly valid. In the latter case recourse to a priest will indeed be easier than in a Mission; yet other inconveniences of a different kind will arise. **1)** Frequently the Bishop

commits to a quasi-pastor a few Missions properly so called or stations, concerning which it will be possible to doubt whether they follow the whole or principal thing by way of accessory or part, or whether they are judged to subsist by themselves, and accordingly whether the publication of the Decree made in the quasi-parish is extended to them. **2°** Not rarely it will be doubtful whether such or such a congregation of the faithful is sufficiently similar to a parish properly so called that it deserves to be numbered among quasi-parishes; accordingly the publication of the Decree made there will become doubtfully valid, and likewise all clandestine Marriages to be contracted in that place. - Therefore grave inconveniences follow almost necessarily and of themselves from the publication of the Decree outside parishes properly so called. Therefore parity of reason is rightly denied, and with stronger reason it can be denied that it is certainly proved, as it must be proved by him who wishes to extend a law, and that an irritating law, from case to case; for the liberty of Matrimony is in possession until the contrary is proved.

Objection II. There exist several dioceses in which no parish properly so called ever existed, and to which nevertheless, at the request of Bishops, or Bishops consulting for the solution of a doubt, the declaration of Benedict XIV was extended, or in which the Holy See declared that the impediment of clandestinity was established. Therefore the Holy See supposes that the Decree can have force outside parishes properly so called.

Resp. In order that this objection might have force, it would be necessary that in consultations or petitions of this kind it had been expressly declared that no true parish existed in those dioceses, and that, notwithstanding such knowledge, the Sacred Congregations had issued their rescripts. - But, at least generally, such a declaration is kept silent; indeed the words *Pastor*, *Parish*, are used by Bishops who request the extension of the Benedictine declaration, or affirm the fact of promulgation or of long observance of the Tridentine Decree; whence the Sacred Congregations, supposing the publication or observance to have been clothed with the conditions required by law, respond only according to the incomplete allegations. - Thus, for several years, many Bishops obtained the faculty of partially dispensing Pastors from the obligation of applying Mass for the people, because the Holy See was unaware that no parish existed in their dioceses, and therefore no priest bound by such obligation.

Objection III. The following doubt had been proposed by the Archbishop of Quebec: "Is the impediment of clandestinity to be extended to those places of the Canadian region in which a number of inhabitants has begun to exist, and which, when the abundance of inhabitants has been increased, after a few years will be united to Missions or Parishes in which the impediment of clandestinity is in force? - The Sacred Congregation de Propaganda Fide" (October 16, 1824), "judged that the matter should be determined by a general response in these words: Affirmatively: if there is question of Missions or Parishes already preexisting, publication of the Tridentine Decree is not indeed necessary, but can be expedient; - but if there is question of Missions or Parishes to be erected from the beginning, and those in places where the observance of the Decree is not in force, it is altogether to be published, the erection having been made, that the impediment of clandestinity may be in force." - And, on the same day, the same Sacred Congregation rescribed to the same Prelate: "As regards the shores of Lake Champlain, Marriages are not made void on account of the impediment of clandestinity, but are valid, until, Parishes or Missions having been constituted, the Decree *Tametsi* is

published." - Therefore the Decree can be validly published in Missions after erection has been made, in Missions constituted, namely at least in quasi-parishes, in the same way as in Parishes.

Resp. 1° Until the apparent or true contradiction is solved which exists between this twofold response given at the same time and the two decrees cited above, of which one reports and confirms the other, it will be permissible to conclude at most that contradictory decisions cancel one another, and that their authority is doubtful; but nothing follows thence against our thesis, which we establish only as truly and solidly probable.

Resp. 2° From the allegations made by the Archbishop, a trustworthy transcript of which I myself have read, it seems to be established that the Missions in the Response cited above signify Parishes having canonical existence, but not recognized by the temporal authority except as Missions, and commonly designated under this title. - For, lest he give offense to the British Government, which tried to arrogate to itself everything which pertained to the complete erection of Parishes, in the same way in which it does this in the pseudo-Church of England, the Archbishop was erecting Missions which gradually, with his favor, were acquiring the name of Parishes, so that, excepting forty Parishes erected formerly in the time of French domination, the rest had only canonical existence and were civilly designated by the name of Missions. Therefore.

After attentively reading the Instructions of the Sacred Congregation de Propaganda Fide of the year 1821, which I report p. LXV, and of the year 1822, which can be seen either in the periodical *Past.-Blatt fur Nordamerika*, or in the work *Notes on the Second Plenary Council of Baltimore*, by S. Smith, I have found nothing which destroys the probability of our opinion; for in each Instruction it is either said or supposed that the question is being treated (at least according to the mind of the Sacred Congregation) concerning places where parishes properly so called are present.

But whether the authority of Kenrick alone stands in the way of the intrinsic probability of our opinion, wiser men than I may see. It is certain that the most learned man erred when, assimilating quasi-parishes to parishes properly so called, he taught that the pastor of a quasi-parish is held, no otherwise than if he were set over a parish properly so called, to apply Mass for the people.

Moreover, what I have said, I have said only for this reason, that concerning this most grave question the Holy See may be consulted, not that anyone by his own motion should draw any practical conclusion from these things; for, as Perrone shrewdly observes in the letter of which I made mention above, "several things there" (i.e. in the regions of Missions) "must be judged from practice and from the custom received there. Nevertheless it would be best that questions of this kind be proposed by the Bishop at Rome, that an authentic response might be had concerning the manner of conducting oneself in regions of this kind which are entangled."

1608. - III. In which places of the United States and British America the Decree is observed.

A) As regards the United States: 1° In the ecclesiastical Province of New Orleans[5] (or lower Louisiana) and of San Francisco,[6] everywhere it is judged to have force.

2° In the Province of Oregon[1] it is observed nowhere, and the promulgation made by many Missionaries, at the insistence of the Bishops of this Province, insofar as there was need, was annulled by the Holy See in the year 1850.

3° Nor is it observed in the Province of Baltimore (Florida not excepted)[2] or of Philadelphia.

4° Nor in the Province of New York[3] or of Boston.

5° Nor (as it seems) in the Province of Cincinnati, not even the city of Detroit[4] being excepted; nevertheless the diocese of Vincennes[5] is excepted.

6° Nor in the Province of St. Louis, Milwaukee, Santa Fe, Chicago,[6] a few places being excepted.

B) As regards British America: 1° It is observed in the Province of Quebec, in the dioceses of Quebec,[7] Montreal,[7] Three Rivers,[7] St. Hyacinth,[8] St. Germain of Rimouski,[7] and Sherbrooke;[7] but not in the diocese of Ottawa.[9]

2° In the Province of Halifax,[10] namely in the dioceses of Halifax, Arichat, Charlottetown, St. John New Brunswick,[1] Chatham,[1] it is observed nowhere. - As regards the island of Newfoundland, neither promulgation nor observance is established.

3° In the Province of Toronto, or Upper Canada, or Province of Ontario, namely in the diocese of Toronto,[2] Kingston, Hamilton, London, and in the Apostolic Vicariate of Sault Ste Marie, it is observed nowhere.

4° In the Province of St. Boniface (at the Red River, or in the Province of Manitoba) it seems to be observed.

Note. - Parishes exist:

1) In the United States, according to the declaration of the Second Plenary Council of Baltimore,[3] resting upon the declaration of the First Provincial Council of Baltimore, one only, namely in the city of New Orleans. Are there also others? The celebrated De Angelis affirms it. Let wiser men see. Concerning the Province of San Francisco, see Vol. I. (zeta) p. 471.

2) In British America:

a) In the greater part of the dioceses of Quebec, Montreal, Three Rivers, St. Germain of Rimouski, and Sherbrooke.

b) In the whole diocese of St. Hyacinth from the year 1872.

c) None exists in the diocese of Ottawa.

d) None exists, nor has any ever existed, in the ecclesiastical Province of Toronto.

e) In the ecclesiastical Province of Halifax there were erected by the Bishop of Quebec the Parishes: Port-Royal, 1684 (now in the diocese of Halifax); les Mines, 1698 (now in the same diocese); Louisbourg, 1726 (in the diocese of Arichat). But one hundred and ten years ago those French Parishes were utterly overthrown and were never restored, so that the universal persuasion prevails that no Parish exists in that whole Province, excepting the dioceses of Havre de Grace and St. John on the island of Newfoundland.

f) In the Province of St. Boniface there are three parishes. Concerning the canonical erection of two of them, however (St. Boniface and St. Francis Xavier), there is doubt.

Notes to n. 1608 - note sequence 1, United States: New Orleans and San Francisco (printed p. 269). (5) In the year 1824 the Holy See permitted slaves to be able to contract valid Matrimony before one trustworthy witness, who could refer testimony to the priest. It was judged that this concession, recorded in a Letter to the Bishop of New Orleans, could, by parity of reason, have been extended to the other States where there were slaves. (6) S. C. O., May 15, 1861 for the diocese

of San Francisco; December 5, 1861 for Monterey and Los Angeles; July 1 for Vallisp., Marriages previously entered clandestinely having been sanated. Notes to n. 1608 - note sequence 2, United States and British America observance list (printed p. 269). (1) It was observed by the first Bishops, who were French-Canadian; but because of difficulties occurring in practice it passed into desuetude. (2) Certainly it was never in use in the old English colonies. In Florida it seems certain that formerly it was observed. But Bishop Verot testified that the Decree, when in the year 1858 he assumed the administration of this region, was not observed, nor, as it seems, had been in force from the time when Spanish priests yielded place to Americans. Nor was its observance afterwards restored. (3) Certain places near Canada, in the dioceses of Burlington, Ogdensburg, and Buffalo, were formerly occupied by the French, and the Holy See responded to the Bishop of Quebec in the year 1821 that in those places the Decree ought not to be judged to oblige. (4) In Michigan it was probably formerly in use; but from the time when the Missions founded by the French were dispersed, it is not observed. (5) As was rescribed in the name of the Most Reverend Ordinary to me when I inquired. (6) It is observed: in the diocese of St. Louis in the city itself and places first occupied by the French; in the diocese of Alton in Kaskaskia, Cahokia, French Village, and Prairie du Rocher. (7) At least in the greater part of the diocese, namely in parishes properly so called. As regards the few places which remain outside canonical parishes, some hesitation seems to exist. (8) It certainly is in force in the whole diocese, which in the year 1872 was wholly divided into Parishes. (9) It is observed nowhere, at least from the time of the erection of the diocese (1848). Formerly it seems to have been observed in the part which pertained to the diocese of Montreal. (10) Formerly it was observed in a few colonies of the French, but for forty or fifty years, namely from the time when those regions were separated from the diocese of Quebec, certainly nowhere was it in use. Notes to n. 1608 - note sequence 3, British America, Toronto, and St. Boniface (printed p. 270). (1) It was published around the year 1825; but it has never been observed from that time. (2) Around the year 1840 the Bishop of Kingston (whose diocese contained the present Province of Toronto and half of the diocese of Ottawa) took care that the decree be published throughout his whole diocese; in fact it was published and observed in some places. But when the Fathers of the Provincial Council of Quebec (1852) doubted the validity of that promulgation, as being made where there was no parish properly so called, they asked the Sacred Congregation de Propaganda that that publication, insofar as there was need, be confirmed; but a response was given, the sense of which, sufficiently obscure, seemed to the Fathers of Quebec to declare that promulgation outside canonical Parishes could not be valid. Thence the decree Tametsi was judged to have no force in the aforesaid region, and from that time such has been the uniform practice. (3) a. 108.

1609. - IV. Heretics in North America are not bound by the Decree, and consequently neither are Catholics contracting with them.[1]

Notes to nn. 1609-1611, heretics and Feije's place list (printed p. 270). (1) Kenr. XXI. 186. (2) Ib. 192. 197. (3) De Imp. n. 320 sq.

1610. - V. Although they contract validly, nevertheless those sin gravely who in places where the Tridentine Decree is not judged to have been published, the work of the priest being neglected, contract either between themselves alone, or before the civil magistrate, or before a little heretical minister; but in the case in which they have contracted before a little minister, the sacred rites afterwards, as was said n. 1598. q. 5°. Resp. 3°, cannot be supplied, unless they have given signs of true penitence. Yet never, whether they have contracted between themselves alone, or before a civil magistrate, or before a little minister, will it be lawful to receive, much less to exact, consent anew, since this would favor the error as if the contract had been invalid.

"Witnesses also are to be employed; but their omission, if there is need to conceal the nuptials, seems no fault."[2]

"Those also are excused" who "contract before the magistrate, that it may be publicly established" concerning the Matrimony, "whenever there is no supply of a priest, nor will there soon be."

1611. - VI. Because of the multitude of those who immigrate into these regions from all parts of the world, I have judged it useful here to append a list of the principal places in which, according to the celebrated Feije,[3] the Tridentine Decree must be held to have been promulgated or not promulgated.

A) All clandestine Marriages, i.e. whether of Catholics, or of heretics, or mixed, are invalid in Spain (at Gibraltar, however, Marriages of heretics and mixed Marriages are valid), Portugal, Italy and adjacent Islands, Germany (excepting those to be excepted below), present-day Belgium, the Grand Duchy of Luxembourg, the ecclesiastical Province of Goa, the Republic of Mexico, and the regions of Central and South America, excepting those to be indicated under C) 12°. Finally, in all even present-day colonies of the Portuguese or Spaniards.

The same must be said of France, as it existed before the war of 1870. At Strasbourg, however, clandestine Marriages of heretics and mixed Marriages are valid.

B) In various regions of northern Europe, which in the year 1564, in which the Council of Trent was confirmed, had already fallen away from the faith, the Decree concerning clandestinity does not oblige. Thus the matter stands in England, Scotland, Denmark, Norway, Sweden (not to be confused with Swabia, as some confuse it), and in the greater part of northern Germany. The same is commonly handed down concerning the primitive provinces of Prussia and concerning Saxony.

In some Swiss cantons, as Zurich, it does not oblige. - The same holds, as regards Bavaria, in the non-Catholic places of Onoldina and Pappenheim, and in the district of the once imperial cities of Nuremberg and Weissenburg. - In Russia perhaps one or another diocese is not obligated. - In some more remote parts of Turkey it does not seem to be in force. - In some parishes of Persia and of other regions in that part of the East, even Catholic ones, no publication or observance of the Decree has had place. - The same must be said of Greece. - In China, Tonkin, and Cochinchina it is not in force, with only a few places excepted. In Japan, now, nowhere. It is in force in Julia Caesarea, or in Algeria, but not in Abyssinia, and almost all other regions of Africa.

C) From the declaration of Benedict XIV for Holland[1] and its extension, or from other Pontifical acts, clandestine Marriages are valid, whether of heretics between themselves or mixed, but not (excepting those enumerated under B) of Catholics between themselves: **1°** In all the Netherlands,[3] excepting Limburg, where nevertheless they are valid as regards the inhabitants of the city of Maastricht and the suburb of St. Peter, and likewise excepting certain places of the dioceses of Utrecht and Bois-le-Duc.[4]

2° At Strasbourg in Alsace.

3° In all Ireland. - **Note.** From the Directory of the year 1851, approved by all the Bishops of Ireland, Catholics contracting among themselves are bound by the Decree, and indeed from January 1, 1828, everywhere. Thus Feije.[1]

4° In Silesia subject to Prussia and in the Duchy of Cleves, and, from March 25, 1830 inclusive, in the dioceses of Cologne, Trier, Paderborn, and Munster, with a faculty given to the Bishops for revalidating Marriages contracted before this day.

5° In the Kingdom of Wurttemberg the Benedictine declaration was certainly extended to the city of Ulm. Concerning other places also of the ecclesiastical Province of the Upper Rhine, there can be doubt. See Feije.[2]

6° In Russia and in the whole part of Poland subject to Russia.

7° In Hungary and Transylvania, within the limits which they had in the year 1841.

8° In Turkey, Moldavia, and Wallachia; in Serbia, Albania, Bulgaria, Turkish Bosnia.

9° In Persia and other regions in that part of the East.

10° In Greece.

11° In the Vicariate of Pondicherry and on the whole Malabar coast, in the Apostolic Vicariates of Bombay and Calcutta, and in the Indian possessions (with only some places excepted as regards Catholics) of the English and French. Likewise in Algeria.

12° In the islands and other places of Central or South America formerly existing under the dominion of Catholics, but now subject to the dominion of the English, Dutch, and Danes.

Notes to n. 1611, Feije's list: Europe and pontifical extensions (printed p. 271). (1) Collect. p. 473. n. 998. (2) Conc. Pl. Balt. II. p. 314. XV. (3) See nevertheless Feije, de Imped. n. 320. (1). (4) Ib.

1612. Questions. - Quaer. 1° Is the Matrimony valid of those - **a)** who from a place where the Tridentine law obliges pass into a place where it does not oblige, and there contract clandestinely; **b)** who, from a place in which it does not oblige, passing on, contract secretly in a place in which likewise it does not oblige; **c)** who, from a place in which it does not oblige, passing on, contract secretly in another in which it does oblige?

For the solution of the question the following things must be noted beforehand:

1) A party exempt from the Decree communicates his privilege to the other party.[1]

2) Place governs the act,[2] except in cases excepted by law.

3) The exception of fraud, in the case in which a domicile or quasi-domicile has not previously been acquired. See n. 116 at the end, and n. 1614. q. 1°. Resp. ... 2°.

4) The sufficiency of a domicile or quasi-domicile acquired by at least one party.

5) The sufficiency of the quality of wanderer existing in at least one party. - These things having been noted beforehand:

Resp. 1° A wanderer, wherever he is here and now, contracts clandestinely validly with any person whatever, if in the place in which he contracts the Tridentine law does not oblige at all. What if it does not oblige heretics alone there? He contracts clandestinely validly if he himself is a heretic. But if he himself is a Catholic, but the other party heretical, he contracts clandestinely validly when the other party is either a wanderer, or has a domicile or quasi-domicile in the place, or in his own place, from which he departed, was not held by the Tridentine law. These things concern wanderers; in the following there is question only of those having somewhere a domicile or quasi-domicile.

Resp. 2° Those domiciled in a place in which each is bound by the Tridentine law, if they pass to a place in which this law is not in force at all, and in this place contract clandestinely, do this invalidly, unless one or the other shall previously have acquired a domicile or quasi-domicile there.[1] - Therefore a man and woman, whether Catholics or non-Catholics, domiciled in Belgium, France, Italy, if they pass to New York and there clandestinely contract Matrimony with one another before at least one of them has acquired domicile or quasi-domicile there, contract invalidly. But what if in the place in which they contract heretics alone are not bound, and one or both of the contracting parties is heretical? The solution is the same. Therefore a man and woman, whether both or one of them is

heretical, domiciled in Belgium, etc., if they pass to Quebec and there, before domicile or quasi-domicile has been contracted by the heretical party, contract Matrimony clandestinely with one another, contract invalidly. - Others say otherwise, who apply to each case the principle: place governs the act; but then only when the contracting parties have not passed into a place of this kind in fraud of the law.[2] (epsilon), p. 396.

Resp. 3° Those domiciled in a place in which the Tridentine law does not oblige at all, and contracting in another where it also does not oblige, contract clandestinely validly, even if neither has acquired a domicile or quasi-domicile there. A man, e.g., and a woman, whether Catholics or non-Catholics, domiciled in England, pass to Baltimore and there, neither having acquired domicile or quasi-domicile, contract clandestinely. They do this validly. It is the same if only one or the other is from a place in which the Tridentine law does not oblige at all; as if, passing to Baltimore, one indeed has domicile or quasi-domicile in England, but the other in Belgium. For the principle must be applied that the exemption of one party is communicated to the other on account of the individuality of the contract.

The solution is the same if in each place heretics alone are free, and either each party or one or the other party is heretical. Parties, e.g., non-Catholic, or one Catholic and the other heretical, domiciled in Ireland, pass to Quebec and there contract in the aforesaid manner.

Resp. 4° Those domiciled in a place in which the Tridentine law does not oblige, and contracting in another in which it does oblige, do this invalidly clandestinely, even if they have not yet acquired domicile or quasi-domicile there. A man, for instance, and a woman, domiciled in Baltimore, whether Catholics or non-Catholics, and passing into Belgium, invalidly contract clandestinely there, even though domicile or quasi-domicile has not yet been acquired by one or the other.

The solution is the same if each or one or the other party is heretical, and in the place from which they departed heretics alone are not bound by the Tridentine law, but they are bound by it in the place into which they have passed and in which they contract. A non-Catholic, e.g., domiciled in Ireland, passing into France, and there contracting clandestinely, contracts invalidly.

Quaer. 2° "When there is question of a Matrimony to be contracted or contracted in places in which heretics are not bound by the Tridentine decree, can the following five classes be comprehended under the name of heretic: **1°** Those who, having been baptized Catholics, from childhood not yet seven years old are educated in heresy and profess heresy; **2°** Those who are educated not so much in heresy as by heretics, namely having received no, or scarcely any, instruction in heretical doctrine, and not having frequented worship, although sometimes having participated; **3°** Those who, while still children, falling into the hands of heretics, are joined to a heretical sect; **4°** Apostates passing from the Catholic Church to a heretical sect; **5°** Those who, born and baptized by heretics, have grown up without having emitted any solemn profession of heresy, and as persons, as it were, of no religion, etc.?"

Resp. The response given by the Sacred Congregation of the Holy Office in the year 1859 to the Bishop of Haarlem in Holland has it thus: "For the effect of Matrimony, the aforementioned are comprehended in ... the Declaration of Benedict XIV."

Quaer. 3° Does Matrimony celebrated secretly in places where the Decree of the Council of Trent is in force have the force of betrothals?

Resp. 1° Affirmatively, according to the common opinion, when Matrimony has been contracted in this way between two impubes, or one impubes and the other pubes. The reason is that by the ancient law Marriages of impubes contracted secretly had the force of betrothals, and this force has not been taken away from them by the Tridentine.[1]

Resp. 2° "Concerning Marriages between puberes entered in this way, it is now certain that they do not have the force of betrothals. Thus, as Benedict XIV reports, the Sacred Congregation of the Council has often declared. - The chief and pressing reason is that Trent not only renders those contracting secretly incapable of contracting in this way, but besides decrees acts of this kind to be absolutely void and null; and this proceeds even if an oath has been added to them."[2]

Resp. 3° "Notwithstanding the things said, nevertheless Marriages of this kind can have a threefold effect: **a)** From them there arises an impediment of public honesty.[3] **b)** If one contracting clandestinely has had copula, and cannot repair the damage thus inflicted otherwise, he is held to marry her, not by reason of the contract, but by reason of justice. **c)** If the contracting parties in defect of Matrimony expressly intended to oblige themselves to betrothals, from that contract there would even arise a sponsalitial obligation, because Trent does not oppose a contract of betrothal, although it follows or is connected with a null Matrimony." Concerning civil Matrimony see n. 1593. q. 4°.

Quaer. 4° Are clandestine Marriages of heretics judged valid where the Tridentine law is in force?

Resp. From the letters of Pius VII to the Archbishop of Mainz, October 8, 1803, and to the Vicar of the diocese of Trier, April 23, 1817, "it is drawn that judgment depends on the diverse circumstances of the case,[4] according to the variety of times, places, and persons; and thence it is discerned: 1. why nothing generally has been defined concerning this matter; 2. why (according to the diversity of circumstances) it was resolved sometimes in favor of validity, but sometimes in favor of nullity." Thus the anonymous Annotations to Gury.[1]

Quaer. 5° Is the Decree of Trent judged to be in force in a Church recently formed among heretics or infidels?

Resp. Affirmatively, if the Tridentine decree has been published in those parishes. But although by ordinary law this Decree must be promulgated, if anywhere it has not been published, nevertheless sometimes, by reason of special difficulty, the founders of a new Church could defer the promulgation of this Decree, namely when in a great province priests are so rare that they cannot at times assist at Marriages. But it would be more advisable in a similar case to have recourse to the Apostolic See, whose office it is to judge what is more expedient in so grave a matter.

Notes to n. 1612 - note sequence 1, preliminary rules for place and domicile (printed p. 271). (1) De Imp. n. 325. (2) Ib. n. 329. Notes to n. 1612 - note sequence 2, domicile and clandestine contracts in changing places (printed p. 272). (1) L. VI. 1080. (2) Apud Feije, de Imp. n. 338. Acta, T. VII. p. 557. Notes to n. 1612 - note sequence 3, effects of clandestine contracts and betrothals (printed pp. 272-273). (1) L. VI. 841. (2) Heiss, de Matr. § 44. S. Alph. L. VI. 841. 1079. (3) According to the opinion more true to St. Alphonsus (above n. 1593. q. 3°. Except: 3°.) (4) Heiss, de Matr. § 44. Notes to n. 1612 - note sequence 4, clandestine marriages of heretics (printed p. 273). (1) T. II. n. 840 (). Ed. Rom. 1873. Appendix annotation (iota), to n. 1612. R. 2°. p. 272, col. 1. Therefore "in practice," says Feije,(1) "the Matrimony could not be held as invalid without recourse to the Apostolic See." - Nevertheless I cannot fail to say that the opinion which denies validity seems to me much more probable. Namely I adhere to the opinion which holds the Tridentine law as both territorial and personal at once, as the Instruction to the Archbishop of San Francisco in California has it, given by S. C. de P. F. from the resolution of the Holy Office on Feria IV, December 14, 1859, and kindly communicated to me. Behold the words of the said

resolution: "Once promulgation has been made, and its observance remaining, the law affects the territory, so that, adequately speaking, it is local and personal, as is confessed by all; insofar as local, it affects the territory and obliges those who are to be joined there in Matrimony; but insofar as personal, it obliges those who, having domicile or quasi-domicile in a place where the Tridentine Decree has been published and is in force, would wish to contract in another place where it does not urge." These things also seem to be confirmed from the New York case, January 25, 1873.(2) > Notes to appendix annotation - note sequence 4. > > 1 De Imp., n. 338. | 2 Acta, T. VII. p. 545.

Section II. On the Assistance of the Pastor.

1° What kind of Pastor must assist; **2°** in what manner he must assist.

I. What Kind of Pastor Must Assist.

1613. - I. "That Pastor alone can validly assist at Matrimony who is the proper Pastor of one or the other of the contracting parties, and therefore who has jurisdiction over them, or at least over one of them; such also are all who come under the name of Ordinary, as the Bishop, Vicar General, and, the See being vacant, the Capitular or, among us, the Administrator. For it is proved from the Council of Trent that only the Pastor can validly assist at Matrimony. But that Pastor is to be understood in this way we have ascertained from several Declarations of the Sacred Congregation of the Council of Trent.

II. The jurisdiction of the Pastor is constituted by the habitual domicile, or quasi-domicile, of the contracting parties, or of one or the other of them, in his parish, but not by domicile of origin, nor by mere habitation for a short time. It is drawn from Declarations of the Sacred Congregation and Benedict XIV, etc. ... Thus the Theologians by unanimous consent. - Nor can domicile be supplied by simple enrollment among the citizens of a place, whatever the civil laws may establish concerning this." Thus the Sacred Congregation of the Council, August 28, 1864.

Notes to nn. 1613-1616 - note sequence 1. (1) Cf. Feije, De Imp. n. 209. Notes to nn. 1613-1616 - note sequence 2. (1) n. 220 sq. Gury, 1873. T. II. n. 846 (). Acta, T. VII. p. 555 (1). (2) Feije, n. 229. (3) Gury, 1873. T. II. n. 838 ( ) and S. Alph. L. VI. 1086 at the end. (4) Ben. XIV. Inst. 33. n. 11. (5) Anal. J. P. Ser. 4. col. 2258. n. 19. Notes to nn. 1613-1616 - note sequence 3. (1) Ben. XIV. Inst. 33. n. 15. (2) Ib. n. 16. (3) Cf. Feije, de Imp. n. 230 sq. (4) Inst. 33. n. 10. (5) De Matr. L. III. D. 25. n. 3. (6) Ib. n. 1. Notes to nn. 1613-1616 - note sequence 4. (1) De Matr. L. III. D. 25. n. 4. (2) L. VI. 1089. Murray, De imp. n. 387. (3) L. VI. 1082-1084. (4) Thus the opinion more pleasing to St. Alphonsus. Ib. n. 1083. Notes to nn. 1613-1616 - note sequence 5. (1) L. VI. 1088. Acta, T. VIII. p. 667. (2) De Syn. L. VIII. c. XII. and L. XIII. c. XXIII. (3) De Syn. L. XIII. c. XXIII. n. 1. (4) Ib. (5) L. VI. 1092. (6) S. R. C. August 31, 1872. Gard. App. IV. 5503.

1614. Questions. - Quaer. 1° What time is required that some stranger can contract Matrimony in a place not his own?

Resp. 1° It is certain among all that no time is required for him who has contracted a true domicile somewhere. But true domicile is acquired by one's own will through two things joined together at the same time, namely through the fact of commoration and the intention of remaining always. The fact of commoration is clear to the eyes; but as regards the intention, three hypotheses must be distinguished. For either the intention was declared by words, or was manifested by deeds (such, for example, are bringing one's family to the place in which one lives; transferring the greater part of one's fortune there; acquiring goods there; constructing a family burial-place; habitation for ten years, etc.), or no sufficient argument is drawn either from words or from deeds, and then the matter is doubtful. But domicile is never contracted if either by words or by deeds, or by conjectures and circumstances, the intention of remaining perpetually is excluded.

I said: by one's own will; for by disposition of law: **a)** he who is not his own master retains the domicile of his father or tutor until, having become his own master, he renounces that domicile either by words or by deeds; **b)** a wife retains the domicile of her deceased husband until she renounces it, unless, however, in the case of legitimate separation, she had already done this before the death of her husband.

Resp. 2° If there is question of quasi-domicile, from the Response of the Sacred Congregation of the Inquisition to the postulata of the Plenary Synod of Maynooth ((K), p. 412), that opinion is certain which requires habitation through the greater, and therefore through at least the whole half, part of a year, or at least with the intention of remaining in the place for so long; so that, if either of these is present, Matrimony can be contracted before the pastor of that place, and indeed in the latter case from the first moment of commoration. But quasi-domicile, in this opinion, is acquired even if the commoration takes place for the sole end of entering Matrimony and of departing after the greater or half part of the year has been spent in the place, and although there is question of a rural parish, in which someone remains for the sake of recreation or rusticating, provided he dwells in the place after the manner of citizens or true inhabitants, and not after the manner of wanderers or travelers. According to this opinion the decrees of the Holy See by which the rural Pastor is excluded do not regard except that stay which is neither of the greater or half part of the year, nor with at least the intention of this. - But the intention of remaining in the place for an entire half-year, if nothing has been expressly declared, is drawn from circumstances, of which the chief one will be commoration of at least one month (thirty days) in that place. See the arguments apud Feije.

Hence for practice you conclude:

1° Two domiciles can even be had, by dwelling equally or almost equally, after the manner of true domicile, under two parishes, e.g. in winter in the city, in summer in the country; a domicile and quasi-domicile can also be had at the same time. In a founded doubt concerning domicile or quasi-domicile, either let the license of an undoubted Ordinary or pastor be obtained, or let recourse be had to the Ordinary for the norm of acting. - Diocesan statutes as regards the time of commoration in a place required for contracting Matrimony affect the liceity, but not the validity, of the contract.

2° The Constitution of Urban VIII, of which n. 116 at the end, is to be understood concerning him who has contracted no domicile in the place to which he approaches for the sake of contracting Matrimony; but not concerning him who, so that he may be able to enter Matrimony somewhere, contracts domicile there; for this person uses his own right, namely the right acquired by domicile.

3° They acquire quasi-domicile in a certain place, and as regards the Sacraments (Order excepted, as is clear from the things said n. 1519. q. 1°. Resp. 3°) become subjects: **a)** magistrates (e.g. the Governor of a State), judges, professors or students of some faculty; **b)** those who dwell somewhere so that they may convert themselves to the Catholic Religion and receive the Sacraments; **c)** those who are detained in prison for a notable time - not for custody only, namely until their case is determined by the sentence of a judge - but so that they may undergo the penalty established by the judge; **d)** male servants, maidservants, young men who dwell in a seminary or college, girls who dwell in a monastery or another house for the sake of education; **e)** exposed children, and generally boys and girls who have been committed by the administrators of a hospice or foundling hospital to others for the sake of education or service, have quasi-domicile in the place where those to whom they have been committed are staying; **f)** soldiers where they are in garrisons or stations or camps,

but not where they are on expedition. - Nevertheless all these can validly contract also before the Pastor of the place where they have true domicile; yes, girls dwelling for the sake of education in a monastery or conservatory who wish to enter Matrimony are to be sent back to the paternal house, as both the reason of decorum and the decree of the Sacred Congregation of Bishops and Regulars, October 8, 1723, related by Benedict XIV, show must be done. The same assuredly must be observed for young men dwelling for the sake of education in a seminary, college, or other house. (43) p. 427.

Note. - Matrimony is more fittingly contracted before the Pastor of the bride.

Quaer. 2° Can wanderers contract before any Pastor whatever?

To be noted beforehand. - Benedict XIV defines a wanderer as one "who, having left his domicile, seeks a residence in foreign lands"; this is to be understood both if he has determined where he is going to establish his residence, and if he has not yet determined; for still in each case he equally lacks domicile, as Sanchez notes. Add that it is not necessary that he seek a residence; for equally, indeed with stronger reason, he will be called a wanderer who nowhere has, or wishes to have, a fixed and constant residence, as the same Sanchez observes. Besides, as regards the present matter, for someone to be called a wanderer in relation to a parish, there is not even need that he seek a domicile in some remote or foreign region; but generally it is enough that, the prior parish having been left, he has not yet fixed his residence in another, because then he is truly without a parish, as one who has lost the former and not yet acquired another. Therefore: **1°** he who, having left a parish, has not yet found the house in which he is to dwell, and meanwhile lodges somewhere in some place, is a wanderer; **2°** even if he has found a house in which he will dwell, but nevertheless lodges elsewhere while the house found is being freed from its former inhabitant, he likewise is a wanderer as regards the parish; **3°** so also, if he has come into a city and has not yet determined in what part he will dwell, he is numbered among wanderers or those lacking a parish. Sanchez. These things having been noted beforehand:

Resp. Affirmatively, because they do not have a proper Pastor - and this whether both contracting parties are wanderers or only one, since the other can use the privilege of this one. Thus St. Alphonsus; who nevertheless, the authors whom he cites having been inspected, seems to be understood according to the opinion (which seems certain today) teaching that they contract validly before any pastor, provided this man is the pastor of the place in which they contract.

Quaer. 3° Can a suspended, irregular, excommunicated, or schismatic Pastor validly assist at Matrimony?

Resp. Negatively, if he has lost the title, as a heretic excommunicated by name; otherwise, if only jurisdiction: for assistance is not an act of jurisdiction, but of a qualified witness. But a most grave cause is required for asking assistance from a Pastor excommunicated by name, suspended, or interdicted.

Note. - From a pastor bound by censure there must be carefully distinguished, especially among us, a pastor whose faculties have been taken away; for this man would even assist invalidly.

Quaer. 4° Does a priest whom people falsely think to be Pastor assist validly?

Resp. Affirmatively, if he has a colored title and is reputed Pastor from common error. The reason is that then the Church supplies jurisdiction on account of the common good. - Thus all. Thus also it

seems that it must probably be said if only common error is present without a colored title, for the same reason, as was said concerning jurisdiction in the internal forum, n. 1394. q. 3°. Resp. 2°.

Quaer. 5° Does any priest whatever validly assist at Matrimony with the presumed license of the Pastor?

Resp. Negatively, because it is not true license; tacit license, however, suffices; or even one extorted by fear or deceit, unless the deceit were concerning the final cause, since delegation does not exist without the will of the delegating person.

Quaer. 6° Can a Vicar validly assist at Matrimony, the delegation of the Pastor being excluded?

Resp. 1° Affirmatively, if the Vicar supplies the place of the deceased or absent Pastor; for then he is certainly delegated to the universality of causes; indeed then he can also subdelegate another; for he who is delegated, as it were by office, to the universality of causes, can subdelegate another to a particular case. Cf. n. 149. 4°; 150. 2°.

Resp. 2° But if the Vicar is the cooperator of a present Pastor, the difficulty is greater, nor can the matter be defined by a general and absolute rule. Wherefore attend to the statutes or custom of dioceses. For the Bishop, constituting Vicars, assistants of the Pastor, can either confer on them immediately the right of assisting at Marriages, or leave that right to be committed to them from the delegation of the Pastor.

Note. - It is clear of itself that the things which have been said from n. 1613, and which will be said in nn. 1615 and 1616, have force only for places where the Decree is in force.

Appendix annotation (Sigma), to n. 1614. q. 1°. R. 2°. p. 274. col. 1; p. 398. col. 1. under 4°. Responses of the Sacred Congregation of the Holy Roman and Universal Inquisition to the postulates of the Synod of Maynooth, Wednesday, 2 May 1877. To the first postulate concerning the proper Pastor of those contracting Matrimony: "The Eminent and Most Reverend Lords decreed to the first postulate: "Let it be answered: that the Pastor of the domicile or quasi-domicile of the contracting parties is to be held as the proper Pastor. "But for discerning quasi-domicile, the rule handed down in the Instruction of Wednesday, the 7th day of June 1867, to be transmitted to the Bishops of Ireland, is to be attended to. Instruction. "For the Bishops of England and the Federated States of America, Wednesday, the 7th day of June 1867. "For constituting quasi-domicile, which in these cases must necessarily be acquired, two things are required together: namely, habitation in that place where Matrimony is contracted, and the intention of remaining there for the greater part of the year. Wherefore, if it is legitimately established that either both or one or the other of the spouses has the intention of remaining for the greater part of the year, from that first day on which these two things concur together, namely both an intention of this kind and actual habitation, it is to be judged that quasi-domicile was acquired and that the Matrimony which is consequently contracted is valid. "Nevertheless, if the aforesaid intention is not established, recourse must be had to the indications which are at hand and which produce moral certainty. But in an occult and internal matter it is difficult to have indications of this kind which make the judge secure; hence it is that the rule confirmed by the Supreme Pontiff Benedict XIV must especially be applied, namely that it be inspected whether before Matrimony, for the space of at least one month, either both or one or the other dwelt in the place of Matrimony. But if it is found that this was done, from a presumption of law it must be judged that the intention of remaining for the greater part of the year existed, and that domicile was acquired, and consequently that the Matrimony is valid. But if this presumption of law, which arises from monthly habitation, is destroyed by contrary proofs, by which it is certainly and clearly established that the aforesaid intention existed in no way, then it is manifest that a contrary judgment must indeed be rendered, because presumption must yield to truth. Moreover, it is also manifest that actual habitation is unfit for producing quasi-domicile if someone stays in that region after the manner of a vagus and itinerant, and not as one truly and properly dwelling, namely in the manner in which the rest are accustomed, who in the same place have a true and properly so-called domicile." To the third postulate concerning the sense of the clause of the Faculties: outside the limits of the diocese, it was answered: "The words of the related formula are to be understood in this way: that the Bishop can use the faculties toward his own subjects who are actually, at the time when they are to be dispensed, staying in the proper diocese, although the Bishop himself may be outside his diocese."

Appendix annotation (43), to n. 1614. q. 1°. Resp. ... 3°. p. 275. col. 1. What under Resp. ... 3°. ... c), p. 274. col. 2, I say, with Murray, De imp., n. 381, I understand as something commonly occurring, or joined to presumption, namely that those detained for punishment have domicile or quasi-domicile in the prison, since they are to be detained there perpetually or for the greater part of the year; but those detained for custody do not even have quasi-domicile in prison, since they are to be detained only for a few months or perhaps weeks. Wherefore, if you suppose someone to be detained for punishment only for a month, or for custody for a year, I judge that the contrary is to be resolved with Murray, ib.; for presumption yields to truth. "Not a few, especially from the wealthier, merchants, jurisconsults, etc., who inhabit cities or large towns, besides a house in the city, have another in the country, in a different parish, spending the day in the former and the night in the latter. What is to be said of such persons? It would seem that they have two domiciles, for the intention of inhabiting in this way perpetually is supposed; for equally, at least morally, ... they dwell in each parish. I judge that a distinction must be made. 1°. If Caius lives permanently in the country, so that not only does he pass the night there, but also, his family having been transferred there, takes supper, receives friends as guests, etc., while he uses the city house only as a certain office with his ministers, I judge that not the city house, but his villa, 'his country-house,' must be held as his domicile. For in this alone can he be said truly to inhabit; but in the other he only transacts his business. 2°. But if, on the contrary, with the family, etc., remaining in the city house, Caius passes the night in his villa so that he may sleep more quietly and healthily, seeking it late in the evening and departing from it in the morning, I judge that his city house is his domicile and not the villa. 3°. Other middle cases, and more or less doubtful ones, are to be decided from the particular circumstances, or by invoking the due authority." - Ib. n. 383.

II. In What Manner the Pastor Must Assist.

1615. Principles. - I. It is required, and suffices for the validity of Matrimony, that the Pastor be morally present, as a witness who must give testimony concerning a thing completed. The reason is that the Pastor is employed here as a principal witness deputed by the Church, as is established from Benedict XIV.

II. It is required that the Pastor be addressed and warned concerning that which the contracting parties wish to do, or that he be employed by them. The reason is that otherwise the Pastor is not judged to advert to that which is done, nor can he judge that those who act wish to act seriously. Nevertheless it is not required that he have been expressly called for this. For it would suffice if, by chance, he were present there, or had been summoned under another pretext, provided the contracting parties, while they express consent, offer some sign, e.g. by the eyes, by the tone of voice, by a nod, etc., by which they indicate to the Pastor that they wish to have him as a witness. This is clear from the Declaration of the Sacred Congregation apud Benedict XIV.

Hence: **1°** the merely physical presence of the Pastor does not suffice, since he must advert to that which is done: whence one drunk, sleeping, insane, cannot assist at Matrimony.

2° It is not necessary that he see the contracting parties, provided he hears them clearly expressing their consent: accordingly a blind man can assist at Matrimony; not, however, one blind and deaf.

3° The Matrimony is valid in the case in which the Pastor, wishing to resist, lest he be able to be held as a witness, closes his eyes, stops his ears, or shouts, and tries to flee, namely so that he may render the act void because he can afterwards affirm that he saw or heard nothing. But already several times the Sacred Congregation has responded this, which is had also in the response to the Bishop of Gien in the year 1581, namely that the Matrimony is invalid if the pastor neither saw nor heard the things which were being done, unless however he had affected not to understand.

1616. Questions. - Quaer. 1° Does a Pastor compelled by force and fear validly assist?

Resp. Affirmatively, because by law it suffices that he be present and know what is being done, whether willingly or unwillingly; it is manifest from the Declaration of the Sacred Congregation. - See St. Alphonsus.

Quaer. 2° In what place can the Pastor, or the priest deputed by him, assist at Matrimony?

Resp. He can validly assist everywhere, even outside the parish, yes even outside the diocese. But in order that he may assist licitly in a church not his own, he needs the consent of its rector. - The Roman Ritual exhorts that nuptials be made in a church. "Nevertheless it is not forbidden ... to Ordinaries, if no danger threatens and praiseworthy causes concur, that they sometimes permit, according to their prudence, it to be celebrated" (with nuptial Mass also) "in private oratories in which the Sacrifice can be offered."

Point XII. On the Impediment of Impotence.

1617. - Impotence for undertaking matrimonial offices, or incapacity for carnal copula, of itself apt for generation, is distinguished in a manifold way, namely:

1° Certain or doubtful, according as it is or is not manifest.

2° Antecedent or consequent, according as it precedes Matrimony or follows it.

3° Temporal or perpetual, according as it can or cannot be removed by lapse of time or by natural means (i.e. without a miracle) and licit means (i.e. without sin and danger of death).

4° Natural or accidental, according as it arises from an intrinsic defect, or from an extrinsic cause, e.g. malefice, disease, a violent act.

5° Absolute or respective, according as it exists between a man and all women, or between a man and some determinate woman; or vice versa.

Notes to nn. 1617-1622 - note sequence 1. (1) L. VI. 1095. (2) Ib. (3) Ib. (4) For the external forum see Acta, T. 12. p. 630. (1). Notes to nn. 1617-1622 - note sequence 2. (1) L. VI. 1102. 1103. (2) Ib. 1104. (3) Ib. 1104. (4) Ib. 1095. (5) Gousset. n. 791. (6) Heiss, de Matr. § 43. II. Notes to nn. 1617-1622 - note sequence 3. (1) T. I. p. 15 sq. (2) Schmalzg. L. V. T. XVII. n. 20. (3) Sess. 24. c. 6. de Ref. Matr. (4) L. VI. 1107. (5) T. I. pp. 23. 24. (6) L. VI. 1107. N. Rev. Th. T. 12. p. 392 sq. Notes to nn. 1617-1622 - note sequence 4. (1) L. VI. 1107. (2) Ib. 1032. (3) Ib. 1032. (4) T. I. p. 24.

1618. Principles. - I. Antecedent and perpetual impotence, whether absolute or relative, renders Matrimony invalid by natural law; relative impotence, however, only with respect to that person with whom copula cannot be completed. The reason is that the object of the matrimonial contract does not exist, since copula is impossible. It is also established from Canon Law.

II. Consequent impotence, and antecedent temporal impotence, do not dirime Matrimony; the reason is that actual use of Matrimony does not pertain to its essence, and it suffices that consummation either was possible at the time of the contract, or will be possible in the future.

III. Impotence certainly known renders the use of Matrimony illicit, even if only attempted; because, where copula cannot be completed, the end which makes congress licit is lacking. (A) p. 408.

Note. - It is now commonly received among physiologists and physicians, because experience has taught it, that for conception and the effect of generation it is by no means necessary that the man inject seminal fluid into the inner parts of the female organ, but that it is enough that fluid of this

kind be poured upon and applied to the external surface of the same organ, or to the mouth, or entrance, of the vagina, as they say.

Appendix annotation (Lambda), to n. 1618. III. p. 277. col. 1. It is said: it renders the use of Matrimony illicit. "But if there is question of consequent perpetual impotence, per se, or with the danger of pollution excluded, those acts are licit which it is lawful for spouses to perform without the intention of completing copula. Which those acts are, see n. 1651. 1°. 3°. But it is clear that the danger of pollution is much more easily present in those about whom there is question here, precisely because they must perpetually abstain from copula; and this is especially true when there is speech of the touches set forth in the cited n. 1651 under 3°. See L. VI. 1095. § Dixi 2."

1619. Resolves. - 1° Eunuchs or spadones destitute of both testicles are reputed impotent; otherwise, if they lack only one. (M) p. 409.

2° In doubt concerning antecedent impotence, one must stand for the validity of the Matrimony, and the spouses must be permitted to try copula. Indeed for this a three-year period is conceded to them by Canon Law, notwithstanding the greater probability for perpetual impotence, and although the Matrimony was celebrated with doubtful faith.

3° In doubt concerning consequent impotence, it is likewise lawful for the spouses to try copula until they are certain that it can in no way be completed.

4° In doubt whether certain and perpetual impotence was antecedent or consequent, it is presumed antecedent if it is either natural, or indeed accidental, but the potent spouse complains of this defect of the other one month or another after the Matrimony has been celebrated; but consequent if such a complaint on account of accidental impotence is made a long time after the celebration of Matrimony.

5° Impotence for coition is not to be confused with impotence for generating. Hence sterile persons and the aged who are able to consummate Matrimony contract validly; likewise women who can receive seed, even if they do not retain it. Not, however, those lacking uterus or vagina.

6° "Let the confessor take the greatest care that in a matter of so grave a moment, and subject to so many difficulties, he not proceed rashly, or determine anything by his own authority; but let him refer the case, duly examined with all its circumstances, to the Ordinary, whose office it then will be to establish and determine what ought to be done in a similar matter. Indeed, as it seems to us, a prudent and discreet confessor will not question spouses concerning impotence, nor even forewarn those whom he believes impotent; nor will he answer spouses consulting him on that matter ultimately, unless he himself has first consulted the Bishop." See Van de Burgt, de Matr. n. 206.

Appendix annotation (Mu), to n. 1619. 1°. p. 277. col. 1. In the man, moreover, impotence is present from defect, or even from the extraordinary size of the virile member; and likewise from such contusion of both testicles that neither is fit for its office. In the woman it is present from defect of the uterus or vagina; likewise from constriction, which can be the cause of perpetual and also temporary impotence; for constriction does not always impede fecundation, and can often be removed through the dilating means of the medical art, Van de Burgt, de Matr., n. 202, or is often removed through repeated experiment of copula. Capellmann, Past.-Med., p. 116. Besides these natural impotences existing from organic defects, there are also accidental impotences arising from moral defects, namely from frigidity or excessive heat. In a case of impotence of this kind, it must especially be investigated whence that state draws its origin, so that, when the cause is removed, if it can be done, the impotence may be removed. The cause of that frigidity can be malefice, but often, as several observe, not malefice but other causes produce this state. Zacchias, the celebrated Roman physician, teaches, Qu. medico-legales, L. III. T. I. q. 5, that impotence by reason of moral defect often arises either from shame and modesty, or from excessive love, or from hostile hatred of the wife. It can also arise from the excesses of a lustful life. - Moreover, what Bouvier notes, in Sext. Prec., the cause sometimes is deformity in the wife, a foul-smelling breath, negligence in dress and cleanliness, hatred, contempt. Van de Burgt, ib. Those to whom the name Hermaphrodites or Androgyni is given are not

kept from nuptials by reason of impotence if they possess all things which are necessary for completing the conjugal act; on the contrary, impotence is ascribed to them where they lack the necessary organs; concerning which, and therefore also concerning the sex to which they pertain, it is necessary that physicians or surgeons pronounce judgment. Van de Burgt, ib., n. 203. Most so-called Hermaphrodites, says Capellmann, Past.-Med., p. 116. 117, when subjected to the examination of physicians, have been discovered truly to enjoy only one sex and to have only the appearances of the other. > Notes to appendix annotation - note sequence 10. > > 1 This is not always perpetual, and it can happen that it is only relative, or even not impeditive of fecundation; see n. 1618, Note.

Point XIII. On the Impediment of Abduction.

1620. - Abduction is the violent carrying away of a woman (even an impubes, widow, corrupted woman, etc.) from a safe place into another, where she is detained under the power of the abductor, for the sake of entering Matrimony. - But it is all the same whether the abductor executes the abduction by himself, or through others; and likewise whether by himself and in his own possession, or through others and in the possession of others, he retains the abducted person in his power. This is drawn from the Declaration of the Sacred Congregation of the Council, June 25, 1864, as can be seen in the *Acta*. But he incurs the impediment who abducts for himself, not those who abduct for another.

Abduction dirimes Matrimony by ecclesiastical law between the abductor and the abducted woman. It is established from Trent.

A threefold condition is required for incurring that impediment, namely: **1°** that the abducted woman be carried away from place to place; **2°** that the woman be abducted only for the sake of Matrimony; **3°** that the abduction be made while the woman resists, or is altogether unwilling.

But it makes no difference whether the woman is drawn away by force from her own house, or whether, led around by deceits, she comes unknowingly into the power of the one attempting abduction; and likewise whether she is drawn away from her own house, or, having been led away from it through frauds, is then prevented from being able to return freely to it. For free consent is equally absent, both if by open force, and if through frauds she is no longer permitted to be of her own power. See the Declaration of the Sacred Congregation in the *Acta*.

1621. Questions. - Quaer. 1° Does an abduction of seduction induce the impediment, or when a woman is induced by gifts, flatteries, etc., to follow the abductor?

Resp. Negatively. The reason is that through the impediment of abduction the Church intends only to provide for the perfect liberty of Matrimony, which is not injured when the woman, consenting with a view to Matrimony, is led away, even against the will of her parents. - Thus commonly, according to St. Alphonsus. Sanchez, the Salmanticenses, Scavini, etc., agree.

Quaer. 2° Are betrothals valid which are contracted while an abducted woman is under the power of the abductor?

Resp. A twofold probable opinion is given:

The first opinion denies, because betrothals require liberty, just as Matrimony itself does; for a penal law is extended where the same reason militates. - Sanchez, the Salmanticenses, etc.

The second opinion affirms, and St. Alphonsus with Lacroix, etc., calls this one more probable. But the reason of this opinion is that betrothals, as things which are always rescindable, require less

liberty than Matrimony.

1622. Resolves. - 1° The impediment is not contracted if a woman is led away only from bedroom to bedroom in the same house; because in this way she is not properly constituted under the power of the abductor; but she must be led away from house to house. Nevertheless in this case the impediment of fear can be present.

2° The impediment is not contracted if the woman is abducted for another cause, besides the end of entering Matrimony, e.g. for the end of satisfying lust, etc.; because the Council intends nothing else by this impediment than to favor the liberty of Matrimony.

3° The impediment is not incurred if the woman abducts the man, because the Council speaks only of the male abductor.

4° The impediment is not incurred if Matrimony is contracted between the abductor and the abducted woman after she has been freed from the power of the abductor. This is clearly apparent from the text of Trent. But St. Alphonsus rightly notes that this impediment lasts as long as the abducted woman is in the power of the abductor, even if she consents freely. - See, if you please, other things in the *Acta*.

See (x) p. 396 for the synopsis of impediments by which infidels are bound, whether certainly or doubtfully, and the practice to be followed with them when they are converted.

Appendix annotation (kappa), to n. 1622, p. 278, col. 2. I. Unbelievers are bound: 1° directly by all impediments of divine law, whether positive or natural; 2° indirectly by the following impediments of ecclesiastical law, which directly affect the faithful person with whom they are about to contract: - disparity of cult; - consanguinity; - legal relationship; - affinity from conjugal intercourse; - public honesty from ratified Matrimony; - crime from homicide alone(3) (n. 1593), from homicide perpetrated by the faithful person after adultery (n. 1596), and, according to several, from adultery alone(5) (n. 1594); - vow; - Order; - age; - servile condition, abduction, fear, if the faithful person is ignorant of the servile condition of the other party, is abducted, is compelled by fear, and this either because these impediments contain a privilege in favor of the baptized person. - That clandestinity does not affect them even indirectly is a sufficiently common opinion (n. 1612. q. 1°. 1) before R. 1°). II. Baptized unbelievers are bound by all and only those ecclesiastical impediments which either 1° arose in them after Baptism, or 2° rest on a natural bond already existing before Baptism, such as certainly is that which exists from consanguinity, and (see n. 1590. q. 1°. R. 1°) from affinity contracted licitly or illicitly. But, from the Resp. of S. C. Off., April 19, 1837,(1) such is not that on which the impediment of public honesty is founded, whether from betrothals or from ratified Matrimony. On account of parity of reason I opine that this Response holds also as regards legal relationship. - But they are not bound by impediments which arise from another fact placed before Baptism, as I argue by parity from the Response which I allege on p. 260, col. 1. Note. III. It is controverted: - 1° whether unbelievers contracting among themselves are bound by impediments which are not of divine law, whether natural or positive, but are constituted by civil power (n. 1574. q. 1°), - by consanguinity in the direct line beyond the 1st degree, and in the 1st degree of the collateral line, - by affinity in the 1st degree of the direct line from conjugal intercourse, - by fear; - 2° whether an unbeliever is indirectly affected by public honesty from betrothals and by spiritual relationship. Sanchez denies, against others,(2) because these impediments are a relation, arising from a bond, not natural, but one which has been constituted by the law of the Church alone; but a relation cannot be contracted by one party without being contracted by both. Since, therefore, a relation which arises from the law of the Church alone cannot be imposed on an unbeliever, the consequence is that he (also in the case in which he is afterward baptized) is not bound by these impediments. De Angelis(3) agrees with Sanchez at least as regards spiritual relationship, namely when a faithful person baptized (or, I add, held) the child of an unbeliever. (4) - Sanchez also denies(5) (although on account of ecclesiastical custom he assents to the opposite opinion) that an unbeliever is even indirectly affected by affinity from illicit intercourse, as being that from which (he says) no natural bond arises. This reason [as is clear from annotation (epsilon), p. 394, col. 2] is not admitted by S. C. Off. > Notes to appendix annotation - note sequence 5. > > 3 Sanchez, L. 7. D. 78. n. 5. | 4 In St. Alphonsus, L. VI. 1087. | 5 In those species of this impediment which require two acts, e.g., adultery and promise of Matrimony, when one act (e.g., adultery) has been placed by two unbelievers before Baptism, and the other (the attempted Matrimony or promise of Matrimony) after the Baptism

either of both or of one, the impediment does not subsist. The reason is that the impediment cannot arise except from both acts placed at the time when at least one delinquent is subject to the Church. Thus Sanchez, L. 7. D. 79. n. 43 against others. > 1 Collect. p. 379. n. 875. | 2 L. 7. D. 60. a. n. 7. D. 65. n. 7. | 3 V. S. L. 4. T. 11. 39. | 4 Since for contracting this relationship it is required that the one baptizing or receiving be baptized, it is clear that an unbeliever baptizing is not bound by it. | 5 L. 7. D. 65. n. 12.

§ III. On Dispensation from the Diriment Impediments of Matrimony

We set forth beforehand in this place, from Van de Burgt, de Dispens. n. 639, the terminology proper to the matter of dispensations.

Orator, oratrix, orators, exposer, exposers, are called those who ask that dispensation be granted with them.

A supplicatory libellus or **supplica** are called the letters by which dispensation is sought.

Style of the Curia. Here by Curia is understood the Congregation from which, or through which, dispensation is to be obtained. Style of the Curia denotes those things which are to be written in the supplicatory libellus from the will and practice of that Congregation from which, or by means of which, dispensation is sought from the Supreme Pontiff.

Subreption, obreption. Reticence of the true, or of that which, by prescription of laws, by style of the curia, by custom, must be declared, is called subreption. Expression of the false is called obreption.

A rescript of dispensation is called the epistle or letters by which the dispensation sought is conceded.

Clauses. Under the name of clauses come the orders and conditions placed on rescripts, which regard both the executor and those about to enter nuptials. Many are expressed in conditional form by the conjunction *if*, *provided*, *so long as*, by the ablative absolute; and these forms, for the most part, indicate that the value of the dispensation depends upon the observance of those clauses. (H. A. Tr. XVIII. 81.) Those orders and conditions arise from the very nature of the impediments, and from the circumstances which are joined to each impediment. All matrimonial dispensations have certain circumstances in common with one another, but many also have certain ones proper to themselves. Hence it happens that some clauses are accustomed to occur in all, others are written only in some.

Dispensation for the internal forum, or for the forum of conscience, or for the forum of heaven, is that which is sought under fictitious names, and which effects that the impediment be removed and that Matrimony can be contracted validly; but it does not suffice that it be proved before an ecclesiastical judge that the impediment has been dissolved.

Dispensation which they call for the external forum, or for the forum of the court, is sought with the names of the orators expressed, and effects that Matrimony can be validly contracted, and that it can be proved before an ecclesiastical judge that it was validly contracted.

Dispensation given in gracious form is said when the ecclesiastical Superior, who was asked to concede the dispensation, applies it by himself, directly, to the orators.

Dispensation is said to be conceded in commissory form when the Superior commits to another the faculty of dispensing with the orators, e.g. to the Pastor, to the confessor.

Dispensation is given in ordinary form when, on the occasion of the dispensation, a certain sum of money (tax, composition) is to be paid.

It is given in the form of the poor when a monetary tax is not exacted; and then to the rescript of dispensation there is usually added the clause: provided the orators are poor and miserable, and live only from labor and industry. For if they are not poor, they must satisfy the established tax. The distinction between dispensations in ordinary form and in the form of the poor, when it is taken in the ordinary sense, regards those regions in which matrimonial dispensations are to be obtained from the Congregations of the Sacred Penitentiary and Dataria; in which last congregation a certain tax must be paid on the occasion of dispensation of the impediments of consanguinity and affinity from licit matrimonial copula, if the orators are not poor and miserable and living only from labor and industry. As regards dioceses subject to the Sacred Congregation de Propaganda Fide, see below n. 1627. II. at the end.

Fulmination of the dispensation is called the act by which the impediment is removed. By another name it is called the application, execution of the dispensation, although this last word also has a broader signification, so that it also comprehends the verification of the petitions, the injunction of certain obligations prescribed in the Rescript, and the acceptance of the dispensation by the orators.

A public, occult, and altogether occult impediment, concerning these see the things said n. 1564.

Note. - Although among us all dispensations are obtained through the organ of the Sacred Congregation de Propaganda Fide, nevertheless in either asking or executing them there must be observed the differences which, according to the nature of the impediment, intervene between dispensations which are to be asked directly from the Dataria, and those which are to be asked directly from the Penitentiary, in regions not subject to the Sacred Congregation de Propaganda Fide.

We must treat **1°** of the power of dispensing; **2°** of the causes of dispensation; **3°** of the manner of obtaining dispensation.

Point I. On the Power of Dispensing.

1623. Principles. - I. The Pope can dispense from all impediments of Ecclesiastical Law; **1°** validly in every case, because he is the primary Superior; **2°** licitly, if he does this from a just cause, as right governance requires. What he can do in those things which are of divine law, see n. 158; 1551. 1°; 1574. q. 5°. Resp. 2°.

II. A Bishop cannot ordinarily and by his own right dispense in diriment impediments (as regards impedient impediments see n. 1572). The reason is that a Bishop can do nothing in the common law of the Church unless from concession of the Council or the Pope, or from legitimate custom. But Bishops cannot vindicate for themselves the right of dispensing in such impediments from any of these reasons, as is clear both from the practice of the Church and from various Declarations of the Sacred Congregation, and especially from Pius VII in the year 1809 in the Rescript to the Bishops of France.

I said: **1° ordinarily;** for he can dispense:

1) Probably in doubtful impediments, even with doubt of fact.

2) In occult ones: and

I. Indeed, according to the common opinion, in contracted ones, provided there is present **a)** necessity and danger in delay; **b)** Matrimony contracted **1)** in good faith, namely from ignorance (even crass, provided rashness does not seem present), whether of law or of fact, by at least one party; **2)** in the face of the Church, and the proclamations having been premised, or dispensation from them having been granted; **c)** an impediment in which the Pope is accustomed to dispense; **d)** at least doubt concerning the impediment in one party; for if each party is in good faith, this is not to be disturbed, and meanwhile recourse must be had to the Sacred Penitentiary.

II. Most probably also in those to be contracted, provided true necessity is present; danger in delay; an impediment in which the Holy See is accustomed to dispense. (A), p. 397.

I said: **2° by his own right;** for in many matters our Bishops can dispense by delegated right. See p. LXX. n. 6. 7. 8. 9. 10. pp. LXXIII-LXXV. (rho), p. 397.

Appendix annotation (lambda), to n. 1623, p. 279, col. 1. But note that this quasi-ordinary faculty cannot be invoked except for cases in which the faculty expressly delegated does not belong to the Bishop,(1) which indeed belongs to our Bishops for more frequent cases, and does not require all the conditions which the quasi-ordinary one demands. The reason why the quasi-ordinary power then cannot be invoked is that there can be no place for the presumed or tacit will of the Pontiffs, on which it is founded, where the express will is clear. The Acta, T. 14, p. 155 sq., contradict. The things which we have said concerning occult impediments sometimes dispensable by the Bishop are also applied by some to public impediments. "This opinion," says St. Alphonsus,(2) "I think scarcely ever can have place in practice, because, when the impediment is public, the reason of scandal ceases, if the spouses desist from such a Matrimony; indeed, especially for avoiding scandal, they are held to desist from the nuptials." - See also the celebrated Feije,(3) where it is reported that the Sacred Congregation of the Inquisition judged that opinion to be false and temerarious. But what if there is question of an impediment public in its nature, but by accident occult to others, e.g., concerning the impediment of public honesty from occult betrothals? There is a twofold opinion. - See the reasons for each in the same Feije.(4) > Notes to appendix annotation - note sequence 6. > > 1 Feije, de Imp., n. 634 at the end. | 2 L. VI. 1122. | 3 Ib. n. 633. | 4 Ib. n. 638 sq. Appendix annotation (mu), to n. 1623, § end, p. 279, col. 1. Concerning the meaning of these faculties note the following: 1° The 6th faculty of Form I ([p. LXX](/manuals/konings/iii-faculties#h2)), insofar as it regards converts from heresy or infidelity, is to be understood concerning those converted heretics and unbelievers who entered not just any fornicarious unions, but those which, according to the customs of the regions or of the unbelievers or heretics, had the form and appearance of Matrimony. Thus S. C. O. in Feije.(1) The same faculty, just like the 2nd among the Extraordinary D ([p. LXXIII](/manuals/konings/iii-faculties#h4)), as regards the words: "in simple and mixed degree," understood 1) concerning equality and inequality of degrees, in the case of mixture of unequal degrees, comprehends not the same degree mixed with some nearer one, but with some more remote one only. Feije.(2) 2) Understood concerning multiplicity of impediment, it comprehends both the same degrees multiplied(3) (see above, n. 1583. q. 2°. R. 2° § end. p. 253, col. 2, and n. 1588, § But it can), and the impediments of consanguinity and affinity joined together.(4) This is also clear from the response of S. C. Ing., June 15, 1875, to questions 1 and 2 of the Vicar General of St. Louis: "Bishops who enjoy the quinquennial faculty of dispensing in the 3rd and 4th of consanguinity and affinity in simple degree, and mixed only; and in the 2nd, 3rd, and 4th, but not in the second alone, as regards future marriages, can dispense in the 3rd and 3rd, in the 4th and 4th, in the 3rd mixed with the 4th; and also in the 3rd and 4th mixed with the 2nd, whether the degree arises from one stock or from a multiple stock, once the matter has been spoken of with His Holiness."(5) The same faculty insofar as it regards Catholics not converted from heresy or infidelity holds only for Matrimonies to be contracted; but no difficulty arises from this for our Bishops, since they can also dispense in nearer degrees, both as regards those already contracted and those to be contracted. See [p. LXXIV. Fac. Extr. E](/manuals/konings/iii-faculties#h5). 2° The 7th faculty of Form I, [p. LXX](/manuals/konings/iii-faculties#h2), cannot per se be extended to the impediment of public honesty from ratified Matrimony. I said: per se; for since to our Bishops there is granted the faculty of dispensing even in the first and second degree of affinity of the transverse line, and this includes public honesty, no difficulty arises from this for them.(6) 3° The 8th faculty of Form I, [p. LXX](/manuals/konings/iii-faculties#h2). - The loss of the right of asking the debt indicated in this faculty is that which is induced by adultery. See n. 1647. III. 1°. Cf. Feije.(1) 4° N. 29 Form I, [p. LXXII](/manuals/konings/iii-faculties#h2). - The words: "nor can he use them outside the boundaries of his diocese" are to be understood not only concerning those who have domicile or quasi-domicile in the diocese, but also concerning vagi existing

in the diocese while the dispensation is granted. But it is necessary that he to whom the dispensation is granted exist at that moment - not indeed at the moment when it is handed over for execution, but - at which it is granted, in the diocese of the one dispensing. See Acta.(2) But today it is certain(3) that the one dispensing himself [(Z) p. 412] does not have to be in the diocese while he dispenses. But this clause or these words are not to be understood as implied "in faculties which are granted to Bishops by the Apostolic See, unless they have been expressed or it is otherwise clear from the mind of the Supreme Pontiff, or unless the subject matter requires it."(4) But the faculty of dispensing concerning the impediment of mixed religion, from the mind of the Supreme Pontiff, is granted with that clause. 5° It must be carefully observed that our Bishops do not have the faculty of dispensing in the impediment of disparity of cult in the case of Matrimony with a Jewish man or woman, nor in this same impediment or in the impediment of mixed communion with Italians, concerning whom it is not clear that they have altogether abandoned Italian domicile. See [p. LXXIV. n. 8. 4](/manuals/konings/iii-faculties#h4). 6° A Bishop cannot use faculties granted for the forum of conscience, as is that which is listed on [p. LXXIII under n. 2](/manuals/konings/iii-faculties#h4), for the external forum; and conversely Feije thinks it must altogether be said that he cannot exercise faculties obtained for the external forum for the forum of conscience, even if the impediment is occult to others.(5) 7° Whether in Matrimonies contracted nullly among Catholics, in which the Tridentine form was not observed, our Bishops can dispense, because in their faculties there is not found the clause that the faculty is to be understood only of Matrimonies nullly contracted "before the Church," is disputed. There are those who, after a distinction has been made between places in which Matrimony was not invalid on account of clandestinity, and those in which it was also invalid on account of this, opine that in the former case the Bishop can use the faculty, provided the union is of such a kind in which the circumstances indicated under 1° are verified; but in the latter case he cannot use the faculty; indeed Feije thinks that even in the former case one must abstain.(1) Beware, however, lest you confuse this question with that concerning which we treat at n. 1630. q. 2°. 1634. q. 2°. q. 8°. 8° Can a Bishop use faculties with those who rashly neglected proclamations, or who in bad faith, or knowing the impediment and the invalidity of the Matrimony because of it, contracted nullly? - It must indeed be affirmed, both if there is question of a Matrimony formerly contracted in heresy or infidelity, and if there is question of a Matrimony contracted by Catholics, one of whom was in good faith, and therefore celebrated with the proclamations premised or dispensed; for if these are rashly neglected, good faith is judged to be lacking, even if knowledge of the impediment is not had, as Feije proves.(2) But the doubt turns on the case in which each was in bad faith, and there are those who deny the Bishop's power. But others, as Feije, admit it, provided either one now repents, and the things which in their place were indicated, and other things necessarily to be expressed, are expressed in the supplicatory letter. See the reasons in the same Feije.(3) 9° From the letters of S. C. de P. Fide to the Vicar Apostolic of Pondicherry, dated June 7, 1853 (Collect. p. 378. n. 855), it is clear that "the words of Indults are to be understood as they present themselves," and therefore "through a faculty of dispensing," e.g., "concerning the impediment of the second mixed with the first, there has not also been bestowed an Indult of dispensing when the first is found mixed with the third." Hence also faculties cannot be extended from one impediment to another, although less grave, unless this is contained in that one, nor from one species of impediment to another, nor from one line to another, nor from contracted Matrimony to one to be contracted. - Feije.(5) 10° Can our Bishops dispense in impediments diverse in species, by which the same persons about to marry are bound, while the faculty of dispensing such impediments is bestowed on them either in diverse indults (e.g., in the Faculties Form I, [n. 8, p. LXX](/manuals/konings/iii-faculties#h2), and in Fac. Extr. E. n. 2, [p. LXXIV](/manuals/konings/iii-faculties#h5)), or in a diverse tenor or period of the same indult (e.g., in Fac. Form I. n. 8 and 9)? Resp. No without a special Indult, as is clear from several responses both of S. C. de Prop. Fide itself and of its Prefect communicated to me by several Bishops. Cf. Collect.(1) The same holds if, with an impediment either diriment or impedient in which our Bishops can dispense, another concurs for which recourse must be made or is made to the Apostolic See. Namely, in this case it does not suffice to have recourse to Rome for this one and to be dispensed in the other by the Bishop, but he lacks his power of dispensing, as is clear both from the Rescript of S. Pont., April 15, 1853, and from the necessity of expressing all impediments in the same supplicatory letter, as was said at n. 1625. q. 2° R. 5. Cf. Feije.(2) - Resolve the contrary if the Bishop dispenses in accumulated impediments not by force of faculties, but by quasi-ordinary law. Therefore S. Paen., June 30, 1873, responded that "the faculty of dispensing, only for the forum of conscience, in Matrimonies to be contracted concerning the occult impediment of affinity from illicit intercourse, when all things are prepared for the nuptials and there is no time for recurring to the Apostolic See, is exercised validly and licitly, even if the aforesaid impediment" (of affinity from intercourse both with the mother and with the sister of the bride) "is multiple."(3) > Notes to appendix annotation - note sequence 1. > > 1 De Imp. n. 625. p. 527. | 2 Ib. n. 626. 3°. 630. c. | 3 Ib. n. 630. c. d. | 4 Ib. c. | 5 Past. Bl. für N. Amer. 9th year, p. 85. | 6 Tr. Mechl. de Matr. n. 101. > Notes to appendix annotation - note sequence 2. > > 1 De Imp. n. 615. N. 5. | 2 T. II. p. 670. | 3 From the Resp. of S. C. I. to the Synod of Maynooth. | 4 Acta, T. II. p. 671. | 5 De Imp. n. 624. 1°. > Notes to appendix annotation - note sequence 3. > > 1 De Imp. n. 625. p. 528, 529.

| 2 Ib. n. 264. | 3 Ib. n. 625. p. 530. | 4 Ib. | 5 Ib. n. 630. a. > Notes to appendix annotation - note sequence 4. > > 1 p. 485, n. 1012. | 2 n. 631. | 3 Past. Bl. für N. Amer. 15th year, p. 108.

1624. - Quaer. If the betrothed belong to different dioceses and there is question of an impediment common to each nupturient, must dispensation be obtained from each Bishop, if each enjoys by special Indult the faculty of dispensing?

Resp. The opinion probable to St. Alphonsus denies. The reason is that, when the Bishop takes away the impediment from his subject, he renders that subject capable of contracting with the other impeded person. For one person cannot become capable of contracting with another unless that other also becomes capable of contracting with him. And indeed this opinion of the holy Doctor is confirmed by the resolution of the Holy Office, November 22, 1865, with the addition: "unless the tenor of the Apostolic concession stands in the way," and "nevertheless permission for the celebration of the Matrimony having been obtained from the Bishop of the place where the Matrimony itself is contracted." The same addition holds if each nupturient is subject to the one dispensing and the Matrimony is to be entered outside his diocese.

Notes to n. 1624. (1) L. VI. 902. (2) Ib. 1122-1125. (3) Ib. 1142. (4) Acta, T. II. p. 670.

Point II. On the Causes of Dispensation and on Those to Be Expressed in the Supplica.

Recall the things said n. 162, 163 concerning causes of dispensations in general.

1625. Questions. - Quaer. 1° What causes are just, so that dispensation may be granted in diriment impediments?

Resp. From the Instruction of the Sacred Congregation de Propaganda Fide, May 9, 1877, the "commoner and weightier" causes are:

1. "Straitness of place, whether absolute or relative (by reason only of the Oratrix), when namely in the place of origin, or even of domicile, the kinship of the woman has been so propagated that she cannot find another of equal condition whom she may marry, unless a consanguineous or affine person, but to leave her country would be hard for her." [These last words do not signify that the cause does not exist when the Oratrix is going to transfer her domicile elsewhere, but that it exists although she does not wish to marry someone of equal condition by whom she is asked in Matrimony, but who inhabits another place. By the name of place there does not come precisely a parish, for in one place, in one city, several parishes can be present, and conversely in one parish several places. Wherefore by the name of place is understood a city, town, village, hamlet, indeed several places, provided they are not distant from one another beyond a mile. Sacred Congregation of the Council, December 16, 1876. Every place not having more than three hundred hearths, or 1,500 Catholic inhabitants, is reputed narrow.]

2. "The age of a superadult woman, if namely, having already passed the twenty-fourth year of age, she has not hitherto found a man of equal condition whom she can marry. But this cause does not benefit a widow who desires to pass to other nuptials."

3. "Deficiency or incompetence of dowry, if namely the woman does not actually have so great a dowry that she can marry an outsider of equal condition, who is neither consanguineous nor affine, in the proper place in which she is dwelling. This cause presses more if the woman exists wholly

without dowry, and a consanguineous or affine man is prepared to take her as wife, or even suitably to dower her entirely." [It is indifferent whether the dowry is offered by the bridegroom or by another, but on this condition, that she marry the consanguineous or affine person.]

4. "Lawsuits concerning succession to goods already arisen, or grave or imminent danger of the same. If the woman sustains a grave lawsuit concerning succession to goods of great moment, and there is no other who would take upon himself a lawsuit of this kind and pursue it at his own expense besides the one who desires to take her as wife, dispensation is accustomed to be conceded; for it concerns the commonwealth that lawsuits be extinguished. Another cause approaches this closely, namely a dowry involved in lawsuits, when namely the woman is destitute of another man by whose assistance she is able to recover her goods. But a cause of this kind suffices only for more remote degrees."

5. "Poverty of a widow who is burdened with numerous offspring" [let the number and age of the children be expressed] "and a man promises to support her. But sometimes the remedy of dispensation succors a widow for this reason only, that she is younger and is placed in danger of incontinence."

6. "The good of peace, under which name come not only treaties between kingdoms and Princes, but also the extinction of grave enmities, quarrels, and civil hatreds. This cause is adduced either for extinguishing grave enmities which have arisen among the blood-relatives or affines of the contracting parties, and which would be altogether settled by the celebration of Matrimony; or when grave enmities have prevailed among the blood-relatives and affines of the contracting parties, and, although peace has already been entered between them, nevertheless the celebration of Matrimony would especially conduce to the confirmation of that peace."

7. "Excessive, suspected, dangerous familiarity, and also cohabitation under the same roof, which cannot easily be prevented."

8. "Copula previously had with a consanguineous or affine woman or another person laboring under an impediment, and pregnancy, and therefore legitimization of offspring, namely that provision may be made for the good of the offspring itself and for the honor of the woman, who otherwise would remain unmarried. This indeed is one of the more urgent causes, on account of which dispensation is accustomed to be given even to common people, provided the copula perpetrated was not under hope of an easier dispensation; which circumstance would have to be expressed in the supplication."

9. "Infamy of the woman, arisen from suspicion that she, being too familiar with her consanguineous or affine man, has been known by him, although the suspicion is false, when namely, unless Matrimony is contracted, the woman, gravely defamed, would either remain unmarried, or would have to marry a man of unequal condition, or grave damages would arise."

10. "Revalidation of Matrimony, which was contracted in good faith and publicly, with the Tridentine form observed" [even if there is question of a place where the decree *Tametsi* does not oblige] "because its dissolution can scarcely be made without public scandal and grave damage, especially of the woman. C. 7 de Consanguin. But if the betrothed entered nuptials in bad faith, they by no means deserve the grace of dispensation, as the Council of Trent disposes, Sess. XXIV. cap. V. de Reform. Matrim." [And therefore then they obtain it with greater difficulty, yet today more easily than formerly.]

11. "Danger of mixed Matrimony, or of celebrating it before a non-Catholic minister." [Existing in the individual and on account of particular circumstances. But common danger, arising somewhere from the greater number of non-Catholics, can indeed have the place of an impulsive cause, but not of a final one.] "When there is present danger that those wishing to contract Matrimony even in one of the greater degrees, from denial of dispensation, would approach a non-Catholic minister for nuptials to be celebrated, the authority of the Church having been spurned, a just cause for dispensing is found, because there is present not only the most grave scandal of the faithful, but also fear of perversion and of defection from the Faith in those acting in such a way and despising the impediments of Matrimony, especially in regions where heresies rage with impunity. This Sacred Congregation taught this in the Instruction given April 17, 1820, to the Archbishop of Quebec. Likewise when the Apostolic Vicar of Bosnia had asked whether he could grant dispensation to those Catholics who put forward no other motive than mad love, and at the same time it was foreseen that, dispensation being denied, they would enter marriage before an infidel judge, the Sacred Congregation of the Holy Office, on Wednesday, August 14, 1822, decreed: 'The Orator must be answered that, in the exposed case, he may use the faculties committed to him in Form II, as he shall judge expedient in the Lord.' The same must be said concerning the danger that the Catholic party would dare to celebrate Matrimony with a non-Catholic."

12. "Danger of incestuous concubinage. From the Instruction of the year 1822 mentioned above, it is clear that the remedy of dispensation is to be employed lest someone grow filthy in concubinage with public scandal and evident danger to eternal salvation."

13. "Danger of civil Matrimony. From the things said it follows that probable danger that those who seek dispensation, if they do not obtain it, would celebrate only civil Matrimony, as they say, is a legitimate cause for dispensing."

14. "Removal of grave scandals."

15. "Cessation of public concubinage."

16. "Excellence of merits, when someone has merited very well of Religion, either by fighting against the enemies of the Catholic Faith, or by liberality toward the Church, or by doctrine, virtue, or in another way."

Sometimes it happens that one cause taken separately is not sufficient, but, joined with another, is reputed grave and consequently suffices.

Dispensation is also given "from certain reasonable causes" (i.e. without the causes needing to be expressed), or dispensation "without cause" (i.e. without a cause expressed), namely when from the pious work which is imposed by way of compensation, the cause of dispensation arises.

Quaer. 2° What things must necessarily be expressed by law, under penalty of invalidity, in the petition for dispensation?

Resp. From the same Instruction, besides the true and legitimate moving cause, the following are to be expressed:

1. "The name and surname of the Orators" [unless fictitious names are to be used, as will be said n. 1627. II], "each to be written distinctly and neatly and without any abbreviation of letters."

2. "The diocese of origin or of actual domicile. When the Orators have domicile outside the diocese of origin, they can, if they wish, ask that the dispensation be sent to the Ordinary of the diocese in which they now dwell."

3. "Also the lowest species of the impediment: whether it is consanguinity, or affinity, arisen from licit or illicit copula; public honesty drawing origin from betrothals, or from ratified Matrimony; in the impediment of crime, whether it came from spouse-killing with a promise of Matrimony, or from spouse-killing with adultery, or from adultery alone with a promise of Matrimony; in spiritual kinship, whether it is between the one lifting and the one lifted, or between the one lifting and the parent of the one lifted."

4. "The degree of consanguinity or affinity, or of honesty from ratified Matrimony, and whether it is simple or mixed, not only the more remote, but also the nearer, as also the line, whether it is direct or transverse; likewise whether the Orators are joined by a double bond of consanguinity, both from the father's side and from the mother's side." [If the Orators are in an unequal line, the nearer degree must also be expressed, and which sex is nearer to the stock. This, however, is not required for validity unless the nearer degree is the first. (upsilon) p. 399.]

5. "The number of impediments, e.g. if there is double or multiple consanguinity or affinity, or if besides kinship there is also affinity, or any other impediment whatsoever, whether diriment or impedient." [Which can be taken away only by dispensation and has not yet been removed. In order that the dispensation be valid, all impediments and circumstances necessarily to be exposed must be expressed conjointly in the same supplicatory libellus, except: **a)** in the case of which n. 1628. q. 1°. q. 2°; **b)** according to the more probable opinion of St. Alphonsus, in the case in which one impediment is not increased by the other, as vow and consanguinity; consanguinity and machination.]

6. "Various circumstances, namely whether Matrimony is to be contracted or has been contracted; if already contracted, it must be opened whether in good faith, at least on the part of one, or with knowledge of the impediment; likewise whether with the denunciations premised and according to the form of Trent; or whether under hope of obtaining dispensation more easily; finally whether it has been consummated, if in bad faith, at least of one party, or with knowledge of the impediment."

7. "Incestuous copula had between the betrothed before the execution of the dispensation, whether before or after its impetration, whether with the intention of more easily obtaining dispensation, or even with such intention excluded, and whether the copula is publicly known or even occult. If these things are kept silent, dispensations concerning any prohibited degrees whatsoever of consanguinity, affinity, spiritual and legal kinship, and also public honesty, are subreptitious and valid nowhere and in no way, as the Sacred Congregation of the Holy Office declared, Wednesday, August 1, 1866. But in asking dispensation concerning an impediment of affinity of the first or second degree of the collateral line, if the impediment arises not only from Matrimony consummated with the deceased spouse of the Orator or Oratrix, but also from ante-matrimonial or fornicatory copula perpetrated with the same deceased person before Matrimony was entered with that person, it is not necessary that mention be made of illicit copula of this kind, as is clear from the response of the Sacred Penitentiary of March 29, 1842, approved by Gregory XVI of holy memory, to the Bishop of Namur; and that this is general, the same tribunal declared by letters of December 10, 1874." [But in order that incestuous copula must be declared, it is necessary **a)** that it was had between those who were

bound by an impediment either of consanguinity, or affinity, or spiritual or legal kinship, or public honesty; **b)** that the female vessel was penetrated. But it is not required that those things followed which are required both for generation of offspring and for perfect copula. Thus Leo XII apud Feije; **c)** that, if there is not question of dispensation in the form of the poor, it was formal, i.e. perpetrated with knowledge of the impediment. Concerning copula, unless there is suspicion, the betrothed are not to be questioned. There is no dispensation for the easier impetration of which copula has falsely been alleged. To St. Alphonsus (L. VI. 1134) it is most probable that, copula already having been exposed, the intention of more easily obtaining dispensation does not necessarily have to be expressed in the case in which other causes sufficient of themselves are set forth in the supplica.]

Quaer. 3° What must be done in doubt whether a cause falsely alleged was final or impulsive, or whether it was true or false?

Resp. See n. 162. 5°.

Quaer. 4° When the cause of dispensation ceases, does the dispensation cease, e.g. if the offspring to be legitimated by Matrimony has died, etc.?

Resp. 1° Affirmatively, if the cause is final, and ceases totally and certainly before the dispensation is expedited, or is made by the Bishop or by another to whom it had been committed by the Pontiff. Cf. n. 164. L. VI. 1182.

Resp. 2° Negatively, if the cause ceases when the dispensation has already been expedited and communicated by the delegated person to the suppliants, even if it ceases before the celebration of Matrimony. The reason is that through the dispensation the impediment has already been removed. L. VI. 1182.

Quaer. 5° Does he who, dispensation having been obtained from the impediment of affinity from illicit copula, e.g. with a consanguineous woman of the bride, again sins with the same woman before Matrimony, need a new dispensation?

Resp. 1° Negatively, if the dispensation has not yet been committed to execution by the delegated person; because such dispensations do not take effect from the day of expedition, but from the time of execution. - Thus all.

Resp. 2° Indeed negatively, even if the dispensation has been committed to execution. The reason is that the impediment of affinity has already been removed by the dispensation as regards the effect of contracting Matrimony. - Thus, as more probable, St. Alphonsus, L. VI. 1140.

But if, the Matrimony having been contracted, he should again sin with the same consanguineous woman of the wife, he is deprived of the right of asking the debt, because the dispensation, according to the style of the Curia, was conceded for the effect of contracting Matrimony, not for sinning more freely.

But he would need a new dispensation if he sinned with another consanguineous woman of the bride before Matrimony, even after the dispensation had been expedited, because a new affinity would be contracted.

Quaer. 6° Is a new dispensation required if, dispensation having been obtained from the impediment of consanguinity, or another of those of which there has been treatment in this number q. 2. Resp. 7,

incestuous copula has intervened between the betrothed?

Resp. 1° Affirmatively, if the copula was had before the execution of the dispensation. Thus from common interpretation, and from the style of the Roman Curia requiring the declaration of incest of this kind; for when this has been manifested, the Pontiff imposes a greater penance on the suppliant. It is also confirmed from the Declaration of the Sacred Congregation in the month of May in the year 1634. Then too revalidation of the prior dispensation can be sought simply, which revalidation they call: *Perinde valere*, and the faculty of which is accustomed to be conceded by the Holy See to Bishops asking it. Concerning this faculty see Feije.

Resp. 2° But negatively, if the copula was had after the execution of the dispensation. The reason is that, the dispensation having been conceded, and therefore the prohibition of Matrimony having been removed, the malice also of incest ceases. It is also established from the same Sacred Congregation.

Quaer. 7° Is a new dispensation required for consanguineous persons, if, dispensation having been sought and the circumstance of incest expressed in the petition, copula is repeated by the same persons?

Resp. Affirmatively, as it seems, provided **a)** there is question of a dispensation - not yet fulminated; - of the external forum; - in the form of the poor, or indeed ordinary, but enjoining separation, the copula having been repeated after the separation enjoined; **b)** the letters of dispensation do not contain the faculty "of absolving from the guilt of incest, even perhaps repeated up to the present execution." - Otherwise, it is certainly denied. Concerning the case in which the Bishop dispenses, see n. 1628. q. 6°. § Note.

Quaer. 8° If someone seeks a second dispensation in the same matter after first obtaining another, must he express the first?

Resp. 1° Affirmatively, if the impediment was contracted from some crime. The reason is that relapse into the same crime draws the Superior back from dispensing.

Resp. 2° Negatively, if the impediment is not from some crime or is from a different crime. - Thus St. Alphonsus and others commonly.

Notes to n. 1625 - note sequence 1. (1) The words which in the Responses to this and the following Question are enclosed in brackets were added by us to the Instruction from St. Alphonsus and other approved authors for the sake of explanation. (2) Van de Burgt, de Disp. n. 32. E. (3) Acta, T. IX. p. 571 sq. Notes to n. 1625 - note sequence 2. (1) Feije, n. 677. (2) Ib. n. 678. (3) Ib. n. 666. Appendix annotation (nu), to n. 1625. q. 2. R. 5°, p. 280, col. 1. St. Alphonsus writes, L. VI. 1136, that Benedict XIV in the Brief Etsi matrimonialis declared "that the Matrimony is indeed illicit, but not invalid, provided the relationship is not of the first or second degree of consanguinity or affinity." But Benedict XIV does not say this concerning the second degree, but in § 6 expressly reports that after St. Pius V invalidity was restricted to the 1st degree concealed. Thus also St. Alphonsus, ib. 1030. H. A. Tr. XVIII. 86. If the nearer degree is not the first, declaratory letters must be obtained concerning it, so that the Matrimony may be licit, or so that scandal may be avoided, i.e., letters by which it is declared that concealment of the nearer degree does not obstruct the Matrimony.

1626. Resolves. - 1° As n. 162. 1°.

2° It is not necessary to say in the petition how often copula has been had with a consanguineous woman of the bride; because from various acts of copula there arises a single affinity; nevertheless copula had with several consanguineous women of the bride must be expressed; because from these

so many different affinities are contracted: and, although these impediments are not diverse in species, nevertheless they are distinct in number. It is manifest from the Declaration of Benedict XIV.

3° Error in the name (if the change is minimal) or surname of the Orators, or of the diocese or parish, generally does not harm validity, provided the body is established, i.e. concerning the impediment, the cause, the identity of the person, etc. I said: generally; for sometimes it does harm, as can be seen apud Feije.

Notes to n. 1626 - note sequence 1. (1) L. VI. 1139. H. A. Tr. XXIII. 85. Notes to n. 1626 - note sequence 2. (1) n. 709. p. 682 (1). And S. C. Inq. February 1, 1882, Acta, T. 14. p. 431. (2) Feije, n. 710. Notes to n. 1626 - note sequence 3. (1) L. VI. 1141. (2) De Imp. n. 729. (3) Ib. n. 715. b). (4) L. VI. 1137. (5) Ib. 1138. Notes to n. 1626 - note sequence 4. (1) De Imp. n. 698. 700.

Point III. On the Mode of Asking and Executing Dispensation.

1627. - For conceding dispensations of the Holy See, according to the various quality of impediments, two tribunals have been constituted at Rome, namely the Dataria and the Penitentiary.

I. Dataria. Recourse must be had to the Dataria for all notorious impediments, or those which are foreseen as going to come into the knowledge of others, or those which can be manifested without infamy, scandal, and other inconveniences.

II. Penitentiary. Recourse must be had to the Sacred Penitentiary for dispensations and faculties which regard the internal forum alone, namely for occult impediments. But in the postulate, the proper names of the spouses being kept silent, fictitious names are placed. - At present, however, it is conceded that the Penitentiary may be approached also for notorious impediments when dispensation is requested in the form of the poor; indeed, in extraordinary and grave cases, even for Orators who are not poor. - But in dioceses which are subject to the Sacred Congregation de Propaganda Fide, all dispensations are obtained through the organ of this Congregation, and this without tax, but not always without alms. Cf. Vol. I. p. LXXV. A. VI. 4°. D. 5°.

Notes to nn. 1627-1628 - note sequence 1. (1) L. VI. 1139. (2) Ib. 1135. (3) Vind. p. 817 sq. Ed. 2. T. II. p. 482 sq. (4) H. A. Tr. XVIII. 87. Notes to nn. 1627-1628 - note sequence 2. (1) Nouv. Rev. Theol. T. V. p. 457 sq. (2) L. VI. 1131. Feije, n. 738. Notes to nn. 1627-1628 - note sequence 3. (1) Nouv. Rev. Theol. T. V. p. 444. (2) Gury, Ed. Rom. 1873. T. II. p. 682. (3) Past. Bl. fur N. Amer. 9 Jahrg. S. 85, 86.

1628. Questions. - Quaer. 1° In what way is dispensation to be sought if there are two impediments, of which one is public and the other occult?

Resp. If the occult impediment is defaming, the Orators can indeed consent that mention of it also be made in the supplication for the external forum; but then it is necessary to add to the petition of the Orators that this is being done. If their consent is not given, or cannot be sought, or does not seem to be sought, for the external forum recourse must be had to the Dataria, no mention of the occult matter having been made; but for the forum of conscience a supplication is instituted to the Penitentiary, in which for validity even the public impediment must be expressed, adding that its relaxation has been sought or will be sought from the Dataria.

Quaer. 2° Must recourse be had to the Sacred Penitentiary so that the circumstance of occult copula had among consanguineous persons, etc., may be manifested?

Resp. 1° It is certain that no obligation is given of exposing occult copula in a petition to the Dataria. The reason is that no one is held to defame himself, and besides this public revelation of occult incest is not prescribed.

Resp. 2° But this circumstance must be manifested to the Sacred Penitentiary. The reason is that it is generally prescribed that copula had between consanguineous persons, etc., who wish to enter Matrimony, be exposed. Now, since it is certain that no obligation is given of exposing occult copula in a petition to the Dataria - because no one is held to defame himself, nor is it said in the precept that public revelation of occult incest must be made - it follows that occult copula must at least be opened by secret manifestation before the Penitentiary, lest the law become altogether useless and exemption from a certain law be conceded without any cause. Several formerly held the opposite; but today there must be no further doubting concerning this, says St. Alphonsus, after the Bull *Pastor bonus* of Benedict XIV. The Responses of the Sacred Penitentiary of the year 1858 and July 20, 1869 confirm the doctrine of the Saint.

Quaer. 3° Is a dispensation sought in the form of the poor valid if the Orators are not poor?

Resp. Affirmatively. The reason is that obreption falls only upon the impulsive cause, not upon the motive or final cause; for poverty is not the reason on account of which dispensation is conceded, but on account of which it is conceded gratis. Hence another motive cause must always be present. - Thus St. Alphonsus, who says that this is established from the decision of the Sacred Congregation of September 9, 1679. Except: **1°** a dispensation conceded by a Bishop by force of an Indult having the clause: "in favor only of those who are truly poor"; which clause is not found in the faculties which are accustomed to be conceded to our Bishops; **2°** a dispensation conceded by the Sacred Penitentiary in a public impediment (n. 1627. II), in which case, according to the practice of this Sacred Tribunal, either another dispensation or a sanation is granted. - Each exception is clear from the Response of the Sacred Congregation of the Council, April 26 and June 28, 1873.

Quaer. 4° Who are to be judged poor?

Resp. From Canon Law they must be in some way miserable, since according to the style of the Curia the petition must be formed thus: "The Orators exist poor and miserable, and live from their labor and industry." In practice the state of fortune is to be exposed, or one must stand by the rules given by the Bishop.

From the Declaration of the Rectors of the Apostolic Dataria of the year 1841, this side of the mountains, those are to be reputed poor whose fortune does not exceed the value of 3,000 francs ($600); but those whose fortune does not exceed the value of 10,000 francs ($2,000) are called almost poor. - Bouvier.

Quaer. 5° In what way is dispensation to be executed?

Resp. 1° As regards dispensation of the Sacred Penitentiary, let it be done after absolution in these words, or similar ones: "By Apostolic authority I dispense with you concerning the impediment N., which you have incurred, that you may be able to enter Matrimony (or to perfect the one entered), and I render legitimate the offspring received (or to be received). In the name of the Father, etc."

No formula is prescribed under penalty of nullity, indeed not even under precept; for none is had in the Roman Ritual. If the confessor had omitted to legitimate offspring, he could repair this omission;

for then he would continue the cause committed to him and not yet completed. - Bouvier.

Resp. 2° As regards dispensation of the Dataria, the one delegated to dispense **1°** ought, for validity, to inquire into the truth of the petitions if the clause is present: "If you shall find that the petitions rest upon truth." Benedict XIV, const. *Ad Apostolicae*, seems at least always to require the verification of causes for validity. They except if, an inquiry having been made before the supplication, after the rescript there is sufficient certainty concerning the truth of the petitions; **2°** he should send the dispensation by letters to the Pastor, that the latter may intimate it to the parties.

Dispensation from the Dataria must always be sought through the Bishop. But dispensation from the Penitentiary can be sought immediately by the Orator, or by another in his place. Nevertheless more securely and more easily this too is requested through the Bishop and with the name of the Orator kept silent.

Quaer. 6° In what way must dispensation be obtained from Bishops when they can dispense from an Indult?

Resp. The same rules which are held in the Roman Curia as necessary must necessarily be observed also in this case; because the mind of the Supreme Pontiff is that Bishops cannot use the Apostolic concession in another way. This is clear from the Response of the Sacred Penitentiary, May 1, 1858. (44) p. 427.

But a Bishop, dispensing by virtue of an Apostolic Indult, does not have to express, under penalty of nullity, as some wrongly suppose, that he dispenses as a delegate of the Holy See from an Indult of delegation conceded on such a day and year, and going to be valid for so many months or years. Except if this is prescribed in the Indult, and indeed under an irritating clause, of which kind is this: otherwise let them be null. - Hence it follows that matrimonial dispensations given informally by our Bishops are valid, and, with sufficient cause acceding, licit also; since form in their faculties, today at least, is not prescribed under penalty of nullity. The conclusion, otherwise evident, is confirmed from the Response of the Sacred Congregation of Inquisition, Monday, June 15, 1875, to doubt 3 from the Vicar General of St. Louis (United States), conceived in these words: "Whether dispensation concerning matrimonial impediments conceded by an Ordinary of this region according to the accustomed Apostolic faculties, although gravely illicit, is nevertheless valid when it is given informally, because the tenor of the faculty delegated by the Holy See, or the time for which, has not been expressed, or because it was conceded telegraphically in few words or only orally. This doubt arises from the omission of the clause: otherwise let them be null, in the faculties now conceded to Ordinaries of America; which clause formerly had been expressly placed in faculties of this kind."

The Sacred Congregation responded - "Affirmatively; provided the woman really has not been abducted, or if abducted, does not exist in the power of the abductor. But the clauses are to be observed to the exact rule, insofar however as the circumstances of things, times, and places can allow."

Note. - As regards the question whether a Bishop, dispensing from an Indult, can do this if incest or quasi-incest (n. 1625. q. 2. Resp. 7) or malicious intention (ib.) has intervened, of which there is no mention in the Indult, first indeed the circumstance of incest, etc., is evidently comprehended by those Indults by which the faculty of dispensing is given together with the faculty of legitimating offspring received, as is done for each part n. 6 Fac. Form. I. p. LXX, and for all and singular

Extraordinary Faculties D (n. 7, p. LXXIV) and Extraordinary E (n. 4. § Besides, p. LXXV). Therefore no difficulty exists for our Bishops from this head. - But even if the Indult in no way mentions incest or malicious intention, nevertheless the celebrated Feije does not doubt that the Bishop can dispense. Consequently the same must be said concerning the repetition of incest, and concerning the revalidation of a dispensation conceded by a Bishop and invalid from some aforesaid cause. - But if in a case a double supplication is required, one in the external forum, the other in the forum of conscience, this can be made either to the Bishop or to the Major Penitentiary.

Besides, the Ordinary using an Indult of dispensing will be able to dispense with the clause: that the dispensation is going to be valid, even if incest committed or repeated is detected. But as often as this conditioned form is employed by him, penance also or other things must be conditionally enjoined by him; and these indeed afterwards, according as there is question of a public or occult matter, are imposed absolutely by the pastor or confessor detecting incest committed or repeated before Matrimony. Understand these things concerning strict power. As regards its use, prudence requires this: **1)** that it not be employed spontaneously, unless perhaps for repetition of occult incest already expressed in the supplication; **2)** if the confessor asks, it is indeed easily to be employed for the case just indicated, more rarely for incest not yet expressed; **3)** for the external forum, or if the pastor asks, it seems altogether that one must abstain from a form of this kind. Feije, n. 720. 721.

Quaer. 7° What are the clauses which are customarily placed in dispensations from the Sacred Penitentiary?

Resp. They are the following, namely:

1° *If it is so.* This, unless he knows it from elsewhere, the executor is bound to inquire into, under penalty of nullity. Faith is to be given to the penitent, unless the delegated one certainly knows the opposite from knowledge received outside Confession. Feije, n. 748.

2° *Sacramental Confession first having been heard.* Therefore, according to this clause, Confession is necessary, and indeed before the delegated one himself.[1] - "Provided," however, "the confessor, executor of the letters of the Sacred Penitentiary, observes," thus the same Sacred Penitentiary, "the things prescribed to him in the same letters, then dispensations given by force of the same letters will be valid, even if it happens that the penitent confesses nullly and sacrilegiously and receives absolution from sins. But if the confessor notices that the penitent, from his indisposition, cannot rightly be absolved from sins, he must take care to dispose the same penitent rightly, or, if he cannot be disposed at present, together with absolution from sins also to defer the aforesaid dispensations, unless perhaps some urgent necessity counsels accelerating the same dispensations."[2] The dispensation must be conceded within Confession. (N) p. 409.

3° *The occasion of sinning having been removed.* It is understood, if the occasion is voluntary, which in fact is to be removed; but if necessary, let it at least be taken away from the soul, by rendering it remote from proximate through the due means.

4° *Provided the impediment is occult.* See n. 1564.

5° *A grave penance having been enjoined on him,* etc., *besides the sacramental penance.* Grave is that which corresponds to a work which is enjoined by the Church under grave obligation (n. 1382. q. 4°); gravest, if the grave penance is doubled or tripled; salutary, if it is not only proportioned to the

gravity of the sin (according to the powers of the penitent), but also medicinal (n. 1389); long, if it is to be continued weekly for a year (according to the gravity of the sin); lasting, which is extended to 3 years; but perpetual, which embraces the whole life, not as regards individual days (unless this is expressly required in the Rescript), but as regards stated days.[3] - Yet one must beware lest a penance be chosen from which the penitent's crime could be detected. - But if some penance imposed by the Penitentiary itself is found, it cannot be passed over.[4]

6° *The present letters having been torn up, under penalty of excommunication latae sententiae.* This tearing-up must be done immediately; but understand this morally, namely at least within three days after the dispensation has been executed. But if in the letters the clause of tearing-up has not been placed, as it is not placed when Matrimony has not yet been contracted, then there is no obligation of tearing them up; but a dispensation of this kind must be cautiously noted by the Pastor in a book which cannot be looked at by anyone else, so that he himself, when there is need, may be able to make proof of the dispensation obtained. (45) p. 428.

Quaer. 8° In what way can the monetary tax which is imposed on Orators be reconciled with the Decree of the Council of Trent commanding that dispensation be conceded **GRATIS**?

Resp. If money received on the occasion of dispensations turned to the benefit of the one dispensing, the mandate of the Council of Trent would be violated, and the dispensation would be simoniacal; but the matter does not stand thus; for the money is received only as an alms to be expended on pious works. Cf. n. 357. 6°, and, as regards us, p. LXXV. A. 1°. C. 4°. D. 5°.

Quaer. 9° In what way is a dispensation of the Sacred Penitentiary to be executed if the impediment is known and common to each contracting party?

Resp. In this case each one must be dispensed by his or her respective confessor. This is clear from the response of the Sacred Penitentiary, November 15, 1748. - But the same Rescript can serve two confessors, and is to be torn up by him who later executes it with his penitent. But if the impediment is known only to one, a single execution is required. - Collet, *Traite des Dispenses*. - Bouvier, etc.[1]

Quaer. 10° What, especially in these Provinces of the United States, must be observed particularly as regards the mode of **1)** procuring, **2)** conceding, and **3)** executing matrimonial dispensations?

Resp. ad 1um. 1° Let the Pastor observe the following: "The mere desire of entering some Matrimony is not sufficient, nor a greater future abundance of temporal things, nor another motive of this kind; but a cause consonant with the canons is required. Therefore the Pastor or confessor should first indeed inquire concerning the cause; if he sees that it is certainly insufficient, let him prudently declare this, and not have recourse; if it is sufficient, or perhaps sufficient, let him not immediately agree, but, if it can be done, let him gently dissuade; but if they do not desist, or the Matrimony is either necessary or advisable, let him assist the parties by his office, yet never inconsiderately making a certain hope of obtaining dispensation."[1]

"If sufficient causes" seem "to the Pastor" to be present, let him "prudently" admonish the Orators, "... that no grace ... will be obtained, unless the petitions rest upon truth. Finally, if, with conscience safe, without respect to gain or favor of the suppliants, all things having been well weighed, he judges that they can legitimately be dispensed, then in the supplicatory libellus let him expose the species of the fact neatly and sincerely, and let him diligently beware lest he alter or change it in any way in

substantial matters, but let him strictly adhere to those things which were exposed to him by the Orators, and much more let him abstain lest he force in, with detriment to his own soul, something false or fictitious invented from his own ingenuity for obtaining the grace more easily. Moreover, let him cautiously admonish the Orators concerning those things which we have said above" (n. 1625. q. 2°. Resp. 6. 7; q. 5°. Resp. 2°; q. 8°) "concerning copula had between them before or after the petition."[2]

2° "Because ... Bishops in these provinces have ample faculties of dispensing by special delegation, it will very rarely happen that application must be made immediately to the Dataria or the Sacred Penitentiary, but rather to the Bishop of the Diocese."[3]

But if recourse cannot be had to the Bishop, either because he lacks the faculty, or because the sacramental seal obstructs it, in the former case recourse should be had to Rome through him, in the latter directly, and indeed through the Sacred Congregation de Propaganda Fide, addressing the Pontiff for the external forum, and the Major Penitentiary for the internal forum.[4]

3° For matrimonial dispensations, even of the internal forum, a written supplication is more prudent; for thus the case and the petitions will be able to be weighed better by the Ordinary.[5]

Resp. ad 2um. 1° As often as the Ordinary dispenses from delegated faculty, let him observe those things which were said in this number, q. 6°.

2° If he dispenses by quasi-ordinary right (see n. 1623. II), he will act more prudently if he concedes the dispensation in writing; for thus he will weigh both the case and the petitions better, and will place the due clauses more certainly.[6]

3° "It seems greatly to be desired that ... the Bishop employ some officials in dispensations concerning public impediments, and others concerning occult impediments, because otherwise the secret in occult matters ... sometimes can scarcely be preserved." See other things apud Feije, *de imp.* n. 722.

Resp. ad 3um. Let those things be observed which were said in this number, q. 5°. 7°. 9°, and which are to be said below.

See p. 303 for formulas for requesting certain matrimonial dispensations. Concerning defects of dispensations and their sanation, (T) p. 412.

Notes to n. 1628 - note sequence 2. (1) Ben. XIV. Inst. 87. § Disceptabant olim. (2) Knopp, § 48. p. 485. not. 6. (3) Ib. p. 497. Heiss. § 59. (4) Ben. XIV. Inst. 87. § Si dispensatio. Notes to n. 1628 - note sequence 3. (1) L. VI. 1143. Notes to n. 1628 - note sequence 4. (1) Feije, de Imp. n. 649. (2) Heiss. § 60. II. (3) Ib. § 60. I. (4) Feije, de Imp. n. 688. (5) Reiffenst. App. § 10. n. 511. 524. (6) Ib. Appendix annotation (44), to n. 1628. q. 6°. p. 284. col. 1. It can therefore be asked whether a Bishop using the faculties of Formularies D and E, T. I. [p. LXXIII, LXXIV](/manuals/konings/iii-faculties#h4), for at least the internal forum himself ought to bestow the dispensation and also validly can do so, since from the practice of the Sacred Penitentiary in the commissory form, p. 279. col. 1, they are granted to the confessor of the petitioner. - The resolution of this question is clear from the Roman response to the following doubts: "The extraordinary Faculties of Form D ... under n. 8 comprehend also the power of subdelegating, etc." "Since there are not lacking among Canonists those who, although they admit that a mandate of the Apostolic See or a faculty of dispensing with a determinate person cannot be subdelegated to another unless the Holy See has permitted this, nevertheless teach that otherwise one must judge concerning an indult or general faculty, namely that this can, by the indultary, as one delegated to a universality of causes, by common law itself, be subdelegated to another in a particular case; but others either deny or doubt, because they think in this matter one must proceed rather from the mind of the Holy See than from some general principle, for the peace of my conscience I humbly seek a response to the following doubts. "1°. Whether I can subdelegate the aforesaid faculties of the

Formulae, whatever they are, in particular cases, to another, or rather ought to dispense myself? "2°. Whether at least, by reason of the style of the curia to be followed by the indultary, I both can and ought to subdelegate the faculty of the aforesaid Formula under n. 2 of dispensing, etc. ... Likewise, at least in a case in which there is question of an impediment of the internal forum, the faculty of the same Formula under n. 6 of sanating, etc. ..." "It was answered in the following tenor: "To the doubts proposed by Your Excellency concerning the subdelegation of faculties which are granted by the Apostolic See to Bishops" - the name of the region follows - "I judge that it is to be answered: To the first, that Bishops in the case cannot be considered as delegates to a universality of causes, and therefore cannot indistinctly subdelegate the aforesaid faculties. To the second, that the extraordinary Faculties of Formula D," and by parity of reason the same is to be resolved concerning the Faculties of Form E, "can be subdelegated only in the mode and terms expressed in n. 8," Form D, "and n. 4," Form E, T. I. [p. LXXIV, LXXV](/manuals/konings/iii-faculties#h4). "But if Your Excellency in your prudence judges it necessary to subdelegate to confessors the faculties which are comprehended under 2 and 6," see T. I. [p. LXXIII, LXXIV](/manuals/konings/iii-faculties#h4), "it is necessary that you be fortified by a special Indult for this purpose." Appendix annotation (Nu), to n. 1628. q. 7°. R. 2°. p. 285. col. 1. Dispensations for the forum of conscience conceded by quasi ordinary power, or not by force of faculties of the Holy See, do not necessarily have to be fulminated in Confession, unless the Ordinary has placed this condition. Feije, de Imp., n. 757. § fin. It can sometimes be foreseen that the parties, or one or the other of them, cannot be induced to make Confession; and this same thing sometimes happens in dispensations of the external forum. In a case of this kind, prudently, in the petition itself by which the dispensation is requested, it is asked that the clause not be added. Feije, ib., n. 746. 757. Appendix annotation (45), to n. 1628. q. 7°. p. 285. col. 2. To the doubt of the Vicar Apostolic of Luchu: "Whether Missionaries, before they grant dispensations in the external forum, ought, by way of caution, to absolve those to be dispensed in the internal forum from Ecclesiastical censures, and whether they can and ought in the external forum?" S. C. de P. F., 26 Sept. 1821, responded: "Affirmatively to the first part; to the second, likewise affirmatively, with faculty obtained from the Ordinary." Collect. p. 490. n. 1020. Appendix annotation (T), to n. 1628. q. 10°. p. 286. col. 2. ### Concerning the defects of matrimonial dispensations and the sanation of them. The things which I have handed down scattered here and there on this matter in the Treatise on Matrimony, I wish here to exhibit collected together for an easier understanding of the matter and practical use. The defects of matrimonial dispensations, or causes of nullity of the same, are either extrinsic or intrinsic. Extrinsic ones especially arise from a defect of power in the one dispensing, in which case a competent Superior is to be approached for sanation; from the invalidity of the fulmination, which, if it was caused by the form of the mandate not being observed, the delegate can execute again. See n. 1628. q. 5°. R. 2°. q. 17. q. 9°. What is to be observed then in certain other rarer cases pertaining to this matter, see Feije, de Imp., n. 735. Intrinsic ones are subreption and obreption, n. 1625. Nullity arising from subreption or obreption admits a threefold hypothesis: 1°. If the dispensation was sought in the external forum alone, and a new impediment existing before the fulmination of the dispensation is detected, for that which arises only after this does not require sanation of the dispensation, or a defect to be sanated in the external forum is detected, convalidation is sought for the external forum alone. Examples: an impediment not rightly proposed; one only, although several concurred; public incest not set forth; a false final cause. But if a new impediment existing before the fulmination of the dispensation, or a defect, pertains to the forum of conscience, recourse is had for this alone in the same way in which a dispensation for the internal forum is sought when a public and occult impediment stands in the way of the nuptials, n. 1628. q. 1°. q. 2°. 2°. If the dispensation was sought in the forum of conscience alone, and a new impediment or defect also pertains to it, convalidation is asked for the forum of conscience alone. Examples: a dispensation was sought upon an occult impediment of affinity from illicit copula; when the dispensation has been obtained, the confessor understands that at the same moment, together with the impediment of affinity, incest existed between the spouses; or a dispensation was sought upon occult affinity, upon crime, and afterward it is detected that the alleged cause did not exist, or that the impediment was proposed erroneously, not well. But when an impediment or defect pertaining to the external forum has been detected, recourse is had both for this forum and for the forum of conscience, in which, that is, in the forum of conscience, the occult and public impediment will be set forth according to the things said in n. 1628. q. 1°. q. 2°. 3°. If the dispensation was sought both in the external forum and in the forum of conscience, and a new impediment or defect pertains to the external forum, a double convalidating recourse is necessary: one, namely, for the external forum, in which the new impediment or defect is set forth together with the one already previously declared; the other for the internal forum, in which all the impediments or defects already known are set forth, both public and occult. - But when a new impediment or defect pertains to the forum of conscience, convalidation is to be sought in this alone. From Feije and Van de Burgt. Query 1° What defective dispensations can a Bishop convalidate? Resp. 1° Dispensations granted by himself, as often as the matter newly detected would not otherwise have exceeded his power at the time at which the dispensation was granted. 2° Dispensations also granted by the Holy See, if and insofar as power of revalidating them has been granted to him. But no such power is granted to our Bishops by force of the

Formularies. In the remaining cases he cannot. But although he cannot convalidate dispensations granted by the Holy See, nevertheless in this case he will be able himself to dispense if the dispensation sought and granted by the Holy See was upon an impediment in which he himself could have dispensed, and with which nothing occurs which requires recourse to the Apostolic See. From Feije. Query 2° What is to be done in doubt whether the dispensation was valid? Resp. It is to be held as valid, n. 1625. Query 3° What if there is doubt concerning the very fact of obtaining the dispensation? Resp. A dispensation is to be obtained, as follows from those things which were said concerning a doubtful impediment from a doubt of fact, n. 1574. q. 5°. R. 3°. Query 4° What if the defect of the dispensation is insanable, for example, on account of defect of an impediment of natural law? Resp. The things said in n. 1638 are to be applied. Query 5° Are those about to marry, or, Matrimony having already been contracted, the spouses, always to be admonished concerning the defect, even a sanable one? Resp. Apply the things said in n. 1423. q. 3°. q. 4°. n. 1556. q. 3°. n. 1639.

Chapter VII. On the Revalidation of Matrimony

1629. - Matrimony can be invalid: **1°** because of defect of consent; **2°** because of defect of the prescribed form; **3°** because of incapacity of the parties. (46) p. 428.

Appendix annotation (46), to n. 1629. p. 286. col. 2. In whatever way Matrimony is revalidated, the parties, or at least the conscious party, ought to be in the state of grace. Yet if this cannot be taken care of, or if the revalidation of Matrimony must be hastened, nevertheless this is to be done. Cf. Feije, de imp., n. 739.

Article I. On the Revalidation of Matrimony Invalid Because of Defect of Consent

It is certain, **1°** that Matrimony invalid because of defect of consent alone - that is, celebrated by error, or through force and fear, or fictitiously - can be revalidated by simple renewal of consent.

It is certain, **2°** that renewal of consent of each party is required, if each truly did not consent, and at least of that one who did not consent, if it is one only. But concerning several things there is controversy; hence:

1630. Questions. - Quaer. 1° Must consent be renewed by both, if one only consented fictitiously or through fear?

Resp. Negatively. The reason is that the consent of the other, truly placed, perseveres, so long as it has not been positively retracted. - Thus the Theologians commonly; and St. Alphonsus calls this sentence the truer one.[2]

Nevertheless, some affirm, the sentence of whom to others does not seem probable. But in practice it is better to choose the safer counsel, and, insofar as it can be done without inconvenience or danger, to take care that consent be elicited from each.

Quaer. 2° Must the consent to be renewed be before the Pastor and witnesses?

Resp. Negatively. It appears from the practice of the Church and the common sentence, namely because of the inconveniences which would follow from that obligation. Except if the nullity has become publicly known. Yet the proclamations are then omitted.

Notes to n. 1630. (1) Heiss. § 60. I. 5). in note. (2) L. VI. 1114.

Article II. On the Revalidation of Matrimony Invalid Because of Defect of the Prescribed Form

1631. - I. It is certain that Matrimony invalid by reason of clandestinity must be entered before the Pastor and witnesses, unless there is obtained from the Supreme Pontiff a dispensation from the law of the Council of Trent, which otherwise is rarely conceded. For that law obliges so long as it has not been fulfilled, since it is a condition *sine qua non*, required in every case for the validity of Matrimony, unless recourse to the Pastor is commonly and morally impossible in some place [n. 1606. f)].

II. If both spouses do not refuse to present themselves before the Pastor, before him the Matrimony must be revalidated either publicly or secretly, according as the nullity of the Matrimony was public

or occult. The reason is that in the former case scandal must be removed, but in the latter it must be guarded against, and the reputation of the spouses must be preserved.

"But if the Ordinary," while the invalidity is notorious, "because of peculiar circumstances judges it expedient that it be celebrated secretly before the proper Pastor and two witnesses, it will be able to be celebrated secretly, provided however that public scandal can be removed by another reason, and is removed as soon as possible." Thus Cardinal Caprara in the Instruction on the revalidation of Matrimonies.

But various difficulties occur if one party consents to contracting before the Pastor and the other refuses, or if both are badly disposed. Hence:

1632. Questions. - Quaer. 1° What must be done if one party, or each, consents to renewing consent before the Pastor, but refuses to go to the Church?

Resp. They are to be joined in their own house or in another place chosen by them, provided grave witnesses are present, by whose help the convalidation of this Matrimony can become public, if this is necessary for removing scandal, namely if the invalidity of the prior conjunction is notorious.

Quaer. 2° What must be done if one refuses to contract before the Pastor?

Resp. Thus Cardinal Caprara responds in the cited Instruction: "If the refusal arises from ignorance or some error against the laws or doctrine of the Church concerning impediments invalidating Matrimony, let the one refusing be instructed with due prudence and in charity. And insofar as he still refuses to convalidate his Matrimony in the face of the Church, then effort must be made that he constitute a special procurator, who in his name may contract Matrimony in the customary manner; or at least, consent de praesenti having been expressed through a letter directed to the proper Pastor or to another priest having the license of the Ordinary or Pastor, let the Matrimony be renewed."

Quaer. 3° What if the indisposed party does not wish to contract even through a procurator, etc.?

Resp. Thus the same Cardinal Caprara responds: "If the things thus far prescribed can in no way be obtained, and one party cannot be brought to the celebration of Matrimony to be made according to the things handed down above, ... we judge that recourse can be had to dispensation in the root of Matrimony, or to the sanation of Matrimony in the root, so that at least the salvation of the innocent party's soul, the legitimacy of the offspring, and the tranquility of families may be consulted altogether, and as soon as possible provision may also be made for the salvation of the soul of the one refusing."

Quaer. 4° What if neither party consents to contract Matrimony anew?

Resp. Nothing at all is to be done here and now, because sanation in the root, although absolutely speaking it could be given by the Pope even in that case, will not be given. Therefore it remains that the Pastor frequently commend the most wretched concubinaries to God, and by assiduous cares strive to procure their conversion.

Article III. On the Revalidation of Matrimony Invalid Because of Incapacity of the Parties

For revalidating Matrimony invalid because of an ecclesiastical impediment, before all things the dispensation from the impediment must be obtained. But a dispensation of twofold kind is given, namely: **1°** simple dispensation, or in the accustomed mode; **2°** dispensation in the root of Matrimony.

§ I. On the Revalidation of Matrimony in the Ordinary Mode

1633. - First Rule. If each spouse is conscious of the impediment, each is bound to renew consent, after a dispensation has been obtained for revalidating the Matrimony. The reason is that knowledge of the nullity of the Matrimony, because of a known diriment impediment, had necessarily excluded true consent in the preceding contract of Matrimony.

Second Rule. If one party only has known the impediment, that one is certainly bound to renew his or her consent, at least alone and separately. It follows from the things just said.

Third Rule. The party ignorant of the impediment would not necessarily have to renew consent for the validity of Matrimony, if the impediment regarded the other party only. The reason is that the consent of that one was valid from the beginning, and therefore perseveres; therefore the renewal of consent of the incapable party would suffice. Hence, if a faithful person had married an unbaptized woman who is ignorant of the impediment, it would suffice that, infidelity ceasing or a dispensation having been obtained, the faithful person renew consent; because the consent of the infidel was valid, since the Church could not impress personal incapacity upon her.

1634. Questions. - Quaer. 1° Must the party ignorant of the impediment necessarily renew consent for the valid reintegration of Matrimony?

Resp. A twofold probable sentence is given:

The first sentence affirms. The reason is, **1°** because the impediment takes away the efficacy of the consent from the beginning; therefore it remains inefficacious, and hence can produce no effect, since it perseveres in the same mode in which it was given; but a simple dispensation does not heal the defect which preceded, but only renders the parties capable of consenting in the future; **2°** because in Rescripts of the Sacred Penitentiary this clause is usually added: *the other party having been certified concerning the nullity of the prior Matrimony*. Therefore. - Sanchez, Sylvius, Navarrus, etc.

The second sentence denies. The reason is that the prior consent, although it lacked its effect because of an impediment placed by positive law, nevertheless by the law of nature was valid, since it was furnished toward a person capable by the law of nature of contracting; therefore, the impediment having been removed, the prior consent suffices, which virtually perseveres in effect through conjugal copula, cohabitation, or through other external signs. - Therefore, the internal consent of the spouse conscious of the impediment acceding, expressed at least through similar external signs, the consent of each is united and the Matrimony is convalidated, etc.

In practice the first sentence is to be followed, at least outside the case of urgent necessity, which will be present if sanation in the root cannot easily be obtained, and from manifestation of the nullity of the Matrimony made to the other party, or from separation of the spouses, danger of grave evil, say of

infamy, scandal, etc., is prudently feared. For then it will be lawful to use the second sentence, because in straits of this kind it is not prohibited to use an opinion even slightly probable, even with danger of the frustration of the Sacrament.[1] The present tenor of faculty XII of the schedule of the Sacred Penitentiary adds strength to this sentence: "And insofar as this certification" of the nullity of the Matrimony to the other party "cannot be made without grave danger, consent having been renewed according to the rules handed down by approved authors."

Quaer. 2° Must consent be renewed before the Pastor and witnesses?

Resp. 1° Affirmatively, if the impediment is public. The reason is, **1°** because then the reason of removing or preventing scandal presses; **2°** because the Briefs of the Dataria always thus require; **3°** because otherwise the validity of the Matrimony could not be proved before the Church, since it is publicly established that the Pastor and witnesses were present only for the celebration of an invalid Matrimony, and thus the end intended by Trent would not be obtained; for the spouses could, after the Matrimony was clandestinely revalidated, separate, and with impunity enter new nuptials with others. Yet in this case the Ordinary can (and, when the impediment, at present occult, was therefore dispensed as public, or for the external forum, because it was prudently feared that it would become public, he must) not only dispense in banns, but also permit secret celebration in the Tridentine form, provided that afterwards (and likewise in the case in which what is now occult afterwards becomes public) scandal is removed by prudent divulgation. When nuptials have been contracted invalidly in a place where at least one of the two was not bound by the Tridentine law, secret renewal of consent, outside the case in which public renewal is imposed as a condition of the dispensation, is valid, and is even licitly permitted, if the other party, especially when non-Catholic, is unwilling to present himself or herself before a priest. But care must always be taken that scandal either not arise, or be removed by prudent divulgation.[1]

Resp. 2° Negatively, if the impediment is occult. The reason is **1°** because satisfaction has already been made to the law of Trent, or at least to its mind (namely, of meeting the inconveniences which arise from clandestine nuptials), through the presence of the pastor and witnesses in the Matrimony already contracted; **2°** because otherwise infamy of the parties, scandal, and other inconveniences would follow; **3°** because the practice of the Sacred Penitentiary, the Sacred Congregation of the Council, etc., thus bears. Thus against a few.[2] Yet if it can easily be done, it is sometimes usefully counseled that mutual consent be renewed at least before the confessor.

Quaer. 3° At least must a Matrimony, null because of an occult impediment, be revalidated before the Pastor and witnesses, if they at the time of Matrimony were conscious of the impediment?

Resp. The denying sentence seems more probable to St. Alphonsus. The reason is that the assistance of the Pastor and witnesses was prescribed by Trent, not so much for testifying to the validity of the Matrimony - which can be unknown to them in many ways - as for proving the external celebration of Matrimony, so that the danger may be met lest the same spouses enter other nuptials.

But the affirmative is also probable to the Holy Doctor; because the Pastor and witnesses, by assisting at Matrimony known to them as invalid, were witnesses only of the nullity of the Matrimony.[3]

Quaer. 4° In how many modes can the consent be renewed or exacted from the party ignorant of the impediment, after a dispensation has been obtained?

Resp. These are the principal modes assigned by various authors:

First Mode. If the spouse simply says: Our Matrimony is null because of some impediment; or: My confessor told me that it is null, ... and therefore let us renew consent.

Second Mode. If the spouse says: I did not have true consent when I contracted Matrimony; now I wish to furnish a new one. Do you also wish to furnish it? This mode is commonly admitted by authors, and rightly can be employed without a lie, since null consent is not true consent; and otherwise the spouse ignorant of the impediment thus sufficiently knows the nullity of the Matrimony.

Third Mode. If he says: I am troubled by scruples concerning the validity of our Matrimony, and therefore let us renew consent. This mode can be admitted according to the more common sentence with St. Alphonsus.[1] For it suffices that the other party place consent independent of the prior consent; but for this it is enough if he prudently doubts concerning the validity of the first Matrimony.

Various other modes are also presented by several Theologians; for example, if the spouse says to the other party: Say, I ask, if our Matrimony were null, would you not wish to contract again? Or: If you had not married me, would you not now wish to marry? etc. But deservedly those modes are rejected; because thus it is uncertain whether the other party intends to repeat consent into the preceding Matrimony, or rather to consent into a new one. Yet St. Alphonsus admits the former mode: Say, I ask, etc., in the case in which through it the other party would begin to doubt or suspect the validity of the Matrimony.[2]

Notes to n. 1634 - note sequence 1. (1) L. VI. 1115. 1116. Notes to n. 1634 - note sequence 2. (1) Feije, n. 775. 779. (2) L. VI. 1110. Feije, n. 776. (3) Ib. 1112. Notes to n. 1634 - note sequence 3. (1) L. VI. 1117. (2) Ib.

§ II. On the Revalidation of Matrimony with Dispensation in the Root

1635. - Dispensation *in the root* is the abrogation of an ecclesiastical law which introduced an impediment, in a particular case, joined with the rendering void of all effects which even before had followed from the law.

Therefore this dispensation produces its effect by removing from the midst the effects of the law, which, because of the nullity of the Matrimony, before the dispensation was granted, and even in the very act of contracting, were produced. - Thus Benedict XIV.[3]

Hence simple dispensation differs from dispensation in the root in this, that the former has its effect only from the time at which it is conceded, or *from now*, and therefore cannot exempt from renewal of consent. But the latter convalidates Matrimony from the time of Matrimony, or *from then*, not in this sense, that it effects that Matrimony, contracted nullly from the beginning because of an impediment, was not so contracted, but by removing from the midst those effects which, because of the nullity of a Matrimony of this kind, before the dispensation was granted, and even in the very act of contracting Matrimony, were produced (namely, defect of consent, nullity of the contract, illegitimacy of offspring, that is, its spiritual and temporal effects), so that, the defect of consent having been healed (which contract is the root), through a fiction of law [T. I. p. 478. col. 1. (6)] these effects before the Church are held as if they had never existed. Heiss, § 64. I.

Notes to n. 1635. (1) L. VI. 1117. (2) Ib. (3) Inst. 87. n. 80. § Haec sane. De Syn. L. XIII. c. XXI. n. 7.

1636. Principles. - I. The Church, or the Supreme Pontiff, can dispense *in the root* of Matrimony as regards all impediments of Ecclesiastical Law. The reason is, **1°** because to dispense in the root is nothing else than to take away an impediment not only *for the future*, but also *for the past*, or to take away the effects which it produced, so that before the Church they are held as if they had never existed. But in these things there is nothing which exceeds the power of the Church. Therefore. **2°** Because this is established and confirmed from the practice of the Church, which for several centuries has been accustomed to concede such dispensations. Boniface VIII is read to have dispensed thus first, in the year 1301; but in more recent times Pius VI, Pius VII, Leo XII, etc., dispensed more frequently in the same mode.

II. But four conditions are required so that Matrimony can be convalidated by the aid of dispensation in the root, namely:

1° That the conjunction of the spouses had an extrinsic species of just Matrimony, and was not manifestly fornicarious. Thus Benedict XIV. The same also Cardinal Caprara requires. The reason is to be sought, not from the essence of the thing, as some wish, but from the pontifical will, as the celebrated Feije proves by examples.[1] - But the extrinsic species of Matrimony is present even in nuptials which, in a place where the diriment law of clandestinity did not oblige one or the other, were contracted invalidly because of an occult impediment - whether before a civil magistrate, or before a minister, or in another mode attesting the intention of Matrimony. Indeed the extrinsic species of Matrimony cannot be excluded from those Matrimonies concerning which it is seriously doubted whether in the place of celebration they were bound by the Tridentine law, and which were contracted in one or another mode said above. Feije.[1]

2° That the consent of each has persevered; for the Church cannot convalidate consent retracted even from one party only. Otherwise, not rarely the Pontiff requires in the Rescript that it be established concerning the permanent consent of each party. But if that is not required, it suffices that no argument of revocation of consent is had, concerning which inquiry must be made not imprudently.[2]

3° That an urgent and grave cause be present. But this can especially be had in a threefold case, namely: **1°** when one party cannot be brought to renewal of consent, and nevertheless exhibits consent de praesenti of remaining in Matrimony; thus Cardinal Caprara; **2°** when the impediment is known to one party only, which could not be manifested to the other without grave inconveniences; **3°** when an urgent reason is present for not admonishing the spouses concerning the nullity of the Matrimony.

This third condition is not required for the validity of the dispensation, if the dispensation is knowingly conceded without it by the Supreme Pontiff; otherwise, if it is conceded by a Bishop from a particular Indult, as among us.

4° That there is question of an impediment of Ecclesiastical Law; "for the Pontiff cannot heal consent vitiated by an impediment of natural or divine law, for example, of bond. But if an impediment of this kind has supervened after Matrimony celebrated invalidly because of an ecclesiastical impediment, for example, perpetual impotence, nevertheless the Matrimony can be sanated in the root; for with respect to future Matrimony this impotence would be antecedent, but with respect to the one already contracted it is subsequent. It is indeed difficult to conceive sanation in the root, since Matrimony

truly does not become valid except *from now*, or when the sanation is applied, and therefore the impotence can truly seem to precede the Matrimony; but the reason of explaining is to be sought from the peculiar nature of sanation in the root, by which consent once actually furnished is healed through the abrogation of the impediment *from then*. We have at hand a sanation in the root of this kind conceded by Our Most Holy Lord Pius IX in the year 1848. Nevertheless the parties certainly cannot use Matrimony." Thus the celebrated Feije.[3]

Note. - Although ordinarily sanation in the root is given for occult nullity, nevertheless in some very difficult circumstances, and certain conditions being posited, it is also conceded for public nullity.[1] See n. 1632. q. 3°.

Notes to n. 1636 - note sequence 1. (1) De Imp. n. 768. (2) Acta, T. I. p. 186. (3) Feije, de Imp. n. 769. Notes to n. 1636 - note sequence 2. (1) Feije, de Imp. n. 769.

1637. Questions. - Quaer. 1° Can dispensation in the root be obtained and applied, each party being ignorant of it?

Resp. Affirmatively. The reason is that knowledge of the dispensation is in no way required so that the Church can take away the effect of the law, or the obstacle which was standing in the way of the efficacy of consent; for the power of the Church is altogether independent of such knowledge. It is confirmed from the practice of the Church. For Clement XIII, as Collet reports, conceded to a certain Procopius (who seems to have been a Bishop) the faculty that he might sanate in the root, the parties not having been admonished, many Matrimonies entered invalidly because of too great an extension of faculties received. Other examples also of similar revalidation of Matrimonies are reported by others.

Quaer. 2° Can dispensation **IN THE ROOT** be conceded if both parties, when they contracted, knew the impediment?

Resp. 1° Negatively, according to the more common sentence, if the spouses in contracting clearly knew the nullity of the Matrimony. The reason is that, the invalidity of the Matrimony being known, true and properly so-called consent cannot be given into it, but only an intention of living in concubinage is had; and therefore consent cannot be healed, since from the beginning it was fictitious.

Resp. 2° Affirmatively, if the spouses in contracting, although they knew the impediment, nevertheless did not doubt that the Matrimony was null, or did not attend to its invalidity. Thus Cardinal Caprara seems to be understood, who supposes that dispensation in the root can be obtained for convalidating a clandestine Matrimony, when one party refuses to renew consent before the Church. In the same mode one seems to have to distinguish concerning Matrimonies contracted only civilly in places where the Tridentine Decree is in force.

Quaer. 3° Can a Bishop dispense **IN THE ROOT**, when he can dispense concerning diriment impediments from a particular Indult?

Resp. Negatively. The reason is that dispensation in the root requires greater power; and therefore it is not judged to be contained in other faculties. It is also proved from the practice of the Church, which always gives a special faculty when it intends to concede the power of dispensing in the root, as is given to our Bishops. See p. LXXIV. n. 6.

Quaer. 4° In what way is dispensation **IN THE ROOT** to be executed?

Resp. In the same mode as simple dispensation, adding in the formula the words: *in the root*. Thus, for example: "I, by Apostolic authority conceded to me, sanate and consolidate in its root the Matrimony contracted by you with N., and I declare legitimate the offspring received and to be received. In the name of the Father, and of the Son, and of the Holy Ghost." But no formula is had in the Roman Ritual. - But execution of this kind is not necessary *per se*. Hence it is to be omitted if it is better that neither spouse be made certain concerning the nullity of the Matrimony. Otherwise let it be done for the forum of conscience as regards that party which is conscious of the impediment and prepared to submit himself or herself to the execution of the dispensation; but publicly, or at least in such a way that it become publicly known, if the nullity of the Matrimony is public.[1]

Notes to n. 1637 - note sequence 1. (1) Heiss. § 64. III. Feije, n. 772. Notes to n. 1637 - note sequence 2. (1) 4 D. 40. q. unica. a. 4 ad 6. (2) Nevertheless, the celebrated Heiss (De Matr. § 64. q. 2°) seems not to hold as certain that this is necessary in that case of urgent necessity which we explained in n. 1634. q. 1° § In practice. "The reason," he says, "is that this impediment much more probably is not of natural law" (primarily), ... "and therefore consent ... naturally remains true consent."

Corollary from the Things Said Concerning the Revalidation of Matrimony.

There are impediments which can cease by some fact. From the things said it is gathered, and in the following things it is more fully explained, in what way renewal of consent then ought to have place.

I. Concerning the case in which the impediment of fear ceases, the cause of fear having been removed, see n. 1599. I. Note, and n. 1630. q. 1°.

II. By change of domicile the impediment of clandestinity can cease, namely, when the parties celebrated clandestinely in a place where both were bound by the Decree *Tametsi*, and afterwards acquired domicile or quasi-domicile in a place where at least one party is not bound by it. In that case either sanation in the root is to be sought from the Holy See, if a sufficient cause is present (n. 1636. II. under 3°), or consent must be renewed, and this - by both or by one party only, according to the rules handed down in n. 1633 and 1634. q. 1° - publicly or occultly according as the circumstances (see n. 1634. q. 2°) demand either one; and, if there is question of a mixed Matrimony clandestinely contracted in a place where even heretics are bound by the Tridentine Decree, a dispensation concerning the impedient impediment of disparity of cult having been obtained. - Whether the nuptials of which there is question are convalidated by marital cohabitation alone, if the parties are ignorant of their nullity, is controverted. That the Apostolic See in practice applies the denying sentence is clear from the responses of the Sacred Office, 1842 and 1848, apud Perrone, *De Matrim. Christ*. Ed. Rom. T. II. p. 249-251.

If the parties have before contracted valid betrothals, and in the place where afterwards they obtained domicile or quasi-domicile they have had copula, there will be, for the external forum, presumed Matrimony. I say: "valid ... betrothals"; for invalid ones (for example, between a Catholic party and a heretical one) cannot induce a presumed Matrimony of this kind (n. 1525. § It is said: 5°; n. 1546. 3°. n. 1548 q. 1°. Note).

III. The diriment impediment of disparity of cult ceases through the reception of Baptism by the infidel party; in which case concerning the revalidation of Matrimony a determination must be made

as above under II.

IV. By the death of the prior spouse the impediment of bond ceases between parties who, while that one was living, contracted. But nuptials in this case are not convalidated through sanation in the root, since this cannot be conceded while there is question of consent vitiated by an impediment of divine law, whether positive or natural (n. 1636 under 4°, compared with n. 1561 § The consent, p. 243 col. 2). Hence new consent is necessary, and that, according to the common doctrine (see Feije, n. 761) and according to the mind of St. Thomas,[1] must be furnished by each spouse, the party ignorant of the impediment having been certified,[2] publicly or secretly according as the circumstances (n. 1634. q. 2°) have demanded. - Note that in this case the impediment of crime can be present, namely when someone, while a legitimate consort was living, attempted and consummated Matrimony with another, each having previously known that bond.

Appendix: I. On the Mode of Proceeding if Revalidation Can in No Way Have Place, or Before It Can Be Done

1638. - I. If the impediment is indispensable (that is, such in which dispensation cannot be given or is not given) and public, the parties are to be treated as public concubinaries.

II. Say the same if it is public and dispensable. Yet if, in this case, the parties consent indeed to revalidation, but not to separation, the former is regularly to be preferred to the latter (that is, unless a sad outcome is feared from revalidation). Then the pastor in the supplica by which he asks dispensation will expose that the parties do not consent to separation, nor will easily consent, so that the one dispensing, according to his prudence, may enjoin it either not at all, or only for a very brief space of time.

III. If it is indispensable (for example, impotence), occult, and known to each party, place can be given to cohabitation after the manner of brother and sister, but only in a very rare case (if the parties are elderly[2]); for almost always that remedy, because of the danger of incontinence, will have to be rejected.

IV. If it is dispensable, occult, and known to each party, separation as regards the bed is necessary. But if from the disposition and experience of each or either party it is known that a proximate danger of incontinence exists which cannot otherwise be removed, the parties must also be separated as regards cohabitation, with the separation, if it can be done, colored by some pretext (for example, of a journey), so that sin, scandal, and infamy may be guarded against. But if separation of cohabitation, or even of bed, cannot be obtained, the danger of sinning is to be forestalled in the better mode in which it can be done. But the pastor, or the confessor if the impediment is known from Confession, should hasten the dispensation, which in this case is almost always to be chosen.

V. If it is indispensable, occult, and unknown to each party, the parties ordinarily are to be left in good faith, because if they were admonished, no remedy for guarding against formal sins could be employed except either separation or cohabitation after the manner of brother and sister. But very grave inconveniences are accustomed to stand in the way of separation; and a proximate danger of incontinence stands in the way of cohabitation. - But if it is dispensable, and there is hope that the parties, warned concerning the nullity of their Matrimony, will obey those things which must be enjoined upon them (separation of bed and, if it is judged necessary, of cohabitation, until the dispensation has been obtained), revalidation of the marriage is almost always to be chosen and the dispensation is to be hastened. But if fruit from admonition is not hoped for, it will have to be distinguished thus. If there is fear that neither party will obey those things which must be enjoined, each party is to be left in good faith until the dispensation has been obtained, which is regularly to be sought (with the parties, as is clear, unaware). I say: regularly, that is, unless there is fear that the parties will refuse the dispensation, or will not obey its conditions, or, the nullity of the Matrimony having been known, will depart from one another with scandal or with harm to the offspring, etc. Then, the dispensation having been obtained, it is communicated to the parties together with admonition concerning the nullity of the marriage. But if only one party can be admonished without grave inconvenience, but not the other (say, because the crime of the former gave cause to the

impediment or because of another cause), regularly neither is to be admonished and dispensation in the root is to be sought. This having been obtained, let the party who can be admonished be admonished, so that, the sanation having been applied, he or she may furnish new consent. - But if the party who cannot now prudently be admonished is foreseen to be able afterwards (that is, after the relaxation of the impediment has been obtained) to be admonished without grave inconvenience, first, ordinarily with each party unaware, let not sanation in the root but simple dispensation be obtained, so that, this having been obtained, the consort may be admonished by the consort concerning the nullity, the dispensation may be applied, and consent may be renewed by each party.

VI. If it is indispensable, occult, and known to one party, this party, as is clear, would illicitly both render and ask the debt; he or she must manifest the impediment to the consort, and nothing remains except either separation, or, in a very rare case, cohabitation after the manner of brother and sister.

VII. If it is dispensable, occult, known to one party, and grave inconveniences are not feared from manifestation (for example, separation, or, in the case in which the impediment arises from the crime of the party knowing the nullity, the infamy of this party, etc.), the impediment, or at least the nullity of the Matrimony, must regularly be revealed to the ignorant party by the conscious party. This having been done, the nuptials are ordinarily to be revalidated, and this through simple dispensation. - But if, as will often happen, grave inconveniences are feared from manifestation or the impediment has arisen from the crime of the conscious party, revelation is to be omitted and dispensation is quickly to be procured, and this ordinarily through sanation in the root. Meanwhile, as is clear, to the conscious party both rendering and petition of the debt is forbidden; and therefore the debt is to be denied in the better mode in which it can be done.

Notes to n. 1638. (1) Cf. Feije, Cap. 29. (2) L. VI. 1101.

II. On Judgment in Matrimonial Cases.

1639. - I. In the internal forum, whether penitential or extra-penitential (n. 149), many matrimonial cases are resolved by confessors, by pastors, by Ordinaries, with no peculiar form of judgment, but only with those things observed which natural and positive law demand according to the species of the fact and the circumstances.

II. For the external forum we note these things.

1) *The judge of matrimonial causes.* - **a.** For the whole world, it is the Pope; the Sacred Congregation of the Council; the Sacred Congregation of the Office or Inquisition in certain cases. - **b.** The Metropolitan for inhabitants both of his own diocese and, in the case of appeal, of his own province. - **c.** The Bishop for his own subjects, and, according to the more common sentence, also his Vicar, and, as it seems, the Capitular Vicar (among us, the Administrator), the See being vacant. - **d.** Delegates by the Pope or by the Bishop.

2) *The actor can be:* **a.** For impeding the celebration of Matrimony, whoever knows an impediment (n. 1540, 1541). **b.** For asking divorce as regards bed and habitation, the innocent spouse alone (n. 1553. q. 4°). **c.** For asking a sentence of nullity of Matrimony, the impediments because of which this sentence is sought must be distinguished. - In the case of fear and error, only the spouse who erred, who was deceived by fear, is admitted; but he or she is not admitted after, the fear and error having

ceased, he or she has cohabited. - In the case of impotence, the spouses themselves alone are admitted, since they can, if they please, cohabit (not however licitly except in the very rare case, as was said above in n. 1638) after the manner of brother and sister. - In the remaining cases of impediments, all who are conscious of the impediment are regularly admitted, and this if they can prove it fully, or give sufficient indications for inquiry. The ecclesiastical judge himself also, if the impediment is manifest and public, inquires by his own authority, no one denouncing or accusing, and pronounces concerning the nullity. - Who are repelled as actors, see the Decretals.[1]

3) Witnesses for or against a contracted Matrimony are admitted before the rest, who are presumed to have more certain knowledge of the impediment (as parents, blood relatives, relatives by affinity, if there is question of consanguinity or affinity), and are not of suspect faith; and likewise witnesses otherwise suitable according to the general principles which are handed down by the Canonists.[2]

4) Semiplena proof (such as is that which is sought from one trustworthy witness, or from common rumor, or from another indication) suffices so that the celebration of Matrimony may be impeded (n. 1541 q. 3°). - But so that the nullity of a Matrimony already contracted may be declared, full proof is required. But although elsewhere one's own confession is called the best proof, nevertheless if the married persons were to confess in court an impediment, the Matrimony would not for that reason immediately have to be defined as null, unless from other proofs the truth appeared: namely lest spouses, weary of cohabitation, be able to collude and feign an impediment.[3] Cf. n. 1548, q. 7°.

5) A sentence for or against the value of Matrimony by no lapse of time passes into a thing judged;[4] and therefore if a new matter which was unknown or not deduced is detected, the cause can again be referred to judgment.[5]

6) The judicial form in matrimonial causes is summary; but if there is question of the value or nullity of Matrimony, under penalty of nullity, even when the Matrimony is notoriously and evidently invalid,[6] those things must be observed which are described by Benedict XIV in the Constitution *Dei miseratione*, November 3, 1741, of which the principal dispositions are that, at the individual acts of the trial, a defender of Matrimony, that is, of its value, be present, and that one sentence of nullity not end the case and therefore appeal be made until two conforming sentences concerning nullity are had. Van de Burgt, *De Matr.* n. 525-534.

Notes to n. 1639. (1) L. IV. T. XVIII. c. 2, 4, 5, 6. (2) Ad Decr. L. II. T. XX., especially c. 9, 22. (3) Decr. L. IV. T. XIII. c. 5. (4) Ib. L. II. T. XXVII. c. 7. (5) Ben. XIV. c. Dei miseratione, § 11. (6) Except Matrimony notoriously and evidently invalid because of clandestinity. Feije, n. 592.

Chapter VIII. On the Conjugal Debt

1640. - Hear St. Alphonsus, approaching this question:[1] "It grieves me to have a longer discourse on this matter, which carries before itself such foulness that it disturbs chaste minds by its very name alone. But would that this matter were not frequent in receiving Confessions, so that it would not be altogether necessary for the confessor to be instructed by a full treatment, but it would suffice for him to be instructed by a compendium! Let the chaste reader therefore pardon me if I speak of it here at length, and descend to particular cases which exhibit a more deformed turpitude." ...

The conjugal debt is called that common action of the spouses which is necessary for generation, and which has been ordained by the supreme Provider of all things for propagating human society. But this action is situated in carnal copula, by which a man and a woman are made, as it were, one body and one flesh.

An act of this kind is called a debt by the Apostle; for it is that which spouses owe mutually to themselves.

It must be treated: **1°** concerning the liceity of the conjugal act; **2°** concerning its obligation; **3°** concerning the sins of spouses.

Notes to n. 1640. (1) L. VI. 900. Notes to nn. 1640-1644 - note sequence 1. (1) L. VI. 930. (2) Ib. (3) Ib. 917. Notes to nn. 1640-1644 - note sequence 2. (1) L. VI. 917.

Article I. On the Liceity of the Conjugal Act, 1° In Itself; 2° As Regards Circumstances

§ I. On the Liceity of the Conjugal Act Considered in Itself

1641. Principles. - I. The conjugal act among legitimate spouses is, *per se*, honorable and licit: for it is the means established and ordained by the very Founder of nature for the legitimate propagation of the human race.

II. The ends which render an act of this kind honorable are: **1°** the generation of offspring, which is numbered among the principal ends of Matrimony; **2°** satisfaction of the obligation toward the other spouse; **3°** the calming of concupiscence, and thence the avoidance of incontinence both in oneself and in the consort; **4°** the desire of fostering or conciliating honorable love, of disclosing or promoting conjugal affection, etc. - Thus commonly with St. Alphonsus,[1] Sanchez, and others against some few, who do not admit the last two ends.

1642. Resolves. - 1° The use of marriage is illicit if it is done for pleasure alone, that is, either by expressly excluding the other ends, or by intending none of them, not even virtually. This is clear from the 9th proposition condemned by Innocent XI (p. XV). Yet *per se* it would be only a venial sin, just as it is venial to take food for delight alone. But the use of marriage is immune from this fault if the satisfaction of pleasure is intended as a remedy of concupiscence, whether expressly or implicitly.[2] Cf. n. 1548. q. 6°, Things to be Noted Beforehand, and n. 29. 31. q. 4°.

2° The use of Matrimony with an adulterous mind is gravely illicit, as if someone, approaching his own wife, represents another to himself. - St. Alphonsus,[3] and others commonly.

3° The use of Matrimony is licit for the sterile, both because no law to the opposite can be shown, and because the sterile are *per se* suitable for completing the conjugal act; but if no generation follows, this occurs altogether per accidens; and besides generation there are other honorable ends co-honestating conjugal intercourse.

4° Also for the elderly, whose seed is no longer prolific, or for whom it is for the most part poured outside the vessel, the use of marriage is licit, provided they are able sufficiently to complete copula, or have a hope, not empty, of completing it. For the same reasons favor the elderly which we have adduced concerning the sterile. Moreover this is confirmed from the practice of the Church, which blesses the Matrimonies of the elderly.[4]

Notes to n. 1642. (1) L. VI. 881 sq. (2) Ib. 912. Cf. Vind. p. 822. Ed. 2a. T. II. p. 488. (3) L. VI. 913. (4) Ib. 954. Dub. 2.

§ II. On the Liceity of the Conjugal Act as Regards Circumstances

The principal circumstances regard person, position, and time.

I. On Circumstances of Person.

1643. - A fourfold circumstance, or impediment annexed to the person, can stand in the way of petitioning the debt, namely: **1°** a vow of chastity (n. 1568-1571); **2°** affinity from incest (n. 1589. III.; n. 1590. 6a. 7a. 8a; n. 1144. II. 2°); **3°** spiritual cognation (n. 1585. 6°); **4°** impotence, which also forbids rendering (n. 1618. III.; n. 1619).

Note. - 1° According to the more common and more probable sentence, a spouse bound by a vow, or by the impediment of affinity or spiritual cognation, can ask the debt, indeed is bound to ask it, when he or she notices that the consort, not daring to ask, is placed in danger of incontinence. He or she can also ask as often as the other asks interpretatively, for example, when the woman is held back by modesty, and the man perceives, as St. Thomas says, her will of asking; because then it is rather to render than to ask.[1]

2° Yet a spouse impeded by the bond cannot exact the debt, not even for avoiding incontinence; for the danger of incontinence is indeed a cause for obtaining a dispensation or suspension of a vow, but not for asking the debt. - Thus Sanchez, and others. Except, not improbably, if there is question of impediments imposed by the Church, and a dispensation cannot be obtained shortly, and great danger of incontinence is in the delay.[2]

II. On Circumstances of Mode or Position.

1644. - First Rule. That position is altogether licit which nature herself teaches, namely that the woman be beneath and the man above. - Thus St. Thomas, and others commonly. The reason is that other positions are somewhat opposed to the order of nature, and consequently bring in some violation of order.

Second Rule. No position, however unnatural, is *per se* gravely illicit, provided the conjugal act can be sufficiently completed; the reason is that any inversion whatever of position, provided union can be completed, does not impede generation.[3]

Third Rule. Any unnatural position, a just cause acceding, is free from all fault; but sometimes an unnatural position is easier, or even the only possible one; and indeed some greater facility or necessity can remove an inordinateness of this kind, which *per se* is slight.[1]

1645. Resolves. - 1° Spouses who invert the position do not sin in the least because of danger of abortion in the time of pregnancy; because of the fatness or curvature of the man; because of excessive weariness of the woman; or even because of frigidity, when they are more aroused by an unnatural position, etc.

2° A position which alone is possible, whatever it finally is, is in no way condemned, although a not moderate loss of seed follows; because that part of the seed is not necessary for generation, and is lost per accidens, while the spouses are unwilling.

III. On Circumstances of Time.

These circumstances chiefly regard the time of pregnancy, lactation, menses, sickness, Feast days, and Sacred Communion.

1646. - 1° At no time is the conjugal act, *per se*, forbidden under grave sin, because no law is found by which the work of marriage is ever prohibited by reason of time. I said: *per se*; because perhaps sometimes, by reason of circumstances, a proximate danger of abortion or of health could be induced. But this is very rare, and cannot easily be foreseen in some cases.

2° Indeed, according to very many Theologians, the conjugal act is never forbidden even lightly by reason of time; the reason is that no law can be assigned by which it is ever prohibited even under light sin. Yet to St. Alphonsus[2] the opinion is more pleasing which does not excuse from venial fault if copula is had in the time of pregnancy, unless danger of incontinence is present, or another honorable cause, which otherwise can scarcely ever be absent.

3° The more common sentence teaches that coitus had at the time of menses is not excused from venial sin because of the indecency which it seems to bear before itself, unless some co-honestating cause is present, namely for avoiding disagreements, or for forestalling incontinence, etc.[3] - But a prudent confessor will abstain from every interrogation in this matter, since there is nothing that must necessarily be declared by the penitent. The same, by parity of reason, they commonly hold concerning copula had by spouses at the time of purgation, or on the days following birth. Yet this could be mortal per accidens, namely if from it grave illness or notable aggravation of illness were imminent for the wife.[1]

4° The act of marriage is not illicit during the time of lactation, because there is no prohibiting law, nor, experience being witness, any danger, at least proximate, of infecting the milk. Hence there is no reason why spouses should be held to abstain from the use of Matrimony for so long a time with continual danger of sinning. Thus most commonly, says St. Alphonsus.[2]

5° The conjugal act in time of sickness, at least for the most part, is illicit neither under grave nor under light sin, because no harm from it happens to the brain for spouses; and the labor which accompanies the act cannot, at least commonly speaking, influence sickness very much.

But generally and wisely as regards all things which precede, the anonymous annotator of Gury[3] warns: "Theological opinions concerning the liceity of the conjugal act, as regards circumstances, rest

on a twofold principle, of which the first regards law or the dictate of natural law, the other regards fact. That, namely, in the use of marriage it is not lawful to place an impediment to generation, or to bring grave harm to oneself, or to the consort, or to offspring, these are so many principles of natural law, to which Theologians deservedly adhere firmly; but whether such a circumstance ordinarily produces grave evils of this kind, this is a question of another order, and is to be resolved only from arguments of physiology and medicine. Wherefore the diverse sentences of Theologians concerning controversies of this kind, not certainly defined, are to be held as hypothetical conclusions."

6° According to the more common sentence, it is not illicit on Sundays and Feast days, even the more solemn ones; both because no law is opposed, and also because marital intercourse does not remove spouses from observing the Feasts of the Church. Most of the Holy Fathers who are objected on the opposite side seem to speak of counsel rather than of precept. Hence you will also deduce that there is no reason why a use of this kind should be prohibited in the time of Advent or Lent. - Thus commonly.[4] See p. XCI. C). 2°.

7° Finally, *per se*, it is not prohibited on the day of Sacred Communion, although spouses approach it from piety only, provided they act from an honorable end. - Thus commonly St. Alphonsus,[1] Lugo, Sanchez, and others, who teach that it is of mere counsel to abstain from copula on the day of Communion, whether before or after Communion, provided it is not had immediately after Communion has been received, nor from the mere cause of pleasure. Cf. n. 1311. 2°.

Notes to n. 1646 - note sequence 1. (2) Ib. 924. (3) Ib. 925. (1) Ib. 928. Notes to n. 1646 - note sequence 2. (2) Ib. 911. Notes to n. 1646 - note sequence 3. (3) Ed. Rom. 1873. n. 918 (). (4) L. VI. 923. Notes to n. 1646 - note sequence 4. (1) L. VI. 924.

Article II. On the Obligation of the Conjugal Act

1647. Principles. - I. There is an obligation of justice, *per se* grave,[1] of rendering the debt to the other spouse seriously and reasonably asking it. The reason is that from the very nature of the matrimonial contract the spouses mutually transfer to themselves the power of their bodies in order to the conjugal use. This is also deduced from the words of the Apostle: *Let the husband render the debt to the wife; and likewise the wife to the husband; the woman does not have power of her own body, but the man; and likewise the man does not have power of his own body, but the woman.*[2]

II. No obligation, *per se*, urges of asking the conjugal debt. The reason is that neither spouse is bound to use his or her right, and each can remit it. Yet *per accidens* there can be an obligation of asking from charity or another virtue, especially in the man, for example, if he judges that the consort is placed in danger of incontinence because of modesty in asking, or if the asking is necessary for fostering or restoring conjugal love, etc. - See St. Alphonsus.[3]

III. The obligation in one spouse of rendering the debt ceases when the right of exacting it ceases in the other: and the right is destroyed chiefly in the following cases, namely:

1° If one of the spouses has committed adultery, provided the conditions enumerated in n. 1552. III. 3° are present. Yet in this case the asking will not be illicit, as it is in the cases of which n. 1643 treats.

2° If the one asking lacks the use of reason, because his or her asking is not human. Yet it is licitly rendered, unless there is danger of scandal, abortion, or another grave harm; indeed it must be

rendered if danger of incontinence, even material, urges in the insane or drunken person (yet with a greater evil excluded), or if the spouse is not perfectly insane or drunk.[1]

3° If the one rendering can reasonably fear grave harm or danger to health, because spouses are not judged to have obligated themselves to render the debt with so great an inconvenience. Hold the same if evils of this kind are to be feared for offspring already conceived, and also universally, if for the one asking.[2]

4° If the one asking, because of incest committed with blood relatives of the other in the first or second degree, or for another cause, has lost the right of asking.

5° If it is asked too frequently (n. 1648. 3°).

6° If the other has given sufficient cause for divorce, namely as long as that cause continues to exist (n. 1552. III.).

7° Within the first two months after Matrimony has been celebrated (n. 1551. 2°).

8° If the other asks illicitly; yet in this case it must be distinguished in the following manner. For the illicitness either holds itself on the part of the one rendering alone, or on the part of the one asking alone, or on the part of the act, so that it affects the one asking and the one rendering.

For the first case (for example, if the one asking exacts the act on this condition, that the one rendering impede conception), let this be the rule: he or she is neither bound to render, nor is it licit with one's own sin, even venial, since no obligation or liceity toward sin can exist.[3] It is otherwise, as is clear, if what must be called a sin *per se* is rendered licit by adjunct circumstances, as can happen in an unnatural position, etc.[4]

In the second case there is an obligation of rendering, if there is question only of venial sin, for example, if the act is asked for pleasure alone; for it will scarcely be able to be demonstrated that there is a right of denying some grave debt of justice because the one enjoying that right will use it with slight malice. - But if it is asked with mortal sin (for example, with an adulterous mind, or by one who is bound by a vow of chastity, or by an onanist), that act is licitly rendered, or rather merely permitted, if a grave cause is present (n. 1653. III.) and the proximate danger of consent in the work, insofar as it is evil, does not urge (n. 1654. 2°; 1655. q. 8°). - Indeed St. Alphonsus says that rendering in these circumstances is more probably simply owed, if the one asking has not been deprived of his or her right, for example, through incest.[5]

In the third case, however, one must distinguish. - It is licit to render, if the act is not so intrinsically evil that illicitness can never be taken away by particular circumstances, and if such circumstances are in fact present (n. 1648. 6°. 8°). Otherwise it is not licit; for it would be participation in the illicit act itself.[1]

Note. - If warning, or asking that the one exacting desist from sin, is foreseen to be profitable and can be done without grave inconvenience (which will be present for the most part), it must be premised by the consort before the permission, especially if there is question of mortal sin (n. 1654. 3°. 4°). - But if there is question of one impeded from asking, for example, by a vow, it will be safer if the consort forestalls the impeded person by his or her own asking, or adds his or her own asking to the asking of the impeded person already made. Yet the wife, by reason of modesty, will rarely be bound to this.[2]

Notes to nn. 1647-1648 - note sequence 1. (1) L. VI. 909. 950. (2) H. A. Tr. XVIII. 45. (3) L. VI. 911. Sanchez, de Matr. L. IX. D. 22. n. 14. 15. (4) L. VI. 951. Notes to n. 1647 - note sequence 1. (1) L. VI. 273. 274. 922. (2) I. Cor. 7. 3. (3) L. VI. 928. 929. Notes to n. 1647 - note sequence 2. (1) L. VI. 948. (2) Ib. 909. 911. 950. (3) Ib. 943. (4) Ib. 946. 947. (5) Ib. 944-946. Notes to n. 1647 - note sequence 3. (1) L. VI. 946. (2) Ib. 944. Notes to nn. 1647-1648 - note sequence 2. (1) L. VI. 953. H. A. Tr. XVIII. 49.

1648. Resolves. - 1° Spouses are bound to cohabitation, nor can one be absent for a longer time without the consent of the other, or without necessity; for this obligation follows from the very obligation of rendering the debt. But just causes of going away for a long time are the public good, the support or protection of the family, harm from enemies to be avoided, etc. And a man who must remain elsewhere for a long time ought to lead his wife there, if he conveniently can, so that she may cohabit with him. As regards civil law, see what has been said in n. 445. 2°. 3°.[3]

Regularly, however, a wife is bound to follow her husband when he changes domicile, even without a just cause (not, however, if he changes it from a base cause); and this: **a)** notwithstanding a contrary custom, which might exist somewhere; for a custom of this kind, as opposed to the divine law by force of which the man is the head of the wife,[4] would be intrinsically evil (n. 184. 3°); **b)** even if the man goes away into a distant region (from which, however, he is not about to return shortly). - Except if either **1)** by following the man she would be exposed to danger of life, chastity, grave detriment, or - for example, because the place to which the husband withdraws for a long time is destitute of every religious succor - of salvation; or **2)** she would lack nourishment; or **3)** there is question of a husband made a wanderer after Matrimony, or, without the wife's knowing it, already a wanderer before it; or **4)** by an antenuptial pact it was agreed not to change domicile, which pact nevertheless has an included condition: unless a new grave cause should supervene.[5]

2° A spouse denying the debt sins gravely whenever there is danger of incontinence or grave vexation in the other party. Likewise if he or she denies it to the other seriously asking. But it is otherwise if the consort benevolently remits it, or asks remissly. Yet remiss asking must be altogether distinguished from interpretative or virtual asking, which is had by signs indicating a serious will of asking, and from which the obligation of rendering the debt arises. This is verified especially in a woman, who is most especially subject to modesty, and from shame does not ask expressly what she anxiously asks.

3° One denying does not sin when the other asks immoderately, for example, after the third or fourth time in the same night; nor if he or she delays it for a short time, namely until night, or if from night he or she delays it until morning time, yet always with the danger of incontinence excluded.[1]

4° Wives are to be reproved who deny the debt to their husbands without sufficient cause, even if they ask remissly; or who do not concede it except when forced, and who harshly and contumeliously reproach the man for his requests.

5° A wife is not excused from rendering the debt because of the ordinary inconveniences of childbirth, pregnancy, or nursing; - nor even because of pains which are grave but brief in time; - nor because of pains which are long-lasting but moderate, for example, of the head for several months after childbirth; - nor because of health somewhat weakened; because all these things are annexed to the matrimonial condition. It would be otherwise, however, if danger of life or of a most grave disease, from the judgment of a truly prudent physician, had to be feared.[2]

6° There is no obligation of rendering the debt to another laboring under a contagious disease grave in itself, such as plague, venereal disease, or something similar. Likewise, because of notable bodily debility, those laboring under a strong fever or another grave disease are excused from rendering the debt. Probably, however, notwithstanding grave danger to health, a spouse can render the debt, in order to free the consort from probable danger of incontinence for it is licit even to expose life for an excellent work of charity ([n. 279. 461)], or for another grave cause (for example, for fostering mutual love), provided the disease is long-lasting and is not accustomed shortly and easily to bring death; in these cases it is also licit to ask. Yet the one asking or rendering, with a contagious and grave disease, must manifest this circumstance to the party unaware of it. But the consort is not bound to manifest to the consort an infamous disease, e.g., a venereal one, provided he or she abstains both from asking and from rendering; nor is he or she bound to render in the case in which he or she is unwilling to manifest a disease of this kind; for the conjugal debt does not oblige with loss of reputation.[1]

7° Whether a spouse is excused from rendering the debt because of fear of more numerous offspring than he or she can support, if danger of incontinence is absent in the other, is disputed. But since this danger can scarcely be absent, St. Alphonsus is more pleased by the negative opinion.[2]

8° As regards the obligation of abstaining from the conjugal act because of harm which perhaps could befall offspring already conceived or born, the probability and gravity of the harm on the one side, and the difficulty of lacking the conjugal right on the other side, must be weighed. It is not established that the use of marriage is prohibited because of harm of no great moment, which befalls offspring and cannot be guarded against, if long abstinence is very difficult.[3]

The conjugal act would indeed be illicit if from it a proximate danger of death for offspring already conceived would arise, for example, because of abortion proximately to be feared (n. 1646. 1°); for circumstances will scarcely ever concur which render it licit to permit abortion (n. 474. II.). Besides, dangers of this kind must not be imagined: hence the liceity of this act is not to be called into doubt unless in a concrete case there is at least prudent fear.

But if there is question of offspring to be conceived, authors oblige to the rendering of the debt, although it is to be feared that the offspring may be born weak, since for him or her it is better "thus to be, than not to be at all."[4]

Finally, the sentence (certainly the more common one) asserting that a wife who has experienced that she bears children dead cannot render the debt unless there is danger of incontinence seems scarcely probable in the concrete, unless this is established with certainty, for example, from the judgment of an expert physician. For how often will it be licit to experience this? Has not healthy offspring often come forth after unhappy births? etc. Add the danger of incontinence, which will especially be present if, because of this cause, one had to abstain perpetually from the use of marriage.[1]

Notes to n. 1648 - note sequence 1. (3) Ib. 939. (4) I Cor. 11. 3. (5) L. IV. 358. L. VI. 977. Notes to n. 1648 - note sequence 2. (1) L. VI. 940. (2) Ib. 952.

Article III. On the Sins of Spouses

1649. - Sins can be perpetrated between spouses by reason of the conjugal act either by excess, that is, by placing acts useless for generation, or by defect, by not completing the essential act, or by

staining the bed with the crime of onanism. (Cf. also n. 1641. II. 1°. 2°. Besides, modesty and often the reason of avoiding scandal [n. 432. 5°] require the most secret place.)

Hence there is a twofold paragraph.

§ I. On the Sins of Spouses by Excess

Acts which, besides copula, but on its occasion or pretext, can be exercised by spouses are distinguished into three kinds. **1°** Some are harmful to generation, such as sodomy and pollution, and are against nature. **2°** Others are useful, such as touches exciting nature and fostering love. **3°** Others are neither harmful nor useful, and are called besides nature.

1650. Principles. - I. Whatever is necessary for completing the conjugal act, or useful for exercising it more easily, more quickly, or more perfectly, is altogether licit for spouses. The reason is that he who has a right to a thing also has a right to the necessary or useful means, and means not prohibited from another source; and for those for whom the principal thing is licit, the accessory also is licit, and the means ordered to it.

II. Whatever in the conjugal act is an obstacle to generation, or per se induces pollution outside the natural conjunction, is gravely illicit. The reason is that voluntary effusion of seed is not licit except in order to generation; and therefore Matrimony does not give spouses faculty except for an effusion of seed which can per se serve generation. But otherwise, if men could enjoy pleasure itself without the consequent burden of offspring to be nourished and educated, the generation of children would easily be postponed, indeed would be avoided by set purpose, and thus society itself would incline toward destruction.[1]

III. Whatever indeed is not an obstacle, yet per se is less necessary or less useful for the act of generating, cannot be turned to fault except light fault; yet from this other ends intrinsic to acts of this kind excuse, namely that conjugal affection may be preserved and fostered, or at least that concupiscence may be calmed. See n. 1641. II.

Notes to n. 1650. (1) L. VI. 958. H. A. Tr. XVIII. 49.

1651. Resolves. - 1° Modest touches and looks between spouses, with danger of pollution in oneself and in the other excluded, are free from every fault, although sometimes involuntary pollution may follow *per accidens*. But they are venial if they are done for pleasure alone; and mortal if they are done with the aforesaid danger and for pleasure alone or for a light cause. It is otherwise if they are done for a grave cause, say if there is an urgent cause of showing affection for fostering mutual love, or for removing a depraved suspicion from the other.[1]

2° Touches and looks which are less honorable are also free from fault per se, if they are referred immediately to copula. Indeed the same must be held even if they were simply dishonorable, because since they have a right to copula, they also have a right to acts per se necessary or useful for copula. But if the acts by which a spouse disposes himself or herself for the conjugal act are such that they easily provoke pollution per se, they can be culpable, if diligence is lacking for avoiding pollution outside intercourse, or if such an act is such that the proximate danger of pollution cannot be guarded against by any diligence, say if the man inserts the shameful parts into the mouth of the wife. Hold the same if in preliminaries of this kind to copula there is present a sodomitic intention.[2] But if, due diligence having been employed, pollution follows beyond intention, there will be no fault.

3° Spouses do not sin gravely by touches, even immodest ones, although had for pleasure alone and without intention of copula, yet with danger of pollution, even involuntary, and the crime of sodomy excluded. But the one rendering seems always to be excused, although there is danger of pollution in either one (unless the touches are such that pollution seems to have been begun), since then the fault holds itself on the part of the person. - Thus commonly.[3] But light fault, which can be present in acts of this kind, is easily excused because of ends intrinsic to Matrimony itself, or other extrinsic ones, for example, because they are suitable for fostering affection or for calming concupiscence.

But what if spouses, after copula has been begun, restrain semination? St. Alphonsus responds:[1] "If both spouses consent in this, and there is no danger of seminating outside the vessel, that, speaking per se, is not mortal; for that penetration of the female vessel is then reputed after the manner of a touch of the shameful parts, which is permitted between spouses, or at least is not mortal, with danger of pollution excluded. St. Antoninus, etc. I said: **1)** if both consent; for if one withdraws without the consent of the other, he certainly sins gravely, as all the aforesaid authors say. I said: **2)** speaking per se; for Sanchez wisely warns with Veracruz that this ordinarily is mortal, because ordinarily there is danger from such withdrawal of pouring out seed, unless the spouses have experienced the opposite; in which case nevertheless I think that they can in no way be excused from venial sin, whatever Sanchez may say with others."

Likewise what if the husband wishes directly either to pollute the woman, or to pollute himself around the body of the woman without matrimonial copula, as happens too often in practice? - Berardi responds[2] (yet with a certain trembling, as he admits, because he has not found Theologians teaching his opinion in a clear and firm manner): "If the woman can in no way avoid these touches if she sleeps with her own husband, so that to avoid them she would have to leave the bedchamber altogether, provoking the greatest discord and procuring for herself and her children very grave detriments; I would think that she is not held to undergo such and so great inconveniences, and can limit herself to resistance morally possible for her, provided that by positive acts she never accommodates herself to the shameful touches of the man, but only permits them because of the aforesaid grave causes, bearing herself passively. For then the woman on her part does nothing evil, and simply sleeps in her bed with her own husband. The whole malice is on the part of the husband himself, whose illicit touches indeed the woman ought to impede, if she could; but not if very grave inconveniences stand in the way of her impeding them."

Leaving the matter to the wiser, I cannot fail to observe that it is certainly not licit for the woman to bear herself passively if, unless she positively resists, she is in proximate danger of consent (cf. n. 20).

4° A wife does not sin gravely, indeed, according to the more common and more probable sentence, not even lightly, if by touches she excites herself to semination immediately after copula, in which the man alone has seminated; **1°** because semination of the woman pertains to completing the conjugal act, so that the spouses may properly be one flesh; and, just as the wife can prepare herself for copula by touches, so also she can perfect it; **2°** because, if women after such irritation were held to restrain the natural motions, they would be continually exposed to great danger of sinning gravely.[1]

5° Touches with oneself from venereal delight, the other spouse being absent, cannot be excused from grave sin. The reason is both because a spouse does not have the right of using his or her own

body in order to fulfilling pleasure with oneself, but only in order to copula, and because touches of the shameful parts, when they are done lingeringly and with movement of the spirits, tend per se to pollution and are proximately connected with its danger. And St. Alphonsus[2] calls this opinion the more probable and altogether to be urged in practice, no broad judgment concerning the probability of the opposite sentence being made.

6° Morose delectation concerning copula had, or remotely to be had, with danger of pollution excluded (which nevertheless will be proximately present if titillation of the parts is joined with movement of the spirits), although according to the common sentence it is only venial, nevertheless is to be dissuaded. **1)** It is some sin; because in this pleasure, not referred to proximate copula, an inordinateness is found, since an honorable end is lacking and the genital spirits are moved in vain, at least inchoatively. **2)** It does not exceed venial sin; because, since copula is per se licit for spouses, it cannot be gravely illicit to be delighted concerning it. Nor, however, is simple thought concerning these things to be had or already had illicit.[3] Indeed neither is desire concerning future copula, nor (except in a widower or widow) joy concerning past copula, per se illicit; because desire or joy concerning a licit thing cannot be illicit.

Notes to n. 1651 - note sequence 1. (1) L. VI. 934. (2) Ib. 916. 934. 935. (3) Ib. 934. H. A. Tr. XVIII. 42. Notes to n. 1651 - note sequence 2. (1) L. VI. 918. (2) De Occas. n. 242. V. Notes to n. 1651 - note sequence 3. (1) L. VI. 919. (2) Ib. 936. (3) Ib. 937.

§ II. On Onanism in Particular

1652. - Onanism consists in this, that the man, after copula has been begun, withdraws himself before semination and pours out the seed outside, in order to impede generation. Everyone sees per se that this is to indulge lust and at the same time to be unwilling to assume the burdens of Matrimony.

It takes its name from Onan, the second son of the patriarch Judah, who after the death of his brother Her, according to custom, was compelled to take his widow Thamar, so that he might raise up seed for his brother; but *going in to the wife of his brother, he poured out the seed upon the ground, lest children should be born in the name of his brother. And therefore the Lord struck him, because he did a detestable thing.*[1]

1653. Things to Be Established. - I say I. Voluntary onanism is always a mortal sin, as being against nature; and therefore it can never be licit for spouses. The reason is **1°** because it plainly fights against the primary end of Matrimony, and per se tends toward the extinction of society, and consequently subverts the natural order; **2°** because it was strictly prohibited by the supreme Legislator and Author of nature, as is drawn out from the text of Genesis just related; **3°** moreover, this is established from the 49th proposition condemned by Innocent XI, which sounds thus: *Mollities is not prohibited by natural law.* ... Hence thus: Onanism is true and properly so-called *mollities*, or pollution outside the licit use of Matrimony; therefore. This is confirmed by several Decisions of the Sacred Penitentiary and of the Holy Office to be referred to below. - I said: *voluntary*; because the sin of Onanism is not present if in the conjugal act seed can indeed be received by the woman, but cannot be retained, or if, after the work of marriage has been begun, seed is poured out because of necessity, for example because others come upon them and the work of marriage must be interrupted.[2]

I say II. An onanist man can never be excused from grave sin, and therefore is never to be absolved unless he sincerely grieves over his sin and proposes to avoid it for the future. The reason is clear from what has been said.

I say III. A wife can be excused from sin if, for a grave cause, she renders the debt to an onanist husband, provided that interiorly she does not assent to his sin, and exteriorly shows her repugnance by serious admonitions or other signs of displeasure. The reason is **1°** because she is occupied with a licit thing and uses her own right, of which she cannot be deprived because of the malice of the man; nor does she properly cooperate in the sin of another, since she bears herself only passively, and the intrinsically evil action consists only in the act of the man then withdrawing against the order of nature; **2°** because she is not bound by charity to impede the sin of her husband with grave inconvenience to herself; **3°** because it is clear from the responses by which the Sacred Penitentiary declared that a woman of this kind is not to be disquieted. - See the Decisions to be referred to below, n. 1658. ad 1um. 1659.

I said: *if for a grave cause*; and among grave causes Bouvier enumerates a reasonable fear of death, of grave cruelties, quarrels or blows (measuring gravity according to the condition of the person), divorce, infamy or grave scandal; likewise fear lest the husband should keep a concubine or commit adultery, or lest he should utter blasphemies against Religion, injuries against the confessor, or scandalous words before children or servants.

Notes to n. 1653. (1) Gen. 38. 9. 10. (2) L. VI. 954. Sanchez, de Matr. L. IX. D. 17. n. 22. 23.

1654. Resolves. - 1° A woman sins gravely who induces the man to abuse Matrimony, even indirectly or tacitly, for example by complaining about the number of offspring, the labors of childbirth or the education of children, or by repeatedly saying that she will die in the next childbirth, etc. *A fortiori* she sins gravely if, the husband being unwilling, she withdraws herself from copula begun before semination.

2° Likewise, a woman sins gravely by interiorly consenting to the detestable action of the man, even if exteriorly she shows repugnance. For sin is always to be held in hatred. Yet distinguish consent in the very action of the man from joy over the effect thence following, or over immunity from the inconveniences and dangers which accompany generation. Yet that joy is not without danger (see what was said in n. 232). Especially, however, the woman must beware of the manifestation of joy of this kind, lest the onanist man take an occasion from it for sinning in this way.

3° The wife is held, at least ordinarily, to warn an onanist man concerning the obligation of acting rightly, and to turn him away, as much as is in her, from a perverse manner of acting. Nor does it suffice that she has warned him once; but she ought sometimes to repeat admonitions, unless she is certain that a new admonition will profit nothing. Yet even then she ought in some manner to make known her repugnance, lest she seem willingly to consent to the sin of the husband. - Thus commonly, and thus responded the Sacred Penitentiary when interrogated, n. 1659. IV.

4° It will also be the office of the wife to move the husband by caresses, various signs of love, prayers, and exhortations to completing the act rightly, or to abstaining from it altogether. Experience establishes that very many onanist men, thus enticed by their wives, have returned themselves to better fruit.

1655. Questions. - Query 1° In what manner should a confessor conduct himself with spouses confessing, asking, or wholly silent concerning the use of Matrimony?

Resp. See n. 1425. 2). 3). 4); 1657. Resp. Ad 3um; 1658. § Ad 2um autem.

Query 2° Can a wife ask the debt from an onanist man?

Resp. Affirmatively, more probably, from a just cause; because she has a right to copula, and is excused from the sin of cooperation. - But "she will have a just cause of asking, if she herself should be in danger of incontinence, or if otherwise she would have to be deprived of her right of asking more than once or twice, with a perpetual scruple whether it is a sufficiently grave inconvenience to her or not, then to contain herself." Thus St. Alphonsus.[1] So also declared the Major Penitentiary Card. di Pietro in the admonition to the aforesaid responses of the Sacred Penitentiary, although he adds that the Sacred Penitentiary refused to give a decision concerning this matter.

Query 3° Does the wife sin by furnishing internal consent to pleasure, when she can permit the conjugal act to an onanist man?

Resp. Negatively, provided that she does not furnish assent to the sin of the man. The reason is that, since she does not sin in the least by permitting an act of this kind, neither does she sin by admitting the pleasure coming from it, although she foreknows that the man will not perfect copula; for that act is in itself honorable and licit for the woman, and it does not stand through her that it is not perfected in the due mode.

Query 4° Do spouses sin gravely who, in order to avoid offspring, have copula only at that time in which conception is not accustomed to have place, e.g., in that space of time which runs from about a fortnight after menses up to the next term of these?

Resp. The following doubts were proposed to the Sacred Penitentiary concerning this matter, which, from the French idiom into Latin to the letter, as much as I could, I have translated.

I. 1° Can this manner of acting be excused from mortal sin? - **2°** Is it prohibited at least under venial sin by reason of the intention of not conceiving?

II. Is it lawful for a confessor to counsel this manner of acting: **1°** to a wife who, although she detests and reproves the onanism of her husband, nevertheless tries in vain to turn him away from it? **2°** To both spouses, who, lest they be burdened by a numerous family, voluntarily give themselves to onanism?

III. 1° Can this manner of acting be counseled without danger, by which the diminution of the family is caused more certainly than by onanism, since the very reason of honesty reproves this latter? - **2°** Is that danger compensated, if thus mortal sin is avoided and the conscience of very many wives is pacified, who otherwise, whether by fault of the husband or by fear lest they conceive, will be alienated from the Sacraments?

To these doubts "the Sacred Penitentiary, the things set forth having been diligently weighed, responds: Spouses using Matrimony in the aforesaid manner are not to be disquieted, and the confessor can, cautiously however, insinuate the sentence of which there is question to those spouses whom he has vainly attempted to draw away from the detestable crime of onanism by another reason." Rome, in the Sacred Penitentiary, June 16, 1880.

A. Card. Bilio, P. M.
Hip. Can. Palombi, S. P. Secretarius.
L. + S.

Yet note that the spouses of whom there is question in the Query can be in a bad state: **a)** because of the danger of incontinence, which within the fortnight that immediately follows the menses can be present for at least one of the spouses, and which will more easily be present for those inclined toward venery, especially if they do not greatly abhor sin; **b)** because of the danger of refusing the debt in the case in which the consort should ask it within that fortnight, and this danger will be the greater the more solicitous the party from whom it is asked is to avoid offspring.[1]

Query 5° In what manner must one proceed with a wife who is placed in a proximate occasion of sin because of a man abusing Matrimony in any way?

To be noted beforehand. - The case would be if, the husband exacting it, she herself directly pollutes him with her hands, or if she herself is accustomed truly to consent to onanism, sodomy, her own pollution, etc.

Berardi responds:[1] "In this case the confessor will employ every zeal, that he may turn away the miserable woman from such horrible sins. Women ordinarily are accustomed to have the greatest affection for sins of this kind, and very difficultly are they accustomed to be induced to elicit a firm purpose of ceasing from them, because, by committing the aforesaid sins, on the one hand they satisfy pleasures both their own and the husband's, and on the other hand they free themselves from numerous offspring and from the inconveniences of gestation, childbirth, lactation, etc. Hence it is necessary that the confessor have ready an efficacious admonition and very grave words, that he may deter them from so great a crime.

"But if the admonitions of the confessor produce no or little amendment, it will not rarely be useful to threaten delay of absolution, and even in fact to defer the same."

Query 6° Can the wife of whom there is question in the case be obliged to make a divorce, so that she may be freed from this occasion of sinning with her own husband?

The same Berardi responds,[2] distinguishing: "If the woman in the use of Matrimony commits mortal sins, without the husband tempting her to committing these same sins, then she has no right of making a divorce, and therefore she must use other means for removing the danger of sinning in this occasion, which must be judged as altogether necessary. But if the husband himself compels her, or tempts her to committing the same sins, then Canonists and Theologians very commonly teach that the woman has the right of making a divorce; whence they argue that she even ought to make the same divorce if, because of cohabitation, she is placed in grave danger of sinning. See St. Alphonsus,[3] Sanchez,[4] the Salmanticenses, etc. But this conclusion must be understood with a grain of salt: namely, inasmuch as the woman indeed ought to make a divorce if she can without grave difficulty; but not if she would have to undergo grave harms and grave difficulties; because then there would be question of a necessary occasion, as Hurtado[5] and St. Alphonsus note."[6]

Notes to n. 1655 - note sequence 1. (1) L. VI. 947. Notes to n. 1655 - note sequence 2. (1) There are those who excuse even a wife avoiding the effusion of seed for the sake of conception being impeded, by acting frigidly or by diverting the mind to other things, since, as they say, today it is established that female seed is not required for generation. Notes to n.

1655 - note sequence 3. (1) De Occas. n. 244. Notes to n. 1655 - note sequence 4. (2) Ib. n. 245. (3) L. VI. n. 973. (4) L. X. D. 17. n. 11. (5) T. I. n. 102. (6) L. IV. n. 440.

Decisions of the Sacred Congregations concerning Onanism.

1656. - I Consultation. "The Bishop N. most humbly supplicates for the solution of this doubt: **1°** whether a woman can be absolved who indeed would suffer the husband, if he acted rightly in conjugal copula, but vehemently desires that the man withdraw himself because that woman fears to have offspring. **2°** Whether a woman can be absolved who in conjugal copula could by her caresses obtain from the man that he would not withdraw himself, and does not do it; because that copula displeases her."

Response. - "The Sacred Penitentiary, having weighed the doubts proposed by the Venerable Father in Christ, Bishop N., responded: Negatively. Given at Rome, in the Sacred Penitentiary, on the 27th day of May, 1847."

1657. - II Consultation. "It is asked of the Apostolic See with what theological note the three following propositions are worthy, namely: **1°** for honest reasons it is licit for spouses to use Matrimony in that manner in which Onan used it. **2°** It is probable that that use of Matrimony is not prohibited by natural law. **3°** It is never expedient to interrogate spouses of either sex concerning this matter, even if it is prudently feared lest the spouses, whether the man or the wife, abuse Matrimony."

Response. - "Sacred Congregation of the Inquisition, on the 21st day of May, 1851. To the **1st.** That the proposition is scandalous, erroneous, and contrary to the natural right of Matrimony. - To the **2nd.** That the proposition is scandalous, erroneous, and otherwise implicitly condemned by Innocent XI in the 49th proposition" (p. XVII). - "To the **3rd.** That the proposition, as it lies, is false, too lax, and dangerous in practice."

1658. - III Consultation. Petition of the Most Illustrious Lord Bouvier, Bishop of Le Mans, concerning the manner of acting of confessors with spouses, relatively to Onanism.

"Most Blessed Father, the Bishop of Le Mans in France, prostrate at the feet of Your Holiness with the greatest reverence, most humbly represents the things which follow.

"Nearly all younger spouses do not wish to have a more numerous offspring, and yet morally they cannot abstain from the conjugal act.

"Being interrogated by the confessor concerning the manner in which they use the rights of Matrimony, more commonly they are accustomed to be gravely offended; and, when admonished, they neither abstain from the conjugal act, nor can they be determined toward the excessive multiplication of offspring.

"Then, murmuring against confessors, they forsake the Sacraments of Penance and the Eucharist; they give a bad example to children, servants, and other faithful of Christ; a lamentable detriment to Religion arises thence.

"The number of those who approach the Sacred Tribunal of Penance in many places decreases from year to year, especially on account of this cause, as most pastors more conspicuous in piety, knowledge, and experience confess.

"How then did confessors formerly act? many say. No more children were commonly born then than today from individual Matrimonies, spouses were not more chaste, and nevertheless they did not fail in the precepts of annual Confession and Paschal Communion.

"All readily admit that infidelity toward the consort, and the attempt at abortion, is a very great sin. But scarcely, and indeed not even scarcely, can they be persuaded that they are held under mortal sin either to preserve perfect chastity in Matrimony, or to incur the danger of generating innumerable offspring.

"The aforesaid Bishop of Le Mans, foreseeing that immense evils will thence come, and troubled with anxiety, solicitously asks of Your Beatitude:

"**1°** Whether spouses who use Matrimony in such a manner that they guard against conception exercise an act per se morally evil?

"**2°** If the act is to be held as morally evil, whether spouses not accusing themselves of it can be considered as constituted in that good faith which excuses them from grave fault?

"**3°** Whether the manner of acting of confessors is to be approved who, lest they offend married persons, do not interrogate them concerning the manner in which they use the rights of Matrimony?"

Response. - "The Sacred Penitentiary, having maturely weighed the proposed questions, to the **1st** responds: Since the whole disorder of the act proceeds from the malice of the man, who, instead of consummating, withdraws himself and pours out outside the vessel; therefore, if the woman, after due admonitions, profits nothing, but the man insists, threatening blows or death, she herself, as approved Theologians teach, can simply permit it without sin, and this from a grave cause which excuses her; since charity, by which she is held to impede that, does not oblige with so great an inconvenience.

"But to the **2nd** and **3rd** it responds: That the aforesaid confessor recall to mind that adage, *holy things are to be treated in a holy manner*; and also weigh the words of St. Alphonsus de Ligorio, a learned man and most experienced in these matters, who in the *Praxis Confessariorum* § 4. n. 41 says: 'But concerning the sins of spouses with respect to the conjugal debt, ordinarily speaking, the confessor is not held, nor is it becoming, to interrogate, except wives, whether they have rendered it, in the more modest manner in which he can. ... Concerning other things let him be silent, unless he has been interrogated.' Nor should he omit to consult other approved authors. Given at Rome by the Sacred Penitentiary on the 8th day of June, 1842."

1659. - IV Consultation. Question. "Bertha has a man, whom by constant experience she knows to be an onanist. In vain has she attempted every means to draw him back from so nefarious a crime. Indeed very grave or at least grave evils now probably threaten her, so that she must either incur these evils or flee from the house of the husband, unless she permits at least sometimes the abuse of Matrimony, etc."

Response. - "Since in the proposed case the woman on her part indeed does nothing against nature, and gives work to a licit thing, but the whole disorder of the act proceeds from the malice of the man, who, instead of consummating, withdraws himself and pours out outside the vessel; and therefore, if the woman, after due admonitions, profits nothing, but the man insists, threatening blows or death or other very grave evils, she herself (as approved Theologians teach) can bear herself permissively

without sin; since in these circumstances of things she simply permits the sin of her husband, and this from a grave cause which excuses her; because charity, by which she is held to impede that, does not oblige with so great an inconvenience. Given at Rome in the Sacred Penitentiary on the 1st day of February, 1823."

V. Response of the Major Penitentiary. "Approved and exact moral Theologians agree in this, that ... it is lawful for a wife to render the debt, if from her denial she would be badly treated by her husband, and could fear grave inconvenience to herself thence; for, they say, in this case the wife is not judged formally to cooperate in the sin of her husband, but only to permit it from a just and reasonable cause. Yet let the Orator admonish a wife of this kind, that she not cease prudently to warn her husband, so that he desist from this turpitude.

"Michael, Card. di Pietro,
Major Penitentiary.

"Given at Rome in the Sacred Penitentiary, on the 19th day of November, 1816.

"There exist also other responses of the Sacred Penitentiary, which are wholly consonant with the preceding; Gousset reports these in the work, *Justification de Saint Liguori*."[1]

Notes to n. 1659 - note sequence 1. (1) p. 272. Notes to n. 1659 - note sequence 2. (2) See the reason, n. 1624.

Formulae for Petitioning for Dispensations.

I. For asking a dispensation in a public impediment, concerning which, according to the faculties (p. LXX. sq.), the Bishop can dispense.

"Most Illustrious and Most Reverend Lord."

"John N." (the family name is put) "and Anna N. ... of the parish (mission) N. ... of this diocese N." ... (if the persons about to marry belong to different dioceses, this is more correctly[2] expressed, and indeed immediately after the family name of each. Moreover, the dispensation is more conveniently petitioned through the pastor of the bride, if the impediment is common to both contracting parties, as, e.g., the impediment of kinship) "being blood-relatives in the fourth degree equally in the transverse line, as appears from the appended chart" (see an example of this, n. 1583. q. 2°. p. 252) "they desire to enter Matrimony with each other" (the impediment of blood-relationship is set forth here; but, as is clear, in this place that very impediment by which the persons about to marry are bound is to be set forth), "and therefore they suppliantly beg from Your Most Illustrious and Most Reverend Lordship the dispensation necessary for themselves. - The reasons are" ... (Here are set forth the causes which exist for obtaining the dispensation, e.g. **1°** the age of the girl, who, having now completed 25 years, probably would not find another man whom she could conveniently marry; **2°** e.g. danger of heresy, since the Orators live in a place mixed with non-Catholics, etc.). There follow, if any are present, the circumstances which must necessarily be expressed.

"With the greatest reverence and devotion with which it is proper, I remain,

"Most Illustrious and Most Reverend Lord,

"Of Your Most Illustrious Lordship,

"Most submissive,

"N. N.,

"Pastor or Missionary Priest.

"Baltimore, day ... Dec. 1874."

Note. - On the back of the sheet, or below the text of the supplicatory petition, let the chart of blood-relationship or affinity be put.

II. For asking a dispensation in an occult impediment, concerning which, according to the faculties or by law, the Bishop can dispense, and whose dispensation can be asked from him without danger of injuring the seal.

"Most Illustrious," etc., as above I.

"Titius and Caja, while the first spouse of Titius was still living, knew each other carnally, and gave faith mutually to each other concerning Matrimony to be contracted between themselves if the wife of Titius should die before him; she now being dead, however, neither of the Orators having plotted against her death, they desire to contract Matrimony between themselves. But since the impediment of crime arising from adultery and promise is occult, and unless Matrimony is contracted between them there threatens danger of scandals or of perseverance in sin, therefore, to avoid these things, and for the quiet of their conscience, they most humbly supplicate that Your Most Illustrious Lordship may deign most graciously to impart to them the grace of dispensation."

"With the greatest," etc., as I.

III. For asking a dispensation from the Bishop, after Matrimony has already been contracted in good faith with an impediment in itself public, and concerning which, by force of the faculties, the Bishop can dispense.

"Most Illustrious," etc.

"It is humbly set forth to Your Most Illustrious Lordship on the part of the devout Orators John N. ... and Anna N. (see above I.) of the parish (mission) ... of this diocese" ... (see above I.), "that they, otherwise ignorant that some impediment existed between them by which they could not be joined matrimonially to each other, contracted Matrimony between themselves by words of the present, public proclamations having been made in their parochial church, and no impediment having been detected or denounced, and solemnized it in the face of the Church, and consummated it by carnal copula. But afterward it came to their knowledge that they (as appears from the appended chart), proceeding in the third and fourth degrees of blood-relationship from a common stock, are joined to each other, on account of which they abstained from carnal copula" (or "and nevertheless persevered in the same carnal copula"). "But since the aforesaid Orators cannot remain in this Matrimony of this kind without dispensation, and, if separation were made between them, grave scandals could thence arise, they supplicate that, the pardon of ecclesiastical law being most graciously given to them, they may be able to enter Matrimony in the face of the Church, and afterward live in it freely and licitly."

"With the greatest," etc., as above.

IV. For asking a dispensation from the Bishop, after Matrimony has already been contracted in bad faith with a public impediment.

"Most Illustrious," etc.

"It is humbly set forth to Your Most Illustrious Lordship, in the name of the Orators John N. and Anna N., of the parish N. of this diocese N., that they, otherwise knowing that they (as appears from the appended chart), in the second degree of blood-relationship proceeding equally from a common stock, are joined to each other, petitioned a dispensation from Your Most Illustrious Lordship" (or "from the Most Illustrious and Most Reverend Lord N.") "for validly contracting Matrimony between themselves, the said impediment notwithstanding; but, having suffered refusal, blinded by mad passion and circumvented by diabolical fraud, they contracted an incestuous Matrimony before the civil magistrate" (or "a heretical preacher") "and consummated it, from which already three children have in the meantime been received by them. But now, from the superabundant mercy of God, greatly fearing concerning the danger of eternal salvation, they have been moved with great sorrow on account of their past life. But since, if separation were made between them, grave scandals would thence arise, and also great harm would come forth for their children; yet in Matrimony they cannot remain without dispensation, they supplicate that Your Most Illustrious Lordship may deign to dispense with them, so that, in the face of the Church, but with public denunciations omitted, they may contract Matrimony with one another, consent having been renewed, and may remain in it freely and licitly; this motive also being added on the part of the undersigned, that unless the dispensation is granted, it is greatly to be feared lest the Orators be entirely perverted in the Faith, and fall away from it, together with the children received, since they live among non-Catholics and infidels."

"With the greatest," etc.

V. For asking a dispensation from the Bishop in an occult impediment, and indeed with sanation of the Matrimony in the root.

"Most Illustrious," etc.

"Sempronia, of the diocese N. N., ignorant of the impediment, in the face of the Church and with denunciations having preceded, contracted Matrimony in good faith with a man by whose brother" (or "son") "she had previously been known carnally. Wherefore, since they cannot be separated without scandal, and danger of incontinence or of grave defamation is present, the putative husband being plainly ignorant of the impediment, and therefore the matrimonial consent cannot be renewed without grave danger of quarrels, hence she humbly supplicates for a speedy remedy of dispensation concerning an impediment of this kind, entirely occult, and indeed in the root of the Matrimony, so that, without renewal of consent, the Matrimony can be healed."

"With the greatest," etc.

VI. For asking a dispensation in a public impediment concerning which the Bishop cannot dispense.

Let Formula I be taken; but:

1° In place of: "Most Illustrious," etc., let this be written: "Most Blessed Father."

2° In place of: "from the Most Illustrious," etc., write: "from Your Holiness."

3° In place of: "With the greatest," etc., write:

"If Your Holiness deigns benignly to grant this grace to the Orators, they will render the greatest thanks for it with the greatest reverence and devotion with which it is proper,"

"To Your Holiness,

"Most submissive,

"N. N., etc.

"Given at N. N."

Note. - 1° If they are poor, after the reasons have been set forth it is said: "They are poor and miserable, and live only from their labor and industry." See n. 1627.

2° Let the supplication prepared by the Pastor of the Orators be sent to the Bishop; but the Bishop, or in his place the Vicar General, sends it to Rome fortified with testimony, seal, and episcopal handwriting.

3° If a dispensation is to be asked from the Holy See in a Matrimony contracted with a public impediment, whether in good or in bad faith, let Formula III or IV be taken, with the things changed which must be changed according to those things which were changed in this Formula VI.

VII. For asking a dispensation from the Sacred Penitentiary in Matrimony to be contracted.

"Most Eminent Prince."

"It is most humbly set forth to Your Eminence, on the part of the Orators Titius and Caja, that they intend to contract Matrimony, but that Titius, a married man, carnally knew Caja by perfect copula while his own wife Sempronia was still living, and they gave faith mutually to each other concerning Matrimony to be contracted between themselves if Sempronia, the wife of Titius, should die before him; and she indeed died before him by poison administered by Titius. But since from the premises the impediment of crime has arisen, and thence they can contract Matrimony neither licitly nor validly, the Orators supplicate for the grace of dispensation concerning this impediment of crime, so that they may publicly contract Matrimony between themselves, and afterward remain in it licitly and freely, and the offspring may be decreed legitimate. The impediment is altogether occult, and the danger of perseverance in sin is pressing, indeed also of grave scandal, if they cannot be joined in lawful Matrimony. Wherefore, for the quiet of their conscience, grieving greatly over the premises, they humbly supplicate Your Eminence, that concerning these things you may deign to provide by Apostolic authority with an opportune remedy.

"Kissing the purple, with the greatest," etc., as I.

"May Your Eminence deign to direct the response to New York (n. 173 Third Street, New York, U.S. of America) to me, the undersigned."

On the outside let him form the inscription thus: "To the Most Eminent and Most Reverend Lord, Lord N., Cardinal of the Holy Roman Church, Major Penitentiary" (from our Provinces: "Prefect of the Sacred Congregation de Propaganda Fide"), "Rome."

VIII. For asking a dispensation from the Sacred Penitentiary in Matrimony already contracted.

"Most Eminent Prince."

"Titius, a married man, carnally knew Caja by perfect copula while his own wife Sempronia was still living, and they gave faith mutually to each other concerning Matrimony to be contracted between themselves if Sempronia, the wife of Titius, should die before him; and, after Sempronia had died before him by poison administered by Titius, aware" (or "ignorant" [or "Titius aware" or "ignorant" or "Caja aware" or "ignorant"]) "of the impediment, in the face of the Church, with proclamations having preceded" (or "having been dispensed") "they contracted Matrimony" (or "with no proclamations having preceded, before the civil Magistrate," or "a heretical preacher") "and consummated it by carnal copula." (If each party or one or the other party still perseveres in good faith, let this be expressed; likewise whether each party or one or the other party, aware of the impediment, now abstains from copula, or nevertheless has persevered in the same.) "Wherefore, since the impediment is altogether occult, and separation cannot be made without scandal, I most humbly ask Your Eminence that you benignly indulge dispensation for them, inasmuch as they may be able to contract validly.

"Kissing the purple," etc., as Form VII.

Note. - The formulae by which the Bishop grants dispensations, Prelates will find in Heiss, *de Matrim.* p. 406 sq.

Other Formulae.

1. Formula of supplication for dispensation concerning the banns.

"Most Illustrious and Most Reverend Lord."

"It is humbly set forth that" (the names and surnames of the Orators are written, as above Form I., if the cause is honest or public; fictitious names, if the cause is occult and dishonorable; then the cause itself or causes). "Wherefore the Orators, whom, after diligent inquiry, I have found bound by no impediment, earnestly ask that a dispensation be granted to them concerning two (three) proclamations.

"Commending the prayers I remain," etc.

2. Formula of supplication for dispensation concerning the impediment of mixed religion.

"Most Illustrious," etc.

"Constantia N., Catholic, my parishioner, desires to enter Matrimony with Frederick N. from N., attached to the sect ..." (or "a baptized non-Catholic").

"The non-Catholic party before me, as appears from the declaration annexed to this supplication, promised under the faith of an oath that all infants of either sex to be born from that Matrimony are to be baptized and educated in the Catholic Faith, and that to them, equally as to the consort, the exercise of the Catholic Religion will be entirely free. Moreover, the Catholic party promised that she would take care according to her strength that, as much as is in her, the man be converted to the true Faith. Wherefore she most humbly supplicates Your Most Illustrious Lordship that you deign to grant to her by Apostolic authority a dispensation concerning that impediment. The causes are" (the cause or causes are set forth, e.g. vain attempts that the Oratrix renounce such a Matrimony; founded hope of the conversion of the non-Catholic party, etc.).

Treatise on Censures

Censures must be considered both in general and in species.

Chapter I: On Censures in General

We must treat **1°** of the nature and division of censures; **2°** of the principle or author of censures; **3°** of the subject of censures; **4°** of absolution from censures.

Note. - In this Treatise we have taken many things from the little work both of Peter Avanzini, whose title is: *On the Constitution Apostolicae Sedis*, and of the Most Illustrious and Most Reverend Fr. Aegidius Mauri, O.P., whose title is: *Commentaries on the Constitution Apostolicae Sedis*. The former is cited according to the 3rd Edition by the word: "Avanz."; the latter according to the 2nd Edition by the word: "Comm."

Article I: On the Nature, Division, and Conditions of Censures

I. On the Nature of Censure.

1660. - Censure is commonly accustomed to be defined thus: It is a spiritual and medicinal penalty, by which a baptized man, delinquent and contumacious, is deprived by ecclesiastical power of the use of certain spiritual goods.

It is said:

1° Penalty, because it supposes fault.

2° Spiritual, both because it is brought by a spiritual power for the spiritual utility of Christians, and because it immediately takes away spiritual goods, and because, as the Bull *Auctorem fidei* defines, condemning the contrary doctrine as false, pernicious, and at least erroneous (p. XXXII. p. 46), it binds in heaven and obliges souls.

3° Medicinal, because it is brought for this end, that the soul may return itself to better fruit. From this, however, you will not infer that those of whose correction there is despair are never to be punished by this penalty, or that those who have amended themselves are immediately to be absolved from it. For although this is generally true, nevertheless, according to St. Alphonsus[1] and St. Thomas, this does not impede that censure can also be brought for the terror of others, and that absolution from it can be deferred either for a fuller repentance of the matter, or for the edification of the faithful and for repairing scandal; wherefore the correction of the delinquent is not the only end of censure.

4° A baptized man, because those who are not baptized are not subject to the legislative or coercive power of the Church; but power is exercised over subjects.

5° Delinquent and contumacious, because a penalty is inflicted only on the delinquent; but medicine ought not to be extended except to those whose contumacy needs so great a remedy. Yet formal contempt is not required for this contumacy, but virtual contempt suffices, consisting in this, that someone, knowing, or at least doubting, that something is prohibited by the Church under censure, nevertheless wills to do it.

6° Is deprived of the use of certain spiritual goods, namely of goods which are subject to the power of the Church. For goods of a threefold kind exist in the Church. Some proceed immediately

from the head, or Christ, as the various graces; others proceed from the body, or the Church, as the administration of the Sacraments, common suffrages, etc.; but others proceed from the members, such as the prayers and good works of individual faithful. Now, therefore, censure does not take away the use of goods of the first kind, since they do not depend on the Church; and hence censure can stand together with the state of grace, e.g. in him who incurs censure because of a sin concerning which he afterward is perfectly contrite;[2] likewise, per se, neither does it take away the use of goods of the third kind; for the Church cannot impede that communion of Saints which exists from faith and charity among the members; but it only takes away or prohibits the use of goods of the second kind, sometimes indeed entirely, but sometimes only in part.

"Secondarily" censure can also deprive one "of the use of corporal goods, or of external actions, namely human communication, honor or salutation, etc.; which, however, is always as it were indirectly, and in order to spiritual things." Thus Suarez.

Hence censure differs:

1° From deposition and degradation, which are not medicinal, nor for a time, but only for penalty and perpetually, and because of a past sin, even one amended, can be inflicted.[1]

2° From irregularity, which can be contracted because of only a defect also, either of soul or of body, without any fault, and therefore per se is not a penalty, but only a canonical impediment, although, inflicted because of certain crimes, it can also have the character of penalty, yet not medicinal, but punitive, and of itself perpetual.

3° From cessation from divine things: because this is indicated for warding off an injury inflicted on the Church, not for amending the guilty person.

4° From privation of a benefice, prison, etc.; because these do not deprive one of the use of spiritual goods.

Particular suspension and interdict[3] sometimes put on the nature of censure, sometimes of vindicative penalty. But you will recognize that it is a vindicative penalty both if it is brought because of a merely past delict, and if it is inflicted perpetually or even for a determined time, say for two or three months. - They add that those penalties also then have the character of pure penalty, if some condition is lacking, from the defect of which censure, but not a pure penalty, is invalidated, or if the will of the Superior of constituting a mere penalty can be known from something.[4] Moreover, to penalties of this sort, if they are not censures, those things cannot be applied which the law establishes concerning censures as such.[5] Yet it is otherwise if something else is expressly provided by the law itself. See n. 1771. I said: **4°**.

Notes to nn. 1660-1662 - note sequence 1. (1) L. VII. 66. 68. (2) Cause XXIII. q. IV. c. 27. (3) Reg. Juris 1. c. 6, in 6°. (4) Collet P. I. C. III. art. I. sub Dico 2°. Lacroix, n. 20. (5) L. VII. 30. (6) Th. 34. 43. Notes to nn. 1660-1664 - note sequence 1. (1) L. VII. 32. 67. 68. (2) C. 4. I. V. Decr. T. XXXIX. S. Alph. L. VII. 43. (3) L. I. T. II. c. 2. in 6°. S. Alph. L. VII. 43. Notes to n. 1660. (1) L. VII. 1. (2) L. VII. 3. (3) L. VII. 83. (4) Reiffenst. Th. n. 179. (5) Reiffenst. Th. n. 179. Notes to nn. 1660-1662 - note sequence 2. (1) L. VII. 36. (2) Ib. 37-39. H. A. Tr. XIX. 7. Notes to nn. 1660-1662 - note sequence 3. (1) L. VII. 54. Notes to nn. 1660-1664 - note sequence 2. (1) L. VII. 45. Cf. Vind. p. 848. Ed. 2a. T. II. p. 516. (2) L. VII. 45. 47. (3) Th. 48. 801. H. A. Tr. XIX. 8. 56. (4) Ib. 46. Notes to nn. 1660-1664 - note sequence 3. (1) L. VII. 55. Cf. Vind. p. 853. Ed. 2a. T. II. p. 522. (2) L. V. T. XI. c. 9. in 6°. (3) Ib. in fine and L. VII. 56. H. A. Tr. XIX. 8. 4°. (4) L. VII. 52 sq. (5) C. 1. L. V. T. XI. in 6°. (6) L. VII. 60 sq. Notes to nn. 1660-1664 - note sequence 4. (1) L. VII. 61. (2) Tr. XXII. 39.

II. Division of Censure.

1661. - They are distinguished in various ways, namely:

1° By reason of species, into excommunication, suspension, interdict, concerning which we shall speak in particular.

2° By reason of the mode by which they are inflicted, into censures brought by law or by man, according as they are brought through canons or ecclesiastical laws (under which also come statutes established in a diocesan synod), or are brought by a legitimate Superior, whether by way of judicial sentence, e.g. if satisfaction is commanded by sentence of the judge under threat of censure to someone who has been found culpable; or by way of precept upon one or upon several. If censure by man affects determined persons, it is particular; but if it is brought generally and without determination of persons, it is general. - But they differ from each other especially in this, that a censure brought by law, when the author who brought it is dead, perseveres after the manner of all laws. But one brought by man, since it depends upon his jurisdiction and authority, when this ceases, he being dead or removed from office, also ceases, unless it has already been contracted; for, if someone has incurred it, the bond is taken away only by absolution.

3° By reason of the mode by which they are incurred, into censures of sentence already passed or to be passed, according as the Superior establishes that the censure is incurred by the very fact by which someone violates the law, or only after the sentence of an ecclesiastical judge has been inflicted. It is asked how these are distinguished from each other.

a) They are of sentence already passed: **1)** if the law says: *by the very fact*; *by the law itself*; *without another sentence*;[1] **2)** if the words are of the past or present tense, e.g. *we have excommunicated, I excommunicate*;[2] **3)** if absolutely, in the imperative mode, it is said: *let him be excommunicated, let him be suspended*, etc.; but not if by these words only a precept of excommunicating, suspending, etc., is imposed on another, say the Bishop.[3] Nearly the same distinction, according to Suarez[4] and Croix,[5] is to be employed if it is said: *immediately*; *continuously*; *from then*; *on the spot*.

b) They are of sentence to be passed, if the words are either **1)** of the future tense; or **2)** threatening, unless something else is gathered from the adjuncts;[6] or **3)** ambiguous; for, from Rule of Law 49 in 6°, "in penalties the more benign interpretation is to be made."[7] But ambiguous would be, for example, these words: *let him be excommunicated*.[8]

4° By reason of the power of absolving, into reserved censures or non-reserved censures, according as the Superior reserved to himself absolution from them, or permitted ordinary Ministers to absolve from them. Some are reserved to the Pope, others to Bishops. Those reserved to the Pope are reserved either specially, or simply (see n. 1701 sq.). But to Bishops some are reserved by law (see n. 1733 sq.), and these are properly reserved to the Pope with the faculty made to Bishops that they can absolve from them; others are reserved by Bishops themselves. Censures by man are always judged reserved, unless they were brought by a general precept. - Finally, these also deserve to be distinguished:

5° Notorious or occult censures, according as it is clear to others that someone has incurred them because of a fact which is so known that it can no longer be hidden; or otherwise; and

6° Just or unjust, valid or invalid censures, according as the Superior has consulted justice, truth, and law, or not, in imposing the censure.

Notes to n. 1661. (1) L. VII. 31. 10. Cf. Reiffenst. (2) Reiffenst. Th. n. 179. (3) L. VII. 37. (4) Suarez, de censur. Disp. III. Sect. III. n. 5. (5) Croix, n. 86. (6) L. VII. 31. 7. (7) Reiffenst. n. 79. (8) Reiffenst. n. 19.

III. Conditions of Censures.

1662. - For the validity of censure there is required sin, and this proportioned to the censure, external, regularly consummated, not merely past, and joined with contumacy.

1° Sin. Hence, if the crime on account of which censure is inflicted either does not subsist, or has not been legitimately proved, the censure does not bind in the forum of conscience. But if for the external forum it appears valid, it must be observed externally to avoid scandal and disturbance of judgments.[1] Furthermore, censure ought not to be fulminated in one's own personal cause, since this is reputed in law as vengeance.[2] Except, however, **1)** if this is done not by way of judgment, but by way of defense against him who inflicts violence, because it is lawful to repel force by force;[3] **2)** where the cause is so public and manifest that it can neither be denied, nor needs any examination.[4]

2° Proportioned to the censure, and hence ordinarily mortal; for censure, since it is a most grave penalty, requires mortal fault. Yet I said: *ordinarily mortal*; for suspension or interdict for a brief time and depriving one only of some use, likewise minor excommunication, can be brought because of venial sin.[5]

3° External; for the Church judges in the external forum, to which censures pertain; but not concerning merely internal things. Moreover, the sin ought not only to be exterior, but also grave as to the substance of the external act. Whence it does not suffice that the act is mortal from a depraved intention or from an erroneous conscience. - Thus, e.g., he who strikes a cleric only lightly, although with the mind of killing him, does not incur excommunication; nor does he who strikes a table, or says: *thus it is*, intending internally to confirm heresy, etc.; nor finally he who falsely thinks himself to violate the law, e.g. by reading a book which he falsely believes condemned. For all these indeed sin against conscience, but not against Canon Law.[6]

4° Regularly consummated by work in its own kind, according to the property of the words which are contained in the precept or law inflicting the censure, and according to the principal end of the law. The reason is because penal laws are to be strictly interpreted according to the Rule of Law: *Odia are to be restricted, favors ought to be enlarged.*

I said: **1)** *regularly*. For sin begun, or even an attempt or assistance toward it, can be punished by censure and in fact sometimes is punished, as, e.g., provocation to duel or acceptance of it, even though the fight does not follow; likewise to furnish work or favor to the same. But unless it is expressed in the law, an extension of this sort is not to be made. Therefore,

I said: **2)** *according to the property of the words*, etc. Wherefore, he who only counseled some crime is not bound by censure, if in the law no others than perpetrators are noted; but he will be bound if also counselors or those in any way cooperating in the same are noted.[1] Hence also, as St. Alphonsus notes,[2] if the censure has been brought principally upon those doing, and accessorily upon those commanding, counseling, etc., the one commanding, the one counseling, the one carrying a vote, does not incur it, if the command, counsel, or vote does not efficaciously influence the crime; or if the

crime is not brought to effect. Thus, e.g., he is exempted from excommunication who gave a command or counsel to him who was already prepared to perpetrate the delict; likewise the one commanding a cleric to be struck is exempted if in fact the striking does not occur. And the same must probably be said if it is doubted whether the command or counsel influenced. - On the contrary, if the censure has been brought principally upon those commanding, counseling, etc., it is incurred immediately whenever the command or counsel has been furnished by them, even with the effect not following; the reason is because then the censure has been imposed precisely because of the command or counsel, and not because of the work which would be caused from the command or counsel.

5° Not merely past, or not having, as they say, a successive tract, because censure is a medicinal penalty, and therefore cannot be brought upon those who have already returned themselves to better fruit. "Therefore, when someone is excommunicated because of theft, he is excommunicated by reason of contumacy, either because the thief knew theft to be forbidden under censure, or because, having been admonished under penalty of censure, he refuses to restore."[1] Apply the same to the case of scandal given and not yet repaired.

6° Joined with contumacy against the law or precept of the Church. The reason is because the principal end of censure is to break pertinacity. Recall the things said n. 1660. It is said: **5°**.

1663. Resolves. - 1° Because one is excused from grave fault because of some circumstance, he is also excused from censure, although the matter is grave in itself.

2° If something altogether light is commanded under censure, this is not incurred, provided that the thing which appears light under some respect does not become grave from elsewhere.

3° The Superior would act imprudently and illicitly, but nevertheless validly, who brought censure because of any grave fault whatever; for the end of the Church is to punish only graver crimes.[2]

4° More probably, censure is not incurred if someone, before the evil work is consummated, as far as he can revokes the command or counsel, or, not being able to impede the consummation, at least warns the person to be harmed, that he may be on his guard; for he would not be contumacious at the time at which the work obtains the final effect required for incurring censure. Concerning restitution in this case see nn. 760. q. 1°. 5; a. 168. q. 1°.

5° Excommunication which is said to be brought upon harmful animals, e.g. locusts, is not excommunication properly so called, but adjuration, or a prayer made for their destruction, lest they harm. Cf. n. 376. III.

6° Likewise, when the dead are said to be excommunicated, this must be understood of a certain execration or declaration of excommunication which they incurred before death, and in which they died. Therefore, absolution imparted to the excommunicated who died with signs of penitence is extended directly not to the dead themselves, but to the living, inasmuch as they are loosed from the obligation not to communicate with the departed in burial and public prayers.

Notes to n. 1663. (2) Trid. Sess. 25. C. 3. Ref. sub initio. (3) L. VII. 40. H. A. Tr. XIX. 45. Cf. Vind. p. 841. Ed. 2a. T. II. p. 509.

1664. Questions. - Query 1° Whether one doubtful concerning a contracted censure in the internal forum is to be held censured?

Resp. Negatively, in a doubt both of fact and of law, i.e. whether you doubt whether you have offended, or whether the case falls under censure. The reason is both because in doubt no one is to be stripped of the right, which he possesses, of using spiritual goods, and because *odia* are to be restricted. Thus commonly. Hence regularly you do not incur censure unless the sin is so certain that no prudent doubt remains whether it was perpetrated; whether it is internally and externally grave; whether it is consummated in its species; whether it was committed by one past puberty (see n. 1668. II.).

It is said in the question: *he who doubts whether he has incurred it*; for in a doubt preceding the action, the things to be said in the following questions 2° and 3° are to be applied.

In a doubt concerning absolution obtained, concerning an appeal interposed in time, and similar things, the guilty person ought to bear himself as censured; likewise in a doubt concerning the power of the Superior when this Superior peacefully possesses it, and more truly also in a doubt whether the censure is just, because in these doubts the power of the Superior possesses. - A censure brought from a false presumption of fact, unless or until its injustice is publicly known, must be observed in public, lest scandal be given.

Query 2° Whether ignorance excuses from censure?

Resp. 1° Certainly ignorance of fact excuses, namely when someone is ignorant that he is placing an act prohibited under censure. Thus, e.g., if someone strikes a priest thinking him to be a layman, he does not incur the censure brought upon strikers of Clerics. The reason is because censure ought to be known to the sinner, so that he may be contumacious. Thus in Canon Law.[2]

Resp. 2° Ignorance of ecclesiastical law commanding or prohibiting something under censure also excuses. This is clear from the same reasons just adduced; for he cannot be called contumacious against the Church who is ignorant of its law, as is clear from Canon Law,[3] where it is said: "We do not will that the ignorant be bound, provided however that the ignorance does not smack of crassness or supineness."

Query 3° Whether vincible ignorance excuses from censure?

Resp. 1° Affirmatively, if this is not gravely culpable; because then the one ignorant cannot be called contumacious against the Church. - Thus all.

Resp. 2° But negatively, if that ignorance is gravely culpable; because then practically it can be called crass: moreover, crass ignorance does not excuse from censure, as is clear from the cited Canon Law. For this ignorance does not impede that someone be contumacious against the law which he culpably ignores. - St. Alphonsus[1] and others commonly.

Except, however, if in the Decree of censure it is said: *whoever shall have done this knowingly, deliberately, rashly, whoever shall have presumed*, etc. For these words demand a perfect and direct voluntary act, and from certain knowledge of the censure.[2] But more commonly they deny that by these clauses even affected ignorance, as including fraud and being equated to knowledge, is excused; and to this sentence, as more common, St. Alphonsus, although the opposite does not seem to him improbable, adheres the more.[3]

Query 4° Whether those who have committed some sin to which censure has been annexed by law are to be admonished by the confessor both concerning the sin and concerning the censure annexed

to it, if they are ignorant either of the sin or of the censure?

Resp. The question must be resolved according to the things said in n. 1423, and according to the things to be said in nn. 1753-1757. q. 3°.

Query 5° Whether grave fear excuses from censure?

Resp. Affirmatively, even when there is question of a censure established against those transgressing a divine precept, whether positive or natural, provided that **a)** fear of this kind is such that it excuses from fault those violating the precept, if it were ecclesiastical; **b)** the law does not dispose otherwise. The reason is because ecclesiastical laws, such as are those which establish censures, cease to oblige where grave fear presses. - Yet I said: **a)** *fear of this kind is such*, etc. Hence, when the observance of human law seems morally necessary for preserving the public good, or if its violation redounds to contempt of the Faith, or of the law, or of ecclesiastical power, one transgressing from grave fear, even of life, a law placed under censure is not excused from it. I said: **b)** *the law does not dispose otherwise*, whether explicitly, or implicitly, as, e.g., with regard to duelists.[4]

Query 6° Whether it is required that admonition of the delinquent precede the censure?

Resp. 1° No admonition is required for censures established by law, because the law itself, having been brought and known, sufficiently admonishes the subjects. - Thus all. Yet, more probably, according to St. Alphonsus,[1] citation of the guilty person is required where there is question of censure of a sentence to be passed, in the case in which the delict and contumacy are not so notorious that it is evidently clear that no defense belongs to the guilty person.

Resp. 2° But admonition is required for censures to be brought by man, and indeed more commonly and more probably for validity. The reason is because he is not contumacious who previously was not admonished concerning the precept and concerning the penalty annexed. Indeed, from Canon Law, for liceity, a triple admonition is required, or at least one peremptory admonition, or one in which it is expressed that it has the force of three, and in which time for repentance equivalent to the time of three admonitions is granted, namely a period of two days for each admonition, and therefore a space of six days, e.g. "we command that within six days you cast such a woman out of the house; otherwise by the very fact you will be excommunicated."[2] But for a just cause three spaces can be reduced to one day or to a shorter time, and, if there is danger in delay, as if there is question of repressing violence, e.g. of trustees refusing to open the doors of the church, one admonition suffices, provided however that time for repentance, say the space of one hour, be designated.[3]

Except: **1°** if there is question of censure by man by a general precept, or even a special precept with respect to a future act; for then admonition is not necessary, since the Decree concerning bringing censure holds the place of admonition.

Except: **2°** if there is question of suspension and interdict of this kind, which are not censures properly so called and medicinal, but are brought only by way of penalty.[4]

Note. - Concerning the solemnities required for censures strictly such to be brought licitly, see, if you wish, Canon Law[5] or St. Alphonsus.[6] - Concerning these, observe: **a)** that they are required only in censures by man, and indeed brought by a particular sentence; but not in censures established by law, or by man indeed, but by way of a general or particular precept;[1] **b)** that among other things it is required that the censure and its cause be pronounced in writing, and that an authentic copy of the

writing be handed over to the guilty person asking for it within a month. But since, as Kenrick astutely remarks,[2] "in this region lawsuits are sometimes brought against a Bishop bringing censures, he ought to take care here that he hand over nothing in writing which could furnish occasion for a civil action, or which otherwise would redound to the detriment of Religion; but a civil action does not seem to be given, if to the guilty person asking, the cause proved in judgment" (ecclesiastical) "is set forth; otherwise if the Bishop communicates the judgment" (ecclesiastical) "to others whom it does not concern."

Article II: On the Principle or Author of Censures

1665. Principles. - I. The Church enjoys true power of bringing censures. See the arguments among the Dogmaticians.

II. All and only ecclesiastical Superiors having jurisdiction in the external and contentious forum can bring censures by ordinary right. This is clear from the words of Christ in Matthew:[3] *Whatever things you shall bind*, etc. For by these words Christ gave to the Prelates of the Church, in the person of the Apostles, every power for the good and right administration of the Church. It is also clear from several places of Canon Law.

III. Censures can be brought, by that delegated power, by all and only Clerics to whom it has been granted by a Superior having ordinary jurisdiction. The reason is because every and only Cleric is capable of ecclesiastical jurisdiction, which is required for bringing censures.[4]

Notes to n. 1665. (3) 18. 18. (4) L. VII. 9 sq. Notes to nn. 1665-1667 - note sequence 1. (4) L. VII. 12. Notes to nn. 1665-1669 - note sequence 1. (5) L. VII. 16. Notes to nn. 1665-1667 - note sequence 2. (1) L. VII. 12. (2) Th. 21. Notes to nn. 1665-1667 - note sequence 3. (1) L. VII. 22. (2) Ib. 21-24. L. I. 157. H. A. Tr. XIX. 1. 5. L. I. T. II. c. 2 in 6°. (3) L. II. Decr. T. II. c. 3. 20. (4) L. VII. 26-27. L. VI. 591. H. A. Tr. XIX. 6. Cf. Vind. p. 868. Ed. 2a. T. II. p. 538. Notes to nn. 1665-1669 - note sequence 2. (1) L. VII. 135. (2) Thesaurus, de Paenit. P. II. sub Conceptio. C. I. n. 3. Giraldi, Expos. J. P. P. I. sect. 623. (3) L. VII. 26. 241. Cf. Vind. p. 874. Ed. 2a. T. II. p. 544. (4) L. VII. 28. Notes to nn. 1665-1669 - note sequence 3. (1) L. VII. 28. (2) Ib. (3) Kenr. Tr. XXII. 36. Notes to nn. 1665-1669 - note sequence 4. (1) L. VI. n. 16 in 6°. (2) L. VII. 18.

1666. Rules. - 1° By ordinary right the Pope and a General Council can bring censures with respect to the universal Church; - the Roman Congregations, as the Congregation of the Council, of the Holy Office, of Bishops and Regulars, etc., likewise for the universal Church, in those things committed to them to be executed; - Archbishops both in their own dioceses and in the dioceses of suffragans at the time of visitation, and also when there is question of a cause brought to their tribunal by appeal, because then they have jurisdiction over suffragans; - Bishops with respect to their own diocese, provided they have been confirmed, even if not consecrated, and more truly also their Vicars General, because with the Bishop they constitute the same tribunal. Except the case of which in n. 1164. I. 10); - Legates in the territory of the legation, and Cardinals in the Church of their own title; - provincial Councils in their provinces; Generals, Provincials, and local Superiors and general Chapters (among some regulars also provincial Chapters) of religious Orders according to their various statutes; - the Chapter of the cathedral Church, the See being vacant, and before the election of the capitular Vicar, who (among us, the Administrator) thereafter will enjoy such power exclusively.[1]

2° Pastors cannot, by ordinary right, bring censures, because today they do not have jurisdiction in the external and judicial forum, but only administration for the right order of the parish.[2]

3° Women, more probably not even by delegation, can bring censures. Therefore Abbesses of Nuns cannot bring them by their own authority, but can only obtain a Decree by which their commands must be observed under penalty of censure. - But the incapacity of a lay man is only by ecclesiastical law. Therefore the Pope can delegate this power to a lay man.[3]

4° Delegated power ceases by the death of the one delegating, or by his removal from office, unless the cause has already been begun by the delegate, at least by citation (cf. n. 151. 6°). But one delegated for bringing censures cannot subdelegate another, unless he has express license from the one delegating, or unless at least he is delegated to any causes whatsoever by way of office, or by the Pope (cf. however n. 150. R. 2°).

Notes to n. 1666. (1) L. VII. 10. (2) St. Thomas in 4. dist. 18, q. II. art. II. (3) L. VII. 12. Vind. p. 867. Ed. 2a. T. II. p. 537.

1667. Questions. - Query 1° Whether heretical, excommunicated, and suspended Bishops can validly bring censures?

Resp. 1° Affirmatively, if they are occult heretics, excommunicates, or suspended persons. The reason is because the Church, on account of the common good, does not take away from them the use of jurisdiction. Yet they act illicitly whenever they bring censures. - Thus commonly the Theologians with St. Alphonsus.[4]

Resp. 2° Negatively, if they are excommunicated persons to be avoided, or not tolerated, because then they are deprived of all ecclesiastical jurisdiction. (The same, for the same reason, holds concerning those suspended from jurisdiction.) But what if they are indeed notorious, but not to be avoided? It seems that they nevertheless can validly bring censures, because, they say, it is gathered from the Constitution of Martin V, *Ad evitanda*, where it is sanctioned that an excommunicated tolerated person, in those things which pertain to public office, is not to be avoided, not even by those who know it.[1]

Query 2° Whether a Bishop can bring censure if he is outside the diocese?

Resp. 1° Affirmatively, if the censure is brought by way of precept or statute for guarding against future crimes.

Resp. 2° Affirmatively also, if the censure is brought by way of sentence, which nevertheless does not need knowledge of the cause and judicial process (whether because the contumacy is so manifest that it does not need knowledge of the cause, or because the cause was already known in the proper territory), or, even if it needs judicial process, permission nevertheless has been given by the Ordinary of the territory and the parties consent, since no one unwilling can be drawn outside his proper territory.

Resp. 3° Negatively, if the censure must be brought with judicial process, and the Ordinary of the place denies license. Except, unless the Bishop was unjustly expelled from his own territory; for then in the nearer places he will be able to exercise his jurisdiction, license having been sought from the Ordinary of the place, although not obtained.[2]

The reason for the threefold response is that, in the case of Response 1st and 2nd, either contentious jurisdiction is not exercised, or it is exercised with the consent of the Ordinary of the territory; but in the case of Response 3rd, such jurisdiction is truly exercised, and indeed without the consent of the Ordinary. But the reason for the exception in Response 3rd is that then it does not stand through the

Ordinary that it be exercised in the proper territory from which, as is supposed, he was unjustly expelled.

Query 3° Whether, vice versa, a Bishop existing in his own diocese can bring censure against a subject existing outside the diocese?

Resp. 1° Affirmatively, if there is question of a crime committed in his own diocese. The reason is because otherwise the delinquent could be punished by no one; and, although he has gone away, nevertheless he does not cease to be subject to the jurisdiction of his own Bishop. Nor does it stand in the way that citation cannot be made outside the territory; for it suffices for incurring the censure that the guilty person be cited in his own house or in a public place.[1]

Resp. 2° Indeed, the Bishop can bring censure against a subject sinning outside the diocese, if there is question of a matter pertaining to his diocese. Thus Clerics can be excommunicated who, having been ordered to come to the Synod, do not obey; but otherwise, more probably, if the crime were consummated outside the territory, or in an exempt place of the same territory, e.g. in a church or convent of Regulars. Except, if the discussion is of a censure brought against someone by way of a special precept for guarding against crime, as St. Alphonsus more probably teaches, although the contrary sentence also is probable for him, "since one who speaks law outside the territory is not obeyed with impunity."[2]

Query 4° Whether a Bishop can bind with censure the subject of another, who, namely, has neither domicile nor quasi-domicile in that diocese, but sins in his diocese?

Resp. Affirmatively. The reason is because every delinquent obtains the forum of the place in which he sins. Thus from Canon Law.[3] Except, if the delinquent were the Superior of that Bishop, e.g. the Metropolitan of that Bishop. But although a Bishop cannot bring censure against a stranger before admonition, nevertheless, after he has offended in the place and the Bishop has cited him, he can. - These things are said concerning censures by man through sentence. For if the discussion is of censures inflicted by the special law of that place upon delinquents, whether against common law or against the proper laws of that same place, according to the more common and more probable sentence, which exempts newcomers and travelers from the obligation of observing the proper laws of those places, they do not incur them.[4]

Query 5° Whether Regular Prelates can bring censure against subjects existing in whatever place?

Resp. Affirmatively, according to the common sentence. The reason is because the jurisdiction of Superiors is not only territorial, but more personal; whence a change of place on the part of the subject detracts nothing from the jurisdiction of the Superior.

Article III: On the Subject of Censures

1668. Principles. - I. The subject of censure can be nothing except a baptized man, capable of reason, and a subject: **1°** he must be baptized, because according to the Apostle the Church does not judge concerning those who are outside; **2°** capable of reason, because censure is ordered toward the correction of the delinquent; but this has no place in him who lacks the use of reason. Yet he who has lucid intervals is bound by censures, provided that at the time when he was possessed of reason he

gave the cause; **3°** a subject, because censure is an act of jurisdiction, which can be exercised only over subjects. Cf. however n. 1667. q. 4°.

II. Those not yet of puberty, although they can be bound by censures absolutely, nevertheless, because of the lightness of age, from the indulgence and benignity of the Church they do not incur them, unless it has been specially expressed in the law, or unless the censure is brought by way of particular precept, and in each case, as is clear of itself, there is question of those not yet of puberty who are capable of fraud.[2]

But a twofold case only is found expressed in law, namely: **1°** if they have entered monasteries of Nuns. Trid.[3] - **2°** if they have struck Clerics.[4]

Notes to n. 1668. (1) L. VII. 20. (2) Ib. 14. (3) Sess. 25. c. 5. de Reg. (4) L. V. Decr. T. XXXIX. c. 60. St. Alph. L. VII. 14.

1669. Questions. - Query 1° Whether Kings and Queens can be bound by censures by Bishops?

Resp. Negatively. For although in spiritual matters they are subject to Bishops, nevertheless by privilege they cannot be punished with censure by them. But this privilege was legitimately introduced by the course of time, and is commonly attributed to them by the Doctors.[5] Yet they are subject to Pontifical censures, even those brought by law, e.g. against those invading cities, lands, places, or rights pertaining to the Roman Church.

Query 2° Whether Bishops and Cardinals are subject to censures?

Resp. 1° Certainly they cannot be subject to censures brought by themselves, because no one is subject of himself.

Resp. 2° But they are subject to papal censures, because the Pope is the Superior of all, even of Bishops. Nevertheless, by privilege of law they are bound neither by interdict nor by suspension, unless mention of them is made in decreeing those censures,[1] at least indirectly, e.g. through the clause: *even those worthy of special or individual note*.[2]

Query 3° Whether religious can be bound by episcopal censures by the Bishop of the place?

Resp. Distinguish. Either they are exempt, or they are not. - If they are not exempt, affirmatively, as is clear of itself. - If they are exempt, subdistinguish. - Affirmatively, if they enjoy only a general privilege of exemption, but then only in those things in which they are subject to the Bishop, whether as Ordinary or as Apostolic delegate. What these are, see nn. 1197-1202. - But negatively, if from a special privilege they cannot be struck with censures even in those things in which otherwise they are subject to the jurisdiction of Ordinaries, although by the same they can be coerced and punished by other penalties. The Mendicants and Jesuits enjoy such a privilege.[3]

Query 4° Whether someone can be bound by several censures at the same time?

Resp. Affirmatively. For nothing prevents someone from being constrained by several bonds at once. For just as someone can perpetrate several sins diverse in species and number, so also he can be bound at the same time by censures diverse in species and number, e.g. by excommunication, suspension (if he is a Cleric), and interdict, and also by several excommunications, etc. Indeed, because of one delict someone can be bound at the same time by law and by man, by the Pope and by the Bishop, so that he must be absolved by each, provided that the one Superior intended to impose a

new penalty; otherwise, regularly, the later censure is held as an innovation or publication of the prior one. - Thus commonly and absolutely more probably according to St. Alphonsus.[4]

Hence: **1°** If someone by one act commits two sins diverse in species, to each of which censure is annexed, he incurs two censures, e.g. he who kills a Cleric in a place where homicide is prohibited under penalty of censure. But it is otherwise if that one sin does not have malices diverse in species.[1]

2° If someone repeats the same crime to which a censure is annexed, by an act morally distinct from the first, he again incurs the same censure; but it is otherwise if the repeated acts are not morally distinct from each other. Thus one striking a Cleric three or four times, with a notable interval posited between the individual blows, incurs three or four censures, while he incurs one if he strikes him several times continuously.

3° Likewise, an excommunicated priest will incur several irregularities who absolves several penitents successively, because so often he confers a new Sacrament.[2]

Query 5° Whether an appeal excuses from incurring censure?

Resp. 1° A legitimate appeal excuses from a conditional censure, i.e. from a censure of a sentence to be passed or to be incurred in the future, provided it is made before the lapse of the time granted for fulfilling the condition.

Resp. 2° A legitimate appeal from a censure already brought, i.e. which someone has already incurred, generally does not suspend it. Whence the common saying of the Canonists is that the appeal then is devolutive, but not suspensive. - Thus Benedict XIV, Constitution *Ad militantis*, March 30, 1742, § 38.

Query 6° Whether the subject of censure can be an entire community?

Resp. 1° Negatively with regard to excommunication, and this probably not even validly. Hence a Bishop who wishes to excommunicate a body of church trustees (*trustees*) trampling on the rights of the Church must name the individual members of the body.[3] Yet the Pope can excommunicate all from a community whom he has found guilty, without designating the individuals by name.

Resp. 2° Affirmatively with regard to suspension, yet so that it strikes the individual members of the community only as regards the functions and rights belonging to the community itself as such; but not as regards the functions and rights which belong to them singly.

But if suspension is inflicted on the community and on the individual persons of it, then it does not affect the innocent, but only the delinquents.

Resp. 3° Affirmatively also with regard to interdict; this censure has this singular thing, that, if it is general, it binds an entire community, and in this even the innocent.[1] Yet he who brings the censure cannot for that reason be charged with injustice; since by such an interdict, properly speaking, the innocent are not punished, but the Church for just causes withdraws its benefits and offices from the guilty as well as the innocent. Common.[2]

Notes to n. 1669 - note sequence 2. (3) Porpora Tract. XXVII. n. 76. (4) L. VII. 128. (5) Comment. n. 168. Theol. Pat. n. 164. (1) Cap. 1. de sent. exc. in 6°. (2) L. VII. 18.

Article IV: On Absolution from Censures

Things to Be Noted Beforehand. - Someone can be absolved from censure in a multiple way:

1) As regards all effects, or as regards some effect only; **2)** absolutely or conditionally; **3)** to reincidentia; **4)** for caution.

Now therefore: **1°** Absolution is ordinarily given as regards all effects, but sometimes it is given for a partial effect, e.g. for taking away privation of active voice in canonical election; this absolution, however, is improperly so called, and bears the species of a dispensation.[3] Another for an effect, see n. 1403. q. 1°.

2° Absolution can be given under a condition either concerning the past: e.g. *if you have already satisfied, I absolve you*; or concerning the present: *if I can absolve*; or concerning the future: *if you will satisfy hereafter, now for then I absolve you*. This last, however, is illicit unless it is made honorable by some grave cause, say if afterward there would be lacking someone who could absolve the censured person.[4]

3° A species of conditional absolution is that which is given to reincidentia; in such a way, namely, that the one absolved, unless within a certain time he furnishes something, e.g. unless within a month he restores, or approaches the excommunicator, relapses by the very fact into the same censure. - Moreover, reincidentia is by man or by law: **a)** it is by man whenever it is added by the will of the Superior himself absolving; **b)** it is by law when it is incurred by force of law: this has place in only two cases, namely when someone either, detained by a lasting impediment [n. 1402. II. 2)], or in danger of death, is absolved by him who has no jurisdiction over the censure reserved to the Bishop or specially to the Pope.[5] He, namely, although truly absolved and amended, when the impediment or sickness ceases, ought, as soon as he conveniently can, by himself or through another, to present himself to the excommunicator (or his delegate), not indeed to be absolved again, but humbly to receive a mandate[2] from him, as the Canons say; otherwise he relapses by the law itself into the same censure (because of his new contumacy).

4° Absolution for caution is that which is given, e.g., before absolution from sins, to take away a censure perhaps unknown.

1670. Principles. - I. Censures which the guilty person has already incurred are not loosed by the delinquent's penitence alone or obedience toward the mandates of the Church, nor, if you except suspensions from informed conscience (see n. 1686. 1° at the end), by the death of him who brought the censure; but absolution imparted by a judge, or legitimate Superior, is necessary. It is manifest from Canon Law,[3] and from the 44th proposition condemned by Alexander VII, p. XIV. But if a similar penalty has been brought not as a censure but as a pure penalty, it is taken away by relaxation or dispensation.[4]

II. From a censure brought by man through a particular sentence, only these can absolve: **1°** he who brought the censure; **2°** his Superior as such. Therefore not the Metropolitan, except in the case of appeal or visitation of the diocese of the suffragan; **3°** his successor; **4°** another delegated by one of these. The reason is because it belongs to him to absolve to whom it belongs to bind. Therefore this holds even if the guilty person changes domicile. Hence St. Alphonsus[5] warns that, if someone in another territory has offended in such a way that he was specially excommunicated by the Bishop of

that place, he cannot be absolved by his own Bishop, unless with the license of the excommunicating Bishop.

But note that this is said concerning a censure by man brought through a particular sentence; for censures by man indeed, but brought through a general sentence, according to the more probable opinion, are equated to those brought by law which are not reserved; and therefore whoever has jurisdiction over the guilty person can absolve him.[6]

What has been said concerning absolution from a censure brought by man through a particular sentence, the same must be said concerning censures reserved by law. See also n. 1403. q. 7°.

But if a censure is specially reserved to the Pope, for absolution from it to be imparted a general concession of absolving from cases and censures reserved to the Roman Pontiff in no way suffices, but a special one is required. But those presuming to absolve without due faculty, even under whatever pretext, incur by the very fact an excommunication simply reserved to the Pope, provided there is not question of the article of death; in this, however, the obligation of standing to the mandates of the Church remains firm for those absolved, if they recover. - Constitution *Apostolicae Sedis*, dated October 12, 1869, § *A quibus*.

III. Any confessor can absolve from censures not reserved to the Pope or Bishop,[1] except however censures brought by law against some place or against a community; for a place and a community are not subject to the penitential forum.[2]

But absolution of this kind can be given by confessors both outside and within Confession, and also holds for the external forum.[3] But if the penalty is notorious, because of scandal it will be necessary that the absolution also be publicly clear; for this, however, it suffices that it be known that the censured person has confessed,[4] and that satisfaction, if any was necessary, has been exhibited by him. Wherefore absolution would be given imprudently, even only in the internal forum, from a case already brought to the contentious forum, or soon to be brought there.

Note. - 1° In what cases Bishops, or their delegates, can absolve from censures reserved to the Pope, see n. 1402. II.

2° When, and in what manner, someone can absolve from censures reserved either to the Pope or to the Bishop, whether every priest or a simple confessor, see n. 1402. IV and n. 1403. q. 1°. q. 2°. q. 4°. q. 5°. q. 7°.

Notes to nn. 1670-1672 - note sequence 1. (1) L. VII. 81 and L. VI. 593. (2) L. VII. 21. (3) Ib. 117. 121. (4) C. unic. L. I. T. XX. in 6°. (5) L. VII. 119. Notes to n. 1670. (3) L. V. Decr. T. XXXIX. c. 15. (4) Reiffenst. L. V. T. XXXIX. n. 179. (5) L. VII. 72. (6) Ib. 73. (1) L. VII. 70. L. V. Decr. T. XXXIX. c. 29. (2) L. VII. 232. (3) Ib. 70. (4) Ib. 65. not. 2. Notes to nn. 1670-1672 - note sequence 2. (1) Acta, T. I. p. 565 sub n. 27. (2) L. VI. 537. q. VII. L. VII. 121. (3) L. VI. 537. q. VII. (4) Ib. § Si vero. (5) L. VII. 129. (6) Ib. 56. Notes to nn. 1670-1672 - note sequence 3. (1) L. VII. 117-125. (2) Comment. n. 167.

1671. Resolves. - 1° An ecclesiastical Superior or delegate can absolve from censures, even if he is not a priest. The reason is because jurisdiction, which is required for absolving from censures, can reside in a Cleric even initiated only by tonsure.

2° A faculty granted by the Bishop for reserved sins is not understood for sins reserved with censure; otherwise if the concession has been made by the Pope, because papal cases are all reserved with censure, except those two which are indicated in n. 1400. IV.

3° Absolution for caution does not seem necessary to me in a doubt (even of fact) whether a censure has been contracted. Sanchez has one exception.[1] But absolution from excommunication, at least for caution, is always given (and, if some probable suspicion is present that it has been contracted, it must be given under venial sin) to any penitent, before he is absolved from sins, so that an impediment to receiving the Sacrament, if any perhaps exists, may be removed. Yet absolution from sins is valid although absolution from excommunication was not premised, provided the penitent is in good faith and otherwise rightly disposed.[2] - From the Roman Ritual.

A determined form of words is not required per se for valid absolving, but the will of the one absolving, manifested by some sign, suffices and is required. Let the one absolving use, for the internal forum, that form which is already contained in sacramental absolution itself; but for the external forum, that which is described in the Roman Ritual. - "The rite," says Kenrick,[3] "of lightly striking the shoulder of the man with a rod," which is prescribed in the form for the external forum, "will be able to be committed to execution with difficulty, on account of the customs of the region being opposed ... Busembaum teaches," according to St. Alphonsus,[4] "that this striking can be omitted for a just cause."

Notes to n. 1671. (1) Dec. L. I. c. X. n. 55 sq. (2) L. VI. 480. (3) Tr. XXII. 52. (4) L. VII. 116.

1672. Questions. - Query 1° Whether an absent person can be absolved?

Resp. Affirmatively, at least validly. The reason is because just as a penalty can be established against an absent person, so also it can be taken away. This is also evidently deduced from Canon Law. Except, if the faculty of absolving has been so granted that the absolution must be given in the act of Sacramental Confession.

Query 2° When is a faculty of absolving judged to have been so granted that it must be exercised in the act of Sacramental Confession?

Resp. There is not one sentence of all concerning this matter. St. Alphonsus teaches that it must be exercised in the act of Sacramental Confession if in the faculty it is said: *in the forum of conscience*. This is clear from those things which he teaches concerning the faculty of Bishops from the chapter *Liceat*, or from the Constitution *Apostolicae Sedis*, § *Firmam tamen*.[1] Cf. n. 1402. II. 1).

Query 3° Whether an absent Bishop can absolve one existing in the diocese?

Resp. Affirmatively, according to all. The reason is because for absolution there is not required knowledge of the cause, nor judicial process; and therefore nothing prevents the Bishop from exercising such an act of jurisdiction in another territory. But it is otherwise if judicial process is sometimes required, or if the faculty given to the Bishop perhaps has been restricted in this.[2]

Query 4° Whether one unwilling can be absolved?

Resp. Affirmatively, provided he is absolved by the Superior; for just as a penalty can be brought against an absent and unwilling person, so also it can be taken away from him; nevertheless it is not expedient that this be done without a very grave reason, and care must be taken lest, while he does not cease from contumacy, the censure be held in contempt. Hence it is required that the censured person ask absolution, although it is valid even when not asked, provided (if it is given by a delegate) there is question of one amended.[3]

Query 5° Whether absolution extorted unjustly by force or grave fear is valid?

Resp. Negatively, as is clear of itself, and as the law itself disposes.[45]

Query 6° Whether he who is bound by several censures can be absolved from one, the others remaining?

Resp. Affirmatively. The reason is because among them there is no necessary connection. And mortal sins indeed can in no way be absolved one without the others; but it is otherwise concerning censures, the absolution of which does not confer sanctifying grace on the censured person. Therefore they are had after the manner of chains, of which some can be loosed without others.

Query 7° Whether he can be absolved from censures who has not yet publicly repaired the scandal because of which he was subject to censure?

Resp. Negatively, at least per se, and speaking generally. It is clear from the Declaration of the Sacred Penitentiary on the 5th day of July, 1857.

Query 8° In what way must scandal in the said case be repaired by those to whom such reparation is difficult and exposed to dangers?

Resp. The Sacred Penitentiary, December 10, 1860: "that the reparation of scandal is necessary by divine law, and that it must be made in the better way in which it can be, by the judgment of the Ordinary or confessor."[1]

Query 9° In what way is satisfaction to the injured party, if it is necessary for taking away censure, to be exhibited?

Resp. See n. 1402. IV. c). And these things indeed must be observed under penalty of nullity, if absolution from reserved cases is given through a delegate under this condition: but that a condition of this kind is expressed by the clause: *the party having been satisfied*, is taught by the opinion which seems truer to St. Alphonsus.[2]

Query 10° Whether and when an oath must be exacted before absolution?

Resp. It must be exacted universally whenever it is prescribed; but specifically: **1°** in the case of which in n. 1402. IV. c), if absolution is given by a delegate with this condition, and then more truly[3] it is required for validity, unless there is question of a penitent who would be perpetually unable to satisfy;[4] **2°** in the case of which in n. 1402. IV. e);[5] **3°** in the case in which absolution is given by a Bishop because of an impediment of approaching the Holy See, which is not perpetual; before absolution, namely, the censured person in this case ought to swear (or, if there is question of absolution in the internal forum, to promise), that when the impediment ceases he will approach the Holy See.[6]

Note. - From the things said it follows that a great difference intervenes between absolution from sins and absolution from censures. For:

1° The former is given for reconciling us to God; but the latter for restoring those things which are proper to citizens of the Church militant. - **2°** The former must be given from all sins; the latter is rightly given even from one censure. - **3°** The former can be bestowed only upon the contrite and willing; the latter is validly imparted even to the contumacious and unwilling, at least by the

Superior. - **4°** The former must be given purely; the latter can be given under condition, from day to day, to reincidentia, for caution, etc. - **5°** The former, because it is part of a Sacrament, is given only to those present; the latter is rightly given also to the absent. - **6°** The former, extorted by fear, is valid; the latter is not so. - **7°** The former can be imparted only by an approved priest; the latter by a simple cleric obtaining external jurisdiction.

Furthermore: **1°** Whenever a censure is reserved, the sin also is liable to reservation. But between reservations introduced by the Roman Pontiff and reservations introduced by Ordinaries there is very much distance, as is clear from the things said in n. 1400. IV., 1401. q. 2°. - **2°** Sins liable to reservation can be absolved not only directly, but also indirectly, from a just cause (n. 1403. q. 1°. q. 2°); but censures can be absolved only directly.[2]

Chapter II: On Censures in Species, Namely 1° On Excommunication; 2° On Suspension; 3° On Interdict

Article I: On Excommunication

It must be treated **1°** concerning its nature and division; **2°** concerning its effects.

§ I. On the Nature and Division of Excommunication

1673. Definition. - Excommunication is a censure by which someone is deprived of communion with the Church; or a censure by which a Christian is deprived, either wholly or in part, of the common spiritual goods of the Church, the distribution of which belongs to the Church herself (n. 1660. 6°).

It is distinguished: **1°** Major, which deprives one of all common goods of the Church; **2°** Minor, which deprives one only of some goods. - But by the name of excommunication there is almost always understood in law the Major, as St. Alphonsus notes from the common opinion;[3] nevertheless before Gregory IX the Minor also sometimes came under it. - But the word anathema is used in the Sacred Canons sometimes for the distinction of minor excommunication, as in c. 12. Caus. 3. q. 4; sometimes to signify excommunication inflicted because of heresy, or suspicion of it; finally to signify certain solemnities, when, for example, excommunication is denounced with candles lighted and afterward extinguished, and with other ceremonies instituted by the Church.

Of those excommunicated by major excommunication, some are called tolerated, whom the faithful are not held to avoid; others are not tolerated or to be avoided, whom the faithful must avoid.

Formerly all who were bound by excommunication were to be avoided (i.e., communication with them was forbidden to the faithful in those acts which are prohibited to excommunicates by the censure), and indeed to be avoided publicly, if the censure was notoriously established; but otherwise privately by those who knew that someone was bound by censure.[1]

But "for avoiding scandals and many dangers which can befall fearful consciences," the Constitution *Ad vitanda* of Martin V in the Council of Constance granted to the faithful of Christ communion, even in divine things, with those (the living, namely) who are bound by any ecclesiastical censure, unless either they have been excommunicated by name, or (according to the Theol. Patav. n. 299. 302, even after the Constitution *Apostolicae Sedis*) they are notorious strikers of clerics.[2]

Nevertheless it must be noted:

1° The aforesaid Decree does not grant communion to those who are subject to censure, as is gathered from the words of the Constitution itself, "to the faithful of Christ ... we mercifully grant," and interpreters, by common opinion, defend as truer. - Cf. n. 1243. q. 5°.

2° Although now by no ecclesiastical law is it forbidden to the faithful to associate with tolerated persons, even in sacred things, and to request them for such acts, nevertheless at times divine law, whether natural or positive, will obstruct such communication because of injury to prudence and charity, e.g., through scandal which is given; through spiritual harm which threatens the faithful

person; through delay of the amendment of the excommunicated person, etc. - Cf. n. 1317. q. 2. R. 8°.

3° Authors commonly assert that it is lawful for tolerated excommunicates to communicate with the faithful, if they have been expressly or tacitly requested by these.[3]

Notes to n. 1673. (1) L. V. Decr. T. XXXIX. c. 14. (2) Ben. XIV. de Syn. L. XII. c. V. n. 4. (3) L. VII. 169 sq.

1674. Questions. - Query 1° Whether, in order that an excommunicated person who is to be avoided must be avoided, it is necessary that he be publicly known as such?

Resp. Affirmatively, i.e., it is required (ordinarily, even if there is question of one who struck a cleric) that the fact of that excommunication be truly notorious, namely, that it be morally certain to you, e.g., through public fame or through two trustworthy witnesses, that he was excommunicated by name and publicly, or denounced as already bound by excommunication.[1] But he is excommunicated by name who is designated by express name or office, by words or signs so indubitable that he is altogether separated from others. But he is said to be publicly excommunicated who is denounced as such in a public place, e.g., in church, at the time of Mass or of sermon, by living voice, or through a notice in a public place according to the custom of the region. - I said: that it be morally certain to you. Yet in doubt whether someone is to be avoided, it will not be lawful for you to confess to him, lest perhaps you be absolved invalidly.[2]

Query 2° What must be held concerning MINOR excommunication?

Resp. Before the Constitution *Apostolicae Sedis*, illicit communication in divine things or in civil things with one to be avoided was punished by the very fact with at least minor excommunication. But under grave obligation it deprived one of the reception of Sacraments, likewise of passive election to benefices and dignities of the Church.[3] - For the external forum the ordinary ecclesiastical judge absolved from it; for the internal forum, the confessor.

After the said Constitution this excommunication seems to have been removed.[4] Some, however, deny this. Yet sometimes communication with one to be avoided is punished with major excommunication simply reserved to the Pontiff, or with other censures. - See n. 1731. 1736. 1747. 1751. - Besides this, the Bishop can, not indeed by statute, but by name, forbid to someone the passive use or reception of the Sacraments, or at least of Communion.

Notes to n. 1674. (1) L. VII. 137 sq. (2) Ib. 136. 137. 207. H. A. Tr. XIX. 26. (3) L. V. Decr. T. XXVII. c. 10. (4) Avanzini (88). Comment. n. 111.

§ II. On the Effects of Excommunication

1675. - The effect of excommunication, whether in a tolerated person or in one to be avoided, generally is the privation of whatever right belongs to a baptized person as a member of the Church. - In species eight are numbered, namely: **1°** privation of the Sacraments; **2°** privation of divine Offices; **3°** privation of the suffrages of the Church; **4°** privation of ecclesiastical burial; **5°** privation of ecclesiastical jurisdiction; **6°** privation of benefices; **7°** privation of forensic communication; **8°** privation of civil society.

The goods of which excommunication deprives one are comprehended in these little verses:

Res sacrae, ritus, communio, crypta, potestas,
Praedia sacra, forum, civilia jura vetantur.

Sacred things, rites, communion, the tomb, power, sacred estates, the forum, civil rights are forbidden.

And these indeed are the immediate effects of excommunication; but the mediate effects are two: **1)** Irregularity, which can be incurred because of violation of the censure (n. 1771). **2)** Suspicion of heresy, which he incurs who for a whole year contumaciously (according to St. Alphonsus in any censure, but especially) persists in excommunication, or, as the laws speak, grows filthy in it. - But that suspicion effects this, that he who thus grows filthy is held to purge himself canonically (see p. LXI. note 2), because from growing filthy there exists a sufficient presumption that he thinks badly concerning the power of the Church and concerning the Sacraments. But if he does not purge himself, he is held as convicted.[1]

Notes to n. 1675. (1) L. VII. 157. Vind. p. 877. Ed. 2a. T. II. p. 548.

I. Privation of the Sacraments.

1676. - Excommunication deprives one of the right both of receiving and of administering the Sacraments. Hence resolve:

1° Per se an excommunicated person sins gravely, whether one to be avoided, or even tolerated, who receives or confers the Sacraments.

Except: **a)** when there is question of the recipient, if, otherwise disposed, he is in invincible ignorance, or a grave evil (such as scandal, killing, mutilation, infamy, grave loss of goods, etc.) would otherwise threaten, provided that fear of evil of this kind has not been instilled in contempt of the censure. - I said: he sins gravely; for if you except the Sacrament of Penance (which, as one disobedient to the Church, he would receive without contrition), he receives the others validly.[2]

Except: **b)** when there is question of the one conferring: **1)** If he confers the Sacraments in a case of necessity (e.g., if otherwise true and grave inconvenience for him would be feared), or with ignorance of the prohibition.[1] Yet in the former case account must also be taken of scandal. - Otherwise, even outside a case of necessity, he validly confers the Sacraments, if you except the Sacrament of Penance conferred by one to be avoided outside the case of common error or of danger of death.[2] - **2)** If a tolerated person confers them, having been asked by the faithful themselves. Cf. n. 1673. 3°. - **3)** If one to be avoided confers them in cases of extreme or gravest necessity of the faithful, which cases see n. 1243. q. 5°.

2° Ministers of the Church sin gravely who confer the Sacraments on excommunicates, whether on those to be avoided, or on those simply tolerated, at least per se, since they are unworthy. - Nevertheless he who confers the Sacraments on tolerated persons alone does not sin against a prohibition of the Church, but only against divine law. The reason is that the Church no longer prohibits communion, even in divine things, with tolerated persons. But they sin against divine law, because it is never lawful to give holy things to dogs.[3]

I said: at least PER SE; unless, namely, either the excommunicated person perhaps lawfully seeks the Sacraments, or the one administering is excused by circumstances (see n. 1231. q. 4°). - In doubt whether someone has or has not been absolved from censure, the Sacrament cannot be denied to one

asking, especially if he affirms that he has been absolved; because in doubt no one is presumed a liar.[4]

Note. - For what reason the use of Sacramentals is permitted to an excommunicated person, see n. 1678. 3°.

Notes to n. 1676. (1) L. VII. 170. (2) Ib. 167. (3) Ib. 158. 165 sq. (4) H. A. Tr. XIX. 17 in fine. L. VII. 160.

II. Privation of Divine Offices.

1677. - Divine Offices are understood to be Mass, public Processions, Hours solemnly sung, solemn Benediction, consecration of Chrism, and other ceremonies of this kind, which are done by institution of Christ or of the Church, or which are proper to the Clerical Order, as the singing of the Epistle or Gospel with proper ornaments, ecclesiastical burial.

1678. Hence resolve. - 1° Any excommunicated person is prohibited under grave obligation from hearing Mass, and from all other divine Offices properly public, even on days of precept.[1]

Concerning a Mass to be broken off when one to be avoided remains in church,[2] note the faculty which is granted to our Bishops, and is usually communicated to priests, namely, "of celebrating ... when heretics, schismatics, infidels and excommunicates are present, if it cannot otherwise be celebrated." See p. LXXI. n. 23.

2° Nevertheless an excommunicated person, even one to be avoided, can, at a time when divine things are not being celebrated, pray in the same place in which others pray, but apart and separated from the assembly of the faithful; he can also attend a sermon, the reading of Sacred Scripture and of Theology; because these do not come under the name of divine Offices, and the Church gladly permits these things to him, that he may be led to conversion. - But he is deprived of the faculty of preaching and of lecturing in Theology or in Canon Law, unless he is tolerated and requested by others.[3]

3° He can also use images, relics, blessed water, and other sacred things, that he may venerate them, and thus obtain the graces of which he has need. Nevertheless he does not gain Indulgences attached to sacred things, nor does he perceive from blessed water and other Sacramentals the fruit which comes from the blessing of the Church.[4]

4° An excommunicated person, bound to the canonical Hours, is not dispensed from them; but he must recite them privately, nor can he employ a companion, unless he is tolerated and requested. Nor can he say: *Dominus vobiscum*; but in its place he ought to say: *Domine, exaudi orationem meam*. Nevertheless by saying: *Dominus vobiscum*, he would sin only venially, and, according to some, whose opinion St. Alphonsus seems implicitly to admit, not even venially, when he recites alone.[5]

Notes to n. 1678. (1) L. VII. 175. (2) Ib. 176. 177. (3) Ib. 174. 177. (4) Ib. 174. (5) Ib. 178.

III. Privation of the Common Suffrages of the Church.

1679. - The suffrages of the Church are either common or private. Common suffrages are those which come to the faithful from good works done in the name of the Church by her Ministers; such are Masses, canonical Hours, and other prayers and works which are done by Ministers of the Church insofar as they are such, and are performed in the name of the Church herself. To these also must be

reduced the satisfactions of Christ, of the Blessed Virgin, and of the Saints, which constitute the Treasury of the Church, and are applied by the Prelates of the Church through Indulgences.

Private suffrages are those which come from good works which the faithful perform in their own name. Such are fasts, prayers, and other good works, which are done by private faithful, or by Ministers of the Church as private persons.

1680. Hence resolve. - 1° Excommunicates who are to be avoided are deprived of all common suffrages of the Church. It is clear, because the Church by her own right prohibits that prayer be made for them, or that any part of her goods come to them. And this holds, even if they were contrite and converted to a better life, because the excommunication still endures.[1]

2° Neither tolerated persons, nor even those to be avoided, are deprived of private suffrages. The reason is that the faithful are not prohibited from praying privately for excommunicates, even in the Church and in a public place; therefore they can apply the fruit of good works to them.[2]

3° Tolerated excommunicates probably are not deprived of common suffrages. The reason is that the Church no longer prohibits the faithful to communicate with tolerated persons, as is deduced from what was said above (n. 1673). - Concerning offering Mass for an excommunicated person or not, see n. 1317. q. 2°. R. 8°. 4°.[3]

Notes to n. 1680. (1) L. VII. 163. (2) Ib. 162. (3) Ib.

IV. Privation of Ecclesiastical Burial.

1681. - Ecclesiastical burial is that which is done in a sacred place, or in a place blessed for the burial of the faithful. Hence:

1° An excommunicated person who is to be avoided cannot be buried in a sacred place; but if he has been buried in such a place, his corpse must be dug up, if it can still be done, and the sacred place polluted by such contact must be expiated.[4]

2° A tolerated excommunicated person, provided he is notoriously excommunicated,[5] likewise is deprived of ecclesiastical burial; and, if he has been buried in a sacred place, he must be extracted from there. Yet the place is not judged polluted, and therefore does not need expiation. - If he gave signs of penitence, he can be buried in a sacred place, although it is fitting[1] that he first be absolved from excommunication.

3° Even one to be avoided, who gave signs of penitence before death, can be buried in a sacred place; but absolution must first be imparted to him. Nevertheless he must not be moved from a sacred place, if he was buried without absolution.[2]

4° To this bear, from the Constitution *Apostolicae Sedis*, excommunication 1 among the non-reserved (n. 1736), and interdict 2 (n. 1751).

Notes to n. 1681. (4) Ib. 186. (5) Ferrar. V. Sepultura n. 202. (1) De Angelis, l. 3. t. 28. 7°. (2) L. VII. 186.

V. Privation of Ecclesiastical Jurisdiction.

1682. - 1° An excommunicated person who is to be avoided is deprived of all ecclesiastical jurisdiction. Hence he cannot absolve in the forum of Penance, nor make laws, or censures, or

sentences, nor elect to benefices or confer them, etc. But if he were to do such things, they would be altogether null and void.[3]

2° A tolerated excommunicated person, even if notorious, validly exercises jurisdiction, because otherwise great confusion would arise in the Church. Yet his acts can be weakened and repelled through an exception or opposition of excommunication, and he acts illicitly outside a case of necessity, or unless he has been asked; and indeed in a grave matter he cannot be excused from mortal sin. But if he has been asked, he does not sin, even if he ministers the Sacraments without cause. For since communication with tolerated persons has been granted to the faithful, it has also indirectly been granted to these to communicate with the faithful who ask. Yet this holds insofar as the Sacraments are sought from an excommunicated person; for insofar as they are sought from a Minister existing in mortal sin, a just cause is required for seeking licitly.[4] Cf. n. 1243. q. 5°.

Notes to n. 1682. (3) Ib. 185. (4) L. VI. 88. L. VII. 139.

VI. Privation of Benefices.

1683. - 1° Any excommunicated person, whether tolerated or one to be avoided, becomes altogether incapable of obtaining benefices or ecclesiastical offices. The reason is that a benefice is given on account of an office: an excommunicated person is altogether incapable of an office; therefore also of a benefice. Except if the benefice were conferred by the Pope himself, aware of the excommunication, or absolving from it. - The same holds concerning dignities to which jurisdiction is annexed (except, however, the papal dignity), and concerning obtaining Apostolic Rescripts, unless these are obtained in the very cause of excommunication or of appeal for the defense of the excommunicated person.[1]

2° Nevertheless excommunication does not deprive one of a benefice already obtained, nor, if the beneficiary has discharged his office by himself or through another, of its fruits before the sentence of the judge. The reason is that neither is clearly expressed in law.[2] Yet if for a year he neglects to obtain absolution, he can be deprived of the benefice by the judge. But a heretic is by the very fact deprived of benefices and offices previously rightly obtained, but in such a way that before a declaratory sentence of the crime he is not held to resign benefices, and to restore fruits perceived after privation established by the law itself.[3]

3° An excommunicated person accepting a benefice, and he from whom he accepted it, sin gravely, since they act against a grave prohibition of the Church.[4]

Notes to n. 1683. (1) L. VII. 180. 181. (2) Ib. (3) Ferrar. V. Haereticus, 49 sq. Sanch. Op. Mor. L. II. c. XXVI. n. 6 sq. (4) L. VII. 180. 181.

VII. Privation of Forensic Communication.

1684. - Forensic communication is understood to be communication in all those things which pertain to judgment, whether civil or ecclesiastical.

1° An excommunicated person who is to be avoided is deprived of every act pertaining to judgment in the civil forum. Therefore he cannot be judge, advocate, plaintiff, witness, notary, procurator, etc. Likewise he cannot be tutor, curator, or executor of a testament. - Thus from Roman law.[5] - But those dispositions of law today do not obtain use in most places (even among us).

2° A fortiori one to be avoided is deprived of all communication in the ecclesiastical forum. Yet he can appeal and pursue the appeal. - Thus from Canon Law.[6]

3° A tolerated excommunicated person is deprived of no forensic communication by the very fact; hence he acts validly, if he uses it; but he can be juridically repelled through exception, both by adversaries and by the judge.[1]

Notes to n. 1684. (5) Ib. 184. (6) L. II. Decr. T. XXV. c. 5. (1) L. VII. 184.

VIII. Privation of Civil Society.

1685. - The civil actions in which commonly it is not lawful to have fellowship with one to be avoided are contained in these little verses:

Si pro delictis anathema quis afficiatur,
Os, orare, vale, communio, mensa negatur.

If someone is struck with anathema for crimes, mouth, praying, farewell, communion, table are denied.

1° *Os*, i.e., conversations, letters, signs of benevolence.

2° *Orare*, any communication even private[2] in divine things. See also in the Constitution *Apostolicae Sedis*, the 16th and 17th excommunications, which are simply reserved to the Pope, n. 1731. Likewise interdict 2, n. 1751.

3° *Vale*, altogether particular salutations.

4° *Communio*, any society of business, habitation, contract, cooperation, etc.

5° *Mensa*, reciprocal invitation to table.[3]

Furthermore: **1)** It is a grave fault to communicate in divine things, or in contempt of the Church, or in criminal crime, in that namely because of which someone has been excommunicated, or even, more probably, in the other things, if the communication is frequent with the purpose of repeating it often.

2) It is venial, regularly speaking, in other cases.

3) But grave causes can excuse reciprocal communication between an excommunicated person who is to be avoided and the faithful, namely necessity, the spiritual good of the excommunicated person himself, matrimonial conjunction, the state of subjection (e.g., of a son of the family who is a minor), ignorance either of law or of fact.[4] Those causes this little verse displays:

Utile, lex, humile, res ignorata, necesse.

The useful, law, the humble, an unknown thing, necessity.

But all these things are said concerning those to be avoided alone; and, although the privilege of Martin V by no means favors tolerated persons, nevertheless from the custom of today, or, as others prefer, because of good faith, these no longer sin in civil matters by communicating with the faithful, even if they have not been requested by them.

Notes to n. 1685. (2) Th. 78. (3) Ib. 188. (4) Ib. 200 sq. H. A. Tr. XIX. 22 sq.

Article II: On Suspension

1686. Definition. - Suspension is a censure by which a Cleric is deprived for a time, in part or wholly, of the use of the power which he has by reason of Order, office, or benefice.

Suspension is a censure, because per se it is brought medicinally by way of admonition, so that the delinquent may desist from contumacy. Thus **1°** it differs from deposition and degradation, which are mere penalties and perpetual, for the vindication of a crime; **2°** it differs from irregularity, which is not per se a penalty, but a mere impediment, or inability, impeding not only from exercising ecclesiastical power, but also from receiving it.

Nevertheless suspension is not necessarily and essentially a censure; for sometimes it is brought either without previous admonition, or for a certain time, or at pleasure, or in perpetuity for punishing a merely past fault, or one not having successive extension (n. 1662. 5°), and therefore then it is not medicinal. This is established from the practice of the Church and from Canon Law.[1] - Say the same if it is made not in writing, but orally; because, since a censure cannot licitly be brought without writing, it is not presumed that the Bishop wished to commit a fault by bringing a censure orally.[2]

There are also singular species of suspension:

1° Suspension from informed conscience, or the faculty given to Bishops and prelates enjoying jurisdiction quasi-episcopal, of forbidding their clerics ascent to Sacred Orders, or of suspending the same from their Orders or grades, or ecclesiastical dignities (which nevertheless most probably cannot be extended to a benefice), for any cause whatever (a grave cause, however, as the nature of the thing and the context of the Tridentine words demand), the estimation of which is left to the conscience of the Bishop,[3] even because of an occult crime in whatever way, even extra-judicially.[4]

Concerning the origin and character of this suspension see *Acta S. Sedis*.[1] It itself, as is gathered from what has been said, requires no solemnities; nevertheless it must be expressed that the Bishop acts by force of the Council of Trent,[2] lest he be judged to proceed by the ordinary way, in which case solemnities would be necessary.[3]

But from the decisions of the S. C. C. it seems that it cannot be inflicted because of public crimes (from actual jurisprudence), although one censured because of a public crime ought to revere the judgment of his Superior;[4] besides, according to more recent resolutions, it hardly seems possible to establish it as a perpetual penalty,[5] indeed ordinarily it is not prolonged beyond six months.[6] Thus one suspended, who solemnly exercises a Sacred Order, incurs irregularity. - Nor is appeal granted against this penalty, but only recourse to the Holy See, to which the Bishop, having been required, is held to disclose the causes of the suspension.[7]

This suspension also ceases by the death of the Bishop who brought it.

2° Suspension for caution or inhibition, namely a precept of the Bishop restraining a cleric from the exercise of ministry, not precisely because he is guilty of a crime, but either because public fame reports evil concerning him, or because an accusation or judicial inquiry concerning a public crime has already been instituted, or for another just cause. Per se it does not have the nature of a penalty, and much less of a censure.[8]

Notes to n. 1686 - note sequence 1. (1) L. II. Decr. T. XX. c. 33. (2) L. VII. 314. 317. (3) Anal. J. P. Serie 7. col. 581 sv. (4) Trid. Sess. 14. c. 1. Ref. Notes to n. 1686 - note sequence 2. (1) Acta S. Sed. T. XIV. p. 299 sq. (2) Sess. 14. c. 1. Ref. (3) Scav. T. I. n. 978. (4) Ib. (5) Acta, T. XIV. p. 314. III. (6) Anal. J. P. Serie 7. col. 575. sv. (7) Acta, ib. p. 314. VIII. IX. Ben. XIV. de Syn. L. XII. c. VIII. n. 8 sq. (8) Acta, T. II. p. 284. Anal. J. P. Serie 8. col. 1643 sv.

1687. Division. - Suspension is distinguished as twofold:

1° Total, by which a Cleric is kept away from every ecclesiastical function or right.

2° Partial, by which he is deprived only of some function or right.

But partial suspension is threefold: **1°** from Order, which deprives one of the exercise of the functions of Order, e.g., from the altar or celebration of Mass, from the solemn chant of the Gospel, Epistle, etc.; **2°** from office (or from divine things), which deprives one of the use both of Order and of jurisdiction, whether in the external forum or even in the internal forum; **3°** from benefice, which deprives one of the revenues and administration of the benefice. But these individual suspensions again can be subdivided into total or partial suspension, whether of Order, or of office, or of benefice.[1]

By suspension from divine things, without anything else added, according to the more common opinion, suspension from office is understood, unless perhaps usage explains those words otherwise. For these two formulae are used promiscuously in Canon Law. - Scavini.[2]

Notes to n. 1687. (1) L. VII. 315 sq. (2) Scav. T. I. n. 977.

1688. General Rules. - First Rule. A suspended Cleric sins gravely if he exercises a forbidden act of Sacred Order, unless he is excused by invincible ignorance, or grave fear, or another legitimate cause, e.g., of necessity; or unless the suspended person, who has not been denounced by name by a judge, is requested by the faithful and something else does not obstruct, as authors commonly add. Likewise St. Alphonsus,[3] because of smallness of matter, excuses at least from grave sin him who, for example, exercises a light act of jurisdiction. Yet he can do all those things which are customarily done by laymen, e.g., sing in choir in the manner of laymen, etc. But one suspended from Order, if he solemnly exercises it, not only sins gravely, but also incurs irregularity, as we say in n. 1771.

Second Rule. Suspension absolutely and simply, without any determination to this or that, - e.g., whoever has done such things, let him incur suspension! - is always judged total, unless usage or circumstances clearly suggest otherwise,[4] and therefore deprives one of every use of Order, jurisdiction, and benefice. But partial suspension deprives one only of that part of this power which is expressed in the law, or statute, or mandate or sentence.

Third Rule. Suspension from Order, absolutely and simply, deprives one of the exercise and use of any Order whatever, whether Major or Minor. Suspension from jurisdiction imports privation of all jurisdiction.

Fourth Rule. Suspension from office, simply and without limitation, deprives one of the use both of jurisdiction and of Order, or of any ecclesiastical ministry whatever. Hence a Pastor suspended from office can neither celebrate Mass, nor preach, nor preside over offices, nor minister the Sacraments.

Notes to n. 1688. (3) L. VII. 313. (4) Giraldi, Expos. J. P. P. I. Sect. 891. § Cum autem.

1689. Resolves. - 1° One suspended simply from Order is not understood to be suspended from jurisdiction, and vice versa. One suspended from a higher Order is not therefore suspended from a

lower one. Yet one suspended from a lower Order is judged suspended also from a higher one,[1] unless circumstances suggest otherwise. But he who is suspended from some special office does not by that fact incur suspension from the other offices.[2] Likewise one suspended from a benefice is not judged suspended from office, nor vice versa.[3]

2° Irregularity is not incurred by violation of a suspension brought because of a merely past delict, or in perpetuity.[4] The reason is that then there is no violation of a censure. A fortiori, if suspension was made because of an inculpable defect of mind or body. Nor is it incurred through the exercise of any act from which someone was suspended, except the solemn exercise of Sacred Order. - Thus commonly.

3° A Bishop suspended from Pontificals, if he celebrated Mass, even with Pontificals, would not incur irregularity; because he would not exercise a substantial act of the Episcopal Order.

4° Acts of Order of a suspended Cleric, not depending on jurisdiction, are valid; because the Church cannot take away the power of Order, but only can prohibit its exercise. But acts of jurisdiction are invalid if the suspended person has been denounced by name and publicly, because he is deprived of actual jurisdiction; but they are valid, unless he has been so denounced, because the Church, by the very fact that she tolerates a suspended person, for the good of the faithful does not take jurisdiction away from him.[5]

Notes to n. 1689. (1) Ferrar. V. Suspensio, art. 7. n. 7. (2) Devoti, Inst. Can. L. IV. Tit. XX. III. (3) L. VII. 316. (4) Ib. 314. (5) L. VII. 314.

1690. Questions. - Query 1° Whether a suspended priest can be absolved from sins by a simple confessor, before he is loosed by the Superior from the reserved censure?

Resp. Affirmatively. The reason is that the effect of suspension is not to deprive one of the reception of the Sacraments (cf. n. 1343. q. 7°). Therefore it suffices that he be disposed for the Sacrament of Penance, namely that he be at least attrite concerning sins, and promise that, as soon as possible, insofar as it is in him, he will procure absolution from the censure, and meanwhile that he will not use the prohibited power or rights. Hence, thus absolved from sins, with scandal and the danger of it removed, he will also be able to be admitted to Communion.[1]

Query 2° Whether partial suspension can be brought for only a venial fault?

Resp. See n. 1662. 2°.

Query 3° How is suspension taken away?

Resp. 1° If the suspension has the nature of a censure, it is taken away as excommunication is, namely through absolution alone, and indeed that of the Superior, if it is reserved; nevertheless, if it was brought for a certain determined time, or under a condition, it ceases by itself when the time has passed or the established condition has been fulfilled.

Resp. 2° But if it has been imposed in perpetuity because of a fault altogether past, it is taken away, as a mere penalty, by the dispensation alone of the Prelate, or of his delegate, because then it is not a censure. - Thus commonly.

Query 4° What form is to be used for taking away suspension?

Resp. 1° If the suspension is occult, it is taken away through absolution under the general form: *I absolve you from every bond*, etc.

Resp. 2° If it is public, in the internal forum it is taken away by the same form: but in the external forum the solemn form determined in the Ritual is to be used. But solemnly no one can absolve from suspension except the Superior himself, or another specially delegated to this.

Query 5° Whether a simply approved priest can absolve a suspended person from censure in the article of death, if the Superior or delegate is lacking?

Resp. Not a few deny, to whom we adhere, led by this reason, that no cause appears why the Church should confer such power on him; for suspension does not deprive one of the faculty of receiving the Sacraments, if you except promotion to a higher Order. Therefore it suffices for eternal salvation that the suspended person constituted in such danger be absolved from sins.

Query 6° Whether, and what sort of, communication is prohibited with a suspended person to be avoided?

Resp. 1° Communication, without grave cause, in the acts from which he has been suspended, e.g., to serve his Mass, if he was suspended from the altar.

Resp. 2° It is lawful to communicate in other matters; for this is not prohibited, nor does suspension per se draw one away from communication as excommunication does. Hence, with scandal set aside, it is lawful to hear the Mass of one suspended, even one to be avoided, as the Salmanticenses more truly and more commonly teach. Nor must there be cessation from divine things, although a suspended person to be avoided is present at them.[1]

Notes to n. 1690. (1) L. VI. 430 in fine. Scavini, T. I. n. 875.

Appendicula.

On Deposition, Degradation, and Removal from a Parish.

1691. - Deposition and degradation are most grave penalties, very close to suspension.

Deposition (verbal) is an ecclesiastical penalty by which a Cleric is not only repelled from every function of Order and benefice, but is also altogether deprived of office and benefice, the title having been taken away, so that he cannot return to it without a new collation. Therefore the deposited differ from the suspended in this, that the latter do not lose dignity and benefice, but are deprived only of the fruits of the benefice and other things depending thereon, and are prohibited from exercising the functions of their Order and dignity. - Deposition can be imposed by the Bishop or his Vicar deputed for this, but only in cases expressed in the Law and for more atrocious delicts. - Although, however, of itself the penalty is irremissible, nevertheless it can be taken away through dispensation by the Bishop, as often as the crime was less than adultery.[2]

Degradation (or real deposition) is the solemn privation of all titles, honors, privileges, and ecclesiastical goods, in such a way that the degraded person, only the indelible character of Order remaining, is reduced to the lay condition. Hence it differs from deposition: **1°** because degradation is a solemn privation of ecclesiastical goods, but deposition is not so; **2°** because degradation deprives one of both clerical privileges, namely of Canon and of Forum, but deposition does not deprive one of

these privileges. Hence one striking a deposited person would incur excommunication; but not if he laid violent hands on a degraded person, for he does not differ from a layman.[1]

Degradation cannot be inflicted except by a Bishop and for enormous crimes, of which kind are the manifest crime of heresy, falsification of apostolic letters, repeated sodomy, a most grave calumny laid upon one's own Bishop, etc. - The Pope alone dispenses in this most grave penalty.[1]

Query. Whether a degraded person is held to the canonical Hours, and to the vow of chastity?

Resp. Affirmatively as to both; because he ought not to be loosed from this burden and to perceive advantage from his own malice. Hence he would contract Matrimony invalidly.[2]

Notes to n. 1691 - note sequence 1. (1) L. VII. 140. 313. Vide Salm. de Cens. C. V. P. II. n. 14. Craisson, Manuale, n. 6592. (2) L. VII. 323 sq. H. A. Tr. XIX. 67. Devoti, Inst. Can. L. IV. T. XX. § 6. Notes to n. 1691 - note sequence 2. (1) L. VII. 323 sq. (2) Ib. 324.

1692. - From deposition and degradation there differs both privation of a parish and economic removal from a parish. - Privation of a parish is established only for altogether grave causes, and with judicial order very carefully observed; but economic removal has place both because of the ignorance and unsuitability of the pastor for ruling the parish as is fitting,[3] and because of grave hatred and aversion of the people, these existing in such a way that the pastor cannot consult for his parish. If it was temporary, in the place of the pastor meanwhile a suitable vicar is to be instituted, an equitable portion of the revenues being assigned to him; but if there is question of perpetual removal, the pastor must be aided by the assignment of another benefice.[4]

Notes to n. 1692. (3) Trid. Sess. 21. c. 6. Ref. (4) Acta, T. II. pp. 283. 284. Anal. J. P. Serie 8. col. 1643 sv.

1693. Questions. - Query 1° In what manner among us is privation of a parish to be brought into practice?

Resp. To privation of a parish among us is assimilated the revocation of faculties, or definitive removal from office of some Missionary Rector. If this seems to be inflicted as a penalty of delict, the Instruction of the S. C. de Prop. Fide, July 20, 1878, must be observed, of which this is the summary. Bishops in diocesan Synod, after the manner of deputation or canonical election of Synodal Judges, i.e., the Synod having been heard (see Benedict XIV, de Syn. L. V. C. V.), or, if the Synod cannot be convened because of a grave cause, outside it, shall choose five priests, or, if so many cannot be had, three, from the most approved and, as far as can be done, skilled in Canon Law, whose function will be, under the president constituted by the Bishop, to bring criminal and disciplinary causes of Clerics to examination according to the norm proposed in the Instruction itself. Those so elected will remain in office until the next celebration of the Diocesan Synod, others being substituted outside the Synod, if meanwhile by death, resignation, or another cause the prescribed number happens to be diminished. But in the case of substitution of this kind it is fitting that the Bishop hear the vote of the remaining Counselors. - Recourse to the Council is not made if the Missionary Rector, the cause having been set forth to him by the Bishop, spontaneously resigns from the office. But if he has not resigned, he cannot be removed from office unless at least three from these have been employed for knowing the cause, and with their counsel, after the examination has been performed according to the prescribed norm of investigation; yet when he has been heard, which counsel, however, the Bishop is not held to follow. But the acts of the inquiry, and the opinion made known by the Counselors, must always be inserted into the process. It is also free to each Rector whose cause is

being treated to have with him before the Council another priest, to be approved by the Bishop, either for simple assistance, or for presenting his observations or defense. - If it happens that appeal is made to the Archbishop from the sentence of the Bishop by which the removal of the Rector is decreed, he is held to proceed in the knowledge and decision of the cause by the same method which is prescribed in the Instruction. - See Instr. (X) p. 409 and (Y) p. 413, where the S. C. responds to certain doubts proposed concerning the Instruction.

Query 2° In what manner among us is economic removal from a parish to be brought into practice?

Resp. To economic removal from a parish among us is assimilated the transfer of pastors to another Congregation of the same diocese, concerning which the Fathers of the Second Plenary Council of Baltimore have these things:[1] "We admonish all priests dwelling in these dioceses, whether they were ordained in them, or coopted into the same, that, mindful of the promise emitted in ordination, they not refuse to devote themselves to any mission designated by the Bishop, if the Bishop judges that a subsidy sufficient for the decent sustenance of life can be had there, and that this function accords with the strength and health of the priests themselves." They add:[2] "By using the names of parochial right, parish, and pastor, we by no means intend ... to take away that power ... which, from the discipline received in these provinces, the Bishop has of transferring any priest ... elsewhere." "But let Bishops take care that they do not transfer unwilling Priests from one Mission to another without grave and reasonable cause" (Y) p. 413. "But if a priest is assumed to the care of a parochial church who has not yet spent five years in sacred missions in the diocese, he is to be held only as administrator of the parish; nor, unless the five-year period has been completed, and an examination has been made" before the Bishop and two priests to be designated by him, "does he obtain the name and rights of pastor." Except Regulars, who have lived five years in these Provinces.

Notes to n. 1693. (1) Conc. Pl. Balt. II. a. 108. (2) Ib. a. 125. 126. Appendix annotation (T), to n. 1693. p. 327, 328. To the doubts concerning the manner to be observed by the Bishops of the Federated States of North America in cognizing and defining criminal and disciplinary causes of Clerics. The Instruction of the 20th day of July 1878 was issued concerning cases in which an ecclesiastical penalty or censure is to be inflicted, or there is place for grave disciplinary coercion. Hence the decrees of the Second Plenary Council of Baltimore, n. 125, as regards the nature of Missions, and nn. 77, 108, as regards the juridical effects of the removal of Missionaries from office, were in no way innovated or weakened. But Bishops should take care not to transfer priests unwillingly from one Mission to another without a grave and reasonable cause. But if there is question of the definitive removal of some Rector from his charge to be inflicted as a penalty for a delict, let Bishops by no means order this unless the Council has first been heard. II. The election of Counselors is to be made in Synod after the likeness of the deputation, or canonical election, of Synodal Judges, who are chosen not by the Clergy, but by the Bishop, indeed with the counsel of the Clerics in Synod heard, although if for causes known to him the Bishop afterward should not wish to embrace it, as Benedict XIV well observes, de Syn., lib. 4. cap. V. num. 5. Hence it is discordant that in the case about which the Instruction treats, the election of these Counselors should pertain to the Clergy. Outside Synod the election pertains absolutely to the Bishop, whom it befits to hear the vote of the remaining Counselors in the case of the substitution of someone who has failed, just as a Bishop in the case of a Synodal Judge failing ought to seek the counsel of the Chapter, but is not bound to follow it. III. The vote given by the Council is always consultative, and the definitive sentence is reserved to the Bishop; for when the Canons say that something is to be done by the Bishop with the counsel of the Chapter or Clergy, they do not on that account induce upon the Bishop the necessity of following it, unless this is expressly provided. Hence it is rightly said in the Instruction that these Counselors furnish help to the Bishop in defining causes, but by no means that they themselves decide. But the acts of inquiry and the opinion disclosed by the Counselors are always to be inserted in the process. From these things it is clear that the office of the Counselors is indeed judicial, since the instruction itself prescribes that they assist the Bishop in the judicial inquest as Assessors; but it is also clear that the pronouncement of the judicial and definitive sentence is reserved to the Bishop alone. IV. By the Instruction there has not been removed from Bishops the extraordinary faculty of proceeding to suspension from informed conscience, insofar as they judge in the Lord that very grave and canonical causes concur, or of providing by some remedy, even without

the counsel being heard, if by grave and urgent necessity this must be done for the salvation of souls. It is free to each Rector to have with him before the council another Priest, to be approved by the Bishop, either for simple assistance or for presenting his remarks or defense. JOAN. CARD. SIMEONI SACR. CONGR. Pr. J. B. AGNOZZI, Sec.

Article III: On Interdict

1694. - Definition. Interdict is a censure by which, in penalty for some crime, the use of divine Offices, of some Sacraments, and of ecclesiastical burial is prohibited to certain persons or in certain places.

Hence interdict differs: **1°** from excommunication, which deprives one of greater goods than interdict, and affects not places, but persons alone; **2°** from suspension, which affects Clerics alone, and deprives them of sacred things only insofar as they are uses of some ecclesiastical ministry, but not insofar as they are goods of the faithful; besides this, interdict also affects places, and deprives of ecclesiastical burial, but suspension does not; **3°** from irregularity and from cessation from divine things, which properly and per se do not have the nature of a penalty, and therefore not of a censure.[1]

Division. Interdict is manifold, namely:

1° Personal, local, or mixed, according as it immediately affects a person, or a place, or both at once.

2° General or particular, according as it is extended to a whole region, city, and community, or is restricted to an Oratory, a particular Church, or determinate persons.

3° Total, which is brought simply as regards all effects of interdict, and partial, which is brought only as regards one or another effect.[2]

To the partial is to be counted interdict from entrance into a church, which constitutes a species of personal interdict, and prohibits those bound by it from celebrating, receiving, or assisting at divine things in a church (but not outside it, e.g., in a cemetery); those assisting, if it can be done, must be removed. But it is disputed whether they are permitted to enter a church in order to pray there privately. - Besides this, they are kept from burial in a church or in an ecclesiastical cemetery, unless, penitence having been done, they have been absolved from the interdict.[1]

Notes to n. 1694. (1) L. VII. 328. (2) Suarez, de Cens. disp. 32. sect. 2. n. 37. (1) L. V. T. XI. c. 20 in 6°. Suarez, de Cens. disp. 35. sect. 4. n. 4 sq. Vide etiam disp. 34. sect. 4. n. 23. 24; disp. 38. sect. 1. n. 20 sq. Ben. XIV. Inst. 55. § 11. Porro die 18 sept. [The note breaks off here in the print itself (Vol. II, p. 328, read on the page; so also in a second copy).]

1695. Rule. - I. A general interdict does not fall except upon designated persons or places. Hence: **1°** When the Clergy of some place is interdicted, the people are not therefore interdicted, nor are Regulars interdicted, unless they have a benefice or office in that people, nor other clerics who have no office there; for with the clergy they do not constitute one body; and vice versa.[2] **2°** When a city is interdicted, innocent inhabitants are not interdicted, and they can go elsewhere, that they may be present at divine Offices. **3°** When the citizens of a city are interdicted, the Churches are not subject to interdict; and there pilgrims can be present at Offices (Bishops are always exempt from a general personal interdict, unless they have been specially designated). Children also in this case are innocent, if they transfer domicile elsewhere. Likewise infants and the insane, who nevertheless are deprived of ecclesiastical burial.[3]

II. An interdict without limitation upon some whole affects all its parts. Hence: **1°** An interdict of a city involves all the Churches of that city, even those exempt from the jurisdiction of the one

interdicting; for otherwise the interdict would be illusory, and thus it is decreed in Law. And this interdict even the Bishop who brought it is held to observe.[4] Concerning Regulars, however, see St. Alphonsus.[5] **2°** An interdict of a family or community embraces its individual members. **3°** An interdict of a Church extends to the individual chapels contained in it; but the converse cannot be said.

III. An interdict brought upon certain places, e.g., a castle or a city, also affects the suburbs and contiguous buildings. Hence when a parish Church is interdicted, the chapels are interdicted, and also contiguous cemeteries; but not vice versa: because the accessory follows the principal, and not the principal the accessory.

Notes to n. 1695. (2) L. VII. 331. (3) Ib. 330. 331. (4) Ib. 330. (5) L. V. 61. § Infertur III, and L. VII. 333.

1696. Questions. - Query 1° What are the effects of interdict?

Resp. They are three, as is clear from the definition given above, namely:

1° Prohibition from divine Offices, from those things namely which are solemnly exercised by Clerics in a place deputed for these things, namely from Mass, public and solemn prayer, public recitation of the Hours in choir, public blessing of water, oil, a temple, candles, etc. Clerics who do not fall under a general interdict can and ought to celebrate, but with doors closed and (unless for a sermon, the Angelic Salutation, or the death of someone) without the sound of bells, in a subdued voice, and those interdicted by name being excluded. - Also excepted, in a general local interdict, are certain Solemn Feasts, on which all interdicted persons can be admitted to divine Offices, and, if these Feasts are to be observed by precept, they ought to be present at the Sacred rite.[1] A sermon is also always excepted, as in the excommunicated person. L. VII. 177.

2° Prohibition from administering and receiving some Sacraments, namely the Eucharist, Order (outside the gravest necessity), and Extreme Unction. Viaticum can be ministered to the dying, and according to some also Extreme Unction. Baptism (even solemn), Confirmation, and Penance are permitted to all, except those who gave cause for the interdict, even by help or favor, and those who are interdicted by name, unless either they first have satisfied, or, if now they cannot satisfy, have given sworn caution concerning satisfying. Matrimony also, more probably,[2] but without solemn blessing.

3° Prohibition from ecclesiastical burial. It extends also to infants and the insane in a local and general personal interdict. Clerics not personally interdicted, and not violators of the interdict, can be buried without pomp in the Church; indeed (but without Mass) even if the Church were specially interdicted.[3]

Query 2° In what way do those violating an interdict sin, and what penalties do they incur?

Resp. 1° As to Clerics and Religious: They sin gravely by violating an interdict, whether personal or local, unless smallness of matter excuses, as if, for example, they were to leave the door of the Church open only for a brief time. Besides this they incur: **a)** Irregularity, if they exercise an act of their own Order; **b)** Suspension reserved to the Pope, if they receive Order from one interdicted and denounced by name (see n. 1747); **c)** Interdict from entrance into a church (n. 1694), if they knowingly celebrate, etc. in interdicted places (see n. 1751).

Resp. 2° Laypersons sin gravely if they violate a personal interdict, for example by receiving the Eucharist; likewise if they compel Clerics to celebrate Sacred things against the interdict, in which case they incur (as also do Clerics) personal interdict from entrance into a church (see n. 1751). More probably they sin only lightly if, the place being interdicted, they themselves, not personally interdicted, merely assist at divine offices.[1]

Query 3° For what cause can an interdict be brought?

Resp. It cannot be brought, speaking per se, except because of a grave fault opposed to the public good. Thus for a personal interdict the fault of him who is interdicted is required; for a penalty is on account of a fault. But for a general and local interdict the fault of him who is head of the community, or of its principal members, suffices.[2]

Query 4° Who can absolve from interdict?

Resp. 1° From a particular personal interdict brought by Law, and not reserved, any confessor can absolve.

Resp. 2° From a local interdict not reserved, or from a general personal interdict not reserved, the Bishop absolves, or he to whom he communicates episcopal jurisdiction.

Resp. 3° If the interdict was brought by man, apply what was said in n. 1670. II.[3]

Notes to n. 1696 - note sequence 1. (1) L. VII. 333. (2) Ib. 334. (3) Ib. 331. 335. Notes to n. 1696 - note sequence 2. (1) L. VII. 336. (2) Ib. 337. (3) Ib. 338. 339. #### Appendix I.

On Cessation from Divine Things.

1697. - Cessation from divine things is a prohibition made to Clerics, that in some determined place they abstain from divine Offices, from administration of the Sacraments, and from ecclesiastical burial.

This cessation is distinguished from interdict: **1°** Because interdict can be personal, but cessation from divine things cannot. **2°** Because interdict is a censure, whence he who violates it becomes irregular; but the transgressor of cessation from divine things, although he sins gravely, nevertheless incurs no censure, nor becomes irregular. For this cessation is not employed for correcting delinquents. **3°** Because, while a general interdict lasts, it is lawful to celebrate divine Offices with doors closed and in a subdued voice, and even solemnly on certain Feasts; but in cessation from divine things even these are prohibited.

Cessation from divine things is distinguished as twofold:

1° One by law, which exists by the very fact, when a Church is polluted or execrated.

2° Another by man, which, after preceding admonition, is imposed by a Superior having jurisdiction in the external forum (who can also remove it, or suspend it for a time), as a sign of mourning, or for reparation of a grave injury brought upon God; and then it affects all who are present in that place.

But the causes of cessation from divine things by law are referred to in the Treatise on the Eucharist, n. 1329. q. 4°. q. 5°. - The Sacraments which can be ministered during the time of interdict are granted also during the time of cessation.[1] Hence generally a private Mass once per week is permitted

for renewing the Sacred Species for Viaticum. - But Clerics do not enjoy the privilege conceded to them during the time of interdict.

Notes to n. 1697. (1) L. VII. 340. Craisson, Manuale n. 6639.

Appendix II: On Ecclesiastical Burial

1698. - The bodies of the faithful departed, by precept of the Church, are to be buried in a holy place blessed and consecrated for this, or in the Church itself. But those who do not belong to the Church of Christ can be buried neither in ecclesiastical manner nor in a holy place. Ecclesiastical burial must also be denied to Christians who have seemed unworthy of it, for this reason, that either they deserted the Faith, or departed from the living in contumacy and impenitence, or were rebellious children, as is established from what has been said concerning the effects of excommunication and interdict.

Notes to n. 1698. (1) L. VII. 340. Craisson, Manuale n. 6639. Notes to nn. 1698-1699 - note sequence 1. (1) Ferrar. V. Sepultura, n. 172. (2) Conc. Pl. Balt. II. a. 390. (3) Ib. a. 389. (4) Thesaurus, de poenis. P. II. V. Concubinarius sub V. (5) L. V. Decr. T. XXXIX. c. 28. Notes to nn. 1698-1699 - note sequence 2. (1) Acta, T. I. p. 563. n. 21. Notes to nn. 1698-1699 - note sequence 3. (1) Conc. Pl. Balt. II. a. 389. (2) S. C. O. Fer. IV. 16 maii 1866 apud Th. Pat. n. 364 sq., ubi et monita prudentissima. (3) Conc. Pl. Balt. II. a. 389. S. Alph. L. IV. 401. (4) L. IV. 401. (5) Conc. Pl. Balt. II. a. 389. (6) Ib. Appendix annotation (Xi), to n. 1698. q. 1°. p. 327. col. 2. ## Instruction of the Sacred Congregation de Propaganda Fide ### Concerning the manner to be observed by the Bishops of the Federated States of North America in cognizing and defining criminal and disciplinary causes of Clerics. Although the Second Plenary Council of Baltimore, recognized by the Apostolic See, decreed that a certain form of judgment, already previously sanctioned by the Provincial Council of St. Louis, was to be observed in the criminal causes of Clerics to be handled by the ecclesiastical courts of the dioceses of the Federated States of North America, nevertheless experience has shown that the established order of judgment is not everywhere equal to forestalling the complaints of those whom it may happen to be punished with some penalty. For often in these last times it has happened that presbyters condemned by judgments begun in that manner and by sentences rendered, especially those removed from the office of Missionary Rector, have complained here and there about their Prelates and frequently have also brought recourse to the Apostolic See. But it must be lamented that not rarely it happens that in the acts transmitted several things, and those necessary, are lacking, and, all things having been weighed, grave doubts often arise concerning the faith to be had or denied to the documents brought forward in these causes. The Sacred Congregation de Propaganda Fide, seriously weighing all these things proposed to it, judged that some remedy must be prepared for these inconveniences, and that justice must be consulted in such a way that neither innocent Clerics be afflicted with penalty by injury, nor those guilty of some crime escape deserved penalty on account of a less correct form of judgments. And this indeed would be obtained by an easy arrangement, if it prescribed that all the prescriptions wisely issued by the Sacred Canons for ecclesiastical judgments, especially criminal ones, to be begun and completed, were altogether to be observed. But, considering in mind that in the aforesaid regions of the Federated Orders this cannot easily be observed, it judged that provision should be made in such a way that at least those investigations concerning the admitted crime be accurately performed which are judged altogether necessary before one comes to imposing penalty. Therefore, with Our Most Holy Lord Leo XIII, Pope by Divine Providence, approving, in the general meetings held on the 25th day of June 1878, the Sacred Congregation decreed, and strictly commanded, that the individual Sacred Antistites of the mentioned region, in a Diocesan Synod to be convoked as soon as possible, select five, or where because of peculiar circumstances of things so many cannot be had, at least three presbyters from the most approved and, insofar as can be done, skilled in Canon Law, by whom a certain judicial council, or, as they call it, a Commission of investigation, is to be constituted, and that they set one from among those chosen over the same. But if for some grave cause the Diocesan Synod cannot be held immediately, five or three, as above, ecclesiastical men are meanwhile to be deputed by the Bishop to the office in question. The chief office of the Commission thus constituted will be to recall to examination, duly to cognize, and thus to furnish help to the Bishop in defining them, the criminal and disciplinary causes of presbyters and other clerics, according to the norm soon to be proposed. Moreover, those chosen ought to take care for this purpose that investigations be accurately made, that testimonies be brought forward, and that from the one presumed guilty all things be sought out which are judged necessary for eliciting the truth, and that certain or sufficiently firm arguments be supplied for rendering a just sentence safely and prudently. But if there is question of the removal of some Rector of a mission, he cannot be cast down from the office entrusted to him unless at least three members of the aforesaid Commission have been employed by the Bishop for cognizing the cause and their counsel has been heard. The chosen Counselors will remain in the office

received until the next celebration of the Diocesan Synod, in which either they themselves are confirmed in office or others are designated. But if meanwhile, by death, resignation, or another cause, the prescribed number of Counselors is diminished, the Bishop, outside the Synod, should substitute others in the place of those lacking, as was established above. In cognizing causes, especially those in which there is question of definitively removing a Missionary Rector from his office, the judicial Commission will follow this manner of acting. 1. Let recourse not be had to the Commission of investigation unless first, when the cause moving to final deposition has been clearly and precisely set forth by the Bishop, the Missionary Rector himself prefers that the matter be referred to the Council rather than that he spontaneously resign from his charge and office. 2. When the matter has been referred to the Council, let the Bishop commit to his Vicar General, or to another priest deputed by him for this purpose, that he compose in writing a relation of the cause, with an exposition of the investigation performed up to that point and of the circumstances which specially affect the cause or the demonstration of the same. 3. Let him indicate a suitable place, day, and hour for coming together, and this by letters to the individual Counselors. 4. By letters also let him call the Missionary Rector about whom there is question to the appointed place and day for holding the Council, setting forth, unless prudence forbids it, as in the case of an occult crime, the cause moving to deposition fully, and admonishing the Rector himself that he prepare in writing, supported by his own reasons, a response to those things which have been related in the exposition of the cause, either already previously orally, or then in writing. 5. When the Counselors have assembled at the time and place prefixed, let the Bishop prescribe silence to be observed concerning those things which are heard in the Council; let him admonish that the investigation is not a judicial process, but is held for this end and is to be made in this way, that one may arrive at the knowledge of truth by the more diligent method possible, so that each Counselor, all things having been weighed, may be able to form as accurately as possible an opinion concerning the truth of the facts on which the cause rests. Let him also admonish that nothing be done in the investigation which exposes either themselves or others to danger of damage or grievance, especially lest a place be given to an action for libel, or to any other process before a civil tribunal. 6. Let the relation of the cause be read before the Council by the Bishop's official, who will also respond to the questions to be made by the president or by the other counselors through the president, for obtaining a fuller knowledge of the matter. 7. Then let the Missionary Rector be introduced into the Council; he will read the response composed by himself and will likewise respond to the questions, with full faculty being given to him of bringing forward all those things, within the time nevertheless to be determined by the Council, which can contribute to his proper defense. 8. If it happens that the Missionary Rector whose cause is being treated does not wish to approach the Council, let him be called again by letters given, and let a congruous space of time for appearing be prefixed for him; and if on the appointed day he shall not have appeared, provided that he has not been legitimately impeded, let him be considered contumacious. 9. When all these things have been duly completed, let the Counselors confer their counsels together, and, if the greater part of the Counselors judges that the facts are sufficiently established, let each Counselor set forth his sentence in writing, with the reasons on which it rests expressed; let the sentences be compared; let the acts in the Council be drafted by the Bishop's official, signed by the president in the name of the Council, and together with the sentences of the individuals in full be referred to the Bishop. 10. But if further investigation seems necessary or congruous, on that very day, or on another appointed by the Council for coming together, let the witnesses be called whom the Council has judged opportune, after the Missionary Rector has also been heard concerning those whom he himself has wished to be called. 11. Let the individual witnesses for the cause be examined separately and accurately by the President and by others through the President, the Missionary Rector being absent at first. An oath is not required; but if the witnesses themselves do not refuse, and declare themselves prepared to confirm by oath, when occasion is given, those things which they have declared, let a notation of a disposition or declaration of this kind be made in the acts. 12. With the witnesses consenting, and the prudence of the Council directing, let the testimony be repeated before the Missionary Rector, who himself also, if he wishes, may question the witnesses through the President. 13. In the same manner in which the witnesses for the cause are examined, let the witnesses against the cause be examined. 14. When counsels have then been compared, let it be done as above, n. 9. 15. But if the witnesses are unwilling or unable to attend the Council, or their testimony renders the matter not yet sufficiently clear, let at least two from the Council be deputed, who, going to the witnesses, inspecting the places, or in whatever other way they can, seeking light for resolving doubts, may bring the relation of their investigation to the Council, so that no way be left unattempted for cognizing the truth morally certainly before one comes to the pronouncement of sentence. 16. Let all the acts brought forward in the occasion of the judgment be carefully kept in the Episcopal Curia, so that in the case of appeal they may conveniently be exhibited. 17. But if it happens that appeal is made from the sentence pronounced in the Episcopal Curia to the Archiepiscopal Curia, let the Metropolitan proceed by the same method in the cognition and decision of the cause. JOANNES CARD. SIMEONI, Pr. JOANNES BAPTISTA AGNOZZI, Sec. Given at Rome from the buildings of the aforesaid Sacred Congregation, on the 20th day of July in the year 1878.

1699. Questions. - Query 1° Who are to be deprived of ecclesiastical burial?

Resp. By common law the following are:

1° All Infidels, whoever they may be, whether pagans, or Jews, or Mohammedans, or even infants who died without Baptism, at least doubtfully valid.[1] But "an infant" who died "in the womb of a faithful mother together with her, together with her shall have burial. But adults who have been overtaken by death while they were disposing themselves for receiving Baptism are by no means deprived of burial; for they are rightly judged to have been cleansed by Baptism of desire, or of the Spirit, as they say."[2]

Besides this, "by the mind of the Apostolic See it is tolerated that in family tombs, which, namely, are built as private and particular for Catholic lay families (therefore 'for a few'), the bodies also of non-Catholic relatives and connections by marriage be buried."[3]

2° Apostates from the Christian Faith. But among apostates must be numbered all impious men who in writings teach atheism, deism, pantheism, or, in one word, whoever deny Christian Revelation.

3° Heretics, who openly profess their errors, and their notorious favorers, and also public schismatics.

4° Public and notorious excommunicates, and those interdicted by name, if they died without signs of penitence, and manifested no wish of reconciliation with the Church.

I said: **1°** if they died without signs of Penitence. But a sign of penitence is present if the dying person invoked the name of Jesus, or implored the mercy of God, or struck his breast, or sought a confessor, etc.; for proving this one witness suffices.[4]

I said: **2°** and manifested no wish, etc. That such a wish may free them from this penalty, it must be serious, in such a way that it did not stand through them that they were not reconciled to ecclesiastical unity.[5] - Although a tolerated person has exhibited signs of penitence, nevertheless it is fitting that he be absolved from excommunication before burial. But for one to be avoided, although he died penitent, absolution is required by precept. (See n. 1681. 3°.)

As to censures bearing on this, see n. 1736. 1751.

Note. - On December 10, 1860, the Sacred Penitentiary, to the question:

"If someone ... notoriously bound by ecclesiastical censure has died, and according to the Sacred Canons and the norms handed down by doctors concerning this matter ought altogether to lack ecclesiastical burial, and against this, with grave threats, obsequies and ecclesiastical burial itself are obstinately demanded, how in such a case ought the pastor to conduct himself?" responded:

"Care must be taken that all things be done according to the norm of the Sacred Canons: but insofar as this cannot be obtained without danger of disturbances and scandal, the pastor shall in no way concur, either by himself or through other priests, for the obsequies and for the burial."[1]

Therefore those who are publicly known as enrolled in societies certainly condemned by the Church, unless they have given signs of penitence, are to be deprived of ecclesiastical burial. But what if they die with signs of penitence, and either the insignia of a certainly condemned society are displayed from their bier, or, even if these are not displayed, companions of the sect to which they were

enrolled assist at the funeral with the same insignia? You have the response in these words of our Most Holy Lord Pius IX to the Archbishop of Paris: "We cannot dissemble, venerable brother, that our discomfort and wonder were very great when we learned that you were present at the obsequies of Magnan, a great master of both soldiery" (who migrated from this life with signs of penitence), "and that solemn absolution was imparted, while even Masonic insignia were displayed from his bier, and companions of that condemned sect with the same insignia assisted at that funeral." Therefore, when the bier has been composed in this way, or companions with those insignia are proceeding, entrance into the church must be denied; but if this cannot be done without danger of disturbances and scandal, the pastor, neither by himself nor through other priests, shall in any way concur for the obsequies and for the burial.

5° Suicides, who have brought death upon themselves, anger or desperation impelling them, unless they have given signs of insanity. But burial is not denied to those who killed themselves in a state of frenzy or in another excess of illness, or "perhaps, surviving for some time, gave signs of repentance."[1] Yet when doubt remains whether someone gave himself death through desperation or through insanity, ecclesiastical burial can be given, but the pomp and solemnities of obsequies being avoided.[2]

6° "Those who perish in a duel, whether they gave signs of repentance or did not";[3] and according to the Bull of Benedict XIV, even if they were absolved. Yet duelists do not incur this penalty because of an unforeseen encounter, although, fighting from the same impulse of quarrel, they went to some suitable place.[4]

7° Public and notorious sinners, who meet death in impenitence. Such are, for example, those who publicly pass their life in adultery or concubinage. But for this it is required that the impenitence be altogether certain; and so public that burial cannot be granted without new scandal.

8° "Those who, being near death, obstinately and before witnesses rejected the Sacraments offered to them."[5] But if something of this kind is to be feared, let the priest speak to the dying person without witnesses and induce him to Confession, lest his evil mind become known, provided, however, that some scandal does not necessarily have to be repaired.

Query 2° Whether guilty persons who are punished with death are to be buried in a sacred place?

Resp. Affirmatively, if they confessed before death, or gave indubitable signs of penitence. But more fittingly without solemnity.

Query 3° What must be done in doubt whether ecclesiastical burial is to be denied or not?

Resp. "The Ordinary must be consulted, when it can conveniently be done; but otherwise judgment should incline toward the side of lenity and mercy. We counsel that this be done especially whenever the deceased, overtaken by sudden death, had no time for repentance; since, according to the rule of law, odious things are to be restricted."[6]

Query 4° Whether burial is to be denied to mimes and actors?

Resp. Negatively, provided they have not refused the Sacraments of the Church, as was said concerning the other sinners in this number, q. 1°. R. 8. For no canonical law is found which excludes them from ecclesiastical burial.

Query 5° Whether among us ecclesiastical rites can be used in the burial of the faithful, when their bodies are buried in a non-Catholic cemetery?

Resp. Distinguish. "If the surviving relatives of some deceased Catholic, if he was converted to the Faith, are non-Catholics, and already possess a plot in another cemetery, we permit that the obsequies be celebrated in the house or even publicly in the Church, if this has seemed to the pastor likely to profit their spiritual good, or otherwise expedient. If the survivors are Catholics, but they have had a plot in another cemetery without any fraud of the law, or since the year 1853, in which corpses have already been buried, we leave to the judgment and conscience of the pastor that he privately recite in the house the prayers prescribed in the Ritual for obsequies, before the corpse is carried out; but we command that in the Church obsequies be done only with the permission of the Ordinary first obtained."[1]

Note 1° If in a profane cemetery a separated part of the ground cannot be obtained in which the bodies of Catholics exclusively may be buried, at least let the little place where the corpse is deposited be blessed, using that prayer which is expressly prescribed in the Roman Ritual (Tit. de Exequiis): "O God, by whose compassion souls," etc.[2]

2° When a cemetery is blessed, some extreme part of it is to be left without blessing, that it may serve for the burial of infants who departed from the living without Baptism, and of infidels who died in the places of Christians, and also of any others to whom ecclesiastical burial is to be denied. It is not absolutely required that that part, e.g., by a wall or hedge or some ditch, be separated from the rest of the cemetery, but it suffices that it can be discerned in some way.

3° Since exhumation, when it is prescribed in Law, today is not tolerated everywhere, reconciliation of a violated cemetery[3] can also be accomplished without exhumation, if otherwise inconveniences are foreseen.

4° Whether, without another sentence, burial is to be denied to "those concerning whom it is established that once in the year they did not receive the Sacraments of Confession and Communion at Easter" (Roman Ritual), is disputed. St. Alphonsus, L. VI. 674, and De Angelis, l. 3. t. 28. 8°, deny it; to which opinion the Instruction to Parish Priests of Em. Colonna, Vicar in the City, March 20, 1773, is consonant.

Notes to n. 1699 - note sequence 2. (1) Conc. Pl. Balt. II. a. 391. 392. (2) Ib. a. 392. (3) It is violated as a church is (n. 1329. q. 4°). Notes to n. 1699 - note sequence 3. (1) The alphabetical index of these, p. 406.

Appendix III: On Censures Latae Sententiae in Particular.¹

Constitution "Apostolicae Sedis" Pius Bishop Servant of the Servants of God For Perpetual Memory of the Matter.

It befits the moderation of the Apostolic See to retain in such a way those things which have been salutarily established by the authority of the ancient Canons, that, if the change of times and things should suggest that something must be tempered by prudent dispensation, the same Apostolic See may bestow a fitting remedy and providence of its supreme power. Wherefore, since in Our mind We had long been revolving that the ecclesiastical censures which, by way of latae sententiae and to be incurred by the very fact, have been holily appointed and promulgated through individual ages for guarding the safety and discipline of the Church herself, and for restraining and correcting the unbridled license of the wicked, had gradually grown to a great number; and that some also, with times and customs changed, had fallen away from the end and causes because of which they had been imposed, or from their former utility and opportuneness; and that on this account doubts, anxieties, and anguish of conscience not infrequently arise, whether in those to whom the care of souls has been committed or in the faithful themselves; We, wishing to meet inconveniences of this kind, ordered that a full review of the same be made and proposed to Us, so that, diligent consideration having been applied, We might establish which of them it would be fitting to preserve and retain, and which truly to moderate or abrogate. Therefore, that review having been completed, and Our Venerable Brothers, the Cardinals of the Holy Roman Church deputed as General Inquisitors in matters of Faith throughout the whole Christian Republic, having been called into counsel, and the matter having been long and maturely weighed, by Our own motion, certain knowledge, mature deliberation, and from the fullness of Our Apostolic power, by this Constitution to remain in force perpetually, We decree that from whatever censures, whether of excommunication, or suspension, or interdict, which by way of latae sententiae and to be incurred by the very fact have hitherto been imposed, only those which We insert in this Constitution itself, and in the manner in which We insert them, shall have force henceforth; at the same time declaring that the same must receive their force altogether, not only from the authority of the ancient Canons, insofar as they agree with this Our Constitution, but also from this very Constitution of Ours, no otherwise than if they had first been issued by it.

1700. Questions. - Query 1° What has the Constitution *Apostolicae Sedis* established as regards censures and ecclesiastical penalties?

Resp. Besides those things which I noted concerning minor excommunication and those to be avoided in nn. 1673. 1674:

1° Through this Constitution nothing has been innovated, nothing changed as regards censures ferendae sententiae; and therefore as regards these one must proceed according to the ancient Canons.

2° Censures which in this Constitution are not first brought are to be understood according to the old tradition of the same censures, yet so that they remain tempered, according as they have been tempered by this Constitution. But if the sense of the ancient Canons does not seem to agree with

the sense of this Constitution, the sense of the Constitution is to be preferred, no otherwise than if those Canons had first been issued by it. But if it does not sufficiently appear whether they disagree or not, one ought to remember that later laws regularly pertain to earlier ones.

3° Nothing has been changed as regards other canonical penalties; and therefore they have remained in their force, just as they were before this Constitution. - Nevertheless, if those things which by the old law are punished with other penalties are now coerced by excommunication, the other penalties seem to cease, because it is very harsh and alien to law for someone to be made guilty under several laws and penalties because of the same crime.

Query 2° What censures latae sententiae remained after the Constitution?

Resp. Besides those expressly noted in the Constitution, there remained: **1)** those directly inflicted by Trent; **2)** those brought for the election of the Roman Pontiff, insofar as hitherto they have persisted in their force; **3)** all other particular censures which each particular Religious Order, or Institute, or Society, or Pious Place, or College, and a particular place of whatever kind, previously had for internal rule, and insofar as likewise hitherto they have persisted in their force.

I said: **a)** directly inflicted by Trent; for censures only renewed by the Council, and not directly inflicted, are altogether abrogated. This is gathered from the scope of the Constitution, which is that a certain and determinate number of censures might be had for avoiding many inconveniences: and from its words: "Besides those hitherto reviewed, those also whom the Sacred Council of Trent ... excommunicated, We likewise declare to be thus excommunicated" ... and it does not say "renewed." Thus Avanzini against others.[1] - But neither do all censures which the Council of Trent brought have force today, or everywhere; for those must be excepted which, with times changed, have become obsolete, examples of which you have Sess. 25 de Ref. Reg. c. 5, and Sess. 24, de Ref. Matr. c. 9; and those places are to be excepted where Trent was not received.[2]

I said: **b)** all other particular; for universal ones seem to have been abrogated by this very fact, that the Constitution expressly confirms universal ones which pertain to internal rule, as, for example, censures concerning enclosure, which would be useless if sanctions of this kind were already ratified from the general rule.[3] The Commentaries contradict.[4]

Query 3° How can it be known which censures were only indirectly inflicted by the Council of Trent, i.e., renewed?

Resp. Censures which the Council of Trent indirectly inflicted are those which are indicated either by general words, as, for example, "And those who do otherwise ... incur by the very fact the penalties inflicted by law," or by these words: "renewing upon these things the penalties of the ancient Canons," or by special allegations, as, for example, "according to the Constitution of Clement V issued in the Council of Vienne," etc.; or "According to the Constitution of the General Council of Lyons," etc.

Query 4° What is the sense of certain terms occurring here and there in the Constitution?

Resp. a) Those commanding, i.e., those who ask in their own name, or order that something be done.

b) Those counseling, who persuade and impel another to do something. They persuade: therefore they are not held by a censure brought against counselors who offer doctrinal counsel; they impel:

therefore neither are those held who urge another to do that which was already certain for him to admit.[1]

c) Defenders are those who protect someone, so that he can do something safely and freely. A mode of defense is to receive someone: whence

d) Receivers or harborers, namely those who furnish refuge for the sake of hiding someone in their own or another's place; nor does it matter who receives, whether some private person, or a magistrate, or a prince.

e) To furnish aid is to bring help for perpetrating a delict.

f) To favor is to furnish any assistance whatever to someone, whether by doing (as, for instance, by commendations, money, counsel), or by omitting what was to be done from office.[2]

g) He is said to adhere who, no pact having been entered into with someone, follows his party.

Note. - 1° Those enumerated under a) and b) act upon the mind or internal act; the rest upon the work or external act.

2° Those recounted under c), d), e), f) do not differ in species, but as more and less; for all furnish one thing, namely, help. - They are not held by censure unless they bring help in the aforesaid modes in such a way: **1)** that another can perpetrate the delict, not that he can evade the penalty of a delict already perpetrated [unless the delict has successive extension (n. 1662. 5°)], and **2)** formally, namely, it is necessary that he who, for example, favors a heretic, favor him because he is a heretic.[3]

3° Whether he to whom counsel, aid, etc., is furnished is in good faith or in bad faith does not matter. - Thus concerning this whole question, the Commentaries.[1]

Query 5° Whether the Constitution took away from the ecclesiastical law itself, from which it removed a censure, its old force of obliging, or gave new force to that to which it affixed a censure or left one affixed?

Resp. Negatively as to the first. The reason is that the Constitution derogates from the old law only as regards censures. - Affirmatively as to the second, because the Constitution derogates from any legitimate customs whatever which formerly exempted from the law, not only as regards censures, but also as regards the laws themselves which are sanctioned by censures, as seems to follow from the Response of the S. R. U. Inq., Feria IV, December 22, 1880 (*Past. Bl. fuer N. Amer.* 1881. p. 105 sq.).

Note. - To the words by which individual censures are enunciated by the Supreme Pontiff, we always immediately subjoin the places of the old law where the same or a similar censure is found, so that he who desires more may be able to recur there according to the rule handed down above, q. 1°. R. 2°.

Notes to n. 1700 - note sequence 1. (1) p. XLVIII. sq. (2) Comment. n. 18. (3) Avanz. (58). (4) n. 164 (2). Notes to n. 1700 - note sequence 2. (1) L. IV. 401. (2) L. VII. 269. (3) Ib. 307. Notes to n. 1700 - note sequence 3. (1) p. 11. 69. not. 9. #### Article I.

On Excommunications Latae Sententiae Established by the Constitution "Apostolicae Sedis."

Of these some are reserved to the Roman Pontiff in a special manner, others simply, others to Bishops, others to no one.

§ I. On Excommunications Latae Sententiae Reserved to the Roman Pontiff in a Special Manner

1701. - Query. How many and which are the excommunications latae sententiae reserved to the Roman Pontiff in a special manner?

Resp. They are the following thirteen.

I. "All apostates from the Christian Faith," and all and each heretics, by whatever name they are reckoned, and of whatever sect they exist, and those believing them, and their receivers, favorers, and generally any defenders whatever of them." Bull *Coenae*, § 1.

Notes to n. 1701 - note sequence 1. (1) Vide Avanz. (4) Comm. n. 22. Nouv. Rev. Theol. T. II. p. 454. III. (2) Suarez, de Cens. D. 21. S. 2. n. 3. (3) Ben. XIV. de Syn. L. IX. c. IV. V. Notes to n. 1701 - note sequence 2. (1) C. Pastor bonus Ben. XIV. 13 apr. 1744. §§ 9. 10. (2) Avanz. (5) Comm. n. 25. Nouv. Revue Theol. T. II. p. 457. V. (3) T. II. p. 459 sv. (4) Avanz. (6).

Explanation.

1° By "apostates from the Christian Faith" are understood those whom we defined in n. 266 at the end. But whether the crime of apostasy consists in withdrawal alone, so that profession of some false religion is not required, is disputed. I think withdrawal suffices.[1]

For practice it matters little whether withdrawal alone suffices for apostasy, since this most certainly suffices for heresy, and to that extent is subject to the censure. Besides, apostates do not differ essentially from heretics, but only according to more and less, which, according to the axiom of Law, do not diversify the species. Wherefore apostates are named in the Constitution only for greater clarity, because they are not accustomed to be called heretics.[2]

But withdrawal certainly is required, that someone be called an apostate. But since the condition of withdrawal certainly is present in Pantheists, Naturalists, Rationalists, and many others of this kind, who commonly are called Unbelievers, Freethinkers, or Liberals, it can be asked whether, in the opinion which holds withdrawal to suffice, such as, alas! among Catholics themselves in this our age some (and would that there were not many) are found, who are more or less imbued with the aforesaid errors, or even, the duties of a Christian man neglected, live indifferently as if having no religion, yet without having denied the Christian Faith, or at least having deserted it in such a way that they do not wish any longer to be numbered among the faithful of Christ, are subject to the censure as apostates? I respond that these cannot be considered as true apostates, but it can happen that they are to be held as heretics.

2° By "all and each heretics, by whatever name they are reckoned, and of whatever sect they exist," understand those guilty of heresy: **a)** properly taken (n. 265); **b)** so formal (n. 266. 1°; 268. q. 1° and 2°), that no ignorance, not even affected, is present (n. 268. q. 1°. R. 2°); **c)** manifested by word or deed; **d)** at least occult (n. 266. 3°).

Note. - 1) From heresy that is notorious and brought to the judicial forum in whatever way (i.e., even if the heretic has spontaneously brought his delict to that forum), the Bishop absolves for both forums, either by himself or through a delegate.[3] - **2)** The Pope alone can absolve from heresy, whether notorious or occult, which has not yet been treated in the judicial forum.[1] See nevertheless the faculty of our Bishops, p. LXXI. 15. - **3)** The Bishop (and among us any priest laboring in the Sacred Ministry) can receive in both forums the abjuration of new converts. Cf. n. 1264.

3° "And those believing them." - Believers in apostates or heretics are those who indeed have not given their name to an unbelieving or heretical sect, nor subjected themselves to such a sect, but externally show themselves to adhere to or believe the errors of apostates or heretics, for instance if someone were to say: "Doellinger rightly thinks concerning the Primacy,"[2] or, with the intention of assenting to the errors of a heretic (or not only from curiosity or another motive), were to hear his preaching or read his writings.

4° "And their receivers, favorers, and generally any defenders whatever of them" (i.e., of apostates or heretics). See n. 1700. q. 4°. Resp. c). d). f), and cf. *Nouv. Revue Theol.*[3] Hence, as a defender, he is held by the censure who either praises the doctrine of a heretic (certainly in particular that doctrine which is contrary to the Faith), or disputes for the heretic, or responds to an objection against him; but not he who praises the learning, eloquence, or talent of a heretic.

Note. - In order that the censure be incurred, it suffices that the apostate or heretic to whom one believes, whom one favors, etc., be known as such to the one believing, favoring, etc.; nor is it necessary that he be denounced or even notorious.[4]

1702. - II. "All and each persons knowingly reading without the authority of the Apostolic See the books of the same apostates and heretics defending heresy, and also the books of any author prohibited by name through Apostolic Letters, and those retaining, printing, and in any way defending the same books." Bull *Coenae*, § 1, and Rule X of the Index.

Explanation.

The reading of books can be prohibited by natural law, or by positive law, or by laws of both kinds.

Namely, the reading of those books is prohibited by the law of nature itself whose use brings danger of sin, and indeed insofar as the same law commands that this danger be avoided. - See n. 1448. 1449.

But by positive law books are proscribed either immediately by the Supreme Pontiff, or by Councils, even general ones, or by the Index of prohibited books, or by another competent authority, e.g., by Ordinaries of places, and indeed either by name, i.e., with the title of the book expressed, or in general, indicating namely not individual works, but certain classes of works, the use of which is forbidden to the faithful. But the prohibition embraces the reading, retention, defense, and printing of such works.[1]

There are added ecclesiastical laws by which especially the edition or printing of books without approval, e.g., of the S. C. of Indulgences or of the Ordinary, is prohibited.[2]

1703. - In this article a twofold species of prohibited books is contained: the former embraces the books of apostates and heretics; the latter, books prohibited by name through Apostolic Letters.

Books of the former species, that they may fall under excommunication, must bear before themselves two conditions, namely: **1°** That they be of apostates or heretics; **2°** That they defend heresy.

Books prohibited through Apostolic Letters, that they may fall under excommunication, must **1°** be prohibited either in the form of a Brief, as most often happens, or in the form of a Bull, or through encyclical letters, or through any other extrinsic form, when in the letters themselves is read: *from the fullness of Our Apostolic authority*, or *by Apostolic authority*; for all these are called by the generic name Apostolic Letters. Therefore the censure does not comprehend books prohibited through decrees of the Index; but it is extended to books prohibited through Apostolic Letters before the Constitution *Apostolicae Sedis*, provided they were prohibited, or, if there is question of prohibiting them, are prohibited under excommunication reserved to the Roman Pontiff. Thus Avanzini. Godschalk otherwise.[3] But in the Index it is enunciated in what manner individual books are proscribed. **2°** They must be prohibited by name, or by their proper titles.[4]

Notes to n. 1703. (1) Comm. n. 28. (2) Avanz. (8). p. 17 sub 3. (3) Ib. p. 14. 15 sub e) et c). Godsc. p. 20. (4) Ib. p. 14 sub d).

1704. Questions. - Query 1° Whether the books of those who believe apostates and heretics, of whom there is discussion in n. 1701. 3°, or of favorers and defenders (ib. 4°), if they defend heresy, are comprehended under this censure?

Resp. Negatively, because the books defending heresy are prohibited of those who pertain to the first class, i.e., of those who are leaders of apostates and heretics, or who formally pertain to their sects, or to true and certain heretics. Thus Avanzini.[1]

Nevertheless it is not required that the author have been juridically condemned as a heretic or apostate, or have been born in a heretical sect; nor that the book have been written by heretics or apostates alone, with Catholics not cooperating; nor that the author's name be expressed; namely it suffices that: **1)** in the book there be contained an indubitable defense of heresy or of apostasy from the Faith, and **2)** that the defense have been made so pertinaciously that it cannot be doubted that the author of the book is certainly a heretic or apostate; and thus books of believers, favorers, etc., can be comprehended under the censure. - But books of infidels or of Jews are not comprehended under the censure, since they are neither apostates nor heretics.

Query 2° Whether books of apostates and heretics in which heresy is simply handed down, without being defended, are comprehended under this censure?

Resp. Negatively, since in the Constitution, which in this respect differs from the Bull *Coenae*, defense of heresy is required. Yet it suffices that the author has applied his talent for this end, that heresy be defended, whatever otherwise may be the matter of the book. *Nouv. Rev. Th.* T. II. p. 623.

Query 3° Whether periodicals, or newspapers, of the same persons, defending heresy, are prohibited under this censure?

Resp. They do not seem to be; because newspapers, insofar as the sheets remain complete by themselves, do not come under the name of books.[2] Nevertheless periodical writings, or fascicles destined for composing a volume, are comprehended by the censure.[3]

Query 4° Whether under the name of a book there also come little books of too slight a bulk, for instance a letter, a sermon, and whether manuscripts come under it?

Resp. to the 1st. Negatively. The reason is, because a penal law is to be interpreted strictly. Say the same concerning sheets separated from the book itself.[1]

Resp. to the 2nd. Affirmatively, according to the more common opinion, to which St. Alphonsus adheres more, and which he says is altogether to be counseled.[2]

Note. - Under the name of a book there comes also the translation of the same, made in whatever language.[3]

Likewise, according to the opinion to which St. Alphonsus adheres more, there come books of Catholics to which a heretic has added notes so copious that they must be said to consist from these rather than from the writings of Catholics.[4]

Query 5° Whether under the censure there come books of very ancient heretics, or books containing errors wholly obsolete, which, every danger having been removed, are held as merely historical documents?

Resp. Negatively, because as to these the end of the law has entirely ceased.[5]

Query 6° Who in the Constitution come under the name of **a)** those reading, **b)** those retaining, **c)** those printing, **d)** those defending in any way?

Resp. to a). He who reads by himself, but not, at least probably, he who hears one reading, although the reader reads either by the counsel or by the command of the hearer. The reason is, because he does not read. - Nor does he incur the censure who reads himself, if he is ignorant of the language in which the book is written. - But when a book is prohibited, not only that part which gave cause for the prohibition, but the whole book is prohibited from being read, and besides this whatever part of the book is understood to be prohibited, as the dedicatory epistle, the prologue, the index. - But if the work has been distributed into several volumes, the Doctors dispute whether the prohibition is extended to those in which heresy is not defended, or which did not give cause for the prohibition. The opinion of Lugo pleases us more, who denies this if the subject matter of the work admits division, as history; but otherwise affirms it. - The prohibition ceases if you have withdrawn, or erased, or blackened that part which gave cause for the prohibition, so that it can no longer be read, provided the book was not proscribed because it treats of Religion expressly, or in hatred of the author.[1]

Resp. to b). 1° The owner of the book, although it is deposited with another; **2°** the depositary; **3°** the borrower; **4°** one retaining it in pledge. Nor is it enough to hand the book to another torn into sheets for wrapping medicines, salted goods, etc., or to hand it to one having license to retain it, unless you hand it over on this condition, that you do not reclaim it until you have obtained license of reading.[2]

Resp. to c). Immediate cooperators in the printing (n. 315), whether material cooperators, or (according to the truer opinion) those hiring their labor as conducive to this, as the owner of the printing-house, the editor, etc.[3]

Resp. to d). See n. 1700, q. 4°, R. c), d). But under the name of those defending there probably do not come those who would praise only the style or talent of the author, but not his doctrine.[4]

Resp. It is required:

1° That they act knowingly, as is said in the Constitution. Hence ignorance, at least gross ignorance, and probably even affected ignorance, excuses. Yet it suffices to know by report, or by a witness worthy of faith. (Cf. n. 1664, q. 3°, R. 2°.)[5]

2° That grave matter be present.[6] - But smallness of matter: **a)** On the part of those reading or printing is to be considered formally, and thus sometimes a few lines suffice, if they defend heresy.[7] - **b)** On the part of those retaining it is present, if someone retains a book for a short time, e.g., one or another day, or retains it while awaiting the opportune time to hand it over to the Ordinary, or to one having license, or to a confessor. Otherwise, if he were to retain it for a long time, even though he abstained entirely from reading it.[1] - **c)** On the part of those defending, smallness of matter does not seem admissible.[2]

3° That these things be done "without the authority of the Apostolic See," as the Constitution speaks, except however the case of a pious and learned man, who from necessity reads in order to convict a heretic, recourse to the Superior not being open.[3] By what reason our Bishops can communicate the faculty of reading prohibited books, see p. LXXI. 21, and p. LXXII. 2.

But the clause: *for the purpose of attacking them*, does not cause that you sin gravely or incur the censure, although you do not read for that end, but e.g., from curiosity.[4]

Query 8° Who among those who belong to literary societies, among which books prohibited by this article are kept, incur the censure?

Resp. 1° Certainly the society as such does not incur it, since a community cannot be struck with excommunication. See n. 1669, q. 6°.

Resp. 2° As to individuals, distinguish. For they belong to the society either **a)** in such a way that they have co-ownership of the books, or **b)** in such a way that they belong to the assembly of those who preside over the society and direct its affairs by counsel, vote, etc., or **c)** in such a way that they are mere ministers of the society, as e.g., a librarian, or **d)** in such a way that by a contribution of money they procure for themselves the right to the use of the books.

If **a)**, they incur the censure as owners of the books [this number, q. 6°, R. to b)].

If **b)**, subdistinguish. The president will incur it, as is plain of itself; but not the remaining members who in no way favor the purchase of prohibited books. Thus in the hypothesis that those members lack co-ownership of the books.

If **c)**, the librarian is held by the censure, because he comes under the name of those retaining [this number, q. 6°, R. to b)]. As to the others, see whether perhaps from the circumstances they are to be numbered among those defending [this number, q. 6°, R. to d)].

If **d)**, they do not incur it, if they do not use their right for the use of prohibited books. Except if in a particular case they defend prohibited books or by circumstances are judged to defend them.

Thus, saving a better judgment; for I have sought this question in vain among the Doctors, even among those who have written expressly on the prohibition of books.

Notes to n. 1704 - note sequence 1. (1) (7). p. 10-12. (2) Ib. p. 12. (3) Nouv. Rev. Theol. T. II. p. 619. XI. Notes to n. 1704 - note sequence 1. (1) L. VII. 293. H. A. Tr. XIX. 59. quaer. 2°. Nouv. Rev. Theol. T. II. p. 614. VI. sq. (2) L. VII. 293. H. A. Tr. XIX. 59. quaer. 3°. Dissert. de prohib. libr. c. V. n. VIII. Theol. Mor. T. X. p. 247. (3) H. A. Tr. XIX. 59 in fine. (4) L. VII. 286. H. A. Tr. XIX. 60 ad 2. (5) Comment. n. 27. nota 3. Notes to n. 1704 - note sequence 2. (1) L. VII. 283. 292. Dissert.

de justa, etc. C. V. n. IX. T. X. Theol. Mor. p. 248. H. A. Tr. XIX. 57. Comment. n. 28. (2) H. A. Tr. XIX. 62. L. VII. 298. Dissert. C. V. n. XI. T. X. Theol. Mor. pp. 248. 249. Comm. n. 29. Nouv. Rev. Theol. T. II. p. 629. XXXII. XXXIII. (3) Comment. n. 31. (4) Nouv. Rev. Theol. T. II. p. 632. XXXVI. XXXVII. Query 7° What conditions are required on the part of those reading, retaining, printing, or defending books in any way, that they incur the censure? Notes to n. 1704 - note sequence 3. (5) L. VII. 296. H. A. Tr. XIX. 56. Nouv. Rev. Theol. T. II. p. 645. XXXVIII.-XLIII. (6) L. VII. 284. (7) Ib. et Nouv. Rev. Theol. T. II. p. 649. XLIV.-XLVI. XLIX. (1) L. VII. 295. Nouv. Rev. Theol. T. II. p. 652. XLVII. XLVIII. (2) Nouv. Rev. Theol. T. II. p. 655. L. (3) L. VII. 288. (4) Ib. 291.

Appendicula to Censure II.

On the Index of Prohibited Books.

A. On the Origin and Reason of the Index.

1705. - The Index was composed and published by order of Paul IV in the year 1558. - Pius IV perfected it with the Council of Trent, and published it in the year 1564. - Clement VIII enlarged it in the year 1595. - The Congregation of the Index was instituted by St. Pius V.[1]

But the Index prohibits books partly by certain classes, as in the ten Rules of the Index, and in the Decrees concerning prohibited books not expressed by name in the Index;[2] partly by indicating, in alphabetical order, either the titles of books or the names of authors.

Notes to nn. 1705-1706 - note sequence 1. (1) St. Alphonsus, Dissert. c. IV. n. XVII. sq. Theol. Mor. T. X. p. 235 sq. (2) Scav. T. IV. 206-210. Notes to nn. 1705-1706 - note sequence 2. (1) Manuale, n. 737. (2) Lamy, Introd. in Script. P. I. C. VI. n. 28. Ed. 1873. Cf. Conc. Pl. Balt. II. a. 16. Notes to nn. 1705-1707 - note sequence 1. (3) Diss. de justa, etc. C. I. n. XII. Theol. Mor. T. X. p. 209. Notes to nn. 1705-1707 - note sequence 2. (1) Diss. de justa, etc. C. V. n. VIII. Th. Mor. T. X. p. 247. (2) Kenrick is somewhat more benign, Tr. XIII. 55. (3) Ib. 57. (4) Ib. 59. (5) Ib. 60. Notes to nn. 1705-1707 - note sequence 3. (1) Rom. 14. 1. (2) a. 502-504.

B. The Chief Rules of the Index Published by Order of the Council of Trent.

1706. - I. There are prohibited absolutely: **1°** all books of heresiarchs (both of those who after the year 1515 invented or stirred up heresies, and of those who are or have been Heads or Leaders of heretics, such as Luther, etc.), even if not erroneous, or not treating expressly of Religion.

2° Books of heretics which treat expressly of Religion.

3° Books treating expressly of obscene things, with the exception of ancient books written by pagans, which, on account of elegance and propriety of speech, and insofar as there is question of ecclesiastical law alone, are permitted; nevertheless they are by no reason to be read before boys.

4° All books treating of astrology, divination, and sorceries.

5° All books entered into the Index without any addition.

II. There are prohibited *under clauses*:

1° All books which, before the year 1515, either the Supreme Pontiffs or Ecumenical Councils condemned, in the same way as they had formerly been condemned. By this rule however there are not prohibited the old books of pagans, nor even, according to Theologians (see n. 1704, q. 5°), the books of heretics of earlier centuries, as of Tertullian, Eusebius, etc.

2° Books written either **a)** by heretics, although not treating of Religion; or **b)** by those who afterward fell into heresy, or after a fall returned to the bosom of the Church, although written in a Catholic manner, unless they have been approved.

3° Bibles in the vernacular language, unless they have been approved by the Holy See, or published with notes drawn from the Holy Fathers, or from learned and Catholic men. Thus, not without foundation, Craisson interprets the Decrees and Responses of the Holy See.[1] I add: provided that a special prohibition has not been made by the Bishop concerning those versions which have been published without the approval of the Holy See or of the Ordinary. But Bishops cannot approve versions without the aforesaid notes, as is plain from the concession made to them in the year 1757.[2]

4° Books entered into the Index with the clause: *until they are corrected*, i.e., until they have appeared in a new corrected edition, which has been approved by the Sacred Congregation of the Index.

III. It is established that no book and no writing be printed without the license of the Ordinary.

1707. Questions. - Query 1° Whether the law of the Index, prohibiting the reading of certain books, obliges by natural law, or only by positive law?

Resp. It presses by both laws, at least of itself; because it prohibits books only because they are pernicious, and bring in a proximate danger of perversion or of sin; but by natural law each one is held to flee danger of this kind. Hence even if the obligation of the Index were not acknowledged somewhere, nevertheless the reading of books entered into the Index would be prohibited under grave sin, at least in general. On this matter St. Alphonsus observes:[3] "All Theologians ... add, that not even with the license of the Pontiff can the reading of that book be permitted, which could be an occasion of subversion to someone."[1]

Two things besides are to be noted.

1° Private persons ought to obey the commands of the confessor in these things which regard the reading of books. Thus the Sacred Congregation of the Inquisition responded in the year 1832 to the Bishops of Switzerland asking: "Whether the faithful, with a safe conscience, can read Periodicals or books which have not undergone the censure of the Ordinary?" Resp. "Let them have recourse to the confessor."

2° The confessor himself ought carefully to seek the direction of the Bishop, and diligently to keep before his eyes the very grave warning which St. Alphonsus[1] handed down, namely: "In this matter it is expedient ordinarily to follow the stricter opinions."

Query 2° Whether among us the rules of the Index are to be observed and urged?

Resp. Affirmatively, if, when they are neglected, Faith or morals are exposed to proximate danger; indeed, even apart from this danger, those rules which have not been abrogated and morally speaking can be observed, are to be observed and, if it can be done prudently, urged.[2]

Especially: **a)** "Obscene books ... expressly so called cannot be read by anyone without grave sin, because of the proximate danger of exciting lust."[3]

b) "Those who read books treating of history, geography, and other matters of this kind, in which many things opposed to the Faith are found here and there, seem to be excused, because of the very great difficulty which exists in discerning and comparing books; for since most books written in the

English language have non-Catholic authors, it can scarcely happen that Catholics, without very grave detriment to knowledge and other inconveniences, abstain from them. Therefore the kindness of the Church seems to indulge this, lest otherwise pious souls be ensnared. Moreover, care must diligently be taken that an occasion of perversion not arise; and therefore one must labor with every zeal, that expurgated books be had."[4]

c) Those things are to be observed which were said in n. 1706, II. 3°, concerning Bibles in the vernacular language. - Kenrick however observes:[5] "If there are any recently converted to the Faith, who retain Bibles handed down by the hands of their ancestors, in which also the names of parents and children are inscribed, as is the custom, they do not seem to be compelled against their sentiments and affections, to cast them away, the Apostle admonishing: *Receive him who is weak in faith*."[1]

d) As to the printing of books, the Second Plenary Council of Baltimore[2] recalls the law of the Church forbidding that "books concerning Religion and the worship of God" be committed to the press without the approval of the Ordinary.

Note. - Let these things said be understood insofar as there is question of the Index alone, apart from those things which we have explained in nn. 1702-1704 according to the Constitution *Apostolicae Sedis*, and which we shall say in n. 1741, 1°, according to the same Constitution.

1708. - III. "Schismatics, and those who pertinaciously withdraw themselves from, or recede from, the obedience of the Roman Pontiff existing for the time." C. 5. Dist. 19. caus. 43. q. III. can. 26. Bull *Coenae*, § I.

Explanation.

1° By "schismatics" are understood those who pertain to perfect schism, namely those who arrogate to themselves an authority independent of the Roman Pontiff, and, thus setting themselves up as an authority, constitute new churches, make assemblies, dispose concerning the affairs of the Church after the likeness of a supreme independent authority.

2° By "those who pertinaciously withdraw themselves from, or recede from, the obedience of the Roman Pontiff existing for the time," are understood those who pertain to imperfect schism, namely who with full malice and obstinacy refuse to obey the person of the Roman Pontiff, holding themselves released from his supreme divine authority. I said: **1)** holding themselves released from his supreme authority. Hence this censure does not hold those who refuse to obey on account of the thing commanded, e.g., in fasts, etc.; but only those who cast off the authority of the Roman Pontiff. I said: **2)** from his supreme **divine** authority. Hence they do not contract this censure who decline his temporal dominion.

Note. - **a)** He who refuses to be subject to his own Bishop, because he does not wish to have him as his proper and legitimate Pastor, is the same as not wishing to be subject to the Roman Pontiff who sent him. If however someone perseveres in subjection to the Roman Pontiff and in communion with the other Churches, separation from communion with his own Bishop alone does not subject him to the censure.

b) It is not necessary that they be rebels against the authority of the Holy See taken universally; but it suffices that they are rebels against the obedience of that person who actually and legitimately

occupies the See of Blessed Peter.

3° "Pertinaciously withdraw themselves," i.e., in the same way as heretics from the Faith, or knowingly and willingly. Wherefore the censure would not hold him who refused to be subject to a Pontiff insofar as he was suspect to him, or hateful, or doubtfully legitimate, i.e., not yet received by the universal Church because of an election doubtfully valid.

1709. - IV. "All and each, of whatever state, grade, or condition they shall be, appealing from the ordinances or mandates of the Roman Pontiffs existing for the time to a future universal Council, and also those by whose aid, counsel, or favor the appeal has been made." Bull *Coenae*, § II.

Explanation.

1° "To a future Council." Therefore if appeal has been made to a future Roman Pontiff, or to a present Council, there is no place for the censure.

2° By "ordinances, or mandates" here are not understood ordinances or mandates as to matters which pertain to temporal life and civil government; but only ordinances which regard the government of the universal or particular Church, and which pertain to its spiritual authority, even if exercised upon private persons.

1710. - V. "All killing, mutilating, striking, capturing, imprisoning, detaining, or hostilely pursuing Cardinals of the Holy Roman Church, Patriarchs, Archbishops, Bishops, and Legates or Nuncios of the Apostolic See, or casting them out from their dioceses, territories, lands, or dominions, and also those commanding these things, or holding them ratified, or furnishing aid, counsel, or favor in them." St. Pius V, c. *Infelicis*. Bull *Coenae*, § XI.

Notes to n. 1710. (1) Comment. n. 41. (2) Varceno, p. 929.

Explanation.

1° "Hostilely pursuing," i.e., with the intention of harming, not merely of frightening.

2° "From their dioceses," etc., i.e., from places subject to their jurisdiction.

3° "Casting out," i.e., expelling one previously received, and indeed from the whole tract of jurisdiction. Therefore they are not bound by this censure who simply do not receive, or who expel from some city of the diocese.

4° "Those commanding" ... "furnishing counsel" in these things. See n. 1700, q. 4°.

5° "Holding ratified." Ratification here requires: **a)** that the striking, etc., was done in the name of the one ratifying; because "no one can hold ratified what has not been done in his name"; **b)** that at the time when these things had been perpetrated, they themselves could have admitted them, and therefore could have commanded them; for thus ratification is drawn back and is equated to mandate;[1] **c)** that not only by intention, but by some grave external action, e.g., writing, congratulation, applause, praise, etc., they approve the indicated delicts.[2]

1711. - VI. "Those impeding directly or indirectly the exercise of ecclesiastical jurisdiction, whether of the internal or external forum, and those recurring for this purpose to the secular forum, and those procuring or issuing its mandates, or furnishing aid, counsel, or favor." L. III. T. XXIII. c. 3 in 6°. Bull *Coenae*, § XVI.

Notes to n. 1711. (1) Nouv. Rev. Theol. T. III. p. 241. n. XIV. (2) Comment. n. 47. (3) Ib. n. 46.

Explanation.

1° They are struck by this excommunication who impede the exercise of ordinary or delegated jurisdiction, whether of the internal or external forum. - I say: *of jurisdiction*, namely insofar as it is distinguished from the exercise of Order, which two however are not always easily discerned from one another. Generally the power of Order pertains chiefly to the sanctification of souls; the power of Jurisdiction chiefly to the governing of the society of the faithful; therefore it belongs to the former to bless and consecrate; to the latter to rule and govern. Wherefore to the power of Order it pertains to perform Sacred things, to administer the Sacraments, to bless and consecrate persons and things, etc. To the power of jurisdiction it pertains to issue laws, mandates; to bind, loose; to confer benefices, ecclesiastical offices; to determine or take away ecclesiastical things, to send preachers, to visit a diocese, and to commit to others those things which belong to Order.

2° In this article those who impede the exercise of ecclesiastical jurisdiction and those who elude the effect of the same jurisdiction by recourse to a lay tribunal are entirely distinct. Therefore the particle: *and those recurring for this purpose*, has a disjunctive force, so that it signifies the other class of those who likewise are comprehended under the same censure. Hence both those impeding and those merely recurring are struck with this excommunication.

3° "Those impeding," namely by some deed, for instance by force, threats, command; for he is said to impede who causes another unwillingly to cease from an action. Therefore if someone uses counsels, entreaty, fraud, he is rather said to persuade, obtain, deceive. - "Those impeding directly," namely if someone obstructs the very person wishing to exercise jurisdiction, and in that thing which he intends to do, e.g., while he threatens the Bishop with recourse to the lay forum, if he is transferred by him to another parish. - Indirectly, namely if he obstructs him in another matter or in another person, as if he threatens him with some grave evil under pretext of an injury brought upon himself, but in truth that the Bishop may desist from transferring him to another parish; if by threats he prohibits judges given to him by the Bishop from undertaking those things which belong to their office.

4° "Those recurring." In order to incur the censure on this account, according to some it is required that a mandate or prohibition be obtained against ecclesiastical judges; according to others this is not required, but it suffices that one merely have recourse. - By *forum* some[1] understand civil power, whether legislative, executive, or judicial; others[2] only judicial power.

5° By "those issuing" are understood judges, and all others of the secular forum, who issue mandates which impede the exercise of ecclesiastical jurisdiction, but not actuaries writing them out, etc.[3]

6° "Those furnishing aid, counsel, or favor." See n. 1700, q. 4°. But these incur the censure only after by this reason the exercise of jurisdiction has been impeded, or recourse (in the opinion of those who think this suffices) has taken place.

1712. - VII. "Those compelling, either directly or indirectly, lay judges to draw ecclesiastical persons to their tribunal contrary to canonical dispositions: likewise those issuing laws or decrees against the liberty or rights of the Church." Martin V, c. *Ad reprimendas*. Bull *Coenae*, § XV.

Notes to n. 1712. (1) n. 50 (5).

Explanation.

Query. Whether lay judges, who by an office imposed by the laws either of a kingdom or of an empire, which are contrary to ecclesiastical sanctions, draw ecclesiastical persons to their tribunal, that they may discharge their said office, incur a censure of this kind?

Resp. Negatively, according to the authentic response which was given in the Instruction of the S. C. U. Inq., February 1, 1871, by which it was declared: "The excommunication does not touch those who are subordinate, even if they have been judges, but has been laid only upon those who, compelled by no one, either do such things, or compel others to do them."

1° "Those compelling directly or indirectly." Indirectly, e.g., by fear impressed upon the relatives of a judge, or through another upon the judge himself.

2° "Contrary to canonical dispositions," there is allusion to Concordats of a kingdom or of an empire with the Apostolic See, which remain in force. - There is allusion also to the case in which some ecclesiastical person has been duly degraded, and delivered to a lay judge to be punished. - Likewise to other cases: when, e.g., an ecclesiastical person draws lay persons into judgment; for an ecclesiastical person can present himself in a lay court in a non-ecclesiastical cause as plaintiff; but he himself cannot be drawn as defendant. - The Commentators add:[1] "This censure ceases in those places where the privilege of forum, the Holy See permitting or being silent, has been abrogated; for it is utterly incredible that the most wise Pontiff wished suddenly, and with scarcely one word, to stir up a very wide and very tangled crop of controversies and annoyances. Cf. nn. 112-114."

3° "Those issuing laws or decrees against the liberty and rights of the Church." Only those issuing them, or the authors of laws or decrees, are excommunicated, as for instance among us the members of legislative or municipal assemblies, and likewise the President, Governor, or Prefect of a City who do not veto laws or decrees of this kind. - Laws are those things which are constituted perpetually by the Supreme Power. - Decrees are those things which are issued generally by any power whatever, as for instance by a Prefect of a City, by Municipalities, etc. - *Against the liberty or rights of the Church.* These words are very widely open, and strike every kind whatever of laws or decrees by which not only the exercise of ecclesiastical power, whether of jurisdiction or of Order, but any other right is intercepted, restricted, disturbed. See examples in the Syllabus, pp. 19-21, 24-33, 41-54, p. XLII-XLIV.

1713. - VIII. "Those recurring to lay power for impeding letters, or any acts whatever proceeding from the Apostolic See, or from its Legates or Delegates of whatever kind, and those prohibiting their promulgation or execution directly or indirectly, or on account of them injuring or greatly frightening either the parties themselves or others." L. III. T. XXIII. c. 4 in 6°. Bull *Coenae*, § XIII.

Explanation.

1° By the words: "letters," namely Apostolic, what is understood, see n. 1703. - "Acts" are called those things which are done at Rome by the Roman Pontiff, whether they contain a spiritual or temporal matter; or by his command, as citations, processes, etc.

2° This article comprises a threefold kind of persons: **1)** "Those recurring" to lay power for impeding letters, or any acts whatever proceeding from the Apostolic See, or from the Legates or Delegates of the same Apostolic See, of whatever kind.

2) "Those prohibiting" directly or indirectly the promulgation or execution of the same acts.

3° "Those injuring" (the body, goods), or "greatly frightening" (with exceedingly grave fear) the parties themselves, i.e., the persons who have obtained some Rescript either of grace or of justice from the Holy See or its Legates, or some sentence favorable to themselves, etc., or those injuring or greatly frightening others, for instance the patrons of the same parties by reason of the acts obtained, or executors, or persons to whom the acts obtained are referred by some reason.

1714. - IX. "All forgers of Apostolic Letters, even in the form of a Brief, and of supplications concerning grace or justice, signed by the Roman Pontiff, or by the Vice-Chancellors of the Holy Roman Church or by those acting in their place, or by mandate of the same Roman Pontiff; and also those falsely publishing Apostolic Letters, even in the form of a Brief, and also falsely signing supplications of this kind under the name of the Roman Pontiff, or of the Vice-Chancellor, or of those acting in the place of the aforesaid." L. V. Decr. T. XX. c. 7. Bull *Coenae*, § VI.

Note. - It is required that these things have been committed with evil intent, and, if the interest of another is involved, that they gravely harm or can harm this other. For the crime of forgery is "an alteration or suppression of the truth made to the fraud of another."[1]

As to those using false Apostolic letters, see n. 1735.

Notes to n. 1714. (1) Comment. n. 59, 60.

1715. - X. "Those absolving an accomplice in a base sin, even in the article of death, if another priest, although not approved for Confessions, can receive the Confession of the dying person without any grave infamy and scandal about to arise." Benedict XIV, c. *Sacramentum Poenitentiae*, § IV. Cf. c. *Apostolici muneris*, §§ III, IV.

Notes to n. 1715. (2) L. VI. 556. Appendix annotation (47), to n. 1715. p. 343. col. 1. To the doubt: Whether a confessor who, according to the mind of the Bull Apostolicae Sedis, n. 10, simulated absolving his or her accomplice in base sin, for example by reciting a certain prayer or pronouncing other words, or even by being silent, in such a way nevertheless that by signs or gestures of the hands he seemed truly to release the penitent from sins, incurs the excommunication specially reserved to the Supreme Pontiff about which there is question in the aforesaid Bull: - S. Poenitentiaria, having maturely weighed the doubts set forth concerning these things, likewise responded: "Confessors simulating the absolution of an accomplice in base sin do not escape the excommunication reserved in the Bull of Benedict XIV: Sacramentum Poenitentiae. - Given at Rome in S. Poenit., on the 1st day of March 1873." A similar response, given to St. Alphonsus himself by the same Sacred Penitentiary, on the 9th day of July in the year 1751, did not prevent the Holy Doctor from following the opposite sentence. "When I had run through," he says, "the Constitution of the same Pontiff Benedict XIV, Inter praeteritos, cited several times, I found the opposite declared sufficiently in § 59, as is clear from the following words: 'No less upon the priest accomplice who either outside the article of death receives the confession of the penitent and absolves him, or who in the article of death absolves when another priest is not lacking, ... the penalty of major excommunication was imposed by Us in the cited constitutions.'" This having been weighed, the authors of the periodical Nouvelle Revue Théologique, Tom. XIV. p. 142, write these things: "Far be it from us to resist the authority of the Sacred Penitentiary; but we would not dare to condemn those who, having imitated St. Alphonsus, still adhere to the letter of the law, until the question is again brought to the Holy See and formally settled by it. It belongs to Bishops to submit questions of this kind to the decision of the Supreme Pontiff." - In my judgment, no slight weight accrues to the repeated decision of the Sacred Penitentiary precisely from this, that it was given against the sentence of St. Alphonsus, and, if I am not mistaken, of all the theologians who wrote after him. For it must have been that it was repeatedly led into this decision by reasons not slight against their sentence. > Notes to appendix annotation - note sequence 14. > > 1 L. VI. 556. q. 1.

Explanation.

1° "Those absolving": but not merely those hearing the Confession of an accomplice,[2] nor those absolving with ignorance, even gross ignorance, of the censure; for the Constitution of Benedict XIV, from which the censure is taken, requires daring (cf. n. 1406, 2°, Note, and n. 1664, q. 3°). Those feignedly absolving are held by the censure. (47) p. 428.

2° "An accomplice" (see n. 1404, I, 1405, q. 2°), "in a base sin" (see n. 1405, q. 1°).

3° "Even in the article of death, if," etc. (see n. 1405, q. 3°, q. 4°, q. 5°).

Note. - Concerning absolution from this censure, see p. LXXI, n. 16, note 2, b).

1716. - XI. "Those usurping, or sequestrating, jurisdiction, goods, revenues, belonging to ecclesiastical persons by reason of their churches or benefices." Bull *Coenae*, § XVII. L. I. T. VI. c. 13 in 6°.

Notes to n. 1716. (1) Comment. n. 66. (2) Gury, Ed. Rom. 1878. T. II. p. 608 (2). (3) Comment. n. 65.

Explanation.

1° "Those usurping," i.e., occupying a thing from another as if by right to it, or as if it pertained to themselves. Therefore thieves, robbers, plunderers, etc. do not incur this censure (S. C. O., March 9, 1870), nor those who acquire a thing usurped by others by acts either of last will or among the living.[1]

2° "Or sequestrating," i.e., jurisdictionally impeding lest goods, etc., be received by the said ecclesiastical persons.

3° "Jurisdiction," whether spiritual or temporal, e.g., of the Roman Pontiff in his dominion.

4° "Goods," whether immovable or movable, or rights. Cf. n. 593.

5° "Revenues," i.e., whatever the thing bears, or is received by reason of the thing, not stole fees.

6° "Belonging to ecclesiastical persons by reason of their churches or benefices." Therefore not those things which belong to hospitals, lay sodalities, Monasteries (others however affirm[2]), cemeteries; nor goods assigned to preserving or repairing sacred buildings, or to performing sacred things.[3]

Moreover current law establishes four excommunications incurred by the very fact against those who dispose illicitly of ecclesiastical goods, etc.: the first, of which in this number; the second, third, and fourth, of which in nn. 1717, 1738, 1740. The first and second are reserved specially to the Supreme Pontiff; the fourth simply to him; the third is reserved to no one.

1717. - XII. "Those invading, destroying, detaining, by themselves or through others, cities, lands, places, or rights pertaining to the Roman Church; or usurping, disturbing, retaining supreme jurisdiction in them, and also those furnishing aid, counsel, or favor to each one of the aforesaid." Bull *Coenae*, § XX.

Notes to n. 1717. (1) n. 69. (1) Cf. Acta, T. VII. p. 401. Appendix annotation (xi), to n. 1717, p. 344, col. 2. A fourteenth excommunication has been added, as is clear from the following Response of S. Paen. Most Eminent and Most Reverend Lord, Certain priest confessors in the gracious City humbly set forth that at this time there is being circulated through it a certain sheet containing a program printed in type with annexed tickets of association, by which the faithful are solicited to adhere to a certain Society instituted or to be instituted for this end, that whenever the Apostolic See shall be vacant, the Roman people may concur in the election of the Supreme Pontiff. ... But those who give their name to this society must

expressly declare, ... that they assent to the doctrines stated in the program, and they contract an obligation before two witnesses that they will give effort so that such doctrines be propagated, and the Society itself be extended. Therefore, when those approach Sacramental Confession who have existed as promoters of this depraved Society, or who have subscribed, and the other adherents and supporters, the aforesaid confessors, so that they may be able rightly to absolve them, ... request the solution of the following doubts. 1. Whether all and each giving their name to the aforesaid Society, or promoting it, or favoring it in any way whatsoever, or adhering to it, incur by the very fact the penalty of major excommunication? 2. And insofar as affirmatively, whether an excommunication of this kind is reserved to the Roman Pontiff? S. Paen., all things set forth having been considered, and the nature and end of this society inspected, a report of the premises having been made to Our Most Holy Lord Pope Pius IX, and the same Most Holy Lord approving, responds to the proposed doubts as follows: To 1. Affirmatively. To 2. That an excommunication latae sententiae reserved in a special manner to the Roman Pontiff is incurred. (August 4, 1876.)

Explanation.

1° This excommunication looks to the defense of temporal dominion belonging to the Holy See. Hence *rights* and *jurisdiction* are here understood as temporal; nor are any rights whatever meant, but principal rights, or those which are proper to a Prince as such; and *supreme* jurisdiction, i.e., that which belongs to the Prince alone, as for instance the right of life and death, the right of imposing taxes, of creating Magistrates, etc.

2° They are excommunicated: **a)** who destroy or invade cities, etc., force being used; **b)** who usurp or disturb the supreme jurisdiction of the Roman Pontiff in these things, e.g., who impede the Roman Pontiff himself from publishing laws in these cities, imposing taxes, etc.; **c)** who retain this jurisdiction, or cities, lands, etc.; **d)** who furnish aid, counsel, favor to each one of the aforesaid. - Concerning those who furnish these things, i.e., aid to those invading, destroying, disturbing, usurping, there is no difficulty.

What concerning those who furnish these things to those detaining them? The Commentators respond:[1] "There is a twofold kind of these, ... one of those who exercise some public office. But public offices pertain either to the necessities or utilities of citizens, or to maintaining the government, or to both. The former" (under which I think comes the office of consuls, who live in foreign ports or cities, and also of legates before the pretended king of Italy) "it is harmless, other things being equal, to undertake, because a society cannot kill itself; not likewise the latter; but as to censures one must advert whether someone can abstain from these without grave inconvenience." (Cf. n. 1664, q. 5°.)

"The other kind is of those who undertake no public office. These are understood to favor, if they furnish proximate work to those retaining them, so that they remain in possession: as for instance by money, ... by writings, etc.; if remote work, not likewise; as if they rent houses to them, serve them, etc."

Note. - At the beginning of this paragraph I said that there are thirteen excommunications reserved specially to the Supreme Pontiff. Namely, to the twelve which in the Constitution *Apostolicae Sedis* are reserved specially to the Pope, on the fifth day before the kalends of September, 1873, there acceded:

XIII. By which, in the Constitution *Romanus Pontifex*, there are struck:

1° The Canons and Dignitaries of vacant Cathedral Churches, who have dared to grant and transfer the care, governance, and administration of the vacant Church under whatever title, name, or color

sought ... to one nominated and presented by lay power by concession or privilege of the Holy See, or, where custom is in force, elected by the Chapter members themselves to the same vacant Church.

2° Those nominated and presented, or as above elected, to vacant Churches, who dare to take up the care, governance, and administration of them, etc....

3° All those who have obeyed the aforesaid things, or have furnished aid, counsel, or favor, of whatever state, condition, preeminence, and dignity they shall be.

Moreover there is added: "But if any of the aforesaid are marked with the episcopal character, they incur by the very fact, without any declaration, the penalty of suspension from the exercise of Pontificals and of interdict from entrance into the Church, likewise reserved to the Holy See."

Besides: **1°** the aforesaid Canons are deprived of fruits; - **2°** those nominated are deprived of the right acquired by them.[1] (E) p. 399.

§ II. On Excommunications Latae Sententiae Reserved Simply to the Roman Pontiff

1718. - I. "Those teaching or defending, either publicly or privately, propositions condemned by the Apostolic See under the penalty of excommunication latae sententiae; likewise those teaching or defending as licit the practice of asking from a penitent the name of an accomplice, as it has been condemned by Benedict XIV in the Constitutions *Suprema*, July 7, 1745; *Ubi primum*, July 2, 1746; *Ad eradicandum*, September 28, 1746."

Notes to n. 1718. (1) Cf. Acta, T. VII. p. 401.

Explanation.

1° "Those teaching," i.e., handing them down to those not knowing.

2° "Or defending," i.e., undertaking patronage of them, as if they had been unworthy of condemnation.

3° "Condemned under the penalty of excommunication latae sententiae," namely against those who teach or defend them. Of this kind, for example, are those condemned by Leo X in the Constitution *Exsurge Domine*, issued June 15, 1520 against the errors of Luther; by St. Pius V in the Constitution *Ex omnibus*, October 1, 1567, issued against the errors of Michael Baius, and which Gregory XIII confirmed by the Constitution *Provisionis nostrae*, January 29, 1579, and Urban VIII by the Constitution *In eminenti*, March 6, 1641; by Alexander VII in the years 1665, 1666 (pp. XII-XIV); by Innocent XI in the year 1679 (pp. XV-XVII); by Alexander VIII in the year 1690 (pp. XXII-XXIII); by Benedict XIV in the year 1752 (p. XXVI). But such propositions are not those condemned in the Syllabus.

Note. - 1) Propositions condemned as heretical do not fall under this censure, but under that of which there was treatment in n. 1701. But those condemned *in a mass*, respectively as heretical, erroneous, etc., do fall under it, unless perhaps someone teaches or defends one of these which is heretical in itself and known by him as such. - **2)** Concerning the excommunication laid down by Trent (not however reserved) against those who teach certain false propositions, see n. 1741.

4° "Condemned by the Apostolic See," i.e., by the Roman Pontiff either by himself, or through the Sacred Congregation of the Holy Office, but not through Ecumenical Councils.

5° "Likewise those teaching or defending as licit ... as it has been condemned by Benedict XIV," etc. But Benedict XIV says: "He who shall have dared to teach that the practice of asking the name of the accomplice is licit, under denunciation, unless they revealed it, of denial of sacramental absolution; or shall have presumed to write or speak in defense of the same condemned practice." Therefore three things are required that this excommunication be incurred: **a)** that he teach that this practice is licit; **b)** that he teach that both together are licit, i.e., both to ask the name of the accomplice, and to deny absolution to one keeping silence; **c)** that he rashly teach these things (n. 1664, q. 3°).

As to a confessor who exercises this doctrine in practice, see n. 1369, q. 3°, q. 4°.

1719. - II. "Those laying violent hands, at the persuasion of the devil, upon Clerics, or Monks of either sex, except, as to the reservation, the cases and persons concerning whom by law or privilege it is permitted that a Bishop or another absolve." C. 4. Caus. 17. 12.

Notes to n. 1719 - note sequence 1. (1) L. VII. 280. Dub. 2. (2) Ib. 274. (3) Ib. (4) Ib. (5) (22) p. 31. Gury, Ed. Rom. 1873. T. II. p. 610 (2). Varceno, p. 941. Nouv. Rev. Theol. T. VI. p. 118 sq. (6) n. 77. (7) L. VII. 275. Dub. 2. (8) Ib. II. (9) Ib. V. Distinguendo ut ibid. (10) Ib. III. (11) Ib. VI. (12) Ib. IV. Notes to n. 1719 - note sequence 2. (1) L. VII. 270. 271. (2) Cf. Ib. (3) Ib. § Unde gaudent. (4) L. IV. 401. L. VII. 220. Notand. 3. Appendix annotation (O), to n. 1719. 8°. p. 346. col. 1. It is said: "Tertiaries ... living in community." For "women leading a virginal or celibate, or chaste widowed, life by express vow and under the said habit, ought to enjoy the privileges by which the brothers of the Order whose habit of the third rule they wear enjoy." Thus Leo X, Const. Dum intra, issued in the Fifth Lateran Council, Sess. 21.

Explanation.

In this article is contained that celebrated privilege of Clerics which from the Canon of the Lateran Council under Innocent II, *Si quis suadente diabolo*, is called the privilege of the Canon, and which is to be interpreted very broadly, since it has been conceded not to persons, but to the state of Clerics. See n. 193.

1° "Laying violent hands," i.e., committing a real injury (not by words alone), by which either the body, or liberty, or dignity is injured. - The body, as if you have killed a cleric with poison (in which case excommunication, according to the more common opinion, which seems more probable to St. Alphonsus, is incurred as soon as the poison has begun to injure[1]), or have pursued him so that he should fall headlong or fall from a horse, and he falls headlong or falls.[2] - Liberty, when he is thrust into prison or another place, even private. - Dignity, whenever force is applied, as if you stop the carriage in which he is conveyed, or the horse on which he sits;[3] if you have violently snatched something from him, as a purse, hat, staff; or have admitted some other insulting thing against him, as for instance if you have fouled him with spittle, dust, mud; if you have torn the garments with which he was clothed, etc.[4] - All are subject to this excommunication, even those under puberty. Whether, as in the old law, cooperators also? Avanzini affirms with others, moved especially by this reason, that the ancient law is here simply renewed, and the same reason of the law altogether holds for cooperators, i.e., those commanding, counseling, consenting (provided they influence the striking gravely and efficaciously), those ratifying (in the manner in which we explained in n. 1710, 5°);[5] the Commentators deny it.[6] We adhere to Avanzini.

2° "At the persuasion of the devil," i.e., from an intention of inflicting injury gravely culpable.[7] Therefore the censure does not hold one who strikes either in jest,[8] or for correction (moderately however),[9] or for defense (with the moderation of blameless defense),[10] or for some other just cause (as if a woman strikes a cleric by whom she is solicited, and whom she cannot turn away by words);[11] or from sudden anger, which causes that what is done is not fully adverted to.[12]

3° "Upon clerics," or all who have received Tonsure, "or monks of either sex," even Novices, Tertiaries wearing the habit and living in community, and Hermits by vow or pact attached to some sacred place, with subjection to the Bishop, but not those vagabonds who wear a special habit, although they serve some Church, even by commission of the Bishop.[1] (O) p. 411.

Whether women living together after the manner of religious enjoy the same privilege? Fagnanus affirms it, whom St. Alphonsus does not contradict.[2] But the Holy Doctor manifestly seems[3] to admit that religious women living in a simple Congregation with at least tacit authority of the Pontiff enjoy the privilege, such as those living in a Congregation erected by the Bishop seem to me to be.

Yet it is necessary that the Cleric has not fallen away from this privilege. But those fall away who can still renounce the clerical state (as those who are constituted only in Minor orders), and have really renounced it; likewise those degraded, namely really (n. 1691); but not those excommunicated, suspended, interdicted, deposed, namely verbally (n. 1691).

4° "Except, as to the reservation," etc. See n. 1753, q. 2°, R. 2°.

1720. - III. "Those perpetrating a duel, or simply provoking to it, or accepting it, and any accomplices, or those furnishing any work or favor whatever, and also those watching it intentionally, and those permitting it, or, insofar as is in them, not prohibiting it, of whatever dignity they are, even royal or imperial." Trent, Sess. 25. c. 19. Ref. Gregory XIII, c. *Ad tollendum*. Clement VIII, c. *Illius vices*. Benedict XIV, c. *Detestabilem*.

Notes to n. 1720. (1) Comment. n. 79. Rev. Th. T. VII. p. 605. 606.

Explanation.

1° A duel. What it is, see 476, Chapter III. Even a simple duel (ibid.) falls under the censure.

2° Those watching intentionally, namely those who by their presence inflame the fight: and therefore not those who, passing by by chance, look on, or who look on in secret or from afar; nor those who go to the place of combat in order to impede it.[4]

3° Although duels in fact not fatal also fall under the censure, nevertheless it is necessary to fight with lethal weapons, or at least such must be proposed (respectively accepted), namely such from which there exists danger of killing or of a lethal wound. Therefore to fight with fists, sticks, or iron with a blunted edge is not sufficient.[1]

1721. - IV. "Those giving their name to the Masonic sect, or the Carbonari sect, or to other sects of the same kind which plot against the Church or legitimate powers, whether openly or secretly, and also those furnishing favor of any kind to the same sects; and those not denouncing their hidden ringleaders and leaders, until they shall have denounced them." Clement XII, *In eminenti*, April 28, 1738. Benedict XIV, c. *Providas*, May 18, 1751. Pius VII, September 13, 1821. Pius IX, Allocution *Qui pluribus*, November 9, 1846.

Notes to n. 1721 - note sequence 1. (1) a. 519. (2) Tr. III. n. 64. (3) Conc. Pl. Balt. II. p. 335. XXVIII. (4) a. 520. (5) Kenr. Tr. III. n. 63. Notes to n. 1721 - note sequence 2. (1) Conc. Pl. Balt. II. a. 522. Notes to n. 1721 - note sequence 3. (1) Comment. n. 83 (8). (2) T. IV. n. 177 ad VI. (3) V. Denunciatio n. 18. (4) T. II. n. 921. (5) Melang. Theol. T. V. p. 605. Godschalk, p. 76. 77. Appendix annotation (48), to n. 1721. 1°. d) p. 346. col. 2. The things which we hand down in the cited place seemed too rigid to the writers of the periodical Acta S. Sedis, App. XIX. p. 614 sq. For they contend that the Response of the Sacred Inquisition, dated 21 Aug. 1850, is prior to the Constitution Apostolicae Sedis and has regard only to the Constitutions of the Pontiffs which precede it. - But that S. C. de P. F. and the Sacred Inquisition itself judge otherwise is openly clear: 1) from the Response by which S. C. de P. F. communicates to the Bishops of Canada the Decree of the Sacred Inquisition dated 1 July 1870; 2) from the Response of S. C. de P. F., 21 Aug. 1879, by which a copy of the same Decree is transmitted to the Bishop of Vincennes; 3) from the Response of S. C. de P. F., 20 Jan. 1877, by which the resolution of the Sacred Inquisition dated the 10th of the same month is given to the Archbishop of San Francisco. These responses certainly are not prior to the Constitution Apostolicae Sedis, but posterior. The first two declare in open words all those things which I hand down in n. 1721. 1° under d) and c). The third has these things: "Insofar as nothing illicit is detected in the signs," which the society uses about which the Archbishop of San Francisco was asking, "and the oath is not extended to this, that the secret cannot be manifested to ecclesiastical authority whenever it is required by it, those who have given their name to the aforesaid society are not to be disturbed." But, ask the Acta, "do not ... also other societies, for example of robbers, commonly of bandits, thieves, etc., sometimes bind themselves by oath both to keeping the secret and to undertaking mutual defense? Do therefore those also who enter societies of these incur excommunication?" I respond that by this very difficulty, if indeed it were a difficulty, the Acta are entangled, when on p. 616 col. 1 they write: "the cited response" of the Sacred Inquisition, dated 21 Aug. 1850, "has regard to the earlier Constitutions of the Pontiffs, in which in fact, especially in that which was issued by Clement XII, assemblies of this kind" - that is, those about which I treat in n. 1721. 1°. under d) and c) - "were comprehended." Therefore, lest they fight with themselves, the Acta would have to admit the very thing which they object, namely that the societies of robbers which they describe were subject to censure before the Constitution Apostolicae Sedis; which nevertheless no theologian will admit. > Notes to appendix annotation - note sequence 15. > > 2 See Conc. Pl. Balt. II. p. 335. XXVIII.

Explanation.

1° "The Masonic sect or Carbonari sect, or other sects of the same kind, which plot against the Church or legitimate powers, whether openly or secretly," whether they require or do not require from their followers an oath concerning keeping a secret.[2] Therefore among us there are held by the censure:

a) Freemasons.[3]

b) Odd Fellows and Sons of Temperance, as is clear from the Response of the Sacred Congregation of the Holy Office, Feria IV, August 21, 1850.[4]

c) Fenians, as is clear from the Decree of the Sacred Congregation of the Inquisition, January 12, 1870.

d) "Those societies, of whatever nature they are, in which the members from the very entrance bind themselves by oath to obey those things which shall have been commanded by the Superiors of the assembly, or also enter into a pact of secrecy, which cannot be violated with impunity even when legitimate power interrogates."[5] (48) p. 428.

e) "Those assemblies ... in which the members are joined together by so close a bond for mutual defense, that from it there arises danger of disturbances or murders."[6]

From these things it is clear that condemned societies can only improperly be called hidden or secret; for both those which plot openly and those which plot secretly are condemned.

Note. - From the Second Plenary Council of Baltimore:

1) To the Fathers "there appears no reason why the prohibition of the Church against the Masonic and other hidden sects should be extended to those sodalities of workers which are not known to propose to themselves anything other than the mutual protection and help of the members in exercising their own art." But these words, as is clear from the context of the article, must be understood concerning those sodalities in which the members guard against those things which, lest they become subject to the censure, we handed down above under d) and e) as to be avoided.[1] - But Kenrick writes:[2] "An assembly of workers coming together for their own utilities, who establish rules by which those who have not rightly learned the art are excluded from work, or the price of labor is established, is lawful of itself, even if signs are used and a secret is held. But if something less equitable is decreed or done, those will be able to be excused who have resisted in vain the greater number of members, and who cannot leave the sodality without grave detriment or danger, provided they give no work to inflicting injury." This opinion of a most learned man does not seem able to be reconciled with the Rescript of the Sacred Congregation of the Holy Office, Feria IV, August 21, 1850,[3] given at the petition of Kenrick himself, unless you understand the word *secret* with this supplied beneath it: *which nevertheless can be violated with impunity when legitimate power interrogates*. But practice in most dioceses, as I hear, is that the Sacraments are not denied to workers of this kind by the precise reason of secrecy, if this can be revealed with impunity to the Bishop, Pastor (or Confessor as spiritual counselor).

2) The Council[4] commands that no one "in these Provinces, constituted in any ecclesiastical dignity, should condemn by name some hidden society, unless it is certainly and beyond all doubt established that it is of those which are condemned by Pontifical Constitutions," etc. But this can be established either by a declaration of the Holy See, or "of Prelates, ... or by common fame, or by the experience of the members themselves."[5]

3) "Let the faithful ... entirely flee all dark assemblies, even those which do not seem to be comprehended by the most strict censures of the Church. For there is no doubt that these too are full of danger for souls."[1]

That these things may be more rightly understood for practice, it will help to elucidate them by the following.

From the words of the Council, and from the nature of the thing itself, it is evident that some society can be illicit by the law of nature alone. That this may be discerned, before all else it is necessary to see what is the end of such a society, what are its means, namely rules, etc.; and, positing that the end and means are good or at least licit, it must be inquired further, especially here and today, whether in a society of this kind there is a proximate occasion of one's own ruin or of scandal.

a) The end can be supernaturally good, naturally honorable, indifferent (e.g., a literary academy, a mercantile society), or evil, sometimes directly against the theological virtues (e.g., for the perversion of the Catholic Faith, propagation of heresy, etc.), or against the moral virtues (e.g., against strict justice, or against temperance, or against legal justice).

b) Likewise the means are to be compared with the rules of morals, namely with laws; for however praiseworthy the end may be, evil things are not to be done that good things may come. To societies, as to individual human acts, the principle must be applied: Good is from an entire cause, evil from any defect whatever. Thus sometimes legitimate aspirations of patriotism are miserably perverted.

Example: to promise obedience without restriction to all precepts which will emanate from the Supreme Council is gravely illicit, and societies in which promises of this kind are made are likewise held by the censure.

c) Although the end and means, considered in themselves, seem according to the letter good or at least licit, sometimes it happens that something gravely illicit has been introduced into the society by practice or interpretation: in which case it is clear that the same must be said as if it were expressly formulated. Thus, for example, certain associations for mutual help degenerate into strictly unjust conspiracies.

d) Sometimes it happens that the end and the means are illicit neither according to the letter nor according to the spirit, and nevertheless there is present either probable danger that the aforesaid society will shortly degenerate in the aforesaid way, or a true danger of spiritual ruin on account of conversation with members corrupted by impiety or immorality, or danger of scandal.

These things being posited, natural law dictates two following rules: **I.** He is in a state of mortal sin, and is not worthy of absolution, who is not sincerely and efficaciously disposed to avoid or leave societies of the first, second, and third category. - **II.** As to the fourth category, the theological rules concerning occasion, whether absolutely or relatively proximate, are to be applied; and also concerning avoiding scandal, unless there is a reason excusing.

2° "And also those furnishing favor" (see n. 1700, q. 4°) "of any kind to the same sects." Therefore they are held by this excommunication who furnish them counsel, aid, openly or in secret; directly or indirectly, by themselves or through others; who receive them in their buildings, hide them, or provide convenience that they may be assembled somewhere; who exhort or persuade others that they be enrolled in societies of this kind, numbered among them, or present at them, or in whatever way help and favor them.

It is asked whether under the words: "those furnishing favor of any kind to the same sects," there come also those who hire their buildings, e.g., to have lectures in them or to institute fairs in them?

Resp. The censure seems to comprehend all and only those furnishing favor who in furnishing it constitute themselves guilty of gravely illicit cooperation; but this does not seem to be present if there is a grave cause for hiring those buildings, for instance because another suitable place in the city is lacking for some work morally necessary for the good of the Church. Thus one would not be judged to favor heresy who in the same circumstances and for the same ends would hire a church of heretics. The matter, moreover, is not without difficulty. Wherefore among those things which I have said, I wish you to judge that I have said them saving a better judgment; nor can I fail to observe in this place that by the use of buildings of this kind, especially if it is approved by the Clergy, the horror is lessened by which Catholics ought to be shaken even when looking upon their walls themselves.

3° "And those not denouncing their hidden ringleaders and leaders" (those whose names are read everywhere through books and newspapers are often, as the Holy Office observes, February 1, 1871, such in appearance only and by name) "until they shall have denounced them."

a) Denunciation here is understood not as fraternal, which looks to the amendment of the person, but judicial, which pertains to his coercion. - **b)** The obligation of the same holds all the faithful of

Christ who have attained puberty. - **c)** Among us it would have to be made to the Ordinary, and in Missions to the Vicar or Prefect Apostolic (Sacred Penitentiary, February 10, 1871). - **d)** The obligation of the same universally ceases: **1)** as long as someone cannot make it by himself, or **2)** without betraying himself, or **3)** if no hope of punishment appears,[1] which hope in these Provinces, on account of the condition of our affairs, must be called vain. - And these things indeed certainly hold for regions and places where the ecclesiastical law of denouncing is in force. But this law of denouncing was introduced both by reason of the public good and by reason of the private good of the person to be denounced. If this second reason of this kind should cease, the first remains; for it will always be useful to the Bishop and to ecclesiastical authority for feeding the faithful committed to his care to know hidden heretics or sectarians, and others to be denounced. And because of these reasons, even if the ecclesiastical law of denouncing had ceased, there would remain an obligation deriving from natural law, which natural law, when grave circumstances concur, as when there is question of avoiding grave harm, can oblige gravely.

Concerning the obligation of denouncing it can be noted besides, that it "is to be interpreted by the same reason by which ecclesiastical laws by which the denunciation of heretics is enjoined are interpreted." Thus the Sacred Penitentiary, November 8, 1821, apud Scavini.[2] But in our circumstances, because of liberty of worship asserted for all, the errors of heretics roam about with impunity, and therefore the denunciation of them, imposed by the law of the Church, does not oblige, as Ferraris himself[3] teaches with Navarro, Bonacina, and others, to whom among more recent authors Scavini subscribes.[4] Therefore by the same reason among us there is not present an obligation, by force of ecclesiastical law, of denouncing those enrolled in condemned Sects.[5]

Pastoral rules. - **I.** The Supreme Pontiff is the supreme judge concerning the liceity of **any** societies. Sometimes concerning this liceity, as supreme director of consciences, he issues declarations; but sometimes, as legislator, he prohibits societies illicit of themselves by canonical law, or renders dangerous societies absolutely illicit, and is able to sanction his laws with excommunication, etc. But these laws oblige, and do not cease to oblige, although in particular cases it were established that the evil for averting which they were laid down would not happen; for this is proper to all laws which are founded in the presumption of a common danger. Cf. nn. 129, 165. - Therefore let the priest be ashamed to betray his ignorance in theological matters (not to say stupid irreverence toward the Holy See) by saying repeatedly that condemned societies in these our Provinces, as being less dangerous (perhaps you would more rightly say: less suspected of danger), or even harmless!!, are not subject to censures.

II. The Bishop: **1)** is held to urge strongly and prudently in his diocese the declarations and laws of the Supreme Pontiff; **2)** with due proportion observed, he himself too can for his diocese, just as the Pontiff for the whole Church, condemn societies illicit of themselves, prohibit dangerous ones, and, if he has judged it expedient in the Lord, restrain violations of his statutes or precepts by absolution from them reserved to himself or by censures. - Yet two things are to be observed here: **a)** He cannot decide by himself a doubt whether some society falls under a Pontifical censure of itself, as was said above, 1°, 2). **b)** If there is question of a society already spread through several dioceses or probably soon to be spread, before he decrees anything, let him enter into counsel with his colleagues, that uniformity may be obtained, and lest one destroy what another has built.

III. Missionaries ought to watch that the declarations and laws both of the Supreme Pontiff and of their own Bishop be observed by the flock entrusted to them; in more difficult cases let them consult the rules of prudence and the Bishop; without consulting the Bishop let them not expressly approve some new society, especially if it is more or less suspect; and, if there is question of a society which is prudently judged to be either absolutely or relatively dangerous [see above, 1°, 3)], let the pastor or confessor judge concerning individual cases privately according to the rules concerning scandal or proximate occasion.

1722. - V. "Those ordering the immunity of ecclesiastical asylum to be violated, with rash daring, or those violating it." L. III. Decr. T. XLIX throughout. Benedict XIII, c. *Ex quo divina*. Clement XII, c. *In suprema*. Benedict XIV, c. *Officii nostri*.

Explanation.

1° By "immunity" is understood local ecclesiastical immunity, insofar as it is referred to the asylum of guilty persons fleeing to it.

2° That this excommunication be incurred, two things together are required, namely violation of the immunity of asylum, and rash daring; and therefore if either term is lacking, the censure is not incurred.

3° In this article are comprehended in the same way both those ordering violation and those violating. But the Sacred Congregation of the Holy Office, February 1, 1871, declared that "only he incurs the excommunication who, by no means compelled by others, prudent and knowing, either orders the immunity of ecclesiastical asylum to be violated, or violates it by executing." Wherefore magistrates and servants of government, who would not wish to violate the immunity of asylum, and nevertheless are compelled to violate it against or beyond their will, do not incur this censure: for the words "with rash daring" comprise both members, i.e., both "those ordering to violate" and "those violating." The observation is practical, because today in secular kingdoms scarcely a trace of the right of asylum remains.

1723. - VI. "Those violating the enclosure of Nuns, of whatever kind or condition, sex or age they shall be, by entering into their monasteries without legitimate license: and likewise those introducing or admitting them, and also Nuns going out from it outside the cases and form prescribed by St. Pius V in the Constitution *Decori*." Trent, Sess. 25. c. 4, 5 de Regul.

Notes to n. 1723. (1) L. VII. 227. (2) Ib. 223 in fine. 224. (3) Comment. n. 88. (4) L. VII. 229.

Explanation.

1° "Enclosure," i.e., for Nuns the whole house, and all enclosures attached to it and surrounded by a wall.

2° "Of Nuns." See n. 1185, 5°. Hence under this article there is not comprehended that enclosure to which women living in community are sometimes bound, who emit simple vows; which enclosure is imposed either by the Bishop, or by force of their constitutions, or even by force of a special vow. Thus the Sacred Congregation of Bishops and Regulars, August 1, 1839.

3° "Those violating, ... of whatever kind or condition, sex or age they shall be." Therefore the Ordinaries of places themselves also incur the censure, women, and those under puberty.

4° "By entering into their monasteries without legitimate license." - But the license will be legitimate if it was given both from a cause of necessity, and, unless there is danger in delay, by him to whom it belongs to give it. **a)** From a cause of necessity, which is reckoned threefold, namely care of the sick, administration of the Sacraments, and common service. From the first, physicians and surgeons may enter to heal the sick. From the second, a confessor may enter to administer Penance, the Eucharist (as often as it was given to the healthy[1]), Extreme Unction, and to commend the souls of the dying. From the third, workmen, artisans, and others who cannot exercise their art outside the enclosure. **b)** By him to whom it belongs to give it, namely the Bishop, and, if the monastery is subject to Regulars and usage is not contrary (Benedict XIV, Syn. L. XIII. c. 12. n. 23), the Superior of that Order. Nevertheless the Bishop can commit to another, e.g., to the Superior or confessor, the faculty of granting license of entering.[2] But license is to be given as often as there is need, except for physicians, surgeons, and confessors, to whom it is to be given generally. After the Constitution *Apostolicae Sedis* it is no longer necessary that it be given in writing.[3]

5° "And likewise those introducing or admitting them," although those who are introduced or admitted are under seven years of age. - Thus far concerning those entering; the things that follow pertain to those going out.

6° "And also Nuns going out from it," i.e., the enclosure, "outside the cases and form prescribed by St. Pius V in the Constitution *Decori*."

a) "Outside the cases ... by St. Pius V," etc. The cases are: **1)** a great fire, to which are assimilated impending war, inundation of a river, ruin of a building, etc.; **2)** contagious disease, which is accustomed to infect others.[4]

b) "And the form by St. Pius," etc. But the form is, unless there is danger in delay, that the license also of the Ordinary be given, and that in writing.

Note. - As to the Nuns of the Visitation of the Blessed Virgin Mary, see what was said in n. 1205, V, 2°.

1724. - VII. "Women violating the enclosure of Regular men, and Superiors or others admitting them." C. *Decet* and C. *Regularium* of St. Pius V. C. *Ubi gratia* of Gregory XIII.

Notes to n. 1724. (1) L. VII. 231.

Explanation.

1° "Women," except queens and similar privileged persons.[1]

2° "Of Regulars," i.e., of those emitting solemn vows.

3° "Enclosure," under which, for men, come: the cloister, the house, the interior workrooms (e.g., the library); but not the church, chapels joined to the church, the sacristy (ordinarily), nor the garden, if it can be approached without passage through the monastery and is separated from the enclosure by a suitable key and wall.

1725. - VIII. "Those guilty of real simony" (n. 351, 3°) "in benefices" (and not only in offices) "of whatever kind" (therefore also in the Episcopate), "and their accomplices."

IX. "Those guilty of confidential simony" (n. 351, 3°) "in any benefices, of whatever dignity they may be."

X. Those guilty of real simony for entrance into Religion (n. 354, q. 5°).

Notes to n. 1725. (2) Nouv. Rev. Th. T. X. p. 580.

Explanation.

Since our Missionaries are not beneficed, they can indeed contract the crime of simony, but not the censure.[2]

These three censures are taken from Trent, Sess. XXIV. c. 18 Ref. - Extr. L. V. T. I. - St. Pius V, c. *Inscrutabilis*, June 1, 1569.

1726. - XI. "All who, making gain from indulgences and other spiritual graces, are struck by the censure of excommunication in the Constitution of St. Pius V *Quam plenum*, January 2, 1569."

Notes to n. 1726. (1) n. 100. (2) Ib. (3) Avanz. (33).

Explanation.

1° "Indulgences." What they are is hidden from no one.

2° "Spiritual graces." A case will very rarely occur among us, since by these are understood here only those spiritual graces which are enumerated in the cited Constitution of St. Pius V. These, if you please, see in that Constitution itself, or in the Commentators.[1]

3° "Making gain." Therefore it is not sufficient that only the intention of making gain was present. It is necessary that money has been accepted.[2]

4° By this article only the excommunication laid upon all inferior to Bishops is confirmed.[3]

1727. - XII. "Those collecting alms of a greater price for Masses, and from these seeking profit, by causing them to be celebrated in places where Mass stipends are accustomed to be of a lesser price." C. *Quanta cura* of Benedict XIV.

Notes to n. 1727. (4) Ib. (34). p. 49. (5) Comment. n. 102. (6) Acta, App. p. 954 sq. (7) Th. Pat. n. 282. (8) Comment. Ib. (9) Acta, l. c. p. 980 sq.

Explanation.

1° "Those collecting," or, as to this penalty, there is not question of one or a few stipends, but of a copious number, so that the one acquiring them deserves the name of collector, and the collected number suffices for true profit by use of commerce.[4] Nor does the censure seem to be extended to him who seeks profit from stipends which are given to him that he himself may satisfy them, or which are spontaneously brought to him, not however as to a collector, that he may take care that Masses be celebrated by others.[5]

2° "Masses," namely manual Masses and founded Masses not having the character of a benefice.[6]

3° "From these seeking profit." Wherefore he is not subject to this penalty who intends in this way to acquire part of the stipends for a pious cause.[7]

4° "By causing them to be celebrated in places where Mass stipends are accustomed to be of a lesser price." Therefore he will not incur the censure who causes them to be celebrated there where he collected the alms, or indeed in another place, but where a stipend of the same value is accustomed to be given.[8]

Note. - Excommunication is incurred not when someone collects alms, but when he retains for himself part of them, and indeed as much as suffices for grave theft, positing that the condition under 1° concerning profit, perceived from the copious collected number of Masses, is verified.[9]

1728. - XIII. "All who are punished with excommunication in the Constitutions of St. Pius V, *Admonet nos*, on the fourth day before the kalends of April, 1567; of Innocent IX, *Quae ab hac Sede*, on the day before the nones of November, 1591; of Clement VIII, *Ad Romani Pontificis curam*, June 26, 1592; and of Alexander VII, *Inter caeteras*, on the ninth day before the kalends of November, 1660, concerning the alienation and infeudation of cities and places belonging to the Holy Roman Church."

Notes to n. 1728. (1) n. 106.

Explanation.

The Constitution of St. Pius V, *Admonet nos*, comprehends laymen and Clerics, Bishops and Archbishops, Primates, Patriarchs, Cardinals, and all others, who by themselves or through others strive to act, or to insinuate or persuade the Roman Pontiff to alienation or infeudation of cities or places belonging to the Holy See, from any pretext whatever, even of necessity or evident utility, and although they waste their work and oil. Wherefore all these are punished with this excommunication.

Innocent IX, Clement VIII, and Alexander VII by their own Constitutions confirmed, renewed, and explained the said Constitution of St. Pius V.

Other things pertaining here, see, if you please, in the Commentaries.[1]

1729. - XIV. "Religious presuming to administer to Clerics or laymen outside a case of necessity the Sacrament of Extreme Unction, or of the Eucharist by way of Viaticum, without the license of the Pastor." Clem. L. V. T. VII. c. 1.

Explanation.

1° "Religious," namely of solemn vows, and (in the Society of Jesus) also of simple vows.

2° "To Clerics or laymen." Therefore a Regular does not incur the censure when administering these things to Regulars, or to those who in favorable matters come under the name of Regulars (n. 1194. II. § But of subjects), even of another Order, and outside the Monastery.

3° "Outside a case of necessity," which must be estimated not only from the danger in which the sick person labors, but also if the Pastor could not easily be summoned.

4° "Without the license of the Pastor." Here we must understand as Pastor one who has the care of souls (by whatever name he is called), or acts in his place, whose office it is to administer these Sacraments to such a sick person. Whether under the name of Pastor here there come also those who are set over our districts? It must be affirmed, if they truly preside over Parishes see [nn. 1138, 1608, Note 1)]. - But the license of which there is question here is also understood as presumed.

5° "Viaticum." Therefore Communion from devotion is not comprehended under this censure.

1730. - XV. "Those extracting without legitimate permission Relics from the sacred cemeteries or catacombs of the City of Rome and its territory, and those furnishing aid or favor to them." Edict of August 24, 1613 by order of Paul V. - C. *Ex commissae* of Clement X, January 13, 1672.

Notes to n. 1730. (1) Acta, T. II. p. 171. (2) Comment. n. 110 (1) et Gard. n. 5329. (3) Ib. (4) (37). p. 56.

Explanation.

1° "Without legitimate permission," to be granted in writing by the Eminent Vicar General of the City.

2° "Relics from the sacred cemeteries or catacombs of the City of Rome." It is established that certain of these are of Holy Martyrs, e.g., when small glass or earthen vessels stained with blood, or at least enclosing bloody crusts, are found at the places of burial within, or outside them (S. C. Indulg., February 16, 1852, and Pius Pope IX, March 15 of the same year;[1] S. R. C., November 27, 1863[2]); on the other hand it is established that certain are not of Martyrs, as those which are found in open burial places; finally, whether certain are of Martyrs or not is ambiguous. Moreover commonly we understand Relics of Saints; hence he who extracts the former, not he who extracts the latter, or (as the Commentators[3] think against Avanzini[4]) these ambiguous ones, incurs the excommunication. It does not matter how much someone extracts, whether much or little.

1731. - XVI. "Those communicating with an excommunicated person named by the Pope in a criminal crime, namely by furnishing aid or favor to him." L. V. Decr. T. XXXIX. c. 29.

XVII. "Clerics knowingly and spontaneously communicating in divine things with persons named by the Roman Pontiff as excommunicated, and receiving them in the Offices." L. V. Decr. T. XXXIX. c. 18.

Explanation.

Before the Constitution *Apostolicae Sedis*, all those who communicated with one to be avoided contracted excommunication, either in a criminal crime (i.e., in the crime on account of which, or in the contumacy because of which, the excommunication had been laid down, as if a concubinary man again has intercourse with an excommunicated concubine), or in divine things; and the former indeed contracted the major, but the latter the minor. The latter (according to most) has today been removed; the former indeed remains, but it is not incurred except by those who communicate with an excommunicated person named by the Pope, not by another. Wherefore this censure does not hold him who, whether in a criminal crime or in divine things, communicates e.g., with Titius, whom the Bishop, as a heretic, has declared excommunicated by name. For this man was indeed excommunicated by force of papal law, but not by name by the Pope.

"Those communicating in divine things ... and receiving them in the" liturgical "offices." Both together are required, according to the tradition of identity of the old censure (L. V. Decr. T. 39. c. 18) (n. 1700. q. 1°, R. 2°).

These two excommunications differ in these things: to the former all are subject, whether Clerics or laymen; to the latter Clerics only. From the former ignorance does not excuse, if it was gross or supine; from the latter it does excuse. Finally, the former is incurred also by those who were

compelled by fear, though not grave fear; the latter only by those who communicate spontaneously, i.e., without fear, even slight.

1732. - XVIII. "Those presuming to absolve, without due faculty, even under any pretext whatever, persons bound by the bond of excommunication specially reserved to the Roman Pontiff." Thus the final § of the Constitution *Apostolicae Sedis*, after excommunication XII among those specially reserved to the Roman Pontiff.

Add from the decree of the C. S. O., December 4, 1872, excommunication XIX against Ecclesiastics and Missionaries engaged in commerce in the East Indies and America, etc.[1]

Add besides the excommunication laid down in the Encyclical of our Most Holy Lord Pius Pope IX, November 1, 1870, against adherents to those crimes which are mentioned in the third part of the censure reported at n. 1717, which third part extends from the word "and also" to "furnishing." Namely, adherents are excommunicated, i.e., those who internally and externally approve those crimes, or are prepared to furnish aid, counsel, or favor to each one of them, even if in fact they have not furnished it. Thus Godschalk[1] against *Eph. Nouv. Rev. Théol.*[2] and *Th. Pat.* n. 148, who think that also by adherents an excommunication specially reserved to the Pope is incurred.

Notes to n. 1732. (1) Theol. Pat. n. 423, 424, where he treats of the manner in which this censure is reserved. (1) Godschalk, p. 59. (2) T. IV. p. 139.

§ III. On Excommunications *latae sententiae* Reserved to Bishops, or Ordinaries

(Cf. n. 1401. q. 2°. R. 2°.)

1733. - I. "Clerics constituted in Sacred Orders, or Regulars or Nuns, after a solemn vow of chastity, presuming to contract Matrimony; and also all presuming to contract Matrimony with any of the aforesaid persons." Clem. L. IV. T. unic.

Notes to n. 1733. (3) See Rev. Th. T. XI. p. 53 sq. (4) Th. p. 54 sq. (5) Ib. (1) See Rev. Th. T. XI. p. 63 sq. (2) Avanz. (39) a). Teije, de Imp. n. 783, 784. Godschalk, p. 100 sq.

Explanation.

1° "Matrimony," and not only betrothals, nor even these if in a place where the Decree *Tametsi* is not in force, copula followed; for copula does not induce a presumed Matrimony unless the betrothals were valid (n. 1546. 3°).

2° "To contract Matrimony." Therefore the censure is not incurred a) by those who live in concubinage, even though publicly they are thought to live in legitimate Matrimony; nor b) if consent was lacking either on both sides or on one side, as, for example, if one contracted fictitiously, or was induced by error, or compelled by fear. - Whether, in order that the censure be incurred, it is also required that the consent not be vitiated by an impediment distinct from the impediment of Order or solemn vow, e.g., of bond, consanguinity, affinity, disparity of cult? Not a few among more recent authors affirm;[3] others deny;[4] and to their opinion, the matter having been weighed again, we adhere; for no sufficiently solid reason, nor any authority except that of more recent authors, militates for the affirmative opinion.[5] - Whether at least it is required that a Matrimony of this kind be contracted before the Pastor and witnesses? I answer that this certainly is not required in places

where the Decree *Tametsi* is not in force; for in those places clandestine Matrimony, although illicit, nevertheless has the figure of Matrimony, which suffices so that the parties, as far as depends on themselves, are judged to "contract Matrimony." Outside places of this kind there was dispute.[1] That one must adhere to those denying[2] can today, after the Response of the S. R. and U. Inquisition, Feria IV, December 22, 1880, no longer be doubted (P. Bl. für N. Amer. 1881. S. 106, ad I.).

3° "Presuming to contract." See n. 1664. q. 3°.

1734. - II. "Those procuring abortion, the effect having followed." Sixtus V. c. *Effraenatam*, October 29, 1588. § 7.

Notes to n. 1734. (3) C. n. 119. S. A. L. IV. 562, 658; L. VII. 371. (4) Comment. n. 120. Gury, Ed. Dumas, T. II. n. 1019. q. 8°. Nouv. Rev. Théol. T. VII. p. 310 sq. (5) p. 95. (6) L. IV. 395. (1) L. VII. 213. (2) Cf. Vind. Ed. 2a. T. II. p. CXI. (4), or Pref. Apolog. p. 107 (4), and Nouv. Rev. Théol. T. VII. p. 304 sq.

Explanation.

Of this censure:

1° The matter is abortion directly voluntary, not merely in cause, as if someone gravely struck a pregnant woman out of anger, hatred, jealousy, etc., foreseeing the abortion indeed, but not intending it, as is clear from the Sixtine Constitution. - A moral cause, however, suffices, such as terror struck into a pregnant woman. Nor is any distinction any longer to be made between an animated or inanimate fetus.

2° The condition is the effect having followed, having followed, I say, not from some accidental cause, e.g., from the fact that, after taking an abortive drug, the woman fell from a height, but from a cause efficient per se. Nor is excommunication incurred as long as it seems probable that the abortion followed from another cause.[3]

3° The subject is all procuring abortion, whether by themselves or through others: therefore both those commanding and those executing commands; but not those counseling, nor those who furnish help to the procurer; for here *procurantes* are understood as in the Sixtine Constitution, § 2. Therefore one who counsels, teaches, writes down (even if he is a physician), or prepares a drug for the procurer, does not incur the censure.[4] Besides, as the anonymous Annotator of Gury, Roman edition 1873,[5] says: "The opinion still seems probable of those who, with St. Doctor Alphonsus,[6] thought that this excommunication is by no means incurred by pregnant women who procure an abortion for themselves. For in the Pian Constitution those procuring abortion are indicated, not all without any exception whatever, but generally those who procure abortion; these words are indeed general, but they can admit a benign interpretation. But that they in fact admit it is elicited from the following arguments. 1. The nature of penal law persuades this, because odious things are to be restricted. 2. It is confirmed from the purpose of the Supreme Pontiff, who wished by prudent dispensation to moderate the old censures. 3. This censure, as regards the subject, was enunciated in the same way by Doctors before the Constitution *Apostolicae Sedis* was published, as it is enunciated in that Constitution itself. Thus in the *Medulla Theologiae Moralis* of Hermann Busembaum, L. VII, Cap. I, Art. 2, among the excommunications reserved to Bishops under n. 3, it is read: 'Against those procuring abortion of an animated fetus, the effect having followed.' And nevertheless the Holy Doctor, who took the enumeration of censures from Busembaum exactly, and reported the excommunication of which we are treating in the very same words,[1] defended that milder opinion. 4. Finally, concerning a

censure of this kind only this much change seems to have been introduced, namely that the distinction between an animated and an inanimate fetus was omitted. Accordingly, in that which pertains to the subject, the Constitution *Apostolicae Sedis* is to be understood more mildly, as, according to the probable, indeed more probable, opinion, according to the Holy Doctor, the Sixtine and Gregorian Constitution was understood, unless we wish, the spirit being neglected, to cling to the letter more tenaciously than is fitting. But the reason why Theologians judged that Sixtus V exempted pregnant women from this censure is that he is presumed to have had compassion on the weakness of women who, when driven by vehement fear of damage about to come to themselves, namely infamy, attempt to expel an immature fetus, and, while they do not shrink from so great a crime, would easily also make little of excommunication; therefore, to avoid a new snare of the soul and other dangers, especially of sacrilegious Confessions, the Pontiff did not wish to comprehend them. Moreover it still seems at least to be considered that St. Alphonsus with Ronc. noted in the cited place: 'Since it is doubtful whether this excommunication was laid down also against pregnant women, very probably they themselves are excused from it.'"[2]

1735. - III. "Those knowingly using false Apostolic Letters, or cooperating with the crime in that matter." From L. V. Decr. T. XX. c. 7.

Explanation.

1° "False," see n. 1714.

2° "Using," i.e., those who exhibit them so that they may be able to have effect. Concerning the falsifiers themselves, see n. 1714.

3° "In that matter," i.e., in the said use, "cooperating."

§ IV. On Excommunications *latae sententiae* Reserved to No One

1736. - I. "Those commanding, or compelling, notorious heretics, or those excommunicated by name, or interdicted by name, to be handed over to ecclesiastical burial." From L. V. T. II. c. 2 in 6°, and Clem. L. III. T. VII. c. 1.

Notes to nn. 1736-1738 - note sequence 1. (1) Comment. n. 131 (34). (2) L. V. 187. n. 1. VII. (3) Comment. n. 131. (4) Ib. n. 129. (5) H. A. Tr. XIII. 62. Notes to n. 1736. (1) Comment. n. 125. (2) Avanz. (43). Notes to nn. 1736-1738 - note sequence 2. (1) De Regul. P. V. Sect. IV. c. III. (2) L. V. 187. n. II. VI. (3) P. Bl. N. Amer. 1881. p. 106. (4) L. V. 187. n. V.

Explanation.

1° "Those commanding, or compelling to be handed over," but not others, who accompany, carry the Cross and lights; nor those who put them into burial: for odious things are to be restricted.

2° "To ecclesiastical burial," i.e., burial in any place whatever which, for the burial of the faithful or at least for divine offices to be performed, has been assigned either by the Bishop's blessing or by his designation, or by common use and custom.[1]

3° In this article burial is forbidden under pain of excommunication for notorious or public heretics; likewise for those excommunicated by name; likewise for those interdicted by name. - Under the name of heretic there also come notorious apostates from the Faith.[2]

1737. - II. "Those injuring or terrifying Inquisitors, denouncers, witnesses, or other ministers of the Holy Office; or tearing away or burning writings of its Sacred Tribunal; or furnishing aid, counsel, or favor to any of the aforesaid." St. Pius V. C. *Si protegendis*.

Explanation.

Understand this as being for the cause of impeding, lest they bring causes to the Sacred Tribunal, or of impeding the sentence, or in hatred of the Sacred Tribunal itself; because if they do not know them as such, they may perhaps incur another censure, but not the censure of this article.

1738. - III. "Those alienating, and those presuming to receive, ecclesiastical goods without Apostolic beneplacitum, according to the form of the Extravagant *Ambitiosae, de reb. Eccl. non alienandis*." C. unic. under the said title (L. III. T. LV. in Extravag. Comm.).

Explanation.

1° "Those alienating," provided the administration of those goods has been entrusted to them, and there is not question of Bishops, although they are administrators, since these in the cited Extravagant are restrained by the Church only with an interdict.[1]

But to the word *alienate*, as is clear from the Extravagant itself, here a very broad notion is subjected; for it contains all contracts by which: either 1) ownership is transferred, as to give in payment, to exchange, etc.; or 2) some real right withdraws from the Church, or a real burden is imposed on the things of the Church, e.g., a census, hypothec, servitude, or a servitude owed to it is remitted; and 3) leases beyond a useful or fruitful three-year term.[2]

2° "Presuming to receive," but not those consenting, counseling, favoring, destroying ecclesiastical things, stealing, etc. Nevertheless by those alienating and receiving, understand those by whose mandate and in whose name alienation is made, but not the mandataries.[3]

3° "Ecclesiastical goods" here are understood in the strict sense, namely: 1) those which are in the patrimony of some Church or Monastery; 2) ecclesiastical benefices (nn. 628-630); 3) goods of any Pious Place, for example an academy, seminary, college, school, hospital, orphanage, provided they have been erected by ecclesiastical authority.[4] But goods are taken as either immovable or precious movable goods. Which things are to be regarded as precious is to be determined especially by the judgment of a judge.[5] Under immovable and precious movable goods, however, are not comprehended money, nor counted coins, nor money placed in administrations of governments, or of railroads and the like, except if the monies proceed from alienations of immovable things, or were given or left with a perpetual burden of Masses or with an express obligation of buying an immovable thing, as Bouix asserts and proves more fully.[1]

4° "Without Apostolic beneplacitum," which nevertheless is not required if: either 1) the thing is of slight value; or 2) is such that its revenues do not suffice for conserving it; or 3) is of such a kind that it will probably not endure for a three-year term without notable deterioration, for example a garment; or 4) necessity urges, which does not allow delay, or there is an occasion which otherwise would pass. [In these two cases, however, of necessity and utility, the consent of the Bishop is required, unless there is question of exempt Regulars]; or 5) the thing was left or donated to the Church under that law, that it may be alienated, which sometimes, but prudently, Bishops or pastors will be able to procure.[2] Privileges contrary to this law, if they are general, and likewise particular

customs, even immemorial ones, have been abrogated by force of the derogatory clause at the end of the Constitution *Apostolicae Sedis* (p. 360, col. 2): but not special and personal privileges. S. Inq., December 22, 1880.[3] Moreover, among us at least ordinarily, there will be one of the other causes on account of which alienation without Apostolic beneplacitum can lawfully be made, for example 4°.

5° "According to the form of the Extravagant," etc., i.e., with a legitimate cause and with the solemnities prescribed by law for alienation having been observed. - But a legitimate cause is either necessity, or utility, or piety (for example grave necessity of the poor), or inconvenience (as if the thing to be alienated is very distant, etc.). - The solemnities, if you please, see in St. Alph.[4]

1739. - IV. "Those neglecting, or culpably omitting, to denounce within a month confessors, or priests, by whom they have been solicited to shameful things in any of the cases expressed by our Predecessors Gregory XV, Constitution *Universi*, August 20, 1622, and Benedict XIV, Constitution *Sacramentum Poenitentiae*, June 1, 1741." Cf. above, nn. 1407-1412.

Notes to n. 1739. (1) L. VI. 683. (2) Vind. p. 578. Ed. 2a. T. II. p. 199.

Explanation.

1° "Those neglecting, or culpably omitting," etc. Therefore the month useful for denouncing, lest the censure be incurred, begins from the day on which there has certainly become known both the obligation of denouncing, and the time within which it is to be satisfied, and the censure; for there is question of an omitted denunciation on account of culpable negligence, which supposes knowledge of the whole of the same obligation.

2° What was already sufficiently probable to St. Alphonsus,[1] today is certain, namely, that once denunciation has been made, even after the time prescribed by ecclesiastical law, the reservation ceases. Thus S. Poenit. p. LXI. II. ad 3, and it is clear from the Constitution *Apostolicae Sedis* itself, in which this excommunication is enumerated among those which are reserved to no one.[2]

3° When the penitent can be absolved, either absolutely or prudently, although he has not yet denounced, see n. 1412. e).

The Constitution *Apostolicae Sedis* continues:

"Besides these thus far enumerated, those also whom the Most Sacred Council of Trent excommunicated, whether with absolution reserved to the Supreme Pontiff or to Ordinaries, or without any reservation, We likewise declare to be thus excommunicated; with exception of the penalty of anathema established in the Decree of Session IV, *On the Edition and Use of Sacred Books*, to which We will that only those be subject who print books treating of sacred things without the approval of the Ordinary, or cause them to be printed." - Hence let there be:

§ V. On Excommunications *latae sententiae* Inflicted by the Council of Trent

1740. - I. An excommunication simply reserved to the Holy See against usurpers of ecclesiastical goods.[3] This extends much more broadly than that of which we treated at n. 1716. For it comprehends, as to objects, the jurisdictions, goods, census, rights, and any revenues whatever of churches or of any benefices or pious places: as to persons, any laymen or Clerics (the latter even if they consent), who by themselves or through others, by force or fear having been struck, or even

through supposititious persons, or by any artifice (fraud) or any color sought out (title, pretext), and therefore even if the goods came to them from the donation of a supposititious person, presume to convert those things to their own uses and to usurp them, or to impede them from being received by those to whom by law they pertain.[1] That purchase from a usurper is comprehended under this sanction is certain from the Response of S. Inq., July 8, 1874.[2]

Notes to n. 1740. (3) Sess. 22. c. 11. Ref. (1) Rev. Th. T. X. p. 618 sq. (2) Th. Pat. n. 139, 313. III.

1741. - II. Excommunications reserved to no one:

1° Against those printing (n. 1704. q. 6°. R. ad c), or causing to be printed, without the approval of the Ordinary, books treating of sacred things, i.e., books of Sacred Scripture, and any annotations on the same treating of sacred things in general, that is, of things pertaining to religion: for the Tridentine decree treats of these alone.[3]

There are, however, those who think that by the alleged Tridentine decree are comprehended all books and smaller works in which, professedly and not only incidentally or in passing, there is discussion of any sacred matter, for example of Sacred Scripture, of an article of Faith, of things pertaining to the worship of God or of the Saints, of a Theological or ascetical matter, etc. They think this opinion is confirmed, or at least agrees more with a certain declaration of S. C. C., of which Reiffenstuel makes mention.[4] But today this opinion must be abandoned, as is clear from the Response of S. Inq., Feria IV, December 22, 1880.[5]

Note besides that the obligation of obtaining beforehand the approval of the Ordinary rests on those who print books of this kind or cause them to be printed. Wherefore, if perhaps the author neither prints his writings nor causes them to be printed, but has sold or otherwise alienated them, not he, but he who prints them or causes them to be printed, incurs the censure.[6]

2° Against those presuming to teach, preach, or pertinaciously assert, or even to defend by public disputation, with the conscience burdened by mortal sin, and with a confessor available, that Confession before the reception of the Eucharist is not necessary, provided one is contrite.[1]

Likewise against those denying that clandestine Matrimonies are true and ratified Matrimonies, as long as the Church has not made them invalid, and falsely affirming that Matrimonies contracted by children of families without the consent of parents are invalid.[2]

3° Against abductors of women (n. 1620) and all furnishing counsel, aid, and favor to them (n. 1700. q. 4°).[3]

4° Against temporal lords or magistrates who by grave and unjust coercion violate the liberty of contracting Matrimony.[4]

5° Against those compelling a woman to enter a monastery, or to pronounce solemn vows, except in the cases expressed in law, and those who have given counsel, etc.; likewise against those impeding without just cause.[5]

6° Against magistrates who, against those opposing the enclosure of Nuns, at the instance of the Bishop, do not furnish aid.[6]

Notes to n. 1741. (3) Sess. IV. Decr. de editione et usu, etc. (4) L. V. T. VII. n. 43. (5) The Response is reported in full in Past. Bl. für N. Amer. 1881. S. 106. (6) Acta, T. VI. p. 146 in Append. (1) Sess. 13. Can. 11. de Euch. (2) Sess. 24. c. 1. de Ref. Matr. (3) Ib. c. 6. (4) Ib. c. 9. (5) Sess. 25. c. 18. de Reg. S. Alph. L. VII. 212. (6) Sess. 25. c. 5. de Reg.

ARTICLE II: ON SUSPENSIONS *LATAE SENTENTIAE*

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§ I. On Suspensions *latae sententiae* Reserved to the Supreme Pontiff

1742. - I. "Chapters and Convents of Churches and monasteries, and all others who receive to the rule and administration of them Bishops or other Prelates provided in any manner whatever by the same Holy See concerning the aforesaid Churches or monasteries, before they themselves have exhibited the Apostolic Letters concerning their promotion, incur suspension ipso facto from the perception of their benefices, at the beneplacitum of the Holy See." From Extrav. Comm. L. I. T. III. c. 1.

1743. - II. "Those ordaining someone without the title of benefice or patrimony, with an agreement that the one ordained will not ask support from them, incur suspension for three years from the conferring of Orders ipso jure." From L. III. Decr. T. V. c. 23. Trid. Sess. 21. c. 2. Ref. L. V. Decr. T. III. c. 45.

1744. - III. "Those ordaining another's subject, even under the pretext of a benefice to be conferred immediately, or already conferred, but by no means sufficient, without the dimissorial letters of his Bishop - or even one's own subject, who has stayed elsewhere for so much time that he could have contracted a canonical impediment there, without testimonial letters of the Ordinary of that place - incur suspension ipso jure for a year from the administration of Orders." From L. I. T. IX. c. 2 in 6°. Trid. Sess. 23. c. 8. Ref. Innoc. XI. Bull. *Speculatores*, § 4.

Notes to n. 1744. (1) L. VI. 769. (2) L. VI. 815. (3) Comment. n. 146. (4) Ib. n. 147. (5) Ib. (6) Th. (145).

Explanation.

1° "Those ordaining," even if conferring only Tonsure.[1]

2° "Another's subject." By what modes someone becomes a subject as regards ordination, see n. 1519. q. 1°.

3° "Of a benefice ... by no means sufficient" for suitable support according to the laws or custom of the diocese where the benefice is, if the benefice requires perpetual residence; but if it does not require it, according to the assessment of origin.[2]

4° "Without his Bishop," i.e., Ordinary in general, insofar as it belongs to him to grant dimissorial letters for Orders.[3]

5° "Who elsewhere" after seven years.[4]

6° "For so much time," i.e., according to the truer opinion, beyond six months.[5]

7° "Testimonial letters." See n. 1519. q. 1°. R. 5°.

Note. - The laws concerning ordination also bind those who belong to some Congregation with simple vows, unless they enjoy privileges.[6]

1745. - IV. "He who, excepting the case of legitimate privilege, has conferred a Sacred Order without the title of benefice or patrimony on a Cleric living in some Congregation in which solemn profession is not emitted, or even on a Religious not yet professed, incurs suspension for a year from the collation of Orders ipso jure." From C. S. of Pius V, *Romanus Pontifex Sacrorum*.

Explanation.

"On a Religious not yet professed," i.e., whether still a novice or not yet solemnly professed. See n. 1522. 2° *in fine*.

1746. - V. "Religious expelled, living outside Religion, incur perpetual suspension from the exercise of Orders ipso jure." From the Decree of S. C. C., September 21, 1624, approved by Urban VIII.

Notes to n. 1746. (1) Avanz. (53). Comment. n. 149.

Explanation.

1° "Expelled," but not, as it seems, fugitives and apostates from Religion, who nevertheless elsewhere incur penalties.[1]

2° "Living outside Religion," i.e., outside that Religion which they solemnly professed, or outside another to which they can canonically transfer. See n. 1157. d).

1747. - VI. "Those who have presumed to receive the same Order from one excommunicated, or suspended, or interdicted, denounced by name, or from a notorious heretic or schismatic, incur suspension from the Order received ipso jure; but as for him who in good faith has been ordained by any of them, we declare that he does not have the exercise of the Order thus received, until he is dispensed." From L. V. Decr. T. VIII. c. 1, 2.

Notes to n. 1747. (2) Avanz. (54). 2). p. 82. (3) Ib. pp. 91, 92. (4) n. 151.

Explanation.

1° "Have presumed," i.e., knowingly and without grave fear they received an Order from one of those said.

2° "Who in good faith," i.e., not knowingly.

3° "Does not have the exercise of the Order." This suspension from the exercise of the Order (not suspension from the Order, as in the prior part of this article) does not seem to be a suspension properly so called, which can beget irregularity, but rather an inhibition under fault.[2]

4° "Until he is dispensed." We judge with Avanzini[3] and the Commentators[4] that this dispensation can be granted by the Bishop.

Moreover, in order that someone incur the censure it is necessary that he has received the Order; wherefore, if someone has been invalidly ordained (as, for example, if he was ordained by Anglican Ministers), the suspension cannot even be understood.

1748. - VII. "Foreign secular Clerics staying in the City beyond four months, ordained by another than their own Ordinary without the license of the Cardinal Vicar of the City, or without a previous examination conducted before him, or even by their own Ordinary after they have been rejected in the aforesaid examination; and also Clerics belonging to one of the six suburbicarian Bishoprics, if

they are ordained outside their own diocese, with dimissorial letters of their Ordinary directed to another than the Cardinal Vicar of the City; or if, before receiving Sacred Order, spiritual exercises for ten days in the city house of the Priests called of the Mission have not been premised, incur suspension from the Orders thus received, at the beneplacitum of the Holy See, ipso jure: but the ordaining Bishops incur suspension from the use of Pontificals for a year." From the Edict of the Cardinal Vicar by order of Clement VIII, November 24, 1603; Decr. S. C. C., September 21, 1624, by order of Urban VIII; Edict of the Cardinal Vicar by order of Benedict XIV, March 20, 1743.

Explanation.

1° "Clerics," but not laymen, or those not marked with Tonsure.

2° "Foreign," namely those who do not belong to the Roman diocese or to any of the six suburbicarian ones.

3° "Staying in the City." Therefore foreign Clerics who, after completing four months' stay in Rome, and obtaining dimissorial letters from their Ordinary, depart from the City with the intention of not returning, are not held by this censure.

Add the suspension at n. 1717. XIII. 3°.

§ II. On Suspensions *latae sententiae* Inflicted by the Council of Trent

1749. - 1° He who ordains another's subject without the testimony of his Ordinary concerning his probity and morals is suspended from the collation of Orders for a year; but the ordained man is suspended from the execution of the Orders received for as long as it will seem expedient to his own Ordinary.[1] The difference is clear between this sanction and the other of which above at n. 1744. - For in the Tridentine law there is question of another's subject who asks for ordination, e.g., with an Apostolic rescript, by force of which he can be ordained by an Ordinary who is not his own, etc., indeed with dimissorial letters of his own Bishop (namely of origin, or domicile, etc.), but without the testimony of the same concerning his probity.[2]

2° A titular Bishop ordaining another's subject without the express consent of his own Prelate or dimissorial letters is suspended from the exercise of Pontificals for a year; the ordained man is suspended from the execution of the Orders thus received at the beneplacitum of his Prelate.[1] See also below under 6°.

3° One receiving Major Orders with dimissorial letters granted by the Chapter, the See being vacant, within a year from the day of vacancy, when he has not been constrained by occasion of an ecclesiastical benefice received or to be received, is suspended from the execution of Orders at the beneplacitum of the future Prelate. But the Chapter (or Capitular Vicar[2]) granting dimissorial letters of this kind is subjected to interdict; those thus promoted to Minor Orders are deprived of clerical privilege.[3] The same penalties are incurred by those ordained who obtain dimissorial letters not from the Chapter, but from others succeeding into the jurisdiction of the Bishop in place of the Chapter, the See being vacant.[4] See, however, n. 1519. q. 2°. R. 2°. § *Dimissorial letters*.

4° Those granting dimissorial letters to secular Clerics so that they may be ordained by another than their proper Bishop, even if they are Abbots or other exempt persons, or Colleges or Chapters, even

of Cathedral Churches, the See not being vacant (for when the See is vacant the Chapter is punished by interdict, as was set forth under 3°), are suspended for a year from office and benefice.[5] But concerning the one ordaining, see n. 1744 and above 1°.

5° Those promoted by a leap are suspended from the exercise of the Order thus badly received.[6] By the Bishop, however, they can be dispensed from a legitimate cause, if they have not ministered.[7] For if they have ministered in the said Order, they become irregular.[8]

6° A Bishop exercising Pontificals in another's diocese, without the express license of the Ordinary of the place, or on persons not subject to the same Ordinary, is suspended from the exercise of Pontificals, and those thus ordained are suspended from the execution of Orders.[9]

7° A Priest daring to join in Matrimony or to bless spouses without the license of the proper Pastor or Ordinary of the spouses is suspended, until he is absolved by the Ordinary of that Pastor who ought to have been present at the Matrimony or from whom the blessing was to have been received.[1] Where the Decree *Tametsi* has not been published, this censure does not seem to be incurred.[2]

8° Concubinary Bishops, if, after being admonished by the Provincial Synod, they have not amended themselves, are suspended.[3]

9° Superiors of monasteries (in which solemn vows are emitted), if they have not made the Bishop certain concerning the profession of their novices (a month before profession), incur suspension from office for as long as it will seem good to the Bishop.[4] Cf. n. 1188. II. 1).

Notes to n. 1749 - note sequence 1. (1) Sess. 23. c. 8. Ref. (2) Avanz. (50). c). p. 82. Notes to n. 1749 - note sequence 2. (1) Sess. 14. c. 2. Ref. (2) Avanz. (71). a). p. 111. (3) Sess. 7. c. 10. Ref. (4) Ib. (5) Ib. 23. c. 10. Ref. Avanz. (70). a). p. 108. (6) Sess. 23. c. 14. Ref. (7) Avanz. (70). d). pp. 109, 110. (8) Sess. 23. c. 14. Ref. (9) Sess. 6. c. 5. Ref. Notes to n. 1749 - note sequence 3. (1) Sess. 24. c. 1. Ref. Matr. (2) Avanz. (74) a). p. 115. (3) Sess. 25. c. 14. Ref. (4) Sess. 25. de Reg. c. 17.

ARTICLE III: ON INTERDICTS *LATAE SENTENTIAE* INFLICTED THROUGH THE CONSTITUTION *APOSTOLICAE SEDIS* BY PIUS IX, AND RESERVED TO THE ROMAN PONTIFF "IN A SPECIAL MODE."

1750. - I. "Universities, Colleges, and Chapters, by whatever name they are called, appealing from the ordinances or mandates of the same Roman Pontiff for the time being to a future universal Council, incur ipso jure an interdict reserved to the Roman Pontiff in a special mode." From the Bull *Coenae*, § II.

Notes to nn. 1750-1751 - note sequence 1. (1) Avanz. (57). p. 95. (2) Suarez, de Cens., disp. 37. sect. 1. n. 6. (3) n. 161. (4) p. 972 sq. Notes to nn. 1750-1751 - note sequence 2. (1) Add the interdict at n. 1717. XIII. 3°.

Explanation.

"Universities," i.e., Communities, "Colleges, and Chapters, by whatever name they are called." Therefore moral persons; for physical or singular persons incur the censure of which we treated at n. 1709.

1751. - II. "Those knowingly celebrating, or causing divine things to be celebrated, in places interdicted by the Ordinary, or by a delegated Judge, or by law; or admitting those excommunicated by name to divine Offices, or to ecclesiastical Sacraments, or to ecclesiastical burial, incur ipso jure an

interdict from entrance into the church, until they have competently satisfied according to the judgment of him whose sentence they have contemned." From c. 8. L. V. T. VII. in 6°.

Explanation.

1° "Divine things," namely those which it is lawful for the ministers of the Church alone to perform, and which in an interdicted place are forbidden under grave obligation either per se or as to mode.

2° "In places ... interdicted," whether generally or specially. For the law does not distinguish: nevertheless places interdicted by law are not judged such unless there is added a declaration of ecclesiastical authority.[1]

3° "Or by name," etc. See n. 1674. q. 1°.

4° "Admitting to divine Offices, or ecclesiastical Sacraments, or ecclesiastical burial." This article seems specially to pertain to those to whose care it belongs to prohibit or admit someone to acts of this kind.[2] Therefore this interdict is incurred, e.g., by a priest who ministers a Sacrament to such an excommunicated person, etc. But we do not doubt that those also are comprehended on whom, by office, or privilege, or custom, it is incumbent to keep such persons away, and who omit this with grave fault. Hence, if a layman by office, privilege, or custom has custody of a church or cemetery, and admits one excommunicated by name to burial, he incurs this censure. The Commentators[3] indeed judge that this penalty, as before, holds Clerics alone, all indeed, since the words "causing to be celebrated, ... admitting" indicate those who have power in sacred places. But Vareeno, to whom we assent,[4] interprets otherwise. And the reason is that the law excludes laymen neither directly nor indirectly. Not directly, as is clear. But neither indirectly. For although it is conceded that the admission of which there is question in this sanction requires a certain power (for it is one thing to admit merely into some place, e.g., into enclosure, and another to admit to divine offices, etc.), nevertheless such power can sometimes be found even in laymen, e.g., that they cause divine things to be celebrated in the said manner in an interdicted place, or that they admit to burial, indeed even to divine offices.

5° "Until, according to the judgment of him whose sentence they have contemned." - If, however, the delegated judge pronounced the sentence not by authority proper and conferred on him, but only in the stead and name of the Superior, recourse must be had to the Superior: but in a local interdict laid down by law, to the Supreme Pontiff, if he has denounced this interdict (see 2°); otherwise to the Bishop.[1]

1752. Interdicts laid down ipso facto by the Council of Trent. - Besides the interdict of which above at n. 1749. 3°, in Sess. 6. c. 1. Ref., the Metropolitan who does not denounce to the Roman Pontiff Suffragan Bishops absent from their dioceses without just cause beyond a continuous year, and the older resident Suffragan who does not denounce to the Roman Pontiff the Metropolitan thus absent within three months, are interdicted from entrance into the church. See also Sess. 23. c. 1. Ref.

ARTICLE IV: ON ABSOLVING THE CENSURES WHICH ARE CONTAINED IN THE CONSTITUTION *APOSTOLICAE SEDIS*

The Constitution *Apostolicae Sedis* continues:

"Moreover We decree that in any new concessions and privileges whatever which it shall happen that the Apostolic See grants to anyone, in no manner and by no reason must or can there ever be understood to be comprehended the faculty of absolving from any cases and censures whatever reserved to the Roman Pontiff, unless formal, explicit, and individual mention has been made of them: but whatever privileges or faculties, whether by Our Predecessors or also by Us, shall have been granted up to this time at any time whatever to any Assembly, Order, Congregation, Society, and Institute, even regular of any species, although endowed with a peculiar title, and even one worthy of special mention, all those things and all those faculties We will to have been revoked, suppressed, and abolished by this Our Constitution, as in fact We revoke, suppress, and abolish them, privileges of any kind whatever, even special ones, whether comprehended or not in the Body of Law or Apostolic Constitutions, and with any Apostolic confirmation, or even immemorial custom, or strengthened by any other firmness whatever, with any forms and tenors whatever, and with any derogatory and other more efficacious and unusual clauses whatever, not at all opposing or standing in the way; all of which, insofar as there is need, We intend to derogate from, and We derogate from them."

"Nevertheless, We will that the faculty of absolving granted to Bishops by the Tridentine Synod, Sess. XXIV, c. VI, *de Reform.*, in any censures whatever reserved to the Apostolic See by this Our Constitution, remains firm, with only those excepted which We have declared to be reserved to the same Apostolic See in a special mode."

"Decreeing," etc. (the customary clauses follow). "Given at Rome in the year 1869. - IV Id. Octobr."

Explanation.

1753. Questions. - Quaer. 1° What faculties or privileges of absolving have remained in force after the Constitution *Apostolicae Sedis* was published?

Resp. 1° As regards Bishops, see what was said at n. 1402. II. 1). 2) and what is to be said here at n., quaer. 2°.

Resp. 2° As regards Regulars, concerning the absolution of their own besides the faculty enumerated at [n. 1195. G. c). 2). 1°], if there is question of particular censures of their proper Institute (n. 1700. q. 2°), since these remain in their force as before, and concerning the faculty of absolving nothing about these is disposed in the present Constitution, faculties of this kind must be judged to belong to them as before; for the revocation of legitimate faculties must not be presumed, but shown.

Resp. 3° As regards all, "the Most Holy Father in no way intends to bring even the least detriment to the faculties ... which were granted by the Holy See before the promulgation of the Constitution *Apostolicae Sedis*; ... and he wills that they remain in their full force, the time prefixed in the said concessions ... enduring." Thus Pius IX declared by *Vivae vocis Oraculo* to the Assessor of the Holy Office.[1] Hence each one among us should see with what faculties he is furnished by the Ordinary of the place in which he hears Confessions, by force of the privileges which are accustomed to be granted by the Holy See to our Bishops (p. LXXI. nn. 15, 16). Let him attend besides to the general principles of which there is treatment at n. 1402. II. under 2); IV. and 1403. q. 1°, q. 2°, q. 4°, q. 5°.

Quaer. 2° What must be observed as regards absolution from the individual censures of the Constitution *Apostolicae Sedis*?

Resp. The things that are more practical are reduced almost to the following.

1° As regards the censure against condemned books (n. 1702), attend that not only those reading, but also those retaining, are held by it. Wherefore absolution cannot be given except to those who truly cease to be retainers, e.g., by burning them.

2° As regards the censure against strikers of Clerics (n. 1719), a light, grave or moderate, and enormous striking must be distinguished. Light is that which contains a grave injury indeed, but one less grave than the rest, of which kind is that which is done by fist, palm, hand, foot, stone, or staff,[1] apart from circumstances by which it is rendered grave or even enormous.[2] - Grave or moderate is that which brings a contusion or deformity, as if you strike out a tooth from the one struck, or he pours forth an abundance of blood.[3] - Enormous, if a great wounding intervenes (as if you knocked out an eye, if you broke a limb, etc.), or a great effusion of blood from elsewhere than the nostrils, or a great injury.[4] But in doubt whether it is grave or light, it is to be held grave, lest an occasion of injuring the ecclesiastical State be furnished,[5] or because the privilege of the Canon is to be interpreted broadly (n. 1719). - Therefore if the striking was light; or indeed grave or even enormous, but occult, or perpetrated by a woman or an impubes; or grave, but there is question of those living collegially, Bishops can absolve.[6] But Regular "Prelates can absolve their subjects from excommunication on account of a striking, even grave, and enormous and public, inflicted not only on religious of the same Order, but also of another, and even on secular Clerics." Thus St. Alphonsus on the privileges of Regulars,[7] concerning which, in this matter, the Constitution *Apostolicae Sedis* (n. 1719) changed nothing.

3° Concerning the censure against condemned societies (n. 1721), absolution cannot be given to those who have not utterly renounced those condemned societies. Therefore every bond with them must be loosed, and every sign of that bond must be destroyed.

Concerning denunciation, see cited n. 1721.

They ask whether those who have given their name to condemned societies must be warned?

Resp. Distinguish. For there is question either of the external forum, or of the internal.

If of the external, subdistinguish between a pastoral admonition and a judicial sentence by which the guilty party of whom there is question is declared to have incurred excommunication.

Whether it is expedient that this declaratory sentence be issued cannot be defined generally, but must be discerned after the circumstances of the fact and of the persons have been carefully weighed.

But as regards pastoral admonition, if probable hope of fruit is lacking, and at the same time there is prudent fear of some graver evil, it can be deferred, provided that scandal does not arise from the Pastor's silence.

If the discussion is of the internal forum, generally they must be warned, because generally good faith is lacking or (I add) later will be lacking.

Thus, as to the substance, the Instruction of the Holy Office, Feria IV, given April 4, 1871. Therefore what Schneider[1] wrote on this matter must be understood with a grain of salt.

Our resolution is confirmed from the Response of the S. C. O., given to the Postulate of the Most Reverend Father Sorin, Superior General of the Congregation of Holy Cross, which, since it concerns

the dying, argues *a fortiori* for our question.

Here is the Postulate and Response.

Most Blessed Father.

"The priest Edward Sorin, Superior General of the Congregation of Holy Cross, for the tranquility of conscience of the Missionaries of his Congregation in the Federated States of North America, humbly asks from the Sacred Congregation of the Holy Office responses to the following doubts.

"First doubt. - Whether a Pastor, or Missionary, called to a sick or dying person, especially one not baptized or Protestant, whom he certainly knows to belong to the Freemasons, and to be in good faith in the aforesaid secret society, can, without any admonition concerning leaving the condemned society, baptize or absolve him?

"Second doubt. - Whether a Missionary must ask a dying person, if he only doubts concerning the dying man's affiliation with the Freemasons?

"Third doubt. - In either case, if time or the state of the dying person does not permit discussion, must the Missionary propose any question to the same dying person concerning the secret society of Freemasons?"

Notes to n. 1753 - note sequence 1. (1) Avanz. (20). Notes to n. 1753 - note sequence 2. (1) L. VII. 277, 278. (2) Ib. 278. (3) Ib. 277. (4) Ib. 277. (5) Ib. 280. (6) Ib. 279. (7) De Priv. n. 97. Notes to n. 1753 - note sequence 3. (1) Manuale Sacerd. Ed. 6a. p. 461. 8).

Responses.

"Feria IV, July 8, 1874.

"In the General Congregation of the Holy Roman and Universal Inquisition held before the Most Eminent and Most Illustrious Lords Cardinals of the Holy Roman Church, General Inquisitors against heretical depravity, the above-written doubts having been proposed, and the vote of the Lord Consultors having first been had, the same Most Illustrious said: - To the first, speaking generically, Negative, according to the decrees already issued: but since, according to what Albitius has, boys and the dying do not abjure, if there is question of those near death and materially or in good faith enrolled in sects condemned by the Holy See (and unless it is foreseen that a special admonition will be useful), it suffices that in general they be exhorted to subject themselves sincerely to the authority of the Church and to the mandates of the Holy See, and then they can be baptized and absolved. But scandal is to be repaired in that better manner in which it can be done, even after death. - To the second and third, Provision has been made in the preceding.

"For D. J. Pelami, Notary of the Holy Roman and Universal Inquisition.

"Jacobus Vaccagine, Substitute."

4° As regards the censure against Simony (n. 1725), see the faculty of our Bishops, p. LXX. n. 5.

5° Absolution from the censure which collectors of Masses incur, of whom at n. 1727, is not to be given except to those willing to restore according to what was said at n. 1325. q. 8°, or prepared to stand by the mandates of the Holy See, in case recourse is had to it for condonation.

Note. - It will very rarely be necessary to dismiss without absolution a penitent rightly disposed on account of a sin to which some reserved censure is annexed, either because 1) there are very few cases in which confessors do not have a faculty communicated to them by the Ordinary in the letters of jurisdiction, or because 2) those very few cases very rarely occur, or because 3) the penitent, from lack of some condition enumerated at nn. 1400, 1401 and 1662-1664, has not incurred either the censure itself or the reservation, or because 4) on account of the causes alleged at n. 1402. II. 2). IV. and n. 1403 the reservation has either been entirely removed, or at least is indirectly removed, or because 5) today more frequently than formerly the faculties of some jubilee are at hand.

TREATISE ON IRREGULARITIES

CHAPTER I: ON IRREGULARITIES IN GENERAL

1754. Definition. - Irregularity, strictly taken, is a canonical impediment prohibiting someone from being enrolled in the Clergy, or ascending to a higher Order, or exercising the functions of an Order received.

It is said: **1°** an impediment. Hence irregularity differs from censures, from deposition, and from degradation especially under this head, because censures, deposition, and degradation always suppose fault and have the character of a penalty; but irregularity does not always suppose fault, and, if sometimes it is imposed by way of penalty, this is done only secondarily, and not for punishing the guilty party, but for guarding against indecency in the Sacred Ministry.

It is said: **2°** canonical. See n. 1756.

It is said: **3°** prohibiting; for irregularities, as constituted by the authority of the Church alone, do not impede the reception or exercise of Orders as regards validity. Hence an irregular priest, although illicitly, nevertheless validly absolves, etc.[1]

It is said: **4°** from being enrolled in the Clergy, although only through Tonsure.[2]

It is said: **5°** or the functions of an Order received. Wherefore those things are not forbidden which can be done by laymen or without Order, as to sing in Church; to receive the Sacraments, if you except Order; to confer benefices; to assist at Matrimony; to dispense in vows; to absolve from censures, etc.[3]

Notes to nn. 1754-1756 - note sequence 1. (1) L. VII. 845. (2) L. V. T. XI. c. 18 in 6°. (3) L. VII. 345. (4) Ib. Notes to n. 1754. (1) L. VII. 842. (2) Ib. (3) Ib. Notes to nn. 1754-1756 - note sequence 2. (1) L. VII. 348 and Clement. L. V. T. IV. c. unic. Notes to nn. 1754-1757 - note sequence 1. (2) Ib. 350. (3) Ib. (4) Ib. 351. (5) Ib. 346. Notes to nn. 1754-1757 - note sequence 2. (1) L. VII. 347. Dub. 3. (2) Ib. 349. (3) Trid. Sess. 24. c. 6. Ref. (4) L. VII. 388, 395, 396. (5) Ib. 76. (6) L. VI. 593. De Priv. n. 33. (7) L. VII. 81. De Priv. n. 32. Notes to nn. 1754-1757 - note sequence 3. (1) L. VII. 352 sq. (2) Scavini, T. III. 601. (3) L. VII. 364. (4) Ib. 354, 426.

1755. Division. - Irregularity is distinguished in many ways:

1° Irregularity from defect or from delict, according as it arises from certain defects expressed in Law, or is contracted from certain delicts determined in Law.

2° Total or partial irregularity, according as it excludes from every Order (even from Tonsure), and from the use of the Order, and - indirectly and consequently - from every ecclesiastical benefice, or only bars from some one of these.

3° Perpetual or temporary irregularity, according as of itself it always lasts unless it is removed by dispensation, or by other modes to be determined below; or it lasts only to some time, and afterward ceases without any dispensation. Thus irregularity from defect of age vanishes when the time required for Orders has been completed.

1756. Principles. - I. No irregularity is ever incurred, unless it has been expressed in Canon Law, i.e., in a decree of the Pope or of a Council approved by the Pope.[1] Hence: 1° irregularity *ab homine* is not admitted; 2° irregularity is incurred ipso facto before every sentence of a judge, and even on account of an occult defect or crime;[2] 3° arguments from parity, or even *a fortiori*, do not avail in this

matter;[3] 4° custom cannot introduce it; custom, however, as the best interpreter of laws, can confirm it in doubt whether it is expressed in Law, provided the common sense of the Doctors is added.[4]

II. Irregularity from defect is always incurred while the defect remains; because it does not have the character of a penalty, but the character of a mere impediment. But irregularity from delict is not incurred without fault, and indeed grave fault, because, although the end of irregularity is not to punish or correct the guilty, nevertheless it is not contracted except by reason of a properly voluntary and truly grave delict. Besides, the fact to which an irregularity from delict is annexed must be external and consummated in its own kind; likewise committed after the seventh year of age.[1]

1757. Questions. - Quaer. 1° Whether for incurring irregularity from delict, besides knowledge of the divine law, knowledge of the ecclesiastical law prohibiting it is required?

Resp. It is more probable and very common that it is. The reason is that this irregularity has the character of a penalty.[2] Nevertheless except homicide, on account of the particular indecency which it induces.[3]

Quaer. 2° Whether knowledge of the penalty, or of the irregularity, is also required, if there is question of delict?

Resp. There is a twofold probable opinion.

The first, very probable, denies, because irregularity is not a medicinal penalty, but an inability, or a merely punitive penalty.

The second, sufficiently probable, affirms. The reason is that irregularity from delict is judged a true penalty, and indeed an extraordinary one, imposed in vindication of a crime, although its primary effect is to constitute an inability. Moreover, where so great a penalty is inflicted, the Church is not judged to proceed with such rigor that it is incurred by him who is ignorant of it.[4]

Quaer. 3° Whether you are judged irregular in doubt whether you have incurred irregularity?

Resp. 1° No, in doubt of law, or in doubt whether such a case is subject to a law establishing irregularity. Thus almost all Theologians. The reason is that, where doubt is present, this irregularity is not certainly expressed in Law. Therefore, etc. Besides, odious things are to be restricted.[5]

Resp. 2° In doubt of fact, distinguish: either there is doubt concerning homicide, or concerning another delict. If the former, more truly you have incurred irregularity, on account of the special indecency which is found in homicide, as is gathered from Law. Yet this does not hold concerning doubt whether homicide followed (e.g., abortion), but concerning doubt whether, when it truly followed, it followed from a cause certainly posited and of itself death-dealing; for then from things commonly occurring it must be presumed that death followed from such a cause, and not from another. Moreover, an irregularity of this kind produces only two effects, namely the obligation of abstaining from celebration and of seeking dispensation, and therefore it holds Clerics only, not laymen. - If the latter, more truly you have not incurred it, because in doubt no one is to be condemned.[1]

Quaer. 4° Whether irregularity is incurred on account of a crime that is indeed external and consummated, but altogether occult?

Resp. More truly yes, says St. Alph.[2] The reason is that the Church, by reserving crimes, reserves even the most occult, provided they are subject to her jurisdiction, namely provided they are external, just as she imposed excommunication on entirely occult heresy, etc. It is proved further from cap. *Liceat*,[3] where a faculty is furnished to Bishops of absolving from occult irregularities and censures.

Quaer. 5° How is irregularity removed?

Resp. It is removed in the following modes:

1° By dispensation: 1) of the Pope in every case, provided there is not present an impediment of natural law, or one which renders the exercise of Sacred Order impossible; 2) of Bishops and Regulars, if the irregularity comes from an occult delict, except directly voluntary homicide,[4] but heresy is not excepted.[5] But occult here comes in the same sense in which it is taken in impediments of Matrimony[6] (n. 1564). Bishops, however, can use this faculty only toward their own subjects; nevertheless it does not matter whether these or even they are present in the diocese.[7] For the other faculties of Bishops concerning irregularities, see n. 1144. I. 2° and 8°; 3) of any delegate according to the character of the faculty received. Faculties delegated to our Bishops, see p. LXX. n. 2, and p. LXXII. n. 3; but for Regular Prelates, as regards their own subjects, n. 1195. C). 5°.

2° Ordinarily by the cessation of the cause, e.g., when the required age arrives, if the irregularity comes from defect of age; likewise by change of domicile or of place, or by amendment, if it arises from infamy. Yet for infamy of law dispensation is required.[1] - I said: ordinarily; for in this way irregularity from delict does not cease, nor any whatever from defect, as for example from defect of lenity, of Sacrament, etc.[2]

3° Through the reception of Baptism irregularity from delict and from infamy of fact ceases.[3] Whether also from infamy of law? See n. 1767. q. 2°.

4° Through religious Profession irregularity from defect of birth ceases, but only for receiving Orders, not, however, as regards dignities and prelacies.[4]

Quaer. 6° How is dispensation from irregularity made?

Resp. No form is found prescribed in Law; hence no determinate form must necessarily be employed. But it can be made by the following brief formula, or another equivalent one: "I dispense with you concerning the irregularity which you have incurred on account of ..." (such a cause), "in the name of the Father," etc., or "by the authority granted to me by the Holy Father," or "by the Bishop, I dispense with you," etc., "and I render and restore you able" for the execution of Orders, and of your offices, in the name of the Father," etc.; or, if he has no Order: "I render you able to receive all Orders." - Cf. Rit. Rom. de Sacr. Pen. tit. ult.

CHAPTER II: ON IRREGULARITIES IN PARTICULAR

1° On irregularities from defect; **2°** from delict.

ARTICLE I: ON IRREGULARITIES FROM DEFECT

Eight species of these are enumerated, namely from defect: 1° of mind; 2° of body; 3° of birth; 4° of age; 5° of liberty; 6° of Sacrament; 7° of lenity; 8° of reputation.

These defects, or rather the qualities opposed to them, are expressed by these verses:

Birth, mind, liberty, body and age,
Let him not be twice-married, let him be lenient, nor let evil fame mark him.

I. From Defect of Mind.

1758. - A threefold defect of mind is assigned, namely of reason, of knowledge, and of confirmed Faith.

1° Of reason. Hence the perpetually insane, lunatics, the furious, epileptics, and the possessed are irregular, even if they have lucid intervals. Nevertheless the exercise of Orders already received is permitted to them less with difficulty than the reception of new ones. This irregularity by law remains even when the illness has ceased and must be removed by dispensation of the Pontiff, unless the insanity, etc. came from a rather accidental cause, e.g., fever. S. C. C.[1] also defined that a Cleric who was once affected by mild epilepsy and then for many years gave no signs any more of the said illness is not irregular and can be promoted. But the exercise of Orders already received can be permitted by a Superior, if either sufficient time has already elapsed, so that the cessation of the illness can prudently be presumed (which we think must especially be decided from the judgment of a religious and pious physician), or the illness rushes in rarely and less violently. Hence they say that to an epileptic, who e.g. falls only once in a month without cry and foam, the celebration of Mass can be permitted, privately however and with a fasting priest joined to him, who, when the illness comes on, may complete the Mass.[2]

2° Of knowledge. Those are irregular who do not have the knowledge necessary for the individual Orders, whether in fact they do not know, or are incapable of learning. See n. 1523. q. 1°.

3° Of confirmed Faith. Neophytes baptized recently in adult age are irregular until they are judged worthy by the Bishop.[3]

Notes to n. 1758. (1) Cf. Ferr. V. Irreg. art. 1. n. 47. (2) L. VII. 398 sq. (3) Ib. 402. Notes to nn. 1758-1760 - note sequence 1. (4) L. I. Decr. T. XX. c. 2. (1) Acta, T. I. p. 612. (2) L. VII. 404. (3) Ib. 405. (4) Ib. 407. (5) Ib. 403 sq. as to all and 412. (6) Ib. 404. Notes to nn. 1758-1760 - note sequence 2. (1) L. VI. 244, L. VII. 408.

II. From Defect of Body.

1759. - This irregularity is incurred under a twofold head: 1° if someone is unfit for the exercise of the Order; 2° if he brings notable horror to others, or presents indecency. These things in doubt will have to be determined by the prudent estimation of the Bishop.[4] - But S. C. C. shows itself more

difficult in granting dispensations of this kind with an orator to be promoted to Orders than with one already promoted.[1]

Hence the following are held as irregular:

1° The mutilated, those carrying a wooden leg, those lacking a hand, the three rear fingers, a thumb or index finger, or part of the thumb or index finger, or having these so weak that they cannot elevate or break the Host. Cf. however n. 1293. q. 1°.

2° The blind, or those so failing in sight that they cannot read in the Missal. Those already marked with the priesthood are dispensed by the Pontiff, under precautions.[2]

3° The deaf, who hear nothing, so that they cannot at all hear the voice of the responding minister, but not the hard of hearing. Deafness supervening on a priest does not impede celebration, since a defect is more easily tolerated in one promoted than in one to be promoted.[3]

4° The mute or stammering, who cannot pronounce whole words, or cannot except with great difficulty, so that they move the laughter or contempt of those standing by.

5° The lame, who cannot be supported at the altar without a staff.[4] Cf. n. 1333. q. 2°.

6° Those lacking a nose, or having one enormously distorted, lowered, or prolonged.

7° The monstrous, e.g., those having an enormous hump, which induces great deformity, etc.

8° Black persons, "not however among their own, but among strangers," i.e., among men of white color, "where the disparity is a mockery," as Busembaum says in St. Alph., although, as the same Holy Doctor adds, others deny this. "But a swarthy" color (mulattoes), he says, "or red" (copper-colored, Indians) "does not injure the altar."[5] (P) p. 412.

Appendix annotation (P), to n. 1759. 8°. p. 366. col. 1. The Holy Doctor cautiously said: "although others deny this." - And in truth it seems that it must be denied from the Roman Resolutions apud Lucidi, de Visit. SS. Liminum, T. II. p. 567 under 18. "In Carchien.," he says, "the Bishop was refusing to confer Orders upon descendants from Indians, or, as they call them, from Mulattoes. The Sacred Congregation, to which the examination of this matter was committed, on the 18th day of February 1863 judged: 'That supplication is to be made to the Most Holy, that the Bishop of the Indies be warned that Indians and Blacks, and all descending from them by paternal or maternal line, are to be kept away by no right from the reception of Orders and of the other Sacraments, provided they have the other things required by the Sacred Canons.'" Lib. 33. decret. pag. 19.

1760. Questions. - Quaer. 1° Whether one who lacks one eye is irregular?

Resp. 1° No, if he lacks only the right eye, because it is less necessary for the celebration of Mass, provided notable deformity does not arise from this.

Resp. 2° Yes, if he lacks the left eye, which is called the Eye of the Canon, because it is necessary for reading the Canon of the Mass. Except unless he can read the Canon with the right eye without deformity. But this must be subjected to the judgment of the Bishop.[6]

Quaer. 2° Whether he who, already promoted to the Priesthood, has an impeded thumb or index finger can celebrate and administer the Eucharist?

Resp. 1° No, as regards the celebration of Mass, according to the common opinion.[1]

Resp. 2° No also of itself as regards the administration of the Eucharist, except in cases of gravest necessity, in which he can use other fingers. See n. 1293. q. 1°.

III. From Defect of Birth.

1761. - Defect of birth induces irregularity. It is established from Canon Law.[2] Hence:

1° Illegitimate persons, even occult ones, or all those who have been born from fornication, adultery, or incest, are irregular.

2° Those who have been born from a Matrimony which, the proclamations having been omitted without dispensation, was celebrated with a diriment impediment, even though unknown to the spouses.[3]

3° But the following are not irregular:

a) Those illegitimate at the time of their conception whose parents at that time (or, according to the opinion very probable to St. Alphonsus,[4] only at the time of birth) were capable of contracting Matrimony, and afterward contracted, because by subsequent Matrimony they have been legitimated.[5]

b) Those illegitimately born from a public Matrimony, but one invalid because of an occult impediment unknown to at least one.[6]

c) Children born from infidels, whose Matrimony was valid according to nature (and, in the more common opinion, of which at n. 1574. q. 1°, according to their civil laws), although invalid according to Canon Law.

d) Foundlings, concerning whose parents there is no certainty.[7]

Quaer. How is irregularity from defect of birth removed?

Resp. It is removed: 1° by the legitimate subsequent Matrimony of the parents, as was just said; 2° by religious Profession for the effect declared at n. 1757. q. 5°. R. 4°; 3° by legitimate dispensation either of the Holy See, or, for the effects designated at n. 1144. I. 8°, of the Bishop.

Notes to n. 1761. (2) L. I. Decr. T. XVII. c. 1, 13. (3) L. VII. 425. (4) Ib. 422. (5) Ib. 420 sq. (6) Ib. 424. (7) Ib. 432.

IV. From Defect of Age.

1762. - 1° Those who have not reached the canonical age are held irregular.

2° Those who knowingly receive Orders before the canonical age sin gravely.

What age is required for the individual Orders, see n. 1523. q. 2°.

V. From Defect of Liberty.

1763. - Defect of liberty arises from a threefold bond, namely from the bond of servitude, of Matrimony, and of office. Hence the following are irregular:

1° All slaves properly so called, until they obtain full liberty.

2° Married men, who cannot receive Orders except with the consent of the wife vowing chastity and entering Religion, at least if she is young, or unless, on account of the wife's adultery, a juridically made divorce has taken place. See n. 1521. 10°.

3° Those who from stipend or oath are implicated in secular affairs, as judges, magistrates, etc., as long as their office lasts, unless they have a special dispensation of the Pope,[1] or unless custom

permits it.[2]

Notes to n. 1763. (1) L. VII. 456. H. A. Tr. XIX. 148. (2) L. I. Decr. T. XXI.

VI. From Defect of Sacrament.

1764. - By defect of Sacrament in the present case is understood the Sacrament of Matrimony received more than once, or bigamy. It is clear from Canon Law that bigamists are irregular.[3] But the reason of fittingness is that in bigamy the perfect signification of the union of Christ with the Church is lacking, which union is altogether simple and not multiple. But that was inferred from the Apostle:[4] It behooves ... a Bishop ... to be the husband of one wife.

Bigamy by Canon Law is of three kinds, namely true, interpretative, and similitudinary bigamy.

1° True is had when someone validly marries several wives successively, and consummates Matrimony with each in the manner which was stated at n. 1589. 114.

2° Interpretative is that by which someone from the interpretation of law is held as a bigamist, although he has married only one wife. Such is: 1) one who married, even invalidly, and knew a widow who had been known by her prior husband; 2) one who married (according to St. Alph., even invalidly) and knew any woman corrupted by another, even if in good faith he thought her a virgin; 3) one who knows his own wife after adultery committed by her, even if unknown to him (as the common and truer opinion teaches), or even occult (according to the opinion which is more pleasing to St. Alph.[1]); 4) one who contracts and consummates two Matrimonies, one valid, and the other invalid, although in good faith. Indeed, even if both Matrimonies were invalid, he who consummated both would become irregular. It is proved from various places of Canon Law.

3° Similitudinary, when someone attempts and consummates Matrimony after the solemn vow of Religion, or after Sacred Order received, although the Matrimony is null. The reason is that he is deservedly judged to have contracted two Matrimonies, the first spiritual with Christ, the second carnal with a woman.

Notes to n. 1764. (3) Can. 3. 2. (4) L. VII. 436, 442. L. VI. 1075. (1) L. VII. 436 sq.

VII. From Defect of Lenity.

1765. - All those contract irregularity from defect of lenity who voluntarily, actively, efficaciously (i.e., the effect having followed), and proximately concur in the death or mutilation of someone, although justly, through an action ordered by its nature to this.[2]

Resolves. - 1° Executioners, judges, and all who cooperate in a judgment of this kind either juridically, or (in which case irregularity from delict is incurred) unjustly and with sin, are irregular. Except: 1° coerced witnesses and, as indeed seems to me because of the same reason of coercion, jurors (n. 1056); 2° accusers asking compensation for their damages. - Therefore Clerics who assist at capital punishment without a sufficient cause, e.g., from curiosity, do not become irregular, provided they do not efficaciously influence the penalty; nevertheless, those constituted in Major Orders sin venially.

2° Physicians and surgeons are not irregular, even though they cut off members or hasten death by remedies given in good faith, unless grave negligence intervenes, in which case irregularity from delict arises.

3° Nor Clerics exercising medicine or surgery short of cutting and burning. Indeed, not even if in a case of necessity they employ cutting or burning; for necessity is governed by no law. Indeed, not even outside necessity, if the Clerics are not constituted in Sacred Orders, provided death or mutilation does not follow from grave fault.

4° Those who kill an aggressor in just defense are not irregular, because it is not judged a defect of lenity to defend one's own life, the moderation of blameless defense being observed, even with the death of an unjust aggressor.

5° Soldiers do not become irregular in a just defensive war, nor in a just offensive war, unless by their own hand they have killed or mutilated; but in an unjust war the whole army becomes irregular, even if only one man perishes.[1]

Notes to n. 1765. (2) Ib. 457 sq. (1) As to all, L. VII. 457-468 and 384, 385.

VIII. From Defect of Reputation.

1766. - Infamy is: 1° of fact, which is contracted before every sentence from an enormous and notorious crime, or one which is so evident to the greater part of the neighborhood or college (where there are at least ten), that it cannot be hidden by any tergiversation; 2° of law, which is contracted a) from the juridical confession of a crime infaming by force of ecclesiastical law or even civil law (which nevertheless can be admitted by the Church); b) from a judge's sentence declaratory of an infaming crime, or condemning to an infaming penalty.

1767. Questions. - Quaer. 1° What are the principal crimes to which infamy is annexed by law?

Resp. They are the following (provided they are notorious by fact or by law): homicide, perjury made in judgment, simony, sodomy, lenocinium, betrayal, adultery, exercise of usuries, invasion of Cardinals or Bishops, abduction of women, duel, preparation of arms against parents, etc.[2] Who are infamous from the crime of parents, see St. Alph.[3]

Quaer. 2° Whether the innocent are irregular who were condemned from false testimonies to infaming penalties?

Resp. Yes, until the sentence has been revoked, or they have obtained legitimate dispensation; the reason is that in fact they are infamous.

Irregularity from infamy of fact ceases both through Baptism and through notorious amendment persevering at least for three years, without dispensation; otherwise if there is question of infamy of law. The Salmanticenses, however, think it not improbable that this also is removed through Baptism.[4]

Notes to n. 1767. (2) Ib. 362, 363. (3) Ib. 363. (4) Ib. 356. H. A. Tr. XIX. 88.

ARTICLE II: ON IRREGULARITIES FROM DELICT

1768. - Irregularity from delict is incurred under a fivefold head, namely: 1° from bad reception of Baptism, and from its repetition; 2° from bad reception and usurpation of Orders; 3° from violation of censure; 4° from the perpetration of certain enormous crimes; 5° from homicide and mutilation.

These are exhibited in the following verse:

Guilty at the font, in sacred things, by censure, by crime, by death.

I. Repetition of Baptism and Bad Reception.

1769. - Hence the following is irregular:

1° He who in adult age knowingly received Baptism from a declared heretic outside a case of necessity, because he seems to communicate in his error.

2° He who knowingly and solemnly rebaptizes; likewise he who is rebaptized in that manner; likewise a Cleric assisting at Baptism conferred a second time.[2]

According to Benedict XIV, one becomes irregular who rebaptizes even conditionally culpably, or without a just cause. But he holds this as a private Doctor, against St. Alph.[4] and many others. Moreover, certainty is required for contracting irregularity.

Questions. - Quaer. 1° Whether one becomes irregular who rebaptizes occultly and not solemnly?

Resp. It seems more probably to be denied; because in Canon Law there seems to be question only of one who rebaptizes publicly.[5]

Quaer. 2° Whether the one rebaptizing or rebaptized from grave fear, without intention, is irregular?

Resp. No, probably, although fear does not remove voluntariness, nor excuse from sin.[1]

Notes to n. 1769. (2) Ib. 356. H. A. Tr. XIX. 88. (3) De Syn. L. VII. c. VI. n. 2. (4) L. VII. 356 coll. L. VI. 128. (5) L. VII. 356. (1) L. VII. 356.

II. Usurpation or Illicit Reception of Orders.

1770. - 1° Usurpation. Those are irregular who seriously, knowingly, and solemnly exercise an act of Sacred Order which they do not have, e.g., if one who is not a deacon sings the Gospel with a stole, or one who is not a subdeacon sings the Epistle with a maniple. More probably, however, Clerics alone are subject to this irregularity.

2° Illicit reception. Thus those incur irregularity who are ordained furtively, i.e., the Bishop not approving (as regards ascent to a higher Order); or those who receive several Orders, one of which is Sacred (but see n. 1523. q. 4°. § *But gravely*), on the same day. - Likewise those who are ordained by an excommunicated, suspended, interdicted, heretical, schismatic, or simoniacal Bishop.[2] Similar matters to these, see n. 1747.

Notes to n. 1770. (2) Ib. 358-361.

III. Violation of Censure.

1771. - Those are irregular who, bound by the bond of some censure, knowingly, without sufficient cause, and solemnly exercise Sacred Order, insofar as they are prohibited from exercising it through the censure, and that censure valid before God.

I said: **1°** knowingly; for this irregularity is decreed by Law only on account of contempt of the censure.

I said: **2°** without sufficient cause, i.e., unless he is excused by reason of grave evil, scandal, infamy, etc.; for human laws do not oblige with grave inconvenience; or, if there is question of one tolerated,

unless he was requested by others (n. 1673. Notandum 3°).

I said: **3°** solemnly. See n. 1770. 1°.

I said: **4°** insofar as he is prohibited from exercising it by censure, namely properly so called, not by suspension, whether orally (n. 1686), or for a time and by a particular sentence laid down on account of a delict altogether past. Thus the opinion absolutely more probable to St. Alphonsus. Except if a suspension laid down from informed conscience is violated, as S. C. C. decided. St. Alphonsus is silent concerning this exception.

I said: **5°** and that valid before God. From the decrees of S. C. C., July 19, 1704, and September 11, 1717. Cf. n. 1664. q. 1°. § *fin.*

1772. Resolves. - 1° He who, bound by a twofold censure, exercises Sacred Order incurs a twofold irregularity; and these must be expressed in the petition for dispensation.

2° A priest who, suspended from Order, sacramentally absolves is irregular; because absolving also is an act of the power of Order, but not an act of jurisdiction alone, such as would be, e.g., the act of excommunicating, approving confessors, assisting at Matrimony (not blessing it), preaching, dispensing from vows, etc.[1]

Notes to n. 1772. (1) L. VII. 171, 357, 358.

IV. Enormous Crimes.

1773. - Under this appellation are understood heresy and apostasy from the Faith. This irregularity (in which, if it is occult, the Bishop dispenses[2]) is incurred also by the favorers, receivers, defenders of heretics and apostates, indeed even by their children. But if these crimes are public, this irregularity falls back into irregularity from defect of reputation, as St. Alph. says.[3] Nevertheless in regions where heresies range about with impunity, heretics, and *a fortiori* their children, according to many, are not held irregular. But by our Bishops, by reason of the faculty alleged at p. LXX. n. 2, they can easily be dispensed for precaution.

Notes to n. 1773. (2) Ib. 76. (3) Ib. 362.

V. Homicide and Mutilation.

1774. Principle. - Irregularity is incurred from voluntary and gravely culpable homicide, even occult, whether directly or indirectly willed, perpetrated by an action either physical or moral. The same must be said as regards mutilation.

Mutilation is understood when some principal member is separated from the body, or a part of the body which has an office distinct per se, e.g., foot, hand, eye, etc.[4]

Notes to nn. 1774-1776 - note sequence 1. (4) Ib. 379, which add. (1) L. VII. 367 sq. (2) Ib. 387. Notes to nn. 1774-1776 - note sequence 2. (1) L. VII. 388. (2) L. V. Decr. T. XII. c. 14. (3) L. VII. 388. (4) Ib. 389. (5) Ib. 347. Dub. 2. (6) L. IV. 396. L. VII. 347. Dub. 4.

1775. Resolves. - 1° Those are irregular who are the immediate cause of someone's death, even if they repent before the injured person dies. The reason is that a physical cause necessarily works. Likewise those who mutilate others or themselves. If someone lethally struck a man, and another killed him, both are truly homicides.

2° Those commanding, and those giving counsel, are irregular, the effect having followed from the counsel or command. Except if before execution they retracted the command or counsel, and the retraction became known to the mandatory.

3° Likewise those cooperating, so that homicide is done more quickly, more boldly, or more safely. Thus the following become irregular: 1) those who mutually stir each other up, although only one kills; 2) all those fighting in an unjust war, if someone perishes there; 3) those who furnish arms or monies for homicide; 4) all unjust accusers, judges, and witnesses.

4° Likewise those consenting, if consent has efficaciously influenced the homicide. Hence he is not irregular who approves a homicide, even one done in his name or for his sake, because he has not influenced it.

5° Those who apply themselves to a licit thing, sufficient diligence having been used lest homicide happen, do not become irregular. Hence the following are not irregular: 1) those who commit accidental homicide, unless gravely culpable negligence intervenes; 2) nor those who in good faith furnish to a sick person some harmful food or drink, or, if moving or turning him, are the cause why he dies; 3) nor physicians who gave to the sick a death-dealing drug, provided they are skilled, or act in good faith. Except, however, Clerics in Sacred Orders operating with cutting or burning outside a case of necessity.[1]

1776. Questions. - Quaer. 1° Whether he incurs irregularity who, applying himself to an illicit thing, kills someone, e.g., if a Cleric by chance kills a man in illicit hunting?

Resp. No, more probably. The reason is that the homicide is voluntary neither in itself nor in its cause: for the work posited, although illicit of itself, is not death-dealing per se; but otherwise if, by reason of the circumstances, it induced a proximate danger of death to someone, as, e.g., if someone applied fire to a war cannon where there is a crowd of people.[2]

Quaer. 2° Whether he becomes irregular who kills another for defense of his own life or that of an innocent?

Resp. to the first. No, unless he exceeds the moderation of blameless defense. The reason is that he is guilty of no fault. Consult St. Alph.[1] Cf. n. 467. II.

Resp. to the second. No likewise. The reason is that irregularity from private homicide is not incurred except with mortal sin, as is elicited from Canon Law.[2] - Thus St. Alph.[3]

Quaer. 3° Whether he becomes irregular who kills another for defense of liberty, honor, or temporal goods, with the moderation of blameless defense?

Resp. No, according to the more common and more probable opinion. This seems to be proved from Canon Law, the places of which can be observed in St. Alph.[4] Moreover, since there no sin is present, irregularity cannot be incurred except on account of defect of lenity: but irregularity from defect of lenity is not incurred except in cases expressed in Law; but the present case is not found in Law. Therefore.

Quaer. 4° Whether he is to be held as irregular who doubts whether he has perpetrated homicide or not?

Resp. See n. 1757. q. 3°. R. 2°.

Quaer. 5° Whether he is irregular who doubts whether he influenced the mutilation of another, the fact of mutilation being posited?

Resp. No. The reason is that the law imposed irregularity for doubt of homicide alone.[5]

Quaer. 6° Whether he is to be held as irregular who procured an abortion, doubting whether the fetus was animated or not?

Resp. No. The reason is that then there is no certainty properly concerning homicide. - Hence irregularity is not incurred unless the abortion was procured after the eightieth day from conception; for in her penal practice the Church, so long as the contrary is not established, must be judged to follow the opinion according to which males are animated on the fortieth day, females on the eightieth day from conception, and in the case the sex of the fetus will always be doubtful.[6]

APPENDIX ON INDULGENCES AND JUBILEE

Note. - Whenever in this Appendix it is cited, *Prinzivalli* or *Prinz.* is understood of his work: *Resolutiones seu Decreta authentica S. Congiis Indulgentiis Sacrisque Reliquiis praepositae*, etc. This collection is authentic. - Ulrich, C.SS.R., is understood of this little work of his approved by S. C. Ind.: *Trésor spirituel*, etc. - Maurel, S.J., is understood of his work: *Le chrétien éclairé*, which likewise was endowed with the approval of S. C. Indulg. - Bouvier is understood of his work: *Traité Dogmatique et pratique des Indulgences*. - Loiseaux is understood of his work: *Traité canonique et pratique du jubilé*.

CHAPTER I: ON INDULGENCES

1777. - Indulgence, as the word itself indicates, is the same as grace, condonation, mercy, remission. For indulgence is the condonation of the penalty owed for sins through the application of the satisfactions of Christ and the Saints: for Christ our Savior offered to God the Father his satisfactions for the full remission of our sins. But these satisfactions of infinite price, to which are added also the satisfactions of the Blessed Virgin, and also the superabundant satisfactions of the Saints, are called the treasury of the Church, of which we are made partakers through Indulgences.

Definition. An indulgence is the remission of temporal penalty owed to God for sins committed after Baptism and remitted as regards fault, granted by a legitimate minister, outside the Sacrament of Penance, through the application of the treasury of the Church.

Division. Indulgence is distinguished in many ways.

1° Plenary or partial, according as the whole temporal penalty is remitted, or only part of it.

2° Personal, local, real, according as it is granted immediately to persons, e.g., to a Confraternity; or is affixed to some place, e.g., a Church, Oratory, etc.; or is attached to some portable thing, e.g., an Image, Cross, Rosary, etc. - A real indulgence, however, is almost always at the same time personal, since, with few exceptions, the owner alone of the thing to which it is annexed can gain it.

3° Temporal or perpetual, according as it is granted for a determinate time, or without any prefixed term.

Notes to nn. 1777-1778 - note sequence 1. (1) Prinz. DVI, DLXVI. (2) Can. 62. (3) Bouvier, P. I. ch. II. § 2. (4) Ferrar. V. Indulg. a. II. n. 8. (5) S. C. I. January 12, 1878. Rev. Th. T. X. p. 497 sq. (6) Lacroix, n. 1321, 1322. (7) Ib. n. 1328. Notes to nn. 1777-1778 - note sequence 2. (1) Maurel, P. I. § 3.

1778. Principles. - I. The Church has true power of granting Indulgences. ... It is of Faith against Protestants. - The arguments, see among the Dogmaticians.

II. Only Prelates of the Church have power of granting Indulgences. For this faculty can belong only to those who have power over the mystical body of Christ, and who can dispense the treasury of the Church. Hence:

1° The Pope alone can grant Indulgences with respect to all the faithful; for he alone has jurisdiction over all the faithful. Concerning the recognition and publication of these, see nn. 195, 1192. 7°, and note besides the following:

a) The publication of local Indulgences without recognition and license of the Ordinary is illicit; nevertheless neither is required for the value of these indulgences.

b) Personal Indulgences, privileges, and faculties do not necessarily have to be exhibited to the Ordinary, unless either there is question of the faculty of erecting the Way of the Cross, or it is otherwise disposed in the concessions obtained.

c) Indulgences which the Supreme Pontiffs granted to all the faithful of the whole world in bulls or rescripts already published by most approved authors, e.g., by Ferraris or contained in *La Raccolta*, do not need promulgation of Ordinaries.[1]

Concerning Indulgences of Confraternities, see n. 1790. q. 2°. R. 4).

2° Bishops, provided they have a See, i.e., enjoy Episcopal jurisdiction (for there is question of an act of jurisdiction, not of Order), can by common law grant Indulgences to their diocesans. But by the Decree of Lateran Council IV,[2] their power has been so restricted that ordinarily they cannot grant except Indulgences of forty days, and, on the day of the consecration of a Church, of one year. - I said: to diocesans. For locals granted generally can also be gained by foreigners.[3] - But Bishops can grant the aforesaid Indulgences in perpetuity.[4] Nevertheless it is forbidden that another Indulgence of forty days be applied to the same object, e.g., by the Bishop's successor.[5] The Indulgences which our Bishops can grant by force of Apostolic faculty, see p. LXXI. nn. 14, 17, 18, 19, 20 and p. LXXIII. nn. 7, 8, 9, 10.

3° A delegate can grant the same Indulgences as he from whom he was delegated. The reason is that acts of jurisdiction can be exercised through delegates.

4° Cardinals can grant Indulgences of one hundred days in the churches of their titles. - Nuncios grant one hundred, or two hundred, or three hundred days, but less than one year, to their subjects.[6]

5° Prelates inferior to a Bishop cannot grant any Indulgences; nor Vicars General, unless from express delegation of the Bishop; nor Capitular Vicars, or among us the Administrator, the See being vacant; much less Pastors.[7] Except, as is clear of itself, priests to whom the faculties of which under 2° at the end are communicated, either by the Bishop or, the See being vacant, by the Administrator.

Note. - The communication of merits of an Order, which Superiors of Regulars sometimes grant to distinguished benefactors, is not a grant of Indulgences, but, as Suarez says, only an offering or donation of suffrages.[1]

III. Eight things are required in the subject for gaining Indulgences:

1° That he be baptized, because the treasury of the Church cannot be dispensed to unbelievers; and that he not be excommunicated with major excommunication; for this deprives of the communion of spiritual goods.

2° That he be subject to the one granting, as is established from what was said here under II. 2°.

3° That he fulfill the works enjoined at the time, in the manner, and in the place prescribed, because under this condition Indulgences are granted.

Thus: **a)** As regards manner, it is sometimes required that some prayer, e.g., *En ego, o bone et dulcissime*, be recited before an image of the Crucified. - But prayers to which Indulgences are annexed can be recited in any language whatever, "provided the versions are faithful. ... But that there be certainty concerning the fidelity of the version, the declaration of S. Congr. Indulg. suffices, ... or of one of the Ordinaries of the place where the language into which the prayer is translated is vernacular." Thus S. C. Ind., December 4, 1872.

b) As regards place, the condition often is that a parish church or public oratory be visited; in which case of itself it does not suffice that, e.g., seminarians visit the oratory of the seminary, if the faithful are not accustomed to approach it publicly.[2] Maurel,[3] however, testifies that in Rome it was admitted that those who live in Community and do not have the faculty of going out at will can in their

domestic oratories, although they are not publicly open, gain all Indulgences to which the condition of visiting a church or public oratory is attached.

c) As regards time:

1) If an indulgence is granted from first Vespers (which, according to St. Alph.,[4] begin at midday), even from this time (up to sunset of the Feast itself) the prescribed works are validly performed;[5] otherwise from midnight to midnight.[6] Concerning Confession and Communion, see here under 8°. 2). - An Indulgence truly begins from first Vespers if it was granted in view of the Mystery or Saint honored on that day. In other cases the letters of concession should be consulted.[1]

2) With the solemnity of the Feast the Indulgence also is transferred.[2]

3) Indulgences granted on Feasts, or on all and individual Feasts of the Lord, or even on Feasts, or on all Feasts, or on all and individual Feasts of our Lord Jesus Christ, are always understood only of the Feasts of the Nativity, Circumcision, Epiphany, Sunday of the Resurrection, Ascension, and Body of Christ; and likewise S. C. declared that, whenever in a concession there are found the words on Feasts, or on all Feasts, or on all and individual Feasts of the B. V. M., they are always understood only of the Feasts of the Conception, Nativity, Annunciation, Purification, and Assumption.[3]

4) An Indulgence once in a month or in a year, annexed to certain works or prayers to be completed through the month or year, is not acquired unless the prescribed works or prayers have been previously and really paid through the month or year. But the month is not necessarily to be computed from the first to the last day, nor the year from January 1 to December 31; but thirty days, or twelve months, can be taken.[4]

4° That he be in the state of grace, at least (unless the concession requires something else[5]) when he places the last prescribed work; because penalty is not remitted unless fault has been dismissed. - As regards the sense of the clause: *those who, truly penitent, confessed and refreshed by Holy Communion, have visited the church*, from the decree of S. C. I.,[6] "the prescribed visit of the church, whether before or after the fulfillment of the other pious works, is validly made."[7]

But what if the prescribed work is done with venial fault from the part of the end or circumstances? According to St. Alph.,[8] this does not obstruct the Indulgence, unless the fault affects the substance of the work, as e.g., if someone gives alms merely because of vainglory. Cf. also n. 1779. q. 2°. q. 3°.

5° That the works be completed by a human act; for a merely material act does not suffice.

6° That due intention be present. - Cf. n. 1779. q. 15°.

7° That the works be done by him who intends to gain the Indulgence, except alms, which can also be done through another.

8° Finally, one does not satisfy the required works by works to which he is already obligated by another title, unless the Indulgence has been granted precisely for these works, or the intention of the one granting is sufficiently clear in this matter. Cf. Benedict XIV,[1] Prinz.[2]

For a plenary indulgence, besides, at least ordinarily, these things are required:

1) Sacramental Confession. Cf. n. 1779. q. 10° and 11°.

2) Communion. This, as also Confession (not the remaining works), can be done on the preceding day. S. C., October 6, 1870, and January 12, 1878.[3] But as regards the Jubilee, see n. 1786. q. 7°.

3) Vocal prayers (as regards deaf-mutes cf. n. 1779. q. 17°) according to the intention of the one granting. They can also be recited alternately with a companion.

But to the question: Whether five *Pater* and *Ave*, which are customarily recited to fulfill the intention of the Supreme Pontiff, suffice when it is prescribed that a church or altar be visited, and there prayers be poured forth, ... S. C. responded: "The prayers required in concessions of Indulgences for fulfilling the intention of the Supreme Pontiff are at the will of each one of the faithful, unless they are particularly assigned."[4] Yet Benedict XIV warns:[5] "Although a brief prayer, employed with a sense of fervent piety, can satisfy the prescription and the law of the Constitution" (promulgating the Indulgence), "nevertheless very often brevity of prayer is wont to proceed from a moderate zeal for piety or a mind little inclined to spiritual things, or from weariness and negligence." - Moreover five *Pater* and *Ave*, or an equivalent prayer, suffice. - As regards deaf-mutes and the sick, see n. 1779. q. 17° and 18°.

Notes to n. 1778 - note sequence 2. (2) Prinz. DXL. (3) P. IV. n. 6. (4) L. V. 173. Cf. Ulrich, P. I. ch. IV. a. III. § 1. p. 57 (2). (5) Maurel, P. I. ch. VII. (6) Prinz. n. CCXLI. (7) Cf. Ben. XIV. Inst. 48. (8) L. VI. 533, 534. sub 11. (1) Ferrar. V. Indulg. a. II. n. 41. (2) Inst. 53. n. 6. (3) n. DXI. 2. (4) Acta, T. VI. p. 197. Rev. Th. T. X. p. 281. (5) Prinz. n. DXI. 3°.

1779. Questions. - Quaer. 1° Whether a concession of an Indulgence made without a cause is valid?

Resp. No. The reason is that the Prelates of the Church are only delegates of Christ for dispensing the treasury of the Church. But Christ cannot hold as ratified profusions of his treasury made by his own dispensers. Moreover, it does not belong to the faithful, nor to simple priests, to judge concerning the sufficiency of the cause on account of which an Indulgence is granted; for they ought simply to judge that it is just.[1]

Quaer. 2° Whether venial sin is an obstacle to gaining an Indulgence?

Resp. No, unless there is question of an Indulgence wholly plenary, or most fully plenary. The reason is that, although the penalty owed to this sin cannot be remitted, nevertheless the penalty owed for other sins already deleted can be remitted. For just as it is not repugnant that the fault of some venial sin be remitted without the fault of others being remitted, so neither is it repugnant that the penalty of remitted venial or mortal sins be deleted, although the penalty for one or several venials remains to be paid.[2]

Quaer. 3° Whether an Indulgence which is granted as **PLENARY** can be obtained at least **PARTIALLY**, if there is present an obstacle preventing it from being obtained entire, e.g., affection toward some venial sin?

Resp. Yes. The reason is, **1°** because, from what was said in the preceding question, some venial sin not remitted does not prevent the penalty owed for others from being remitted; **2°** because the Supreme Pontiff, in granting a plenary Indulgence, is not presumed to wish to restrict it only to those to whom all venials are remitted; but rather he is deservedly judged to grant it according to the capacity of the subject, so that at least the penalty which can be remitted is remitted, namely, the penalty of sins already remitted. Otherwise plenary Indulgences would for the most part profit nothing, since rarely do the faithful put off every affection, even the least, toward any venial whatsoever, and conceive sufficient sorrow concerning all venials in such a way as to obtain the

remission of all. Hence it would happen that partial Indulgences were preferable to plenary ones, which is repugnant to the common sense.[3]

Some, however, teach that a plenary Indulgence is not granted unless plenarily, or most fully, as they say, so that it must obtain the whole effect or none. But this opinion does not appear probable.

Quaer. 4° What is understood by Indulgences of 10 or 15 days, years, quarantines, etc., etc.?

Resp. According to the common opinion, there is to be understood a remission of so much penalty as once was remitted, or would have been remitted, through canonical penance of the same time. Thus, e.g., by an Indulgence of seven years so much penalty is remitted as was remitted through the penance of seven years customarily enjoined according to the ancient Canons. - But how much canonical penances were worth before God, and how much partial Indulgences of so many days or years are now worth, we are wholly ignorant; because we do not know what proportion our satisfactions have with the penalty owed for our sins. - Thus commonly.

Quaer. 5° Whether he gains Indulgences who does not complete integrally the work prescribed for them?

Resp. 1° No, if he omits a notable part of the work, so that according to moral estimation he does not complete it as regards substance; because he is not judged simply to satisfy the required conditions.

Resp. 2° Otherwise, if he passes over a very small part; because then morally, or as regards substance, the prescribed work is judged to be completed. But a very small part is to be taken relatively. Thus in the Rosary the omission of one *Pater* and *Ave* seems very small; but otherwise if five *Pater* and *Ave* are required, because the omission of a fifth part of the work is notable.

Quaer. 6° Whether and how Indulgences can be applied to the dead?

Resp. 1° They can be applied, if the following two conditions are present: **1°** that they be specially granted in the Pontifical Rescript as applicable to them. Thus, from the concession of Pius IX,[2] those who have made the so-called vow or oblation, by which they yield all their own meritorious works, while they remain on earth, and each suffrage, when they have departed from this life, to the benefit of the dead, can apply absolutely all Indulgences, granted and to be granted, to souls detained in purgatory; **2°** that there be present the intention of making such an application. - Thus all.[3]

Resp. 2° Nevertheless an Indulgence cannot be applied to the dead by way of absolution, but only by way of suffrage, namely, by beseeching God that he may kindly will to accept such an application and apply it to the souls of purgatory. The reason is that the Pontiff does not have jurisdiction over the souls of the dead. Hence he cannot absolve them from penalties, as by a sentence.

Resp. It is controverted. The **OPINION** which St. Alphonsus[2] follows says no. The reason is that there is no divine promise by force of which God is judged certainly to accept the offered Indulgence. Hence he seems to admit that it be applied only according to his good pleasure. Besides, the Church keeps the use of celebrating Sacred rites for several years and for the same souls, e.g., anniversaries, even on privileged altars, or those to which the privilege of a plenary Indulgence adheres. But that practice would be empty if immediately in the first Sacred rite applied to them they were liberated.

But it is certain that Indulgences for the dead profit them, at least for the most part; otherwise the Church would do something useless by applying them to them: which indeed cannot be said without impiety.

Quaer. 8° Whether a special application must be made to certain determinate souls, or a general one suffices?

Resp. A general application made to all souls dwelling in Purgatory suffices, because suffrages are divisible, and therefore can be distributed to all souls. It is clear, moreover, from the practice of the Church, which orders Masses to be celebrated for the dead in general, especially on the second day of November. Likewise, when collections are made in Churches for the souls of purgatory, the Masses to be celebrated from them must be applied for all in general. But if someone wishes to restrict his application, then he must determine some souls specially, at least indirectly. - As regards the privilege of the altar, see n. 1798. q. 4°. R. 3°.

Quaer. 9° Whether the state of grace is required for gaining an Indulgence for the dead?

Resp. S. C. I., August 20, 1822, responded: *Delayed*. St. Alphonsus more truly affirms, because no one can apply an Indulgence to another unless he first has made it his own; but he who is in mortal sin cannot make Indulgences his own; therefore.[1]

Quaer. 10° Whether Confession **AND** absolution are required, even for venials, for gaining Indulgences which are granted with the clause: *to the contrite and confessed*?

Resp. 1° Confession is certainly required, notwithstanding the state of grace. The reason is that, although Confession then is not necessary for remitting sins, nevertheless it is required as a condition, or prescribed work. This is clear from the Decree of S. C. Ind. approved by Clement XIII, May 19, 1759.

Resp. 2° But absolution is not required. S. C. Ind., December 15, 1841.[2]

Note. - The clause: *with the heart at least contrite*, which is customarily inserted into concessions of partial Indulgences, does not indicate an enjoined work, but the necessity of the state of grace for gaining the Indulgence. Therefore those who are already in the state of grace do not need to elicit an act of contrition. The same holds concerning analogous formulae: *with contrite heart*, or *to the contrite*.[3]

Quaer. 11° Whether Confession is required as often as a plenary Indulgence is to be gained?

Resp. 1° It is not required with respect to all plenary Indulgences; for there are several Indulgences for the gaining of which no Confession is required. Such are the Indulgences granted for the exercise of the Way of the Cross. Nevertheless the state of grace is required. See n. 1778. III. 4° and this n. q. 9°.

Resp. 2° It is required with respect to most plenary Indulgences. This is evinced from the Rescripts of several concessions. Nevertheless, from a special indult, granted in perpetuity, the faithful who, unless they are legitimately impeded, are accustomed to confess once in any running space of seven days, can gain all plenary Indulgences occurring in the week, provided they remain in the state of grace, and provided nothing is changed "concerning Indulgences of Jubilee, both ordinary and extraordinary, and others granted after the manner of Jubilee, for obtaining which, just as the other enjoined works, so also Sacramental Confession must be performed at the time prescribed in their

concession." But if they do not remain in the state of grace, there is need of another Confession, since the decree adds the clause: "if they are conscious to themselves of no mortal fault committed by them after the aforesaid last Confession." Thus from the Decree of Clement XIII, December 9, 1763; and it is also confirmed from the Decree of S. C. Ind., November 15, 1878, in *Acta*, T. XI. p. 358 sq.

Note. - a) Not a few Bishops obtain from the Roman Curia an extension of this privilege to those who confess twice in a month, or in any running space of fourteen days.

b) Confession performed within seven days before a Festivity, in places in which a scarcity of confessors is present, can suffice for gaining both the Indulgence annexed to the Festivity and the other Indulgences occurring within the aforesaid time, nothing changed concerning Indulgences granted according to the form of Jubilee, as in the cited decree of December 9, 1763 and in the decrees of June 12, 1822 and December 15, 1841.[2]

Quaer. 12° Whether one can on the same day gain diverse Indulgences, or the same Indulgences several times?

Resp. 1° As regards diverse Indulgences, generally the faithful can gain them, at least if they are partial (concerning plenary ones see q. 14°), and annexed to diverse works, or to the same works, but works which can be repeated several times in the day. - Thus commonly the Theologians, and this is confirmed from the practice of the Church and of the faithful.

Resp. 2° As regards the same Indulgences, this depends on the mind of the Pontiff bestowing Indulgences. Hence attention must be paid to the letters of concession; if they determine nothing, the common interpretation and practice of the Church must be followed. - Thus on the same day several Indulgences of stations, or of visitation of a Church, cannot be obtained, as is clear from the Decree of S. C. Ind. approved by Innocent XI. - Voit,[3] Lacroix.[4] Thus also a daily plenary Indulgence, perpetual or granted for a time to those visiting some church or public oratory, is always to be understood in this way: that on any day indeed, but only once in a year, it can be acquired by each faithful person, except only the case in which, in the Decree of concession in favor of some church or public oratory, it is clearly and explicitly expressed that a plenary Indulgence can in fact be acquired daily by any one of Christ's faithful rightly disposed. Thus S. C. Ind., March 15, 1852.[1] On the contrary, it is lawful to gain several times in the day several Indulgences annexed to the Rosary and its individual parts, or to the recitation of acts of Faith, Hope, and Charity, etc.; because in the Rescript of the Pontiff it is said: *as often as*.

Resp. 1° Yes, if the prescribed work cannot be repeated, as fasting, Communion, or is not accustomed to be repeated on the same day, as Confession, unless this is necessary from elsewhere, namely because of relapse, and the Indulgences concur from diverse titles, and are gainable on the same day. S. C. I., January 12, 1878. *Rev. Th.* T. X. p. 231.

Resp. 2° But no, if Indulgences concur from the same title, e.g., if someone has two medals, to each of which an Indulgence of one year has been granted with the burden of repeatable works; for then several Indulgences cannot be obtained together at the same time, unless the enjoined works are repeated; for such is judged to be the mind of the one granting, since he enjoins works which can be repeated. - Thus Voit.[2]

Quaer. 14° Whether several plenary Indulgences can be acquired on the same day?

Resp. 1° No one can gain a second Indulgence at the same time for himself, if after the first no penalty to be paid remains any longer.

Resp. 2° Otherwise, yes, provided however that the other respective conditions placed upon them are observed, e.g., by repeated visitations of the church, and by going out from it and entering it again.[3]

Quaer. 15° Whether and what intention is required for gaining Indulgences?

Resp. 1° An intention at least virtual certainly is required, whenever an Indulgence is granted with a certain intention to be proposed to oneself, e.g., of praying for the happy state of the Church, or whenever an intention of gaining the Indulgence is required for obtaining privileges annexed to the Indulgence, e.g., to a Jubilee; for otherwise it would be nothing.

Resp. 2° In other cases it is controverted. Busembaum has it thus: "It is not an obstacle to the effect of an Indulgence, ... although in the work performed you did not have the intention of obtaining the Indulgence, as they teach. ... And it seems certain, at least if you had an interpretative one, as Laymann has." St. Alphonsus adds: "And Wigandt ... and others." The reason is that *per se* no intention is required; for the effect of an Indulgence, or the remission of penalty, depends wholly on the concession of the Church, and not on the intention of the agent. Hence, although he be passive, nor attend to the Indulgence, indeed not know that it is gained by him, while it befalls him, nevertheless he obtains a right to it. For an Indulgence is granted by the Church by way of payment for a work placed; but for the validity of payment it is not necessarily required that he for whom it is bestowed know it. Cf. n. 1797. q. 3°. R. 6°.[1]

Moreover, they commonly admit that an intention had in the morning suffices for gaining all Indulgences occurring through the day.

Quaer. 16° Whether, if a faculty is granted of commuting the works enjoined for gaining Indulgences, the commutation must necessarily be made in Confession?

Resp. It is controverted. Busembaum, not corrected by St. Alphonsus, denies, from the declaration of Gregory XIII.[2]

Nevertheless it must be affirmed, if there is question of Jubilee. Benedict XIV[3] (49) p. 429.

Quaer. 17° How can deaf-mutes gain Indulgences to which vocal prayers are annexed?

Resp. From the benign concession of Pius IX, March 15, 1852, they can enjoy a benefit of this kind, provided the following be observed: **1°** If some church is to be visited, it will be enough if, by approaching it, they pray to God with mind and affection. **2°** If public prayers are to be held, nothing else is required from them except that, with mind elevated to God and with pious affections of heart, they be joined to the faithful gathered together. **3°** If private prayers are to be recited, they can obtain from the confessor a commutation into any other pious works, manifested in some way.[4]

Quaer. 18° How can the sick gain Indulgences for acquiring which Holy Communion and the visitation of a church or public oratory in the place where they live is prescribed?

Resp. From the concession of Pius IX, September 18, 1862,[1] they gain "all and individual plenary Indulgences, granted or to be granted in the future, which they otherwise could acquire in the places in which they live, ... provided" **1)** "truly penitent, confessed, and absolved from all other conditions, if any shall have been enjoined, in place of Holy Communion and visitation they faithfully fulfill other

pious works to be enjoined by the respective confessor"; **2)** there is question of faithful habitually infirm, chronically sick, unable to go out from home on account of some permanent physical impediment, and not dwelling in Community.

Quaer. 19° Whether Indulgences are lost if a movable thing to which they are annexed is handed over to another?

Resp. 1° Yes, if dominion of that thing is transferred to another. The reason is that the Church intends only to grant Indulgences to the person for whom some thing has been blessed, or to the first one who uses it. Thus most wisely has the Church established, in order to prevent abuses which otherwise would creep in, if Indulgences could be transferred and given from one to another.

Resp. 2° But no, if by the handing over the dominion of the thing is not transferred, i.e., if the thing is handed over to another only by loan for use, provided however that the lender does not intend to grant the benefit of the Indulgence to the borrower. This is evinced from the List of Indulgences which you have in Conc. Pl. Balt. II.[2]

Quaer. 20° To what things can Indulgences be applied?

Resp. Indulgences can be applied to any solid things, not even iron or wood excepted, as formerly. Therefore the List of Conc. Pl. Balt. II. p. 340 is to be corrected, where iron, tin, and lead are excepted. Even a rosary made of solid and compact glass can be blessed with Indulgences placed upon it. Therefore only things which can easily be broken or torn, as paper, blown glass, etc., are to be excepted. This is clear from the Decision of S. C. Indulg.[3] But these objects must bear the image of some Saint, either solemnly canonized, or at least listed in the Roman Martyrology (List of Conc. Pl. Balt. II. l. c.); nor does the image of some Blessed suffice, unless at the same time the image of a Saint is present.[1]

Notes to n. 1779 - note sequence 1. (1) L. VI. 532. (2) Ib. 534 sub 19. (3) Ib. 534 sub 19. Notes to n. 1779 - note sequence 2. (1) L. VI. 534 sub 14. (2) Prinz. n. DCXLIII. (3) Suarez, Disp. 53. Sect. 4. n. 3. Quaer. 7° Whether an Indulgence infallibly profits the souls of purgatory to whom it is applied? Notes to n. 1779 - note sequence 1. (1) Lacroix, n. 1336 (al. 1436). Lugo, de Pen. Disp. 27. n. 58. (2) L. VI. 534 sub 10. Notes to n. 1779 - note sequence 2. (1) L. VI. 534 sub 10. (2) Prinz. n. CCXLI. DXXI. (3) S. C. Ind., December 17, 1870. Acta, T. VI. p. 388. Notes to n. 1779 - note sequence 3. (1) Prinz. n. CCLIX. (2) Ib. n. 429, 521. (3) P. II. n. 655. (4) n. 1369 (al. 1469). Notes to n. 1779 - note sequence 4. (1) Prinz. n. DCXXIV. Quaer. 13° Whether someone can gain several Indulgences by the same act, or work? Notes to n. 1779 - note sequence 1. (1) L. VI. 534 sub 14. (2) Ib. sub 15. (3) Ib. 536. XIV. (4) Prinz. n. DCXXV. Notes to n. 1779 - note sequence 2. (1) Acta, T. II. p. 538. (2) pp. 340-342. § In distribuendis. Prinz. CXXXIII, CCCCLXXXII. (3) Prinz. n. CCCXX. Notes to n. 1779 - note sequence 3. (1) Prinz. n. XXVIII. Appendix annotation (49), to n. 1779. q. 16°. p. 377. col. 1. From the Response, however, of the Sacred Penitentiary on the 18th day of July 1881, which Past. Bl. für N. Amer., 1881. p. 117, reports, "that confessors can use this faculty even outside Confession," it does not appear that the Response about whose limiting there was inquiry is to be restricted. > Notes to appendix annotation - note sequence 16. > > 1 Conc. Pl. Balt. II. p. 335. XXVIII.

1780. Resolves. - 1° A Bishop, by ordinary law, can grant Indulgences to his subjects staying outside his own diocese, because he has personal jurisdiction over them. But Bishops can grant Indulgences only by way of absolution, and therefore only for the living. - Thus commonly.

2° Anyone can gain Indulgences for any other living Christian by way of payment or satisfaction; for although the fruit of merit is not applicable to another, nevertheless the fruit of satisfaction is applicable, provided that he is in the state of grace. But for this, besides the concession of the Pope, a special intention is required of gaining the Indulgence for that determinate person. But the

application of satisfaction can be made to one ignorant, not asking, absent, etc. Thus Suarez, Lugo, Lacroix.[2]

3° a) Indulgences annexed to some Church do not cease if a new church is built in nearly the same place, yet under the same title; but they cease if it is built in a cemetery, and not in the place of the old church,[3] i.e. (if I opine anything) if it is not built in nearly the same place. - But an Indulgence granted to those rightly visiting churches of Regulars, and in view of the regular family by which the churches are ruled, likewise ceases when the regular family ceases.[4]

b) Indulgences are not lost if the object to which they are annexed is indeed broken, but in such a way that it still retains its species (e.g., of a Cross or image).[5]

c) To the question whether Indulgences are lost:

1° If the string of rosaries is broken, whether voluntarily, so that they may be joined by chains, or whether involuntarily and by chance this has happened?

2° If four or five beads are lost?

S. C. I., January 10, 1839,[6] responded:

To **1st**: In the negative, because the rosaries still persevere as regards moral form.

To **2nd**: In the negative, from the reason given in the preceding response.

4° Unless this is expressed in the concession itself, either explicitly or implicitly (e.g., by the clause: *until our good pleasure*), Indulgences do not expire by the death of the one granting, since they are graces; - nor before knowledge of revocation. - Indulgences are to be received as they sound; yet, since they are graces, they are to be interpreted broadly (but strictly as regards the conditions imposed). Hence they are to be judged perpetual, if they were given without restriction of time, and those granted perpetually do not cease by cessation of the cause.[1]

5° An Indulgence granted for the article of death ordinarily (cf. n. 1799) does not require application by the confessor or ministry of another. Nevertheless it is expedient to suggest to the dying that the names of Jesus and Mary are to be invoked often, and to recall to their mind the Indulgence to be gained.[2]

6° If a dying person has several blessed Images, Crosses, Medals, or Rosaries, he can gain an Indulgence as often as he repeats the name of Jesus, or performs the required work (at least probably), whether the Indulgences proceed from the same concession or from diverse ones. Nevertheless, for gaining them, any time in which the article of death is verified suffices, even if death follows only after several days. Likewise, the dying can gain several Indulgences by title of various Confraternities, even if they are ignorant of them or do not remember them.[3]

7° But it is required that the dying person have with himself the things to which Indulgences are affixed, namely Rosaries, Crosses, etc. Yet it is not necessary that he have these hanging from his neck, wrapped around his arm, or grasped in his hand; but it suffices that these be in the bed, or hanging near the dying person, although he neither sees nor touches them, nor knows or remembers that he has them.[4]

8° Although it is expedient that all works be done in the state of grace, this nevertheless is not necessary, according to the common opinion, but it suffices that the last work be done in grace.[5]

Notes to n. 1780. (2) n. 1327, 1328 (al. 1427, 1428). (3) Prinz. n. DLVII. (4) Acta, T. I. p. 687. (5) Ferrar. V. Indulgentia. art. I. n. 20. (6) Prinz. n. CCCCLXXXII. (1) L. VI. 534 sub n. 2, 8. Ferrar. V. Indulgentia, art. III. n. 52 sq. (2) L. VI. 534 sub 4. (3) Ib. sub 4, 5. (4) Ib. sub 6. (5) Ib. sub 9.

CHAPTER II: ON JUBILEE

1781. - The word *Jubilee* is derived, according to many, from the Hebrew *jobel*, which signifies fiftieth, because among the Hebrews the year of Jubilee recurred in the fiftieth year; or, according to others, from the same word signifying the sound of a trumpet, by which the fiftieth year was announced. According to others also, *Jubilee* is derived from *jubal* or *jobal*, which signifies to germinate, because in the fiftieth year the earth was not cultivated, and the inhabitants fed on fruits germinating spontaneously.

In imitation of the Jubilee of the Old Testament, the Ecclesiastical Jubilee was instituted, which now is celebrated at Rome and in the whole world, with a most full indulgence of sins, with great joy and solemnity. After its first institution, from the decree of Boniface VIII in the year 1300, it was held also in every fiftieth year;[1] then from the decree of Urban VI, every thirtieth year; finally from the statute of Paul II, it began to be celebrated every twenty-fifth year.

1782. Definition. - A Jubilee is a solemn plenary Indulgence, which the Supreme Pontiff sometimes grants to Christ's faithful, with the obligation of performing certain pious works, at the same time granting confessors special power of absolving from reserved sins and censures, and of commuting most vows.

Hence a Jubilee does not differ except accidentally from an ordinary plenary Indulgence, namely by reason **a)** of solemnity, **b)** of the privileges annexed to it, and **c)** of the most abundant and extraordinary graces which accompany it. For altogether special graces of this kind are shown by the wonderful and astonishing effects which the Jubilee is wont to produce, even if solemn gatherings of the faithful are not made, nor the divine word preached.

1783. Division. - A Jubilee is distinguished in many ways:

1° The greater Jubilee, which regularly occurs every twenty-fifth year, which year is called holy. It is also called the ordinary Jubilee, because it is fixed and determined by law.

2° The lesser Jubilee, which is wont to be granted by individual Supreme Pontiffs after the elevation of each one, and in other peculiar circumstances, and is called an extraordinary Jubilee.

3° General, which is granted to the whole world, of which kind the greater Jubilee always is, and sometimes also the lesser Jubilee; but it is wont to be granted to the City, or to Rome alone, before it is granted to the world.

4° Particular, which is granted to some province, city, or particular place.

A whole year is ordinarily granted at Rome for gaining the greater Jubilee; and in the following year it is wont to be granted by extension to all other regions of the Christian world. But to individual parishes for gaining the Jubilee only fifteen days or three weeks are granted. Whether, however, the Bishop can for just causes prolong that time is to be judged from the tenor of the concession.

The lesser Jubilee is first also made at Rome, but for a few weeks, and then it is extended to the universal world, so that, while the year is running, it can be made during a time to be determined by the Bishop.

Note. - In interpreting Bulls of Jubilee, the rules handed down by Benedict XIV are to be observed, to which the Bull of some current Jubilee is not opposed. Thus Pius IX declared, as regards a Jubilee both ordinary and extraordinary, on March 15, 1852.[1]

Notes near nn. 1781-1783, definition and division of Jubilee (printed p. 379).

1 L. V. T. IX. c. 1. | **2** Extr. Comm.

Notes near nn. 1782-1783, ordinary and extraordinary Jubilee (printed p. 379).

1 Prinz. n. DCXXII. | **2** C. Benedictus, December 25, 1750. § 4. | **3** Especially in the Constitutions: Benedictus Deus, December 25, 1750; Celebrationem, January 1, 1751; Convocatis, November 25, 1749; Inter praeteritos, December 3, 1749.

1784. Privileges of the Jubilee. - As regards these, the Bull by which the Jubilee is granted is chiefly to be consulted.

Each one of the faithful can enjoy them only once during the Jubilee, but it is not necessary that all be applied to him at the same time or by the same confessor; yet they can be applied only to those "who sincerely and seriously resolve to obtain the Jubilee, and from this intention of gaining it and fulfilling the remaining works necessary for gaining it approach Confession."[2]

But those things which up to this point, according to the statutes of Benedict XIV[3] and the mind of approved authors, have customarily been granted at the time of the extension of the greater Jubilee to the universal Catholic world, are briefly the following:

A. Directly for the penitent. - The faculty of choosing a confessor among those approved by the Bishop of the place where the Confession is made. Hence also any Regulars, Oblates, Tertiaries, etc., for the Confession required for gaining the Jubilee, can without license of Superiors choose any priest from the said approved priests, even a secular one. But Nuns strictly so called and their novices can choose someone from those approved by the Ordinary of the place for hearing the Confessions of Nuns, whether he was approved for this end generally, or for other monasteries.[1] But one once approved for Nuns, whether as ordinary, or as extraordinary, but whose approbation, e.g., on account of lapse of the prefixed term, has ceased, can also be chosen for Jubilee by the aforesaid Nuns, "unless it is clear that the same confessor afterward was positively reproved by the same Ordinary because of demerits which concern those Confessions." Thus S. Paen. in *Nouv. Revue Théol.*[2]

B. Directly for the confessor and indirectly for the penitent:

I. The faculty of absolving, for the forum of conscience only, "from excommunications, suspensions, and other ecclesiastical sentences and censures, by law or by man for any cause whatsoever carried or inflicted, even reserved to the Ordinaries of places" and to the Pontiff and the Holy See, "although in special form, and which otherwise in a concession however broad would not be understood to have been granted, and also from all sins and excesses, however grave and enormous, even those reserved to the same Ordinaries and to the Pontiff. . . ."[3]

By this broad faculty of old there was not comprehended the power of absolving from formal externalized heresy, although only occult. Today, after the Constitution *Apostolicae Sedis*, it seems to be contained in the cited formula by the words: "and to the Pontiff and the Holy See, although in

special form, reserved." Cf. *Acta*, App. p. 450. Concerning a matter brought to the judicial forum, see n. 1701. Note. - 1). See also T. I. p. LXXI. 15.

Nevertheless, from this broad faculty are excepted:

1° Cases and censures reserved in the Constitution of Benedict XIV, *Sacramentum Poenitentiae*. Four, however, are established in this Constitution. - **a)** Confessors are prohibited from absolving penitents solicited to shameful things in Confession (on occasion of Confession, etc., see n. 1407 sq.), as long as these neglect, or culpably omit, to denounce the one soliciting. § 2. - **b)** There is reserved to the Holy See the crime of those who falsely accuse innocent priests of solicitation before ecclesiastical judges, for example before the Ordinary or the Holy See, or wickedly procure that this be done by others. § 3 (see n. 1400. IV.). - **c)** From any priest, outside the case of extreme necessity, every faculty and jurisdiction for hearing sacramental Confessions of a person who is an accomplice in a shameful sin committed against the Sixth Precept of the Decalogue is taken away. § 4 (see n. 1404 sq.). - **d)** A major excommunication *latae sententiae* reserved in a most special manner to the Roman Pontiff is inflicted on those absolving an accomplice in a shameful sin. § 4 (see n. 1715).[1]

2° Sins and censures from which not even in the forum of conscience alone can the Major Penitentiary himself absolve. But they scarcely occur.[2]

3° Nor can those be absolved who by the Holy See or by some Prelate or ecclesiastical judge have been by name excommunicated, suspended, interdicted, or declared or publicly denounced to have fallen into other sentences and censures, unless (therefore the power of absolving is given only in favor of those who were by name censured because of an injury inflicted on a third person), within the time granted for gaining the Jubilee, they have satisfied and, where there was need, have made agreement with the parties.[3]

II. The faculty of dispensing from irregularity, occult however, incurred on account of violation of censures through the exercise of Order.

III. The faculty of commuting simple vows (not excepting the vow of not asking for commutation[4]), even sworn and reserved to the Apostolic See,[1] which faculty they also extend to oaths made to God.[2]

From this faculty are excepted: **1°** Vows of perpetual chastity and of entrance into Religion.[3] See n. 392. q. 3°.

2° Vows in favor of a third party, if they have already been accepted, unless the third party renounces his right.[4] Therefore vows made in some Religious Community also are excepted. See n. 1205. VI. q. 1°.

3° Penal vows preservative from sin, unless commutation is made into another work which equally or more conduces to preservation.[5]

But here absolutions, commutations, and dispensations cannot be exercised outside the act of Sacramental Confession without special concession (Resp. S. Paen., March 16, 1865[6]).[7] See however (49) p. 429.

Notes near n. 1784, privileges of the Jubilee: choice of confessor (printed p. 380).

1 Benedict XIV, c. Celebrationem, §§ 9-11. | **2** Tom. I. p. 430 sq. | **3** Benedict XIV, c. Benedictus, § 4, and Pius IX, Encycl.: Gravibus Ecclesiae, 1874.

Notes near n. 1784, privileges of the Jubilee: absolving faculties and exceptions (printed p. 380).

1 Benedict XIV, c. Inter praeteritos, § 85. Loiseaux, Ch. VI. a. II. Sect. I. § I. n. IV.-VII. p. 384-390. | **2** Benedict XIV, c. Pastor bonus, n. 11 sq. | **3** Benedict XIV, c. Benedictus, § 5. | **4** Ferrar. V. Jubilaeum, Art. II. n. 39.

Notes near n. 1784, privileges of the Jubilee: vows and commutations (printed p. 381).

1 Benedict XIV, c. Benedictus, § 4. | **2** Ferrar. V. Jubilaeum, Art. II. n. 35. | **3** Benedict XIV, c. Benedictus, § 4. | **4** Ib. | **5** Ib. | **6** Acta, T. I. p. 176. | **7** Benedict XIV, c. Convocatis, n. 25.

Conditions Required For The Jubilee.

Notes near n. 1785, devout visitation for the Jubilee (printed p. 381).

8 Benedict XIV, c. Inter praeteritos, § 76. | **9** Prinz. n. CCCCXLIV. | **10** Benedict XIV, c. Inter praeteritos, § 76. Loiseaux, ch. V. a. II. § IV. n. XXV.-XXVII. pp. 235-239.

Notes near n. 1785, conditions for the greater and extraordinary Jubilee (printed p. 381).

1 L. VI. 534 sub 14. Ferrar. V. Jubileum, art. III. n. 7 sq. Bouvier, etc. | **2** Prinz. n. DCXXII. | **3** Bouvier, P. IV. c. 2. art. I. § 2. q. 1. | **4** Loiseaux, ch. V. a. II. § III. n. V. p. 202. | **5** Bouvier, P. IV. ch. II. § 2. a. n. 4. Argues S. Paen., March 16, 1865 ad 2°. Acta, T. I. p. 174 sq. | **6** Benedict XIV, c. Convocatis, n. 45 and Inter praeteritos, § 79. L. VI. 536. XVII. | **7** Bouvier, P. IV. ch. 4. q. 1. Prinz. n. CCXLIV. Dub. 2. | **8** Benedict XIV, c. Inter praeteritos, § 54.

Notes near n. 1785, confession, Communion, fasting, and alms (printed p. 381).

1 Benedict XIV, c. Inter praeteritos, § 53. | **2** T. VIII. p. 360 (2). | **3** Benedict XIV, c. Inter praeteritos, § 53. | **4** Id. c. Benedictus, § 8. | **5** L. VI. 536. XI. and 538. q. XII. | **6** Ib. 536. XI. | **7** Acta, T. I. p. 174.

1785. - I. For the general greater Jubilee at least the following conditions are required:

1° A devout visitation (namely with the mind of showing honor to God or his Saints[8]) of churches or of some chapel which makes part of a church whose visitation is required,[9] by praying piously according to the intention of the Supreme Pontiff. But devotion seems to be required also on the journey (which nevertheless no one is held to make on foot), or, as Benedict XIV speaks,[10] "let one walk modestly, and in these," i.e., even on the journey, "let some act of religion be exercised." - But it is not an obstacle if, when on account of the multitude of people you cannot enter the church to be visited, you pray in the vestibule, or before the doors, or in the cemetery, or before the entrance of the church, while this is closed. Except if visitation of an interior altar or chapel is required. But if several altars, etc., had to be visited, there would be need at least of motion of the body toward that altar, with the intention of visiting it, and then of reciting the due prayers.[1] If in some place there is one church only, the Ordinary can substitute as many visitations of the same church as visitations of diverse churches are required for acquisition of the Jubilee.[2]

2° Confession of sins, formally integral,[3] performed with sincere sorrow.

3° Communion made in the state of grace, or in which at least sanctifying grace is conferred first *per accidens*.[4] Cf. n. 1208. q. 2°. 1209. q. 3°.

II. For an extraordinary Jubilee, moreover, these are customarily prescribed:

1) The fast of three days, Wednesday, Friday, and Saturday. But he who has been dispensed from fasting cannot use this dispensation on the days on which said fast is prescribed, without commutation, if he wishes to gain the Jubilee.[5]

2) Alms, either some alms, or according to each one's faculty. But it is not necessary to give money; it suffices to give another thing estimable by price, e.g., clothing, etc.

Note. - 1° Confession and Communion can be performed before the visitations of the churches, between them, or after them. But the last work must be placed in the state of grace. If, however, someone after Confession falls into mortal sin, he is not held to repeat the visitations of the churches, the fasts, or the alms; nevertheless, if he has not yet performed the last work, he is held to confess again, nor does contrition suffice.[6]

2° The works prescribed for gaining the Jubilee can be performed anywhere, if the visitation of churches be excepted, since the designated churches must be visited. Nevertheless he who confesses in a place where the Jubilee is not celebrated cannot enjoy the privileges which have been granted to confessors in the place of the Jubilee.[7] But it is clear from the following that all enjoined works, for those detained by a legitimate impediment (namely moral impossibility, or notable difficulty[8]), can validly be commuted into works not owed from elsewhere,[1] if you except prayer, as we opine against *Acta*,[2] which can be separated from the visitation of churches,[3] and Confession and Communion in general. This commutation belongs to the Bishop or to delegates by him; but at least delegated confessors must perform it in Confession itself.[4]

III. For a particular Jubilee, attention is to be paid to the tenor of the granted Indult; ordinarily only three things are required, namely Confession, Communion, and the visitation of some church.

Notes near n. 1785, commutation of prescribed Jubilee works (printed pp. 381-382).

1 P. IV. ch. II. § 8. q. 1; ch. III. § 5 sub 5°. | **2** Acta, T. VIII. p. 361 sub IV. and VII. T. XI. p. 527 sub III. | **3** C. Inter praeteritos, § 77.

1786. Questions. - Quaer. 1° Whether boys, old men, the infirm, or others who cannot fast can gain the Jubilee without fasting?

Resp. No, unless they obtain commutation of the fast into another work. The reason is that fasting is expressly prescribed as a condition of gaining the Indulgence. For it is not enjoined as a precept, from which necessity excuses, but is assigned as a condition without which there is no Indulgence.

Quaer. 2° Whether one can satisfy for the enjoined fasts by fasts otherwise owed, e.g., if the Jubilee is made in the time of Lent or the Ember days?

Resp. No *per se*, with St. Alphonsus.[5] The reason is that by one payment one cannot satisfy a double burden; and the Pontiff, when he imposes a fast, always intends to impose a special obligation concerning a thing not yet prescribed.

Nevertheless, if the Pontiff determines, or permits to be determined, for gaining the Jubilee a time in which by precept of the Church the fast is already to be observed, as is the time of Lent or the Ember days, by that very fact he is judged to dispense the faithful from the obligation of obtaining a commutation of the fast into another work.[6] This doctrine is confirmed by the Resp. of S. Paen., January 20, 1865, ad 1.[7]

Quaer. 3° Whether Confession and Communion can be commuted?

Resp. No, at least speaking generally. The reason is that Bulls speaking of works to be commuted do not speak of Confession, nor of Communion, at least for adults. Indeed, they are expressly excluded by Benedict XIV in the Bull *Inter praeteritos* § 58, where it is said that the faculty of commuting pious works is not understood to be given concerning Confession and Communion (except for boys), or the prayer necessary in the visitation.

Nevertheless, as it seems, if one about to communicate on the last day were prevented from Communion by an unexpected event, he could obtain a commutation of Communion, or a prorogation of the Jubilee. - Thus commonly, says Bouvier.[1]

Quaer. 4° Whether boys not yet refreshed by Communion can gain the Jubilee with it omitted?

Resp. No, unless they obtain commutation. For it is elicited from the Bull of Benedict XIV, *Inter praeteritos* § 80, and of Leo XII for the Jubilee, that those who at the time of the Jubilee are not capable of Communion can gain the Jubilee, Communion being commuted, by license of the Bishop, into another pious work.

Quaer. 5° Whether Easter Communion suffices for gaining the Jubilee, if the Jubilee is celebrated in Paschal time?

Resp. No, as is clear both from what was said in q. 2° and from the declaration of S. Paen.[2] But declarations which seem contrary (see *Acta*, T. I. p. 174), since they were given according to the mind of His Holiness, can be interpreted in the sense of an indult.

Quaer. 6° Whether those having only venials ought to confess?

Resp. Yes, altogether. Formerly there was great controversy concerning this; but it fell after the express Declaration of Benedict XIV.[3] Nevertheless absolution is not necessarily required, since no mention is made of it.

Quaer. 7° Whether Confession made on the vigil of the first day of the Jubilee suffices?

Resp. No. The reason is that all works must be done within the interval of time established for gaining the Jubilee. Nevertheless Confession can be begun either on the vigil or before, provided it is finished during the time of the Jubilee. Yet Confession could be made in that part of the vigil which follows first Vespers, because the first day is customarily computed, in ecclesiastical manner, from first Vespers; and this is constantly observed in the ordinary Jubilee of the City, as is clear from the Bull *Peregrinantes* of Benedict XIV, May 5, 1749, § 5. Besides, the days for performing the enjoined works, as is clear from § 6 of the same Constitution, can be taken either as natural or ecclesiastical, "namely from first Vespers of one day up to the whole evening twilight of the following day itself." - Hence someone, having completed in the afternoon hours one series of visitations according to the computation of the ecclesiastical day, can immediately begin another series of the same visitations for

the following ecclesiastical day. It is clear also from the Response of the Eminent Cardinal Major Penitentiary in *Nouv. Revue Théol.*[1]

Quaer. 8° What quantity of alms is to be given?

Resp. 1° If in the Bull it is said: *Who will have given alms*, any quantity suffices, provided it is not so small that it seems to be almost nothing.

Resp. 2° If it is said: *As much as shall have seemed to each one according to his faculty*, or it is required *for the support of some pious work*, then the quantity ought in some way to have proportion with the faculties of each one; hence to give a small coin would suffice for a poor man, but not for a rich man.[2]

Quaer. 9° Whether, or how, the poor, Religious, and children of a family ought to give alms?

Resp. 1° All are held either to giving alms in some way, at least through another, or to substituting another pious work determined by the confessor. The reason is that, where there is question of obtaining some grace, impossibility of furnishing the condition does not excuse from it, as impossibility of fulfilling a precept does, as was said above in q. 1°.

Resp. 2° The poor can satisfy by giving a very small thing, e.g., a coin, or a little piece of bread, etc. But it is more advisable for this work to be commuted for them into another.

Resp. 3° Religious and children of a family satisfy if some alms is given by their Superiors in their name, and with their knowledge and consent.

Quaer. 10° Whether the enjoined works must all be completed in one week?

Resp. 1° Yes, as regards the fasts. This is clearly evinced from the formula, which lies thus: "Those who have taken part in the procession, or have visited the churches, and on Wednesday, Friday, and Saturday of one of the two weeks have fasted, and likewise have confessed their sins and been refreshed by Holy Communion, and have given alms," etc. But from these words it is evidently clear that the three fasts are to be made in the same week.

Resp. 2° But it is controverted as regards the other works. - In the Bull of Pius IX for the Jubilee granted after his own exaltation, November 20, 1846, it is said: **1°** For the City: "Those who, from the sixth day of December up to the twenty-seventh day of the same month, have twice within those three weeks visited (the basilicas, etc.), and there for some space of time have prayed devoutly, and within the same weeks have confessed their sins, and reverently received the Most Holy Sacrament of the Eucharist," etc. **2°** For the World: "Those who . . . for three weeks have twice visited the churches to be designated, or any one of them, and have devoutly performed the other works," etc. Therefore, if this Bull is to be held as the norm for future extraordinary Jubilees, the negative opinion will be certain.

Quaer. 11° Whether or how travelers can gain the Jubilee?

Resp. 1° The time of the Jubilee can be prolonged for them up to their return; nor is anyone held to postpone his journey, unless he can do so conveniently. **2°** If they are found on a journey when the Jubilee is begun in their own place, they can likewise gain it there after their return. **3°** If they pass through places where the Jubilee is celebrated, they can gain it there. Thus St. Alphonsus,[1] with others commonly. This is clear from the Bulls for the Jubilee. Consult the Bull of Pius IX just cited and the Encyclical of the same Pontiff: *Gravibus ecclesiae*, 1874.

They also say that confessors can prolong the time of Jubilee in favor of those who actually are not able to perform the prescribed works, but soon afterward will be able to do so; this they extend also to the case of a moral obstacle, e.g., if the confessor judges it useful to delay sacramental absolution. But if the prorogation would have to be extended for a long time, they say that the works must be commuted.[2] Let the tenor of the concession be compared concerning this. In the Bulls of Benedict XIV for the ordinary Jubilee we do not find such a faculty of proroguing.

To this also pertains the decision of S. C. I., November 28, 1759: In the case in which someone, having performed the prescribed works in one week, is sent away unabsolved to another time, he is not held to repeat the works which he has already performed in the time of the Jubilee when he will be absolved, for the effect of gaining the Indulgences of the Jubilee.[1]

Quaer. 12° Whether the Jubilee can be gained several times?

Resp. Yes, according to *Acta*,[2] as regards the Indulgence, unless the contrary is said in the concession, either implicitly or explicitly. No, according to all, as regards the privileges.

Quaer. 13° Whether through an **INVALID** Confession in Jubilee censures and reservation of sins are removed?

Resp. No, according to St. Alphonsus. See n. 1403. q. 2°. R. 2°. a).

Quaer. 14° Whether he sins gravely who, after he has been absolved from reserved things, does not fulfill the other prescribed works?

Resp. No, with the common opinion. The reason is that it does not appear that such an obligation was imposed either from the nature of the Jubilee, or from the precept of the Pontiff or of the confessor.[3] But he who, with a true intention of gaining the Jubilee, has been absolved from censures, or dispensed in a vow or irregularity, does not fall back in, if afterward, his will being changed, he does not gain the Jubilee, even culpably.[4]

Quaer. 15° Whether he who has confessed in the time of Jubilee, and forgot to confess his reserved sins, can then be absolved by any confessor?

Resp. 1° Yes, if the confessor had the express intention of absolving from all sins, even reserved ones.

Resp. 2° Yes also, more probably, if the confessor did not think about this; because the penitent by force of the Jubilee acquired the right that he could be absolved by any confessor. - Thus more commonly with St. Alphonsus.[5]

But if someone has begun a Confession within the Jubilee which, being materially imperfect, has to be deferred longer, he will be able to be absolved from all reserved sins either then or afterward.[6]

Note. - a) In the Jubilee of the holy year, or the greater Jubilee, for the whole year all other Indulgences, both plenary and particular, granted for the living, are suspended, but not real or local Indulgences, nor those granted for the dead. Indeed, from the concession of Benedict XIV, all Indulgences, even those which otherwise were not applicable to the dead, can be applied to them in this year.

From the suspension of Indulgences for the living are excepted: **1°** Indulgences for the dying; **2°** Indulgences for the prayer *Angelus*; **3°** Indulgences for visitation of the Most Holy Sacrament solemnly exposed in the Prayers of the Forty Hours; **4°** Indulgences for those who accompany the Most Holy Sacrament carried to the sick; **5°** all Indulgences which are granted to particular persons, or by another than the Pope. These are deduced from the Constitutions of Benedict XIV and Leo XII and from St. Alphonsus, L. VI. 535. R. II. 1°.

b) Even outside Rome, faculties of absolving from cases reserved to the Holy See and of commuting vows, etc., are suspended, except however the faculties of the Schedule of S. Paen., and those which are recognized to have been granted and permitted to Bishops by common law or through Apostolic concession for the habitual government of dioceses, or for determinate cases or persons, and those which have been bestowed by the Apostolic See on Superiors of Regulars with respect to their own Regular subjects. - Cf. Benedict XIV, May 17, 1749, C. *Cum nos*. Nevertheless, the suspension either of Indulgences or of faculties has no place at that time at which the greater Jubilee is extended to the world, nor in extraordinary Jubilees.[1]

Notes near n. 1786, Jubilee questions on travelers and repetition (printed pp. 383-384).

1 T. VII. pp. 174, 175. | **2** L. VI. 538. q. XI.

Notes near n. 1786, prorogation for travelers and delayed absolution (printed p. 384).

1 L. VI. 538. | **2** Bouvier, T. IV. ch. III. § 4.

Notes near n. 1786, reserved sins and effects after Jubilee absolution (printed p. 384).

1 Prinz. n. CCXLIV. | **2** T. VII. p. 222 in note. | **3** T. VI. 537. q. III. | **4** Benedict XIV, c. Benedictus, § 6; c. Inter praeteritos, § 86. | **5** L. VI. 537. q. IV. | **6** Ib. 535 sub 3.

Notes near n. 1786, suspension of indulgences and faculties (printed p. 384).

1 Bouvier, P. IV. ch. V. Acta, T. 8. P. 486.

ON CERTAIN SPECIAL INDULGENCES.

§ I. On the Indulgences of the Way of the Cross

1787. - I. Requisites on the part of the Way of the Cross itself. - First of all there is need of the canonical erection of the stations, for which, besides Apostolic faculty (see p. LXXIII. 10), in general the written license of the Ordinary is required.[2] The restriction previously subsisting, by which it was provided that in places in which monasteries of the Friars Minor exist the Way of the Cross should not be established in churches not subject to the same Order, His Holiness our Lord Pope Pius IX removed by decree of S. C. I., May 14, 1871, and granted that the stations of the Way of the Cross, the other things otherwise to be observed by law being observed, could be erected everywhere in churches and pious places.[1]

Nevertheless the faculty itself which is communicated to our Bishops is so restricted that they cannot use it, or subdelegate it to others, "in places, . . . in which . . . Franciscan Fathers are present."

By "Franciscans" are understood "Religious subject to the Minister General of the Friars Minor, both of the Observance and of the Reformed."[2] Therefore neither Capuchins nor Conventuals.

By "in places" are understood not dioceses, but "a city, town, village with its respective suburbs, or places adjacent to them."[3]

But the faculty of our Bishops is not limited to Churches or Oratories, so that also outside them, e.g., in cemeteries or in cloisters, they can erect the Way of the Cross. This is argued from the Resp. of S. C. Indulg., December 14, 1857.[4]

The Indulgences of the Way of the Cross are annexed only to the Crosses (which must be wooden, and, if they are ornamented with metal, visible), but not to the images, which are not necessary[5] nor necessarily blessed.[6] - Therefore new images can be substituted without detriment to the Indulgence, provided that all the superimposed Crosses, or the greater part of them, remain.[7] - The Crosses can also be transferred from an old panel to a new one, without there being need of a new canonical erection of the stations,[1] provided the Way of the Cross remains in the same church.

As regards the arrangement of the stations, some distance between one and another is required.[2]

After the blessing of the Crosses has been made, there will be no need that the one having the faculty go through the stations; indeed even the affixing and placing of them can be done by any other person, and even at another time privately and without ceremonies.[3]

The method for erecting the stations of the Way of the Cross, see *Rit. Rom. Baltim.* 1873, p. 465 sq.; - the formula for making attestation concerning the erection, ib. p. 472.

Notes to nn. 1787-1788 - note sequence 1. (2) Addendum and Corrigendum. - The Most Reverend Archbishop N. N. enjoys an Apostolic indult of erecting the Way of the Cross with the faculty of communicating a license of this kind also to other priests subject to his spiritual jurisdiction. Supported by such an indult, he has bestowed the aforesaid faculty upon the priests of the archdiocese in a general way, so that in individual cases they need not have recourse to him. But since, according to the decrees of the Sacred Congregation of Indulgences set forth above, erections of the Way of the Cross of this kind are deservedly to be considered invalid, hence the humble petitioner, on bended knee, asks that Your Holiness deign to heal in the root all and singular erections of the Way of the Cross existing for the time being in the Archdiocese N. N., which may have been invalid either because of the cause stated in the petition or because of any other cause. - From the Audience of His Holiness held on 21 Oct. 1883: Our Most Holy Lord Leo XIII, Pope by Divine Providence, . . . deigned graciously to grant the requested sanation; but in order to avert in the future any doubt concerning the legitimate erection of the Way of the Cross thereupon, the Parish Priests or Rectors of the churches in which the Way of the Cross was erected in the manner set forth should take care to ask in writing from the Ordinary the required consent for each erection individually. The Pastor, vol. II, p. 23 (125). - For the peace of consciences we add that by Our Most Holy Lord Pope Leo XIII, on 31 July 1883, all defects which have occurred anywhere in the erection of the Way of the Cross were healed. The Pastor, vol. II, p. 21 (121). Notes to nn. 1787-1788 - note sequence 2. (1) Acta, T. VI. p. 327. (2) Prinziv. n. LXVII, n. LXXXIX, n. CXXI, n. CXXXIV, n. CCLI. (3) Ib. n. DCLXXIII. (4) Ib. (5) Ib. n. 494. Dub. 4. n. 567. Acta, T. XI. p. 401. (6) Prinz. n. CCCCLXXXVI. (7) Ib. n. DLXIV. Notes to nn. 1787-1788 - note sequence 3. (1) Ib. n. DLXX. (2) Ib. n. CCVI. (3) n. DXLV, DLXXIII. (4) Prinz. n. DVII. (5) Ib. n. CCXXXVI. (6) Raccolta, p. 90. (7) Prinz. n. DCLXXVI. (8) Ib. n. CCXLIX. Notes to nn. 1787-1788 - note sequence 4. (1) Ulrich, P. III. ch. II. p. 233.

1788. - II. Requisites on the part of those who make the Way of the Cross. - There is not required - the recitation of six *Pater*, *Ave*, and *Gloria* besides the visitation of the stations; - nor *Adoramus te, Christe*; *Pater noster*; *Ave Maria*; *Miserere nostri, Domine*. S. C. Ind., September 22, 1829.

But there is required:

1) Some motion of the body, ordinarily by proceeding from one station to another, insofar as circumstances (e.g., the multitude visiting the Way of the Cross, the capacity of the place) permit it.[4] But in the public exercise of the Way of the Cross, when disturbance can be excited, each person of

the people keeping his own place, the priest with two clerics or cantors should go around, stopping at each station, and there reciting the particular accustomed prayers, the others responding alternately.[5]

2) Meditation - but only some meditation, and according to the capacity of each one - on the Passion.[6]

3) A visitation, not morally interrupted, of the 14 stations according to their order.[7]

But an interruption which is made for hearing Mass, receiving Holy Communion, making Confession, and things of this kind, is not moral, since there is no digression to extraneous acts.[8]

Note. - For gaining the Indulgences of the Way of the Cross by means of a Crucifix blessed for this effect by one having power, there is required:

a) Impossibility (physical or moral) of visiting canonically erected Stations.

b) That the Crucifix be held in the hand while the prayers are recited.

c) That 20 *Pater*, *Ave*, and *Gloria Patri* be recited, namely 1 *Pater*, *Ave*, and *Gloria* for each station; 5 in memory of the 5 Wounds of Our Lord Jesus Christ; and 1 according to the intention of the Supreme Pontiff. No other prayer or meditation is required.[1]

§ II. On the Indulgences of Crosses, Sacred Medals, Rosaries, etc

1789. - 1) Let the things noted at n. 1779. q. 19°. 20°; n. 1780. 3°. 6°. 7° be recalled. But the Indulgences proper to these objects, see Conc. Pl. Balt. II. p. 340.

2) To one and the same of these objects several diverse Indulgences - indeed also at the same time to several objects, whether of diverse or of the same kind, all the Indulgences proper to the same - can be applied by one blessing, i.e., by one Sign of the Cross.[2] Nevertheless the Rosaries of St. Dominic and the Chaplets of the Seven Sorrows of the Blessed Virgin Mary must be blessed with their own formula,[3] which see in *Rit. Rom. Baltim.* 1873, p. 474, 493.

3) An Indulgence granted to a Crucifix is affixed to Christ alone; this, therefore, can be transferred from one Cross to another.[4]

4) For gaining the Indulgences of Rosaries to which Papal Indulgences have been applied (or those of the List of Conc. Pl. Balt. II. p. 340): **a)** it suffices that, if several recite together, other cares however being set aside, only the owner of the Rosary hold it in his hand;[5] **b)** meditation on the Mysteries is not required;[6] **c)** it is required that the recitation not be morally interrupted.[7] See the things said at n. 1788. 3).

Note. - All these things also are required and suffice for gaining the Indulgences of the Rosary of St. Dominic, except: **1°** that the Mysteries are to be meditated upon by those who are capable of meditating on them;[8] **2°** that the confreres of the Most Holy Rosary gain the Indulgences granted to them, although they morally interrupt the Rosary, provided they complete the whole Rosary (15 decades) within one week.[1]

Notes to n. 1789. (2) Prinz. n. D. sub 5°; n. DXLIV. (3) Acta, T. I. p. 549 sq. (4) Prinz. n. D. sub 6°. (5) Ib. n. DCLXXV. (6) Ib. n. CCCCXCI. (7) Ib. n. DCLXXVI. (8) Ib. n. DXXVIII. ad 8. Racc. p. 153. (1) Prinz. n. DCLXXVI.

§ III. On the Indulgences of Confraternities

1790. Questions. - Quaer. 1° 1) What are confraternities? **2)** What is their origin? **3)** By whom can they be erected?

Resp. to 1st. They are congregations of the faithful (but not of Religious) instituted by ecclesiastical authority for exercising pious works.[2] But by the name of Archconfraternity is understood a confraternity having the privilege of aggregating others to itself, and of communicating to them the spiritual graces granted to itself by the Holy See.

Resp. to 2nd. Confraternities owe their origin remotely to the zeal of association, which always flourished in the Church;[3] but especially to the Orders of Regulars, to whom it was granted to erect congregations of laypeople, and to communicate to them various spiritual graces.[4] The more celebrated Confraternities of this kind are, e.g., the Rosary, which owes its origin to the Dominicans, - the Scapular, which owes its origin to the Carmelites, - the Blessed Virgin Mary, which owes its origin to the Jesuits, - the Holy Family J. M. J., which owes its origin to the Redemptorists, etc., etc.

Resp. to 3rd. They are erected either by Ordinaries (under whose name Vicars General do not come here[5]), or, with the consent of the Ordinary, by Superiors of Orders to whom this has been granted. But confraternities erected by Ordinaries are customarily aggregated to some Archconfraternity, so that they may participate in its Indulgences, etc.[6]

Quaer. 2° What things are to be observed in instituting, - aggregating, - governing confraternities?

Resp. The principal things are these: **1)** Only one confraternity of the same kind can be instituted or aggregated in the same church, or even in the same or another place within three miles. Except confraternities of the Most Holy Sacrament, of Christian Doctrine, which can be instituted in individual parishes, and those for which a similar grace shall have been obtained from the Holy See.

Addendum and Corrigendum to Resp. under 1. - Add the following response, or rather indult. "The Vicar General N. N., prostrate at the feet of Your Holiness, humbly sets forth as follows. As regards the erection of confraternities of the same name and institute, the law requires a certain distance of churches. But among us, and in most cities of the United States of North America, in the same place there are quasi-parochial churches for diverse nations speaking diverse languages, chiefly English and German. The parishes have boundaries so distinguished one from another as to the others, that the faithful of the English language, for example, belong to their own churches, and those using the German language to other churches of their own language, and have almost no communication among themselves. By this law it happens that very often two churches, although of diverse language, have almost no distance between themselves. This division and separation is of greater difference in reality than mere local distance. For morally it is impossible that, if there is question of a confraternity erected in a church of one language, the faithful using another language should approach this for enrollment, and especially for public devotion in a different vernacular language. Therefore it is asked whether the law concerning the distance of confraternities also avails for these circumstances or not?

"From the Audience of His Holiness, held on 21 October 1883. Our Most Holy Lord Leo XIII, Pope by Divine Providence, upon the report of me, the undersigned Secretary of the Sacred Congregation de Propaganda Fide, deigned graciously to consent in favor of the grace of dispensation from the

required distance, yet under this condition, that each instituted Confraternity can enroll only those who belong to the determinate nation for which, as is said, the same Confraternity has already been erected or is to be erected. And this under penalty of nullity of the Indulgences." *The Pastor*, vol. II, p. 22 (124).

The response contains an indult, which avails only for the diocese of that Vicar General.

2) Let the statutes of confraternities be examined and approved by the Ordinary of the place, and they can be corrected and changed by him. He also constitutes the moderator, with power, if it so pleases him, of subdelegating another.

3) Those instituting or aggregating a confraternity should communicate to the same: **a)** expressly and in species the privileges, Indulgences, etc., granted by name to the Order instituting or aggregating, but not by way of communication; **b)** they should observe the formula prescribed by the Holy See, which see in *Acta*.[1]

4) Graces and Indulgences communicated to a confraternity are to be promulgated only after recognition by the Ordinary.[1]

Thus from the Constitution of Clement VIII, *Quaecumque*, December 7, 1604, and later decrees.

Quaer. 3° What confraternities, with the Indulgences annexed to the same by the Holy See, can our Bishops institute?

Resp. The confraternities of the Blessed Virgin Mary of Mount Carmel, of the Most Holy Rosary, of a Good Death (see p. LXXIII. n. 9).

Note. - It is pleasing to add in this place a summary of certain other declarations of S. C. Ind. concerning Confraternities useful to know.

1. Partial or general non-observance of the statutes of some Confraternity on the part of the members does not hinder the acquisition of Indulgences; for the statutes are given rather for the governance and right administration of the Confraternity, but by no means as works enjoined for gaining Indulgences. Prinz. n. DXXV. 2°. Therefore they can also be changed by Ordinaries according to circumstances. If nevertheless some articles of the statutes propose certain works to be performed by the members, which from Pontifical concession are enriched with indulgences, these must be held as essential and can in no way be changed by the Bishop, lest the members be defrauded of the spiritual benefit of Indulgences. Ib. n. DLI.

2. For gaining Indulgences it suffices that someone has been legitimately enrolled in the Confraternity and fulfills the conditions under which they were granted. Ib. 1°. 3°. Therefore that public reception of members is not necessary which, according to the statutes of certain Confraternities (e.g., of the Most Holy Family), is celebrated with some solemnity at some time after the private reception.

3. Where no daily prayers are prescribed to confreres for the effect of gaining Indulgences, they are not held to recite any determinate prayers. Ib. n. DCI.

4. Confraternities of laypeople cannot be erected in the churches of Nuns, as has often been decided by S. Congr. of Bishops and Regulars.[1]

5. No one absent can be enrolled in any Confraternity: understand this according to the Response of S. C. Ind., November 26, 1880, whose summary is handed down at (50) p. 429.

Several kinds of Scapulars are given, for example, of the Most Holy Trinity, of the Blessed Virgin Mary of the Seven Sorrows, of Mount Carmel, of the Immaculate Conception, of the Passion, etc.

From Fr. Ulrich we transcribe the following.

Notes to nn. 1790-1795 - note sequence 1. (1) Acta, T. IV. p. 99. (2) Ib. 219. (3) Ib. T. I. p. 430. Notes to n. 1790 - note sequence 1. (2) Craisson, Manuale, n. 4654. (3) Conc. Pl. Balt. II. a. 477. (4) Craisson, Manuale, n. 4655. (5) Acta, T. IV. p. 103 sq. (6) Craisson, Manuale, n. 4656. Notes to n. 1790 - note sequence 2. (1) T. II. p. 57 sq. The formula is to be observed only by Regulars and by Archconfraternities. Notes to n. 1790 - note sequence 3. (1) Rev. Th. T. XII. p. 552 sq. ### § IV. On the Indulgences of Scapulars. Notes to nn. 1790-1795 - note sequence 2. (1) Acta, T. IV. pp. 220, 221. (2) Prinz. n. DLXIX. (3) In Ulrich, p. 117 (1). Notes to nn. 1790-1795 - note sequence 3. (1) De festis, L. II. C. VI. (2) July 16, Lect. V. VI. (3) Ib. Lect. VI. (4) Prinz. n. DXIV. ad 2. (5) Ib. n. DXXXIV. (6) p. VI. 534 ad 15. Appendix annotation (50), to n. 1790. q. 3°. p. 387. col. 2. The Decree of the Sacred Congregation of Indulgences, 13 Apr. 1878, by which absentees are prohibited from being enrolled in pious sodalities, the same Sacred Congregation, on 26 Nov. 1880, issued a benign interpretation of, whose summary is this: 1. "A distinction must be made between Sodalities canonically erected for the whole Catholic world and Sodalities canonically erected only for a certain diocese or region." In relation to these latter, "the faithful who dwell outside the limits established for the local Sodality are called absent, indeed they can be called not simply absent, but even strangers." In relation to the former, no one is a stranger; and although the personal presence of those to be enrolled is required, nevertheless presence is not required "at the place where the Sodality canonically erected has its proper seat and center; but the presence of those to be enrolled before anyone who, in whatever place, legitimately has the delegated or subdelegated faculty of enrolling suffices. But moral, interpretative, or representative presence by letters or in any other way through intervening persons, even, does not suffice." 2. In receiving members, certain Sodalities, "according to their proper laws for the inscription of members, observe some certain form with some solemnity and rite, such as public petition and presentation of candidates, some probation and novitiate, or at least imposition of a habit, scapular, cincture, which from its nature" requires "personal presence." For these, "no general and ordinary exception is given from the law concerning absentees not to be enrolled; only this is conceded to their Moderators and their delegates, that in singular cases they can dispense from the established form between those present, and also duly enroll absentees by a singular or extraordinary exception." But "for Sodalities" which "have no form and ceremony between those present for the enrollment of members, let the decree as regards absentees be duly observed insofar as it can be done; and rather let enrollment in person be rendered easier and promoted as far as possible, by multiplying canonically the centers of associations and increasing, as opportunity suggests, the number of Zelators, Zelatrices, Promoters, or by whatever name they are called, who, according to the approved laws of the Sodality, have not only the office of promoting enrollments in whatever way, but also the subdelegated faculty of enrolling. But since this can be done neither always nor everywhere, nor plainly suffices, ... by a broad exception from the letter of the law with apostolic authority," the Sacred Congregation "declares that even absentees can be enrolled in pious Associations of this kind," namely "also by letters," "or by intervening persons who represent them." 3. Special exceptions legitimately existing, for example by force of privilege, etc., the Sacred Congregation holds as ratified and confirms, and 4. It sanates invalid enrollments of absentees, if any were made up to 26 Nov. 1880.

§ IV. On the Indulgences of Scapulars

1791. - In order that one may participate in the spiritual graces of Scapulars, these four things in general are required:

I. It is necessary that the Scapulars be of the prescribed matter, color, and form.

II. They are to be blessed and imposed by one having faculty.

III. Reception into the confraternity is necessary.

IV. They are to be worn constantly, and indeed after the manner of a Scapular.

The individual requisites are explained.

I. a) Matter. - It is necessary that Scapulars be of wool, and indeed woven, not knitted, or embroidered by needle, although they can have knitted or embroidered ornaments, even not of wool, provided these are not of such a kind that the prescribed color no longer prevails.

b) Color, - namely white with a visible Cross, whose upright is of red wool and whose crossbeam (under it) is of blue wool for the Scapular of the Most Holy Trinity; - black for the Scapular of the Blessed Virgin Mary of the Seven Sorrows; - dark brown or black for the Scapular of the Blessed Virgin Mary of Mount Carmel; - blue (azure) for the Scapular of the Blessed Virgin Mary of the Immaculate Conception.

c) Form, - namely they ought to consist of two parts in such a way that one descends over the breast, the other over the shoulder; yet it does not hinder validity if the little cloths of various Scapulars, some placed over others, are sewn to only two cords, which cords however ought to be of red color (this at least is safer) if one joins the Scapular of the Passion of the Lazarists to the four aforesaid Scapulars. - S. C. Ind. also decreed, August 18, 1868,[1] that nothing was to be changed as regards the oblong or at least square form of the Scapular.

1792. - II. Blessing and imposition by one having faculty.

a) Blessing and imposition, - by the prescribed or indulted formula, pronouncing at least the words which are substantial. You have most blessings in *Rit. Rom. Baltim.* 1873. - When several together desire to receive the Scapular, it is lawful to use in the plural the formula: *Accipite viri devote*, etc.; yet, unless a special indult is had, the Scapular must be imposed on each one to be aggregated, and indeed by one having power, but not (outside the case of a special indult) by the one to be aggregated. - Nevertheless a priest having the faculty of blessing some Scapular can bless and impose it on himself, provided that he has that faculty indiscriminately, and not only taxatively, e.g., for some community of Nuns only.

Addendum and Corrigendum to a). - It was asked: "Whether one who obtained from the Superior of the respective Order the faculty of blessing and imposing 'the said four Scapulars' (which are blessed and imposed by the Fathers of the Congregation of the Most Holy Redeemer) can licitly and validly use the shorter formula approved by the Sacred Congregation of Rites" (for the aforesaid Fathers), "without having obtained for this a special faculty from the Holy See?" The response was given by the Sacred Congregation of Indulgences, on 12 Sept. 1883: "Validly indeed, but not licitly." *The Pastor*, vol. II, p. 22 (123).

"Sometimes it happens, . . . that, when a priest legitimately deputed for this imposes the Scapular . . . on the faithful, Scapulars are lacking before satisfaction could be given to the desires of all the faithful." Hence it was asked: "Whether one and the same Scapular once blessed can validly be imposed on several in turn, only the formula of reception or imposition being repeated over each one?" - S. C. Ind., July 20, 1868,[2] responded: "Affirmatively; yet in such a way that the first Scapular which the enrolled person afterward must wear be blessed."

A Scapular can also be blessed and imposed on little children not yet having obtained the use of reason. S. C. Ind., August 29, 1864.[3]

If it happens that a Scapular is lost or worn out, each one can assume for himself a new one not blessed. Except, outside the case of a special indult, the Scapular of the Most Holy Trinity, which must be blessed anew, even in the case in which the red and blue Cross is no longer found on it.

b) Blessing and imposition by one having faculty.

That faculty is obtained either from the Holy See, or from Superiors General (or Religious deputed by them) of the Orders which wear that larger Scapular to which the small one corresponds. - Our Bishops can and are accustomed to grant the faculty of blessing the Scapular of the Blessed Virgin Mary of Mount Carmel. See p. LXXIII. n. 9.

c) One having the faculty of blessing a certain Scapular, by that very fact has the faculty of granting to those aggregated in the article of death the general absolution, yet, under penalty of nullity, by the formula of Benedict XIV, c. *Pia Mater*, with the name of the proper holy Founder added to the *Confiteor*. S. R. C., May 7, 1882.

1793. - III. Reception into the confraternity in the case in which reception of the Scapular carries with it reception into the confraternity, as when the Scapular of the Most Holy Trinity, or of the Blessed Virgin Mary of the Seven Sorrows, or of Mount Carmel is received.[1]

But inscription of the names of those received, outside the case of a special indult, "is necessary for those receiving the Scapulars of the Most Holy Trinity and the Blessed Virgin Mary of the Seven Sorrows; but not for those receiving the Scapular of the Blessed Virgin Mary of Mount Carmel. - Nevertheless the aforesaid priests are to be warned," i.e., those to whom belongs the faculty of receiving the faithful into the sodality of the Blessed Virgin Mary of Mount Carmel, "that they not omit to have the names of those received enrolled in the list of the nearest sodality itself, or respectively of the Monastery of Religious, lest in their death they be deprived of suffrages." Thus S. C. Ind., September 17, 1845.[2]

The material act of inscribing can be done by anyone. S. C. Ind., September 25, 1844.[3]

1794. - IV. Wearing of the habit, - a) so continuous that, by the very long time during which you put off the Scapular, or by the motive for which you put it off, you do not seem to renounce the sodality. Therefore he who has put off the Scapular from contempt or from impiety, or for a time so long that he had almost lost the memory of the sacred habit, will more safely take care that the Scapular be blessed and imposed on him anew. - **b)** After the manner of a Scapular, namely so that hanging from the neck, by one part it covers the breast, by the other the shoulders. - Yet it is not necessary that it be worn immediately upon the body, so that it physically touches it.

1795. - Quaer. What is required so that someone may enjoy the privilege called Sabbatine?

Resp. 1° This privilege, concerning which see Benedict XIV[1] and the Roman Breviary,[2] is annexed only to the Scapular of the Blessed Virgin Mary of Mount Carmel.

2° Besides those four things concerning which we spoke in nn. 1791-1794, there is required:

a) That each one cultivate chastity according to the manner of his state.[3]

b) That he who knows how to read daily recite the little Office of the Blessed Virgin Mary, i.e., the nocturn of the day with Lauds, and the other hours of the same day, and this according to the Roman

rite, unless someone has his own rite approved by the Holy See - excepting however those who are already held to recitation of the divine Office.

c) That those who do not know how to read observe the fasts of the Church, and abstinence on Wednesday and Saturday, except the day of the Nativity of the Lord.

But "a grave impediment supervening," e.g., grave illness, S. C. Ind.[4] responded that confreres are not held to the things said under **b)** and **c)**; "nevertheless the faithful are to be counseled that in this case they subject themselves to the judgment of a learned and prudent confessor for obtaining some commutation." - But if there is question of a non-grave impediment, commutation must be obtained from a confessor endowed expressly with faculty for this;[5] but the commutation does not necessarily have to be made in Confession.[6]

§ V. On the Privileged Altar

1796. Questions. - Quaer. 1° What is the privilege of the altar?

Resp. It is called that by force of which, from Pontifical indult, through the celebration of Mass a plenary Indulgence applicable only to the dead is granted.

It is said: *only to the dead*; for privileged altars even for the living are rare.[7]

Quaer. 2° How many kinds of privileged altar are distinguished?

Resp. Twofold; namely local, or real, if it is annexed to an altar designated for this; personal, if it is granted to some person.[8]

Notes to nn. 1796-1798 - note sequence 1. (7) Anal. J. P. Series 8. col. 2060. (8) Ib. col. 2150. XIX. 3. Notes to nn. 1796-1798 - note sequence 2. (1) S. C. Indulg. from 1750 in Anal. J. P. Series 8. col. 2067. (2) Ferrar. T. I. col. 1488. (3) Anal. J. P. Series 8. col. 2068. (4) Prinz. n. CCXLII. (5) Anal. J. P. Series 8. col. 2070. Acta, T. III. p. 99 sq. (6) Anal. J. P. Series 8. col. 2124, 2125. (7) Ib. col. 2127 sq. Prinz. n. CXV. and DCLVII. Notes to nn. 1796-1800 - note sequence 1. (8) De Herdt, T. III. n. 207. Notes to nn. 1796-1798 - note sequence 3. (1) Anal. J. P. Series 8. col. 2132. (2) Prinz. n. DCII. (3) Anal. J. P. Series 8. col. 2148. (4) Prinz. n. DII. (5) Acta, T. XIII. p. 198. Notes to nn. 1796-1798 - note sequence 4. (1) Acta, T. I. p. 626, and p. 42 sq. (2) Prinz. n. CCL. (3) Ib. n. DCXIX. (4) Ib. n. DLXXXVI. (5) Ib. n. DXIII. (6) Ib. n. CCL. (7) Ib. n. DCXLIII. 1. Notes to nn. 1796-1800 - note sequence 2. (1) Prinz. n. CCCLVII. 8. Cf. Acta, T. XI. p. 405. (2) De Herdt, T. III. n. 207. (3) Prinz. n. X. 2; n. CCCLVII. 5. (4) S. R. C., December 16, 1826. n. 4474-4623. in fine. (5) Prinz. n. CCCLVII. 9. (6) De Herdt, T. III. n. 209. (7) Prinz. n. DVI. 8. Notes to nn. 1796-1800 - note sequence 3. (1) Rubric of this blessing. (2) De Herdt, T. III. n. 209. Notes to nn. 1796-1800 - note sequence 4. (1) T. III. n. 210. 1°. (2) Prinz. n. CCCLVII. 6; n. CCCCLXXV. 2; n. DVI. 7; n. DXXIX. Notes to nn. 1796-1800 - note sequence 5. (1) Prinz. n. DVI. 5, 6. (2) De Herdt, T. III. n. 212.

1797. - Quaer. 3° What things are special to a local privileged altar?

Resp. They are nearly these:

1° If in the Pontifical concession no altar is designated, one must be designated by the respective Ordinary,[1] or by the Prelate endowed with jurisdiction in that place.[2] - But the Ordinary, from the concession of Benedict XIII, July 20, 1724, once for always, can designate in each patriarchal, metropolitan, and cathedral church one perpetual daily privileged altar.[3] - Likewise Clement XIII[4] willed all and individual parish churches of the whole world to be decorated with this same privilege, and indeed daily, but to last only for seven years, the Bishops however recurring to the Holy See for this grace both the first time and after the seven years have elapsed. - The faculty granted to our Bishops, see p. LXXIII. n. 8.

2° The altar to be designated must be fixed, unless in the indult it is permitted that even a portable one be designated.[5] - But fixed is understood here not in the liturgical sense, but that it be stable and immovable, although not consecrated, and that in its middle a consecrated stone, even removable, be placed. But a privileged altar, rebuilt again (even in a destroyed church, but rebuilt in the same place), does not need a new privilege, provided it is constructed under the same title or invocation.[6]

3° Outside the case of a special indult, only one altar in each church can be declared privileged; and at least if the second altar appears to have been granted under the same view as the first, and no mention of the first has been made even in the supplication, the indult, as we think (for the Decree of June 14, 1845, seems opposed only in appearance), is always to be understood with the clause: "provided there is not another privileged altar in the same church."[7] Yet this clause, at least if there is question of a privilege granted indefinitely for all, does not touch privileged altars granted for a certain company of persons, e.g., for a confraternity.

4° "The transfer of the privilege to a different altar requires the intervention of the Holy See."[1]

5° The aggregation of a church, as regards privileges and spiritual favors, to another church does not comprehend privileges of the altar. - Cf. n. 1790. a).

6° In order that the Indulgence be acquired, intention is not required, either on the part of the one celebrating on the privileged altar, or on the part of the one offering the honorarium. S. C. Ind., March 12, 1835.[2] Cf. n. 1779. q. 15°.

7° Perpetual burdens and foundations cannot be received for privileged altars. S. C. Indulg., December 14, 1711.[3]

1798. - Quaer. 4° What things are common to a local and a personal privileged altar?

Resp. 1° Either can be perpetual or temporal; - daily or restricted to certain days in the week.

2° Either has the same efficacy. - But S. C. Ind., July 28, 1840,[4] declares the efficacy of the privilege in these words: "By the Indulgence annexed to a privileged altar, if the mind of the one granting and the use of the power of the keys be considered, there is to be understood a plenary Indulgence which would immediately free the soul from all the penalties of purgatory; but if the effect of application be considered, there is to be understood an Indulgence whose measure corresponds to the good pleasure and acceptance of divine mercy."

3° Neither privilege can be applied to several souls of the dead. Thus the last declaration of S. C. Ind., June 19, 1880.[5]

4° Neither privilege benefits the dead if, as often as the liturgical rules permit it, you do not celebrate a Mass of Requiem, and indeed in black vestments, or from reasonable cause (see n. 1296. q. 10°) in violet ones. I said: *as often as the rules*, etc., i.e., as often as there is not an obstacle either from the rubric, or from a particular disposition, e.g., by reason of exposition of the Most Holy Sacrament when the prayer is for a public cause, or some solemnity. - But he who has the personal privilege for four Masses in each week ought to celebrate the Mass of Requiem on days not impeded, or defer it to days not impeded, insofar as they occur in the same week.[1]

5° A greater stipend cannot be accepted for the application of a Mass with the privilege of the altar; for this would be simoniacal.[2]

6° Whether the state of grace is required in the priest, so that the privilege of the altar be gained, is controverted.[3]

7° Concerning the obligation of the priest of applying the privilege, see n. 1325. q. 14°. q. 15°. - But whether the decree of S. C. Ind., February 16, 1852,[3] abrogates the decree of the same S. Congregation of February 22, 1847,[4] or derogates from it in some point, is doubtful to us; therefore, until the matter becomes clearer, we adhere to the opinion of St. Alphonsus, which we reported at n. 1325. q. 14°.

Quaer. 5° When is the privilege of the altar acquired without some special concession?

Resp. 1° At the time of the Prayer of Forty Hours, all the altars of any church in which that prayer is held are privileged.[5]

2° On the second day of November, Masses enjoy the privilege, as if they were celebrated on a privileged altar.[6]

3° A priest who has made the oblation concerning which in n. 1779. q. 6°. R. 1° enjoys the indult of a daily personal privileged altar.[7]

Note. - The personal privilege of the altar which through our Bishops can and is accustomed to be communicated to priests of their dioceses, see p. LXXI. n. 20.

§ VI. On the Indulgence of the Apostolic Blessing, or General Absolution in the Article of Death

1799. - Benedict XIV, in the Constitution *Pia Mater*, April 5, 1747, among other things established:

1° That Bishops who are placed over churches, or transferred to the governance of other churches, will obtain the faculty of imparting the blessing with plenary Indulgence to the faithful constituted in the article of death, for the whole time during which they will hold the governance of the Church once obtained, the faculty also being added of subdelegating, insofar as they shall have petitioned the aforesaid faculty.[8]

2° That Bishops furnished with this faculty of subdelegating can subdelegate in their cities one or more priests, as they shall judge necessary, and in dioceses as many as, according to the number of souls existing in the dioceses, they shall have judged necessary. Nevertheless priests deputed and subdelegated can be removed by Bishops according to their judgment and prudence, and others can be substituted in their place.[1]

3° That indults granted to Bishops do not expire by the death of the Supreme Pontiff granting them; nor do subdelegations cease by the withdrawal or death of the Bishop subdelegating; but they persevere until the arrival of a new Prelate, by whose judgment they can be confirmed or revoked. Yet these subdelegations, if they are not revoked by the successor, are judged to be confirmed.[2]

1800. Questions. - Quaer. 1° To what sick persons in the article of death is this blessing to be imparted?

Resp. Generally to all asking,[3] who are not excommunicated, impenitent, and are not dying in manifest mortal sin; also to children who were able to sin, or to whom absolution and Extreme

Unction are ministered;[4] likewise to those deprived of the use of the senses, delirious and insane, to whom the same Sacraments are ministered, as Benedict XIV prescribes in the rubric of this blessing.

Quaer. 2° What things are required on the part of the priest for imparting this Indulgence?

Resp. 1° That he be delegated. - But the delegation can be restricted, e.g., as regards Nuns, to their ordinary confessor alone,[5] and by law it is restricted to the diocese of the one delegating; but within its limits it is valid for all indiscriminately, whether they are of another diocese, or Regulars, or other persons immune from the jurisdiction of the delegate.[6]

2° That he use the formula prescribed by Benedict XIV, which is not only directive, but prescriptive.[7] See the formula in "Excerpt. ex Rit. Rom.," Ed. 1872, p. 248; Ed. 1874, p. 240.

3° That, "if the sick person wishes to confess, he hear him and absolve him. If he does not ask for Confession, let him excite him to eliciting an act of contrition; concerning the efficacy and virtue of this blessing, if time permits, let him briefly admonish him; then let him instruct and exhort him, that he willingly endure the inconveniences and pains of illness in expiation of his past life, and offer himself to God prepared freely to accept whatever shall please him, and patiently to undergo death itself in satisfaction of the penalties which he has deserved by sinning. Then with pious words let him console him, raising him into hope that, from the largess of divine munificence, he is about to obtain that remission of penalties and eternal life."[1] Finally, if other conditions are required, he ought to propose them to the sick person, so that he can fulfill them; concerning these in what follows.

It is to be noted here that the priest sometimes ought to be circumspect, lest, by exhorting the sick person to undergo death patiently in satisfaction of penalties, he offend the same, or incur the indignation of him or of the friends standing by. Therefore, if difficulties are foreseen, it will sometimes be advisable to exhort the sick person to undergo death patiently in Confession or in the absence of others; for, although for obtaining the Indulgence it is required that the sick person receive death from the hand of the Lord with an even and willing mind, nevertheless it is not required that this exhortation be made immediately before the application of the Indulgence, but it suffices that the sick person have that disposition. If this cannot be done, it is fitting to moderate the exhortation in such a way, and to propose it so prudently and gently, that the sick person be prepared to receive death itself from the hand of the Lord with an even and willing mind.[2]

Quaer. 3° What things are required on the part of the sick person for gaining this Indulgence?

Resp. 1° Grave infirmity. But how great the infirmity ought to be is not so clear. Certainly the article of death suffices, by which is understood, not indeed agony, but evident and imminent danger of death. Nor is it advisable to await the agony itself, lest the sick person, deprived of the use of the senses, be incapable of the disposition required for gaining the Indulgence, or less suited for the same. But it is doubtful whether it is validly granted to those who indeed are so gravely sick that the last Sacraments are administered to them, but nevertheless are not so near to death that they can be said to be constituted in the article of death. See the arguments for and against in De Herdt.[1] The affirmative opinion seems to us much more probable and confirmed by practice.

2° An intention, not indeed actual or virtual, but interpretative, as is clear from the words of the rubric: "or" they "would likely have asked for" that blessing.

3° That the sick person has confessed and been refreshed by Holy Communion, or, insofar as he was unable to do this, is contrite.[2]

4° That he invoke the name of Jesus with the mouth, if he can; if not, with the heart.

5° That he receive death itself from the hand of the Lord with an even and willing mind.

It is to be noted that the aforesaid conditions are required *per se*, if namely the sick person is of sound mind and with his senses whole; otherwise, insofar as he was capable of fulfilling them, as is clear from the rubric of the blessing, where it is said that the same is to be imparted even if the sick are deprived of the use of the tongue and of the other senses, or have fallen into delirium or insanity. Nevertheless the state of grace, as being altogether necessary for gaining indulgences, is always required.

Quaer. 4° Whether this apostolic blessing can be repeated?

Resp. No, in the same article of death, and whether by the same priest or by several priests having this faculty (although from a different head, e.g., by reason of the Scapular. See n. 1792. c.). - Yes, if someone has recovered and has fallen again into danger of death. Cf. Schneider, *Die Ablasse*, p. 611 sq.

Quaer. 5° By what rite is this blessing to be given?

Resp. The priest for this blessing is vested in surplice and stole, namely violet, because it pertains to a penitential rite. - Entering the sick person's room he says: *Peace be to this house*, etc., and then sprinkles the sick person, the room, and those standing around with blessed water, saying the antiphon *Thou shalt sprinkle me* without the psalm *Miserere* and the repetition of the antiphon, because Benedict XIV does not speak of these.

Then he performs those things which were said above in q. 2°. R. 3°. Then he recites the prayers which you have in "Excerpta ex Rit. Rom.," Ed. 1872, p. 248; Ed. 1874, p. 240.

If the Apostolic blessing is imparted immediately after Viaticum and Extreme Unction, the *Confiteor* must be repeated before the application of the Indulgence;[1] but the words *Pax huic Domui* and the sprinkling of water perhaps can be omitted, because they were said and done at the beginning; nevertheless it is safer always to put these before the blessing, because Benedict XIV commands that the formula composed by him be used, and all these things are contained in the formula itself.[2]

§ VII. On the Indulgences of the Prayers of Forty Hours

1801. - From the Resp. given to the Bishop of Leavenworth (*Past. Bl. für N. Am.* 1881. p. 44), it is clear:

1° That the privilege of using the manner granted to the diocese of Baltimore, in exposing the Most Holy Sacrament and in the devotion of Forty Hours, comprehends only those things which are contained in the Decree of January 24, 1868, S. C. de P. F. - You have the Decree in Conc. Pl. Balt. II. p. CXLIX. under IV.

2° For gaining the indulgences: **a)** it is not required that the church in which this devotion is performed be visited on each day of the triduum; nor **b)** that this visitation be prolonged for one hour; **c)** the partial indulgences annexed to this devotion are gained *as often as* a new visitation is

made; **d)** those partial indulgences are of ten years and as many quarantines. See *Raccolta* (ed. 1877) p. 67, 68.

S. R. C., in Lisbon, June 4, 1874, responded that it is left to the prudence and judgment of the Ordinary, that he permit or at least tolerate the custom of keeping sacred Images uncovered in the chapel or altar of Exposition; likewise of having sermons during the same Exposition; moreover of omitting the Mass for Peace on the middle day. The reason is that the Clementine Instruction does not bind outside the City, although those are to be praised who, unless something else is established by the Ordinary, strive to conform themselves to it. Gardel. App. IV. n. 5585.

Appendix of Annotations (Volume II)

APPENDIX OF ANNOTATIONS.

Reader's note: The following printed appendix annotations have also been attached to their corresponding places in the body text. The links below jump from this printed appendix to those attached in-body notes.

Attached annotation links, part 1 of 5.

Appendix annotation	Original printed locator	Attached in body
(alpha)	n. 1268. q. 7°, p. 35, col. 1.	attached note
(beta)	n. 1403. q. 4°. R. 2°, p. 140, col. 2.	attached note
(gamma)	n. 1523. q. 3°, p. 216, col. 1.	attached note
(delta)	n. 1551, p. 239, col. 1.	attached note
(epsilon)	n. 1591. q. 1°. R. 1°, p. 258, col. 1.	attached note
(zeta)	n. 1598. q. 5°. R. 1°, p. 262, col. 1.	attached note
(eta)	n. 1606. b), p. 266, col. 1.	attached note
(theta)	n. 1606. f), p. 266, col. 2.	attached note
(iota)	n. 1612. R. 2°. p. 272, col. 1.	attached note
(kappa)	n. 1622, p. 278, col. 2.	attached note
(lambda)	n. 1623, p. 279, col. 1.	attached note
(mu)	n. 1623, § end, p. 279, col. 1.	attached note
(nu)	n. 1625. q. 2. R. 5°, p. 280, col. 1.	attached note
(xi)	n. 1717, p. 344, col. 2.	attached note
(omicron)	n. 1226. q. 2°. R. 2°. p. 10. col. 2.	attached note
(pi)	n. 1235. 3°. p. 14, col. 2.	attached note
(rho)	n. 1240. 6°. p. 16, col. 2.	attached note
(sigma)	n. 1251. II. p. 28. col. 1.	attached note
(tau)	n. 1267. 3°. p. 34. col. 1.	attached note
(upsilon)	n. 1286. q. 2°. p. 47. col. 1.	attached note

Attached annotation links, part 2 of 5.

Appendix annotation	Original printed locator	Attached in body
(phi)	n. 1298. III. p. 52. col. 2.	attached note
(chi)	n. 1298. IV. p. 52. col. 2.	attached note
(psi)	n. 1300. III. p. 55. col. 1.	attached note
(omega)	n. 1305. q. 4°. p. 59. col. 2.	attached note
(Alpha)	n. 1305. q. 4°. p. 59. col. 2.	attached note
(Beta)	n. 1305. q. 7°. R. 1°. p. 59. col. 2.	attached note
(Gamma)	n. 1305. q. 7°. R. 2°. p. 60. col. 1.	attached note
(Delta)	n. 1305. q. 7°. R. 3°. R. 4°. p. 60. col. 1.	attached note
(Epsilon)	n. 1305. q. 8°. R. 8°. p. 60. col. 1.	attached note

Appendix annotation	Original printed locator	Attached in body
(Zeta)	n. 1329. p. 81. col. 1.	attached note
(Eta)	n. 1335. p. 86. col. 2.	attached note
(Theta)	n. 1366. q. 1°. p. 111. col. 2.	attached note
(Iota)	n. 1383. p. 128. col. 1.	attached note
(Kappa)	n. 1401. q. 8°. p. 139. col. 1.	attached note
(Lambda)	n. 1618. III. p. 277. col. 1.	attached note
(Mu)	n. 1619. 1°. p. 277. col. 1.	attached note
(Nu)	n. 1628. q. 7°. R. 2°. p. 285. col. 1.	attached note
(Xi)	n. 1698. q. 1°. p. 327. col. 2.	attached note
(O)	n. 1719. 8°. p. 346. col. 1.	attached note
(P)	n. 1759. 8°. p. 366. col. 1.	attached note

Attached annotation links, part 3 of 5.

Appendix annotation	Original printed locator	Attached in body
(Sigma)	n. 1614. q. 1°. R. 2°. p. 274. col. 1; p. 398. col. 1. under 4°.	attached note
(T)	n. 1628. q. 10°. p. 286. col. 2.	attached note
(T)	n. 1693. p. 327, 328.	attached note
(Phi)	Tom. I. p. LX. Tom. II. n. 1340. q. 4°. p. 90. col. 1.	attached note
(X)	n. 1230. q. 19. p. 19. col. 1.	attached note
(Psi)	n. 1251. I. p. 23. col. 1.	attached note
(Omega)	n. 1252. p. 24. col. 1; n. 1254. q. 4°. p. 24. col. 2.	attached note
(1)	n. 1257. IV. p. 26. col. 1.	attached note
(2)	n. 1259. q. 4°. p. 27. col. 1.	attached note
(3)	n. 1262. p. 29. col. 2.	attached note
(4)	n. 1267. p. 34. col. 1.	attached note
(5)	n. 1284. q. 3°. p. 42. col. 2.	attached note
(6)	n. 1296. q. 11°. R. 1°. p. 51. col. 1.	attached note
(7)	n. 1296. q. 11°. R. 2°. p. 51. col. 2.	attached note
(8)	n. 1300. p. 54. col. 2.	attached note
(9)	n. 1309. q. 9°. p. 64. col. 1.	attached note
(10)	n. 1317. q. 2°. Note. p. 68. col. 1.	attached note
(11)	n. 1325. q. 7°. p. 74. col. 1. to II.	attached note
(12)	n. 1327. q. 7°. p. 78. col. 1.	attached note
(13)	n. 1331. q. 8°. p. 82. col. 1.	attached note

Attached annotation links, part 4 of 5.

Appendix annotation	Original printed locator	Attached in body
(14)	n. 1331. q. 18°. p. 83. col. 1.	attached note
(15)	n. 1334. 14°. p. 86. col. 2.	attached note
(16)	n. 1344. q. 8°. p. 94. col. 2.	attached note
(17)	n. 1385. q. 7°. p. 124. col. 1.	attached note

Appendix annotation	Original printed locator	Attached in body
(18)	n. 1394. q. 13°. p. 132. col. 2.	attached note
(19)	n. 1403. q. 7°. p. 141. col. 1.	attached note
(20)	n. 1410. a). 2). 3). p. 144. col. 1.	attached note
(21)	n. 1410. a). 4). p. 144. col. 1.	attached note
(22)	n. 1410. a). 5). p. 144. col. 1.	attached note
(24)	n. 1439. q. 2°. p. 167. col. 2.	attached note
(25)	n. 1449. q. 1°. p. 178. col. 2.	attached note
(26)	n. 1452. q. 2°. p. 174. col. 1.	attached note
(27)	n. 1470. p. 179. col. 2.	attached note
(28)	n. 1470. p. 179. col. 2.	attached note
(29)	n. 1508. q. 2°. p. 202. col. 1.	attached note
(30)	n. 1508. q. 3°. p. 203. col. 2.	attached note
(31)	n. 1508. q. 8°. p. 203. col. 2.	attached note
(32)	n. 1516. I. p. 209. col. 1.	attached note
(33)	n. 1517. q. 1. p. 210. col. 1.	attached note
(34)	n. 1523. q. 11°. p. 217. col. 2.	attached note

Attached annotation links, part 5 of 5.

Appendix annotation	Original printed locator	Attached in body
(35)	n. 1545. q. 8°. p. 235. col. 2.	attached note
(36)	n. 1548. q. 6°. R. 2°. p. 235. col. 2.	attached note
(37)	n. 1556. q. 2°. p. 242. col. 1.	attached note
(38)	n. 1574. q. 7°. p. 248. col. 2.	attached note
(39)	n. 1598. q. 3°. p. 261. col. 2.	attached note
(40)	n. 1598. q. 5°. R. 2°. p. 262. col. 1.	attached note
(41)	n. 1598. q. 8°. p. 262. col. 2.	attached note
(42)	n. 1605. c) p. 266. col. 2.	attached note
(43)	n. 1614. q. 1°. Resp. ... 3°. p. 275. col. 1.	attached note
(44)	n. 1628. q. 6°. p. 284. col. 1.	attached note
(45)	n. 1628. q. 7°. p. 285. col. 2.	attached note
(46)	n. 1629. p. 286. col. 2.	attached note
(47)	n. 1715. p. 343. col. 1.	attached note
(48)	n. 1721. 1°. d) p. 346. col. 2.	attached note
(49)	n. 1779. q. 16°. p. 377. col. 1.	attached note
(50)	n. 1790. q. 3°. p. 387. col. 2.	attached note
(51)	n. 1508. q. 3°. R. to b). p. 202. col. 2.	attached note
(52)	p. 405. col. 1.	attached note
(53)	n. 1590. 5°. p. 257. col. 1.	attached note

(alpha) n. 1268. q. 7°, p. 35, col. 1.

"Only women who have given birth from legitimate Matrimony have a right to the blessing after childbirth," responded S. C. C. in Wratislavia, June 18, 1859.[1] "From this response of S. C.," add the *Acta*,[2] "by which any distinction is cut away, one would not rightly deduce that pastors are prohibited from blessing the women of whom there is question" (those, namely, who have given birth from illegitimate intercourse). "For it is inferred only that the aforesaid women cannot demand the said blessing by right, according to that which was posited in the question." Therefore, scandal arising by reason of a notoriously illegitimate birth being set aside, an exception can be made as regards those women who secretly, and especially being deceived, yielded to human weakness. Nor do those have a right to that blessing who with public scandal entered Matrimony before a civil Magistrate or a little minister, unless by penance they have repaired the scandal. Resolve the same concerning those concerning whom it is notorious that they never approach the church and do not satisfy the Paschal precept."[3]

To the question: "Women after childbirth are accustomed to present themselves before the priest for receiving the blessing, even if the offspring has sometimes died without Baptism. In that case, however, the words of the prayers of the Roman Ritual now in force in this Diocese cannot be verified, and on the other hand the blessing would not be omitted without some wonder of the people, and without aggravation of the grief of women of this kind. It is asked what is to be done, and whether it is lawful, after removing those things which are not verified after the woman has been introduced into the church, some prayer from those which are contained in the Missal being substituted, to impart the blessing as in the Ritual?"

Resp. "The Roman Ritual must be entirely observed."

To this Resp. the *Past. Bl. für N. Amer.*[1] observes that in the case concerning which the question is asked the blessing can be given, since its primary end is the postpartum woman herself, and the offspring is only secondary.

It is clear *per se* that the blessing is not to be imparted unless the (living) offspring has previously been baptized.

Notes to appendix annotation - note sequence 1.

1 Acta, T. I. p. 347. | **2** Ib. p. 349. | **3** Past. Bl. für N. Amer. 10th year, p. 8.

Notes to appendix annotation - note sequence 2.

1 10th year, p. 8. **(beta) n. 1403. q. 4°. R. 2°, p. 140, col. 2.**

The Constitution *Apostolicae Sedis* does not speak of the burden of presentation except after the enumeration of excommunications which it willed to be reserved in a special manner to the Pope. Therefore it is to be judged to have willed that, for these only, the obligation of standing by the mandates of the Church remains firm. Therefore, as often as a dying person is bound by other bonds which are not reserved in a special manner to the Pontiff, the obligation of presentation no longer seems to be present, and therefore it is not to be enjoined except for cases reserved in a special manner to the Pontiff, whether they are public or even occult; but for the remaining Pontifical cases, whether occult or public, such a burden is no longer present.[2] Therefore I now think that one must depart from St. Alphonsus.[3]

Notes to appendix annotation - note sequence 2.

2 The Theologians of Padua on the Constitution *Apostolicae Sedis*, Quest. n. 164. | **3** H. A. Tr. XVI. 96.

(gamma) n. 1523. q. 3°, p. 216, col. 1.

The reason is that the faculty granted to a Bishop of conferring Holy Orders outside the times is strictly local, and he cannot exercise it outside the territory of the diocese, either by himself or through another Bishop, although furnished with a similar Indult; for into that Indult, as being contained in n. 1 of the Faculties Form I (p. LXX), falls the clause of those faculties: "nor can he use them outside the boundaries of his diocese" (p. LXXII. n. 29), concerning the sense of which clause see the Appendix to this volume (p. 398, col. 1, 4°). The same observation holds for dispensation in irregularities (p. LXX. n. 2). Both are clear from the grace granted to the Bishops of the Province of Westminster (*Collectio Lacensis*, T. III. p. 963. XLV. XV.) in favor of those who are staying in a seminary common to several dioceses, yet with the clause: *with the consent of the respective Ordinary*. The Bishops of the Province of Quebec obtained the same grace.

The faculty of dispensing in age, as is clear *per se*, is subject to the same limitation.

(delta) n. 1551, p. 239, col. 1.

It is pleasing here to add a double case.

John and Paulina, unbelievers, entered legitimate Matrimony. Paulina, after obtaining from a civil judge a sentence of divorce on account of John's adultery, is converted to the Catholic Faith. It is asked whether, since Paulina is not held to cohabit with John on account of his adultery, she ought to interrogate him before she can contract with another?

I respond yes; for the end of the law of interrogation has ceased only partially, since the unbeliever is to be interrogated so that it may be known both whether he wishes to be converted, and whether he wishes to cohabit peacefully; and in the case in which he is converted, cohabitation cannot be refused on account of adultery committed in infidelity, which is washed away through Baptism.

Cornelius, a Jew, took Iphigenia, an unbeliever, as wife. A sentence of divorce having been issued by a civil judge, Cornelius after some time embraced the sect of the Episcopalians, and, Iphigenia having been interrogated in vain for cohabitation, contracted with Lucia, a follower of the same sect. But after several years Iphigenia is converted to the Catholic Faith; afterward, however, Cornelius and Lucia also desired to be received into the bosom of the Catholic Church. - It is asked whether they can be received without being separated? - **Resp.** "Those are not lacking who opine[1] that then also the privilege of faith is valid when someone passes from infidelity to non-Catholics and is validly baptized. This can deservedly be defended for cases in which all things required by divine law as regards interrogation have been fulfilled, and in which no license of the Roman Pontiff or declaration of divine law is needed, at least so that the new Matrimony may safely be held as valid. But in the remaining cases it seems that the privilege of faith cannot be acknowledged, at least in such a way that the new nuptials may safely be held as valid. But that license, or dispensation, or declaration of divine law, that new Christian certainly would never obtain from the Roman Pontiff, and the faculties of dispensing granted by him to others are restricted to converts to the Catholic Faith."[2] After I had

written these things, I learned from a certain Bishop that the Matrimony of Cornelius with Lucia, in the year 1876, had been declared valid by the Holy See. Cf. n. 1551. p. 238, col. 1 under 4.

Notes to appendix annotation - note sequence 3.

1 Cf. Perrone in Giovine, T. I. p. 528. Ballerini on Gury, T. II. n. 759 under 8° at the end. | **2** Feije, *de Imp.*, n. 502.

(epsilon) n. 1591. q. 1°. R. 1°, p. 258, col. 1.

It is pleasing here to transcribe the declaration of which there is question. Namely, the following doubts having been proposed: "1. Can an unbelieving man, who while still placed in infidelity knew, either publicly or privately, but illicitly, some woman, whether faithful or unbelieving, after receiving Baptism validly and licitly contract Matrimony with the blood relative of that same woman known, if this blood relative received Baptism either before or after the intercourse of which there is question? 2. And insofar as affirmatively (concerning which there is great doubt), could the same unbeliever converted to the faith after the death of his legitimate unbelieving wife contract Matrimony with the blood relative (up to the 4th degree inclusive) of that same deceased wife, whether that blood relative received Baptism before or after the death of the aforesaid unbelieving wife?" S. C. responded: To 1. negatively. To 2. negatively.

The decision given by S. C. O. to the second doubt of the Archbishop of Quebec, Feria V, September 16, 1824, agrees with this; in it the following reason of the decision is given: "For affinity in itself and physically considered must be distinguished from the impediment of affinity. Moreover affinity in itself is contracted even by unbelievers; because even among unbelievers it is true that a man and a woman through carnal intercourse become one flesh. Therefore, as is had in cap. *Fraternitatis*, 35, question 10, *if they shall have been one flesh, how could someone near to one of them pertain to one, unless he pertained to the other?* ... This only is the difference, that affinity does not bring forth an ecclesiastical impediment for unbelievers, but it does for the faithful. Therefore, since through Baptism there is not removed from Balbina the affinity already physically contracted by her with Paul, this very affinity radically inhering in her, which for the same unbeliever was not an impediment to contracting, becomes an impediment after Baptism, by which she is subject to the Church, and consequently subject to its laws."

(zeta) n. 1598. q. 5°. R. 1°, p. 262, col. 1.

EXTRACTS.

1. From the Letter of I. Cardinal Antonelli, February 28, 1874, to the Archbishop of Oregon.

... S. C. of the Holy Office, Feria IV, May 11, 1864, wrote back to the Bishop of Natchez: "that proclamations can be made in mixed nuptials which are contracted with Apostolic dispensation, but with the mention of the religion of the contracting parties suppressed."

And when in the month of May of the year 1871 it called back for examination the Acts and Decrees of the Provincial Synod of Smyrna, this S. Congregation of Propaganda Fide decreed: "the proclamations which are premised in Matrimonies are not to be made in mixed marriages, except when they seem necessary and opportune, in the judgment of the Ordinary, for detecting impediments, and with mention of the religion of those who are to contract nuptials omitted."

2. From the Letter of the Same Cardinal Franchi, September 28, 1874, to the same.

After those things which this same S. Congregation was writing to Your Excellency under the day February 28 just past, concerning the authenticity of the letters of the same S. Council of the day July 3, 1847, in that which pertains to proclamations in mixed Matrimonies, you asked again how this can be composed with the Note which appears in the Baltimore Ritual printed in the year 1866, p. 189. But the matter will be easily explained if you observe that that Note was affixed to the Ritual without this S. Congregation knowing it. ... I shall add also that in the aforesaid letters it is not simply read, as the Note reports, "that proclamations be made even when there is question of mixed Matrimonies," which words would contain an absolute precept, "but since this publication of banns ought to be held as having the place of a caution and as a prudential remedy, no sufficiently firm reason seems to stand in the way why proclamations should be made even when there is question of mixed Matrimonies." From this it is clear that the Note is to be rejected from a double head. Therefore, all hesitation being set aside, hold what long ago was signified to you, namely, that proclamations can be made also in mixed marriages which are contracted with previous permission of the Church, with mention of the religion of the spouses however suppressed, but only when, for detecting impediments, if any there are, the Ordinary in the Lord shall have judged them necessary and opportune. ...

3. From the Letters of the Same Cardinal Franchi to the Archbishop of Baltimore, January 30, 1875.

... It is certain that the Holy See in these most recent times has declared that proclamations can be made in mixed nuptials which are contracted by Apostolic dispensation.

(eta) n. 1606. b), p. 266, col. 1.

These things are confirmed and illustrated by the following words, which I took from an Instruction of S. C. de P. F. given to the Archbishop of San Francisco in California from the resolution of the Holy Office on Feria IV, December 14, 1859, and kindly communicated to me. "Perhaps the case could be excepted in which, with the lapse of time, Missionaries and Faithful being lacking in the aforesaid territory, others had come, especially if they were non-Catholics, and knowingly or unknowingly had begun to contract Matrimonies without the form of the Council being observed, bringing the past and published law into desuetude; since the Tridentine law, although territorial, nevertheless affects men, and where they either are lacking, or bring it into desuetude by general non-observance, the sanction of the same would be urged in vain."

(theta) n. 1606. f), p. 266, col. 2.

I said: *for a month,* as is clear from the Resp. of S. C. Off., Feria IV, given on the day July 1, in the year 1863, to the Most Rev. O'Connell, Bishop of Grass Valley in California, and kindly communicated to me. Namely to question II: "The same Eminent Fathers declared: When access is difficult and not safe, and it is unknown when the Pastor can be had, and it is foreseen that he will be absent from the place for a space of at least one month, and there is no other who may supply the place of the Pastor, the Matrimony is valid without the presence of the Pastor, the form of the Council however being observed insofar as possible, namely by employing at least two witnesses."

(iota) n. 1612. R. 2°. p. 272, col. 1.

Therefore "in practice," says Feije,[1] "the Matrimony could not be held as invalid without recourse to the Apostolic See." - Nevertheless I cannot fail to say that the opinion which denies validity seems to me much more probable. Namely I adhere to the opinion which holds the Tridentine law as both territorial and personal at once, as the Instruction to the Archbishop of San Francisco in California has it, given by S. C. de P. F. from the resolution of the Holy Office on Feria IV, December 14, 1859, and kindly communicated to me. Behold the words of the said resolution: "Once promulgation has been made, and its observance remaining, the law affects the territory, so that, adequately speaking, it is local and personal, as is confessed by all; insofar as local, it affects the territory and obliges those who are to be joined there in Matrimony; but insofar as personal, it obliges those who, having domicile or quasi-domicile in a place where the Tridentine Decree has been published and is in force, would wish to contract in another place where it does not urge." These things also seem to be confirmed from the New York case, January 25, 1873.[2]

Notes to appendix annotation - note sequence 4.

1 *De Imp.*, n. 338. | **2** Acta, T. VII. p. 545.

(kappa) n. 1622, p. 278, col. 2.

I. Unbelievers are bound: **1°** directly by all impediments of divine law, whether positive or natural; **2°** indirectly by the following impediments of ecclesiastical law, which directly affect the faithful person with whom they are about to contract: - disparity of cult; - consanguinity; - legal relationship; - affinity from conjugal intercourse; - public honesty from ratified Matrimony; - crime from homicide alone[3] (n. 1593), from homicide perpetrated by the faithful person after adultery (n. 1596), and, according to several, from adultery alone[5] (n. 1594); - vow; - Order; - age; - servile condition, abduction, fear, if the faithful person is ignorant of the servile condition of the other party, is abducted, is compelled by fear, and this either because these impediments contain a privilege in favor of the baptized person. - That clandestinity does not affect them even indirectly is a sufficiently common opinion (n. 1612. q. 1°. 1) before R. 1°).

II. Baptized unbelievers are bound by all and only those ecclesiastical impediments which either **1°** arose in them after Baptism, or **2°** rest on a natural bond already existing before Baptism, such as certainly is that which exists from consanguinity, and (see n. 1590. q. 1°. R. 1°) from affinity contracted licitly or illicitly. But, from the Resp. of S. C. Off., April 19, 1837,[1] such is not that on which the impediment of public honesty is founded, whether from betrothals or from ratified Matrimony. On account of parity of reason I opine that this Response holds also as regards legal relationship. - But they are not bound by impediments which arise from another fact placed before Baptism, as I argue by parity from the Response which I allege on p. 260, col. 1. Note.

III. It is controverted: - **1°** whether unbelievers contracting among themselves are bound by impediments which are not of divine law, whether natural or positive, but are constituted by civil power (n. 1574. q. 1°), - by consanguinity in the direct line beyond the 1st degree, and in the 1st degree of the collateral line, - by affinity in the 1st degree of the direct line from conjugal intercourse, - by fear; - **2°** whether an unbeliever is indirectly affected by public honesty from betrothals and by spiritual relationship. Sanchez denies, against others,[2] because these impediments are a relation, arising from a bond, not natural, but one which has been constituted by the law of the Church alone; but a relation cannot be contracted by one party without being contracted by both. Since, therefore, a

relation which arises from the law of the Church alone cannot be imposed on an unbeliever, the consequence is that he (also in the case in which he is afterward baptized) is not bound by these impediments. De Angelis[3] agrees with Sanchez at least as regards spiritual relationship, namely when a faithful person baptized (or, I add, held) the child of an unbeliever.[4] - Sanchez also denies[5] (although on account of ecclesiastical custom he assents to the opposite opinion) that an unbeliever is even indirectly affected by affinity from illicit intercourse, as being that from which (he says) no natural bond arises. This reason [as is clear from annotation (epsilon), p. 394, col. 2] is not admitted by S. C. Off.

Notes to appendix annotation - note sequence 5.

3 Sanchez, L. 7. D. 78. n. 5. | **4** In St. Alphonsus, L. VI. 1087. | **5** In those species of this impediment which require two acts, e.g., adultery and promise of Matrimony, when one act (e.g., adultery) has been placed by two unbelievers before Baptism, and the other (the attempted Matrimony or promise of Matrimony) after the Baptism either of both or of one, the impediment does not subsist. The reason is that the impediment cannot arise except from both acts placed at the time when at least one delinquent is subject to the Church. Thus Sanchez, L. 7. D. 79. n. 43 against others. **1** Collect. p. 379. n. 875. | **2** L. 7. D. 60. a. n. 7. D. 65. n. 7. | **3** V. S. L. 4. T. 11. 39. | **4** Since for contracting this relationship it is required that the one baptizing or receiving be baptized, it is clear that an unbeliever baptizing is not bound by it. | **5** L. 7. D. 65. n. 12.

(lambda) n. 1623, p. 279, col. 1.

But note that this quasi-ordinary faculty cannot be invoked except for cases in which the faculty expressly delegated does not belong to the Bishop,[1] which indeed belongs to our Bishops for more frequent cases, and does not require all the conditions which the quasi-ordinary one demands. The reason why the quasi-ordinary power then cannot be invoked is that there can be no place for the presumed or tacit will of the Pontiffs, on which it is founded, where the express will is clear. The *Acta*, T. 14, p. 155 sq., contradict.

The things which we have said concerning occult impediments sometimes dispensable by the Bishop are also applied by some to public impediments.

"This opinion," says St. Alphonsus,[2] "I think scarcely ever can have place in practice, because, when the impediment is public, the reason of scandal ceases, if the spouses desist from such a Matrimony; indeed, especially for avoiding scandal, they are held to desist from the nuptials." - See also the celebrated Feije,[3] where it is reported that the Sacred Congregation of the Inquisition judged that opinion to be false and temerarious.

But what if there is question of an impediment public in its nature, but by accident occult to others, e.g., concerning the impediment of public honesty from occult betrothals? There is a twofold opinion. - See the reasons for each in the same Feije.[4]

Notes to appendix annotation - note sequence 6.

1 Feije, *de Imp.*, n. 634 at the end. | **2** L. VI. 1122. | **3** Ib. n. 633. | **4** Ib. n. 638 sq.

(mu) n. 1623, § end, p. 279, col. 1.

Concerning the meaning of these faculties note the following:

1° The 6th faculty of Form I (p. LXX), insofar as it regards converts from heresy or infidelity, is to be understood concerning those converted heretics and unbelievers who entered not just any fornicarious unions, but those which, according to the customs of the regions or of the unbelievers or heretics, had the form and appearance of Matrimony. Thus S. C. O. in Feije.[1]

The same faculty, just like the 2nd among the Extraordinary D (p. LXXIII), as regards the words: "in simple and mixed degree," understood **1)** concerning equality and inequality of degrees, in the case of mixture of unequal degrees, comprehends not the same degree mixed with some nearer one, but with some more remote one only. Feije.[2] **2)** Understood concerning multiplicity of impediment, it comprehends both the same degrees multiplied[3] (see above, n. 1583. q. 2°. R. 2° § end. p. 253, col. 2, and n. 1588, § *But it can*), and the impediments of consanguinity and affinity joined together.[4] This is also clear from the response of S. C. Ing., June 15, 1875, to questions 1 and 2 of the Vicar General of St. Louis: "Bishops who enjoy the quinquennial faculty of dispensing in the 3rd and 4th of consanguinity and affinity in simple degree, and mixed only; and in the 2nd, 3rd, and 4th, but not in the second alone, as regards future marriages, can dispense in the 3rd and 3rd, in the 4th and 4th, in the 3rd mixed with the 4th; and also in the 3rd and 4th mixed with the 2nd, whether the degree arises from one stock or from a multiple stock, once the matter has been spoken of with His Holiness."[5]

The same faculty insofar as it regards Catholics not converted from heresy or infidelity holds only for Matrimonies to be contracted; but no difficulty arises from this for our Bishops, since they can also dispense in nearer degrees, both as regards those already contracted and those to be contracted. See p. LXXIV. Fac. Extr. E.

2° The 7th faculty of Form I, p. LXX, cannot *per se* be extended to the impediment of public honesty from ratified Matrimony. I said: *per se*; for since to our Bishops there is granted the faculty of dispensing even in the first and second degree of affinity of the transverse line, and this includes public honesty, no difficulty arises from this for them.[6]

3° The 8th faculty of Form I, p. LXX. - The loss of the right of asking the debt indicated in this faculty is that which is induced by adultery. See n. 1647. III. 1°. Cf. Feije.[1]

4° N. 29 Form I, p. LXXII. - The words: "nor can he use them outside the boundaries of his diocese" are to be understood not only concerning those who have domicile or quasi-domicile in the diocese, but also concerning vagi existing in the diocese while the dispensation is granted. But it is necessary that he to whom the dispensation is granted exist at that moment - not indeed at the moment when it is handed over for execution, but - at which it is granted, in the diocese of the one dispensing. See *Acta*.[2] But today it is certain[3] that the one dispensing himself [(Z) p. 412] does not have to be in the diocese while he dispenses. But this clause or these words are not to be understood as implied "in faculties which are granted to Bishops by the Apostolic See, unless they have been expressed or it is otherwise clear from the mind of the Supreme Pontiff, or unless the subject matter requires it."[4] But the faculty of dispensing concerning the impediment of mixed religion, from the mind of the Supreme Pontiff, is granted with that clause.

5° It must be carefully observed that our Bishops do not have the faculty of dispensing in the impediment of disparity of cult in the case of Matrimony with a Jewish man or woman, nor in this

same impediment or in the impediment of mixed communion with Italians, concerning whom it is not clear that they have altogether abandoned Italian domicile. See p. LXXIV. n. 8. 4.

6° A Bishop cannot use faculties granted for the forum of conscience, as is that which is listed on p. LXXIII under n. 2, for the external forum; and conversely Feije thinks it must altogether be said that he cannot exercise faculties obtained for the external forum for the forum of conscience, even if the impediment is occult to others.[5]

7° Whether in Matrimonies contracted nullly among Catholics, in which the Tridentine form was not observed, our Bishops can dispense, because in their faculties there is not found the clause that the faculty is to be understood only of Matrimonies nullly contracted "before the Church," is disputed. There are those who, after a distinction has been made between places in which Matrimony was not invalid on account of clandestinity, and those in which it was also invalid on account of this, opine that in the former case the Bishop can use the faculty, provided the union is of such a kind in which the circumstances indicated under 1° are verified; but in the latter case he cannot use the faculty; indeed Feije thinks that even in the former case one must abstain.[1] Beware, however, lest you confuse this question with that concerning which we treat at n. 1630. q. 2°. 1634. q. 2°. q. 8°.

8° Can a Bishop use faculties with those who rashly neglected proclamations, or who in bad faith, or knowing the impediment and the invalidity of the Matrimony because of it, contracted nullly? - It must indeed be affirmed, both if there is question of a Matrimony formerly contracted in heresy or infidelity, and if there is question of a Matrimony contracted by Catholics, one of whom was in good faith, and therefore celebrated with the proclamations premised or dispensed; for if these are rashly neglected, good faith is judged to be lacking, even if knowledge of the impediment is not had, as Feije proves.[2] But the doubt turns on the case in which each was in bad faith, and there are those who deny the Bishop's power. But others, as Feije, admit it, provided either one now repents, and the things which in their place were indicated, and other things necessarily to be expressed, are expressed in the supplicatory letter. See the reasons in the same Feije.[3]

9° From the letters of S. C. de P. Fide to the Vicar Apostolic of Pondicherry, dated June 7, 1853 (*Collect*. p. 378. n. 855), it is clear that "the words of Indults are to be understood as they present themselves," and therefore "through a faculty of dispensing," e.g., "concerning the impediment of the second mixed with the first, there has not also been bestowed an Indult of dispensing when the first is found mixed with the third." Hence also faculties cannot be extended from one impediment to another, although less grave, unless this is contained in that one, nor from one species of impediment to another, nor from one line to another, nor from contracted Matrimony to one to be contracted. - Feije.[5]

10° Can our Bishops dispense in impediments diverse in species, by which the same persons about to marry are bound, while the faculty of dispensing such impediments is bestowed on them either in diverse indults (e.g., in the Faculties Form I, n. 8, p. LXX, and in Fac. Extr. E. n. 2, p. LXXIV), or in a diverse tenor or period of the same indult (e.g., in Fac. Form I. n. 8 and 9)? **Resp.** No without a special Indult, as is clear from several responses both of S. C. de Prop. Fide itself and of its Prefect communicated to me by several Bishops. Cf. *Collect*.[1] The same holds if, with an impediment either diriment or impedient in which our Bishops can dispense, another concurs for which recourse must be made or is made to the Apostolic See. Namely, in this case it does not suffice to have recourse to Rome for this one and to be dispensed in the other by the Bishop, but he lacks his power of

dispensing, as is clear both from the Rescript of S. Pont., April 15, 1853, and from the necessity of expressing all impediments in the same supplicatory letter, as was said at n. 1625. q. 2° R. 5. Cf. Feije.[2] - Resolve the contrary if the Bishop dispenses in accumulated impediments not by force of faculties, but by quasi-ordinary law. Therefore S. Paen., June 30, 1873, responded that "the faculty of dispensing, only for the forum of conscience, in Matrimonies to be contracted concerning the occult impediment of affinity from illicit intercourse, when all things are prepared for the nuptials and there is no time for recurring to the Apostolic See, is exercised validly and licitly, even if the aforesaid impediment" (of affinity from intercourse both with the mother and with the sister of the bride) "is multiple."[3]

Notes to appendix annotation - note sequence 1.

1 De Imp. n. 625. p. 527. | **2** Ib. n. 626. 3°. 630. c. | **3** Ib. n. 630. c. d. | **4** Ib. c. | **5** Past. Bl. für N. Amer. 9th year, p. 85. | **6** Tr. Mechl. de Matr. n. 101.

Notes to appendix annotation - note sequence 2.

1 De Imp. n. 615. N. 5. | **2** T. II. p. 670. | **3** From the Resp. of S. C. I. to the Synod of Maynooth. | **4** Acta, T. II. p. 671. | **5** De Imp. n. 624. 1°.

Notes to appendix annotation - note sequence 3.

1 De Imp. n. 625. p. 528, 529. | **2** Ib. n. 264. | **3** Ib. n. 625. p. 530. | **4** Ib. | **5** Ib. n. 630. a.

Notes to appendix annotation - note sequence 4.

1 p. 485, n. 1012. | **2** n. 631. | **3** Past. Bl. für N. Amer. 15th year, p. 108.

(nu) n. 1625. q. 2. R. 5°, p. 280, col. 1.

St. Alphonsus writes, L. VI. 1136, that Benedict XIV in the Brief *Etsi matrimonialis* declared "that the Matrimony is indeed illicit, but not invalid, provided the relationship is not of the first or second degree of consanguinity or affinity." But Benedict XIV does not say this concerning the second degree, but in § 6 expressly reports that after St. Pius V invalidity was restricted to the 1st degree concealed. Thus also St. Alphonsus, ib. 1030. H. A. Tr. XVIII. 86.

If the nearer degree is not the first, declaratory letters must be obtained concerning it, so that the Matrimony may be licit, or so that scandal may be avoided, i.e., letters by which it is declared that concealment of the nearer degree does not obstruct the Matrimony.

(xi) n. 1717, p. 344, col. 2.

A fourteenth excommunication has been added, as is clear from the following Response of S. Paen.

Most Eminent and Most Reverend Lord,

Certain priest confessors in the gracious City humbly set forth that at this time there is being circulated through it a certain sheet containing a program printed in type with annexed tickets of association, by which the faithful are solicited to adhere to a certain Society instituted or to be instituted for this end, that whenever the Apostolic See shall be vacant, the Roman people may concur in the election of the Supreme Pontiff. ... But those who give their name to this society must expressly declare, ... that they assent to the doctrines stated in the program, and they contract an

obligation before two witnesses that they will give effort so that such doctrines be propagated, and the Society itself be extended. Therefore, when those approach Sacramental Confession who have existed as promoters of this depraved Society, or who have subscribed, and the other adherents and supporters, the aforesaid confessors, so that they may be able rightly to absolve them, ... request the solution of the following doubts.

1. Whether all and each giving their name to the aforesaid Society, or promoting it, or favoring it in any way whatsoever, or adhering to it, incur by the very fact the penalty of major excommunication?

2. And insofar as affirmatively, whether an excommunication of this kind is reserved to the Roman Pontiff?

S. Paen., all things set forth having been considered, and the nature and end of this society inspected, a report of the premises having been made to Our Most Holy Lord Pope Pius IX, and the same Most Holy Lord approving, responds to the proposed doubts as follows: To 1. Affirmatively. To 2. That an excommunication *latae sententiae* reserved in a special manner to the Roman Pontiff is incurred. (August 4, 1876.)

(omicron) n. 1226. q. 2°. R. 2°. p. 10. col. 2.

Benedict XIV speaks otherwise in *de Syn.*, L. XIII. c. 19, not mentioning the Decree of S. C. Conc. of the year 1576 approved by Gregory XIII, by which it is declared: "that the Pastor is held to minister to his parishioners laboring under plague only the Sacraments necessary for salvation, namely Baptism and Penance." But he adduces the Response to the postulate of the Vicar Apostolic of Julia Caesarea (Algiers), by which Viaticum also and Extreme Unction are declared to be ministered by them in time of plague. l. c. n. 1. 10.

(pi) n. 1235. 3°. p. 14, col. 2.

In a Capuchin case it was asked: "Whether the custom of saying *Agnus Dei* and *Domine non sum dignus* in the vernacular language is to be eliminated." ...? And S. R. C. responded: "The custom is to be eliminated," May 23, 1835, ad 5, n. 4748. - And most recently as regards the aforesaid custom S. R. C., in a Ratisbon case, April 15, 1880, ad 6, declared: "The formulae which pertain to the administration of the Sacraments must be expressed altogether in the Latin language, except the responses of the godfather and godmother in the Sacrament of Baptism, and the words of consent of spouses in the Sacrament of Matrimony." I believe the priest must recite in the Latin language, but the recipients can recite in the vernacular, as the same De Herdt notes, *Pr. Rit. Rom.* p. 32 under 9, from Martinucci.

(rho) n. 1240. 6°. p. 16, col. 2.

To the question: Of what Sacraments, and of which ones, are deaf-mutes capable? Craisson responds, *Manuale*, n. 3239-3241.

"Either they have been taught according to modern methods, or not; if the former, they can validly receive all the Sacraments just like other men, indeed also licitly receive them (Order excepted), provided no other impediments are present.

"If the latter, the Sacrament of Baptism can validly and licitly be conferred on them" and Confirmation, "at least if, insofar as can be done, they are taught Christian doctrine.

"As regards the other Sacraments: concerning Matrimony Innocent III speaks thus (cap. *Cum apud sedem* 23 *de spons.*): 'If such a person wishes to contract, it cannot or ought not be denied to him, since what he cannot declare by words, he can declare by signs.'

"It is also supposed by most Doctors that other Sacraments can be administered to the deaf and mute, if in them the required dispositions appear, or nothing appears from which they are to be judged indisposed; but almost all those Doctors wrote before the time in which the modern method of teaching the deaf and mute was invented. Moreover, by many experiments it seems to be established that the deaf and mute who are not taught by this new method have no true knowledge of God and of the rules of morals, and *a fortiori* do not arrive at the knowledge of the mysteries and supernatural truths; consequently they cannot have any human will of receiving the Sacraments, nor the dispositions necessary for receiving them with fruit (see Montaigne, *Recherches sur les sourds et les muets*). Nevertheless the Ritual of Belley, at the end of the first volume, thinks that the Sacraments of Confirmation and the Eucharist can be conferred on them, since these were administered of old (and still today in the Eastern Church) to children; but it says that Penance and Extreme Unction can be conferred on them under condition; as regards Matrimony, that the question was solved by Innocent III above reported; but that it is not lawful to admit them to Orders, because they are irregular.

"Although we would not wish to reject those who think the aforesaid solutions are to be embraced, nevertheless in practice we would not dare, especially, to join in Matrimony mutes and deaf persons not taught according to modern methods. For although Innocent III says that they ought not to be repelled from Matrimony, if they wish to contract, nevertheless the Pontiff supposes or requires that they wish to contract; but in this, today especially, is the difficulty: since, as we have already said, from many experiments it seems to be established that such deaf and mute persons, not taught, do not have a moral will, on account of defect of moral cognitions; but the contract of Matrimony is a human and moral act, for which true human will is required." (Yet not all agree with Montaigne. See *Philosophia Christ*. of Sanseverino, reduced into compendium, T. I. n. 82. 3°.) "Whatever may be the case concerning Matrimony, Penance and Extreme Unction are not to be administered to deaf and mute persons not taught except under condition."

(sigma) n. 1251. II. p. 28. col. 1.

Wherefore a physician and a midwife, in the case in which they are compelled to administer Baptism, are bound under grave obligation beforehand, insofar as it can be done, to cleanse the hands from blood and other filth, or to pour clean water from some vessel. Capellmann, *Past.-Med.*, p. 138.

(tau) n. 1267. 3°. p. 34. col. 1.

"In necessity," says De Herdt, *Prax. Rit. Rom.*, p. 36, "if a layman or a cleric inferior to a deacon baptizes, he must abstain from all the ceremonies. But if a priest or deacon baptizes, then, if the infant brought to the church is so gravely sick that danger threatens lest he die before Baptism is completed, he must only ask, if time is given, whether anything has been attempted concerning Baptism, and immediately, all other things omitted, baptize him absolutely or conditionally in baptismal water, and, if this has not been prepared, in common water, pouring water three times, or even once if necessity urges, upon the head in the form of a cross. Then, if the infant survives, he anoints him with chrism on the crown, imposes the white garment, and gives the lighted candle, as

otherwise. When these things have been done, if he is still living, the ceremonies which precede Baptism are to be supplied; but the two omitted infusions are not to be repeated, if Baptism was conferred by one infusion. But the priest must beware of saying or doing anything when he has seen that the infant is entirely dead, because the ceremonies of Baptism were instituted for the living only, and not for the dead.

"If a priest in necessity baptizes outside the church, he must omit all the ceremonies which precede Baptism, even if the infant seems about to live so long; but when Baptism has been conferred as above, he anoints the infant on the crown with chrism, if he has it, imposes the white garment, and gives the lighted candle. But when the infant has recovered, he is to be presented in the church; and there, and never outside the church, the omitted ceremonies which precede Baptism are to be supplied." S. R. C., 23 Sept. 1820, n. 4422. 4572; Baruffaldus, tit. 11. n. 59.

(upsilon) n. 1286. q. 2°. p. 47. col. 1.

In the Brief to the Patriarch of Antioch of the Melchite Greeks, dated 8 May 1822, Pius VII forbids anyone, whether publicly or privately, to defend or maintain the opinion of the schismatics which teaches that the form of the Eucharist "does not consist in the words of Jesus Christ alone." *Bullar. S. C. de Prop. Fide*, T. IV. p. 388 sq.

(phi) n. 1298. III. p. 52. col. 2.

"If," says De Herdt, *Prax. Rit. Rom.*, p. 80, "the Most Holy Sacrament is to be administered at the same time to several sick persons in the same place, whether as Viaticum or from devotion, as can happen rather often in hospitals and in contagious diseases, then the antiphon *Asperges me* is said only once, and meanwhile the sick are sprinkled; likewise the verse *Adjutorium*, the prayer *Exaudi*, the *Confiteor*, *Misereatur*, *Indulgentiam*, and *Ecce Agnus Dei* are recited once, just as these also are said only once in church, however many there are to be communicated; then, under the respective form, Holy Communion is given to each sick person; and finally the prayer *Domine sancte* is recited once, and the blessing is given once."

It is said: in the same place; for the things said do not hold if the sick are separated by intervals of places, even of the same house, in such a way that, precisely by reason of the interval, by no external sense can they - I do not say perceive - but be able to perceive the prayers and actions of the minister, and according to the common estimation of men the minister would not be judged to be acting with them. The case would be if different sick persons were lying in different stories of the same building, or even in the same story indeed, but in rooms so separated from one another that one could in no way be judged joined with the other. Thus *Past.-Bl. für Nord Amer.*, 12th year, p. 22. 23.

Notes to appendix annotation - note sequence 8.

1 In the plural: *vestri*, *vestrorum*, etc. | **2** *fratribus*, etc., in place of *fratri*.

(chi) n. 1298. IV. p. 52. col. 2.

To give the ablutions is not the office of the priest, but of the sick person or of another. - To avoid the difficulty joined with throwing the ablutions into the fire or into the sacrarium of the church, the following seems to be an easy method of washing the fingers: the purificator is placed beside the little

vessel of water; the thumb and index finger of the right hand are held over the purificator beside the same little vessel; with the fingers of the left hand water is sprinkled upon the index finger and thumb of the right hand, as much as is sufficient to wash them, and then the index finger and thumb are immediately wiped with the purificator. If this method is observed, nothing is to be cared about the remaining water or wine left in the little vessel. See Baruffaldus, tit. 26. n. 186. De Herdt, *Pr. Rit.*, p. 75.

(psi) n. 1300. III. p. 55. col. 1.

"This lamp is to be kept not above the doors of the church, nor in a side place, but before the tabernacle, or in the middle before it, so that those entering may notice where they must adore." De Herdt, *Prax. Rit. Rom.*, p. 60. S. C. R., 22 Aug. 1699. n. 3376. 3825.

"If several lamps are hung, it is fitting that they be of an odd number, as is prescribed in the Ceremonial of Bishops." Id. ib., p. 61.

(omega) n. 1305. q. 4°. p. 59. col. 2.

If the cough were so vehement that it seemed about to excite vomiting, Communion, as is clear of itself, would have to be abstained from, or at least deferred until that more vehement cough has ceased. Capellmann, *Past.-Med.*, p. 154.

(Alpha) n. 1305. q. 4°. p. 59. col. 2.

The distinguished Capellmann, *Past.-Med.*, p. 154 sq., judges that case must be distinguished from case. In place of a rule he has these things: If the sick person has suffered much more frequent vomitings through shorter intervals of time, and then after a longer space of time, which according to the circumstances can be shorter even than six hours, has been free from vomiting, in doubt it can be presumed that the stomach, now somewhat settled, will not at once again be excited to vomiting from the slight irritation through the Sacred Species. Thus those who are laid low by cholera are very frequently accustomed to vomit; but if these have been free from vomiting for 2, 4, or certainly for 6 hours, it will be a sign that the condition of the sick has been so changed that the danger of vomiting is much less to be feared.

On the contrary, if vomiting has taken place through irregular intervals, now longer, now shorter, and the general condition of the sick person has not been changed, Holy Communion cannot be given to him, even if he has been free from vomiting for the space of six hours. Thus, for example, they would have to be free from vomiting at least for 12 hours who have strangulated hernia, or who labor under cerebral diseases, or who are laid low from a wound of the brain, or from a disease of the kidneys, or from peritonitis, that is, inflammation of the bowels. Say the same of pregnant women while they suffer the vomiting proper to them. In particular cases the physician, if he can be had, should be consulted; or, when Viaticum is in question, some solid or liquid food, or even water, should be given by way of experiment to the sick person who has taken absolutely nothing after the last vomiting. After Communion has been administered in these circumstances, let the sick person remain quiet and drink nothing, or, if he must drink something to swallow the Sacred Species, let him drink a little. Cold water will be best, or, if it can be had, water cooled with ice. Ice itself especially is an excellent remedy against vomiting, and one so harmless that, even without consulting a physician, it

can be used for this end. But the most advisable thing in this case will be that the sick person swallow ice in little pieces which scarcely exceed the size of a hazelnut.

Concerning the so-called morning vomiting, the same author, p. 156, remarks these things. It arises from chronic catarrh of the stomach or throat. Those who are affected by it, and drinkers are affected before others, in the morning, after they have risen from bed or have thrown something into the stomach, are tormented as though by no slight suffocation; and, when the stomach is empty or almost empty, they vomit a certain quantity of phlegm with some remains of food. To these, indeed, if outside the case of Viaticum they are to communicate, nothing remains except that they rise very early in the morning and not approach the church before they have freed themselves by their vomiting.

Pregnant women also are accustomed to be tormented by morning vomiting, whether fasting or after the first food has been thrown into the stomach, and this in the first and second, or even the third or fourth, month of gestation. These, as is clear of itself, outside the case of Viaticum, must defer Communion until the danger of vomiting has ceased.

(Beta) n. 1305. q. 7°. R. 1°. p. 59. col. 2.

What if someone had fallen into madness while he was existing in mortal sin? A case could be if someone, having contracted delirium tremens from long-protracted drunkenness, entirely deprived of reason, without a lucid interval, had been reduced to extremities.

St. Alphonsus answers, L. VI. 302, that Communion cannot be administered to this man if it is certainly presumed that he fell into madness utterly impenitent, that is, not even attrite.

(Gamma) n. 1305. q. 7°. R. 2°. p. 60. col. 1.

Yet it must be seen in what degree the semi-fatuous are; for there are some who can be equated with those deaf-mutes who, as St. Alphonsus says, L. VI. 303, with Holzmann, are not endowed with any discretion whatever, and whom you would with equal right call dull and semi-fatuous; these, like those deaf-mutes, will often be able to communicate.

(Delta) n. 1305. q. 7°. R. 3°. R. 4°. p. 60. col. 1.

It is also advisable to give to those delirious persons, and generally to those who are destitute of their senses, a little water or wine together with the Sacred Species or immediately after this has been put into the mouth, since these persons easily retain solids, and therefore also the Sacred Species, in the mouth. Thus Capellmann, *Past.-Med.*, p. 152. 153.

(Epsilon) n. 1305. q. 8°. R. 8°. p. 60. col. 1.

Except if the paroxysms followed one another at intervals so brief that there was almost no moment at which danger of them was absent. Yet in this case the disturbance of reason progresses at so swift a pace that they are to be treated as mad or semi-fatuous. There are also some who have learned by experience that paroxysms befall them precisely in church very often, or even always. Communion can be administered to these at home. Capellmann, *Past.-Med.*, p. 153.

(Zeta) n. 1329. p. 81. col. 1.

"By the misfortune of the times," writes the distinguished Van de Burgt, *De celebr. Miss.*, n. 218, "and by the malice of men, it happens not infrequently that a sacrilegious injury is inflicted upon Catholic churches through crimes other than those which have been set forth thus far. And we must touch upon these briefly. Suppose that temples have been used as the place of quarrels and tumultuous fighting, for the exercise of the worship of heretics or schismatics, as a lodging for soldiers, as taverns, as workshops, as stables, and that neither report nor fame has spread of any one of the crimes previously mentioned being perpetrated there. Such a church has by no means need of the reconciliation which the sacred laws mention. Nevertheless, it seems very congruous to the sense of piety and religion that the temple, before the Most Holy Sacrifice is immolated in it, first be expiated from the stain of profanation by the designated rite of reconciliation." See St. Alphonsus, L. VI. 367. That this is accommodated to the mind of the Holy See is shown by the Responses of S. R. C. in Carpet., 3 March 1821, apud Van de Burgt, ib., and 27 Feb. 1847 in Tolent.

(Eta) n. 1335. p. 86. col. 2.

Sacred song can be of very great help to sacred worship, since it is able both to express the very text of the Sacred Liturgy with the greatest perfection possible, and to excite the minds of the hearers to devotion, and to impress the signification of the liturgical words more deeply upon the hearts of the faithful. But when song of this kind is such that it serves for expressing and exciting human passions rather than pious affections, and keeps the minds of the faithful intent upon the music rather than upon the words of the Sacred Liturgy, it will hinder true devotion more than it will help it. This was the reason why Holy Mother Church, while on the one hand she has never not taken upon herself both the care and patronage of song, on the other hand has always attempted, insofar as it could be done, to turn away abuses and dangers from it. Wherefore she has never omitted to prescribe by whom, what, and in what manner singing is to be done in churches.

a. By whom it is to be sung. - Besides the priest, the choir ought to sing. Mention is also made sometimes in the Sacred Liturgy of the people singing together, for example at the *Kyrie eleison* and at the Litanies, while in the consecration of a church a procession is made around the church with the Relics. In sung Masses the choir holds the place of the people, as the minister does in private Masses. The singers, and musicians, as completing a liturgical action, have a distinct place in the church; they must attend processions clothed in a surplice and not in secular dress; they are forbidden to converse, make noise, or turn their back to the altar; they are commanded to perform their office with a recollected and devout mind, and to believe with the heart and profess by deed what they believe; or at least not to lead a notoriously depraved life, nor to be non-Catholics. Conc. Prov. Col. II. 20; Conc. Prov. Prag. III. 1; Conc. Prov. Vien. IV. 6.

It is resolved. - Universally women are to be excluded from the choir, and a fortiori those who sing on stages. Thus demands the ancient custom of the Church, the liturgical law commanding women to be far from the service of the altar, the dignity of ecclesiastical song, and the edification of the faithful. Conc. Prov. Col. l. c.; Westmon. I. Decr. XVIII. n. 20. Except if there is question of churches of Nuns; a case of necessity; a long-standing custom.

b. What is to be sung. - 1) Nothing is to be sung except those things which the Church prescribes, or at least, says De Herdt, P. I. n. 112, "a long-standing, reasonable, and praiseworthy custom, with

the consent of the Ordinaries of places, tacit or express, has approved." 2) The rubrics of the Missal, Tit. XVI. 3, indicate those things which are to be sung or intoned by the celebrant. 3) "By the choir are sung the introit, *Kyrie eleison*, *Gloria*, gradual, *Alleluia*, tract, sequence, *Credo*, offertory, *Sanctus*, *Agnus Dei*, communion, and whatever things are to be answered to the celebrant." De Herdt, P. I. n. 111. For the sake of brevity nothing is to be omitted, and the Mass is to be sung as it stands in the Missal. Thus answered S. R. C., 5 July 1631. 5. n. 776. 923, concerning Masses of the dead. Hence, according to the decrees of S. R. C., either Masses of the dead are not to be celebrated, or all things are to be sung which regard the prayer of suffrage, such as also are the sequence *Dies irae* and the offertory; yet in the sequence the singers can omit some strophes. In a conventual Mass in which the choir is bound to sing the Symbol, it is to be sung entire and in an intelligible voice; the verses cannot be supplied alternately by the organ, nor meanwhile can the celebrant proceed with the Mass. The *Kyrie*, *Gloria*, gradual, sequence, *Sanctus*, and *Agnus Dei* can be supplied alternately by the organ; but wherever the organ is used, the beginning and end, and those things which require an inclination and genuflection, are always to be sung. - The singers can and must begin the introit only when the celebrant reaches the altar. The *Sanctus* is sung after the preface, but *Benedictus qui venit* according to the Ceremonial of Bishops is reserved until after the elevation of the Most Holy Sacrament; this disposition of the Ceremonial is to be observed in Pontifical Masses, and is laudably observed in others. But if the *Benedictus* in other Masses is sung before the Consecration, under the elevation, or rather afterward, the *Tantum ergo* or some antiphon proper to the Most Holy Sacrament can be sung. The communion is to be sung after the celebrant has consumed the Most Holy Blood, during the distribution of Holy Communion; but if this does not take place, during the purification.

Notes to appendix annotation - note sequence 9.

1 There is no need to say that this does not apply where, from the obligation of singing the sequence, as in parish churches, they are to be taught to sing it insofar as circumstances permit.

c. In what manner it is to be sung. - Plain and firm song, which is called Gregorian, if it is performed rightly and decently, is heard more gladly by pious men and is deservedly preferred to the other, which is called harmonic or musical. Benedict XIV, c. *unus*, 19 Feb. 1749, § 2. Students of Seminaries are to be taught the discipline of this song from the salutary prescription of the Council of Trent, Sess. 23. c. 18. de Ref.; and the Fathers of the Second Plenary Council of Baltimore, n. 380, judge it greatly to be desired that its rudiments be explained and practiced in parish schools. - As to the matter of the tone in which Gospels, Epistles, Chapters, etc., are to be sung, the Ceremonial of Bishops, L. I. c. 27, sends one to other books, the Pontifical, Sacerdotal, *Directory of the Choir*, and similar books, and describes only the tone of the prayers; having described it, it adds: "It is regular that in both," namely solemn and simple, "the prayers be recited in a grave and fitting voice, with some pause interposed at the end of each clause, and especially in the final clause, and with decorum and gravity." - It is clear of itself that Graduals, Antiphonaries, etc., endowed with the approval of the Holy See are to be preferred.

Although Gregorian chant is preferred, nevertheless musical chant and also the use of musical instruments has been permitted and received by use, and abuse alone is reproved. Benedict XIV, const. cited, §§ 3. 6. 7; Ferraris, V. *Musica*, n. 1. 2.

I have said that musical chant is permitted. Yet it is by no means consonant with the mind of the Church that it be used regularly; for by the very fact that she prefers Gregorian, she shows sufficiently that musical chant is to be used only exceptionally. Moreover, musical chant was forbidden to Nuns by several Pontiffs, and expressly by Clement VIII, 12 July 1592, apud Craisson, *Man.*, n. 5180. Finally, the Ceremonial of Bishops, L. I. c. 28. n. 13, also has these things: "In Masses and offices of the dead we use neither organ nor music, which they call figured, but firm chant, which also during the time of Advent and Lent" - feasts and the third Sunday of Advent and the fourth of Lent are not comprehended in this rule, according to the same Ceremonial - "it is fitting to use." (52) p. 430.

I have said further that abuse alone is forbidden. Wherefore musical chant must be grave, decorous, sweet and pious, distinct, intelligible. Cer. Ep. L. I. c. 28. n. 12; Circular Letters of the Eminent Cardinal Vicar of His Holiness, 18 and 20 Nov. 1856, apud *Anal. J. P.*, month of May 1857. Hence in it these abuses are to be reproved and guarded against: 1° lest whether in organ or song anything lascivious or impure be mixed in, such as music is to be kept away from churches; lest profane melodies be introduced, or those which breathe levity, or by excessive noise dissipate rather than foster and excite affections of piety; lest theatrical, military, or worldly songs or modulations be transferred to sacred concerts; so that from sacred music there be removed whatever is alien from its scope, and serves only the curiosity or pleasure of the hearers, or even the fame of the authors. 2° Lest the text be notably altered by mutilating, putting before, putting after, and altering the words and the sense of them, and by adapting them to the modulation in such a way that the music does not seem to serve the words and sense, but these to serve the music; which S. R. C. judged to need reform, 21 Feb. 1643. 1. n. 1285. 1432. For this reason Benedict XIV prescribes in the cited Constitution, § 9, that care is to be taken that the words which are sung be perfectly and plainly understood. 3° Lest those things which are sung under the introit, offertory, elevation, and communion be so prolonged that the celebrant, by waiting, is compelled to interrupt the Sacrifice and to linger distracted longer at the altar, so that music does not serve the Mass, but the Mass serves music. S. R. C., 21 Feb. 1643. 2. n. 1285. 1432; Benedict XIV, Const. cited, § 13.

The Ceremonial of Bishops, L. I. c. 28. n. 1, says that it is fitting that the organ be played while in Mass the Most Holy Sacrament is elevated, but with a graver and sweeter sound. De Herdt, ib. n. 113, 114.

Concerning the use of instruments, Benedict XIV notes these things in the cited Constitution: "If instruments sound continuously, and only sometimes ... rest for some moments, so that they may offer free space for hearing harmonic modulations and rippled ejaculations of voices ... but otherwise overwhelm and bury the voice of the singers and the sound of the words, the use of instruments of this kind is vain and useless, indeed forbidden and interdicted." Which instruments are forbidden, see apud the same Benedict XIV, Const. cited, § 11.

(Theta) n. 1366. q. 1°. p. 111. col. 2.

"Per accidens, however," cautiously remarks the distinguished Van Egeren, *de Conf. Sacr.*, p. 88, "an integration of this kind" - namely, of a Confession in which a sin was omitted without fault - "will have to be completed immediately after the cessation of the impediment, namely in danger of thereafter lacking the occasion of a new Confession; as not rarely happens among the sick, who here

and now, on account of the violence of the disease, are excused from material integrity, but afterward, without grave inconvenience, are able to supply the omissions before approaching death. Therefore the confessor, having heard the Confession of such a sick person which is formally only integral, should indeed render him altogether quiet; but at the same time, if it can be done, let him exhort him concerning the obligation of soon supplying the omissions, when, the violence of the disease being calmed for the time, his state conveniently permits this and the danger of death continues to exist. But so that the aforesaid exhortation may be brought to effect with the sacramental seal uninjured, the confessor, if the circumstances allow it, should address the sick person in this or a similar way: My son! now be quiet and with greatest confidence commend your spirit into the hands of the Lord, who, according to His infinite paternal goodness, does not require of you at present a further Confession of your sins, etc. Indeed it is necessary that, when the state of your illness has changed, you accuse in a new Confession the sins now omitted, if you conveniently can; but do not be disturbed in any way about this obligation. I shall return to you shortly and often, and then you yourself should ask again to confess, if you conveniently can; or rather, if it pleases you, permit me here and now to admonish you concerning that obligation and to help you in fulfilling it, when I notice that it urges."

(Iota) n. 1383. p. 128. col. 1.

To the preceding resolutions I also add these things from the distinguished Van Egeren, *De Satisf. Sacram.*

"This is most worthy of observation for a confessor, yet it is not attended to often enough: namely, that the devil is the con-cause of many causes of sin, so that the greater part of sins, especially those which are admitted by persons more fearful, is not to be judged to have been perpetrated without any instigation of the demon. And hence the practice of those is very much to be approved who, with other causes sometimes less attended to, once or twice impose for penance principally remedies specially adapted to the assault of the demon, for example, repeated invocation of the Most Holy Names of Jesus, Mary, and Joseph, imploration of the help of the Guardian Angel, veneration of the Crucifix, sprinkling with holy water, carrying blessed images, etc."

To the question: What penances, considering present-day morals, are generally useful for all? he responds: "Those penances generally are useful for all which, while small mortifications or modest alms are not altogether always excluded, nevertheless consist principally in vocal prayers or other not unusual works of piety, provided these very things, insofar as it can be done, are adapted according to the diversity of cases to punish and amend sins salutarily and fittingly. But such adaptation will often be made with success through determination of the mode of execution, for example, of kneeling, of extension of the arms, etc.; - through determination of the time, for example, as often as perhaps you have relapsed; each morning or evening; at the time of Mass during the elevation of the Sacred Host and Chalice; - through determination of the place, for example, in church before the Most Holy, before an image of the Crucifix, of the Blessed Virgin Mary, of St. Joseph, before the bed before going to sleep, etc.; - but above all through determination of the intention with which they are done, while nevertheless guarding against confusion and always seeing what the capacity of the penitent can do, what it refuses to bear. And indeed, the highest importance of positively determining an intention of this kind will become more clearly evident even from these few examples, namely:

"To the proud man enjoin a prayer to be recited devoutly with the express intention, that by being lifted up you may never provoke the divine indignation, like the proud Pharisee; or another time, that God may be propitious to you, as to the humble Publican; or another time, if there is question of one more devout, that some humiliation may befall you from men, etc.

"To the avaricious man, a prayer with the express intention, lest by accumulating temporal goods you lose eternal goods; or another time, that you may obtain the grace of Christian mercy toward the poor, etc.

"To the lustful man, a fervent prayer to the most pure Heart of Jesus, or to the Blessed Virgin conceived immaculate, that not so many men be damned eternally by reason of lust; or another time, that henceforth you may serve God with a chaste heart and please Him with a clean heart; or again, that you may be filled with a holy shame of yourself, who, created to the image of God, have plainly assimilated yourself to uncomprehending beasts, etc.

"To the drunken man, a prayer for all who have seen you drunk, that they may not imitate your evil example; or another time, for your household family, that, with God providing, it may not miserably perish by your scandal and wasting, but by the Consoler of those who mourn and the Protector of the innocent; or again, that the Savior thirsting on the Cross may preserve you from the outcry of everlasting thirst in hell, etc.

"To the thief, a prayer that the paternal Divine Providence may rather send some misfortune upon you than permit you again to stretch out your hands to the goods of others; or another time, that, with the help of the grace of God, you may vividly believe that the thief will be excluded from the kingdom of heaven, or that his sin is not forgiven him unless what has been taken away is restored, etc.

"To the distrustful man, a prayer before the Crucifix, that, considering the mercy of God, you may be raised up into hope and firmly trust that God, on account of Christ, will be propitious to you; to which prayer afterward for some time a pious aspiration of this kind should be joined: O Cross of Jesus, my one hope, hail; or another time, which we read was more frequently recommended by St. Alphonsus and St. Leonard: O my Jesus! mercy; or again: O Mary, show thyself to be a mother. Hail, my life, sweetness, and hope! etc.

"To the blasphemer, a prayer lest your house be deprived of heavenly favor and blessing, as experience testifies happens so often by reason of blasphemy; or another time, lest you learn further on earth those infernal canticles which the damned will sing eternally; or again, that, with the grace of God exciting and helping, as soon as perhaps you relapse, under a humble striking of the breast you may proclaim: Praised be Jesus Christ, or Hallowed be thy name, etc.

"To the tepid man, a prayer lest the merciful God begin to vomit you, neither cold nor hot, out of His mouth, etc.

"But it is not to be passed over here in silence that the discreet choice itself of various prayers or pious exercises is intimately connected with a determination of intention of this kind; by this the attention of the penitent is accustomed to be much strengthened, while now these, now those, now certain, but few, are imposed together according as the thing calls. Suppose, for example, the case in which to one approaching Confession on the feast of Pentecost there seems to be enjoined a devout

invocation of the Holy Spirit, that He may kindle in his heart the fire of His love, exceedingly diminished by venial sins. What prayer will you choose for this end? Indeed you will be able suitably to choose that any prayer proper to this Feast be recited once, for example, the Litany of the Holy Spirit; but, to excite the greater attention of the penitent, you will sometimes more aptly choose that the prayer which is found after the Litany of the Holy Spirit in prayer books be recited daily through the octave.

"Moreover, there are almost innumerable prayers or other works of piety from which this choice can be made." See, for example, n. 1387 of this Compendium. "Several will occur finally" to one reading "spiritual books, or investigating the mind of holy confessors, who have committed to writing their salutary thoughts on this matter. Thus, for example, St. Alphonsus in *Praxis*, n. 14, while inquiring rather diligently, among penances generally useful, recounts in the first place: to be joined to some congregation; and certainly, as I note in passing, you will find no penance more useful than this. ... Thereafter the same Holy Doctor, l. c., testifies: 'I have been accustomed mostly to enjoin, or at least to advise for those who were not accustomed to use it, the penance of reciting the Angelic Salutation three times morning and evening, with the supplication: My Mother, help me today, lest I sin against God.' To not a few it has also often seemed good to enjoin for penance: for some time, and especially in the event of a base temptation or of a relapse into lust, five *Pater* and *Ave* in honor of the five Wounds, with the successive veneration of each, namely, with kissing. Still, according to all, it will be of very great profit to impose that for some time each morning a firm purpose of vigorously fighting such a vice on that day be renewed before God."

It is useful besides to note three things expressly:

A. Concerning suffrages for the faithful departed. - That suffrages for the dead constitute matter generally apt for all, which may sometimes be enjoined for sacramental satisfaction, the Roman Catechism is a witness of the highest authority. Moreover, for penitents accustomed to confess venial sins only, a penance of this kind will then especially become most useful when it is imposed under some mode by which they may better understand that venial sins also merit a great punishment before the divine Judge, for example under this or a similar mode: say five *Pater* and *Ave* for those faithful departed who are paying penalties in purgatory because of voluntary distractions in prayer; or another time, for those just souls which are tormented by the fire of purgatory because of disobediences toward parents, because of sins of the ears or tongue, because of tepidity in approaching the Sacraments, etc.

B. Concerning the Way of the Cross. - The exercise of the Way of the Cross is one thing when public, which at fixed times is accustomed to be performed solemnly in churches; another when private, which is customarily done separately by the faithful. The imposition of the first exercise for the most part can be accommodated sufficiently to all; but the imposition - I do not say the persuasion - of the second exercise will not rarely be less accommodated to those who thus far have had no or little use of it. - But when these things have been attended to by a prudent confessor, concerning the eminent aptitude of the Way of the Cross for penance it will be useful to recall these words, most worthy of mention, from the Mystical Discourse of St. Leonard: An easier satisfaction for sins is also furnished by the frequenting of the Way of the Cross, both on account of the value of the indulgences, because of the gaining of which a penance less than just can often be imposed, and on account of the memory of the Lord's Passion, which is satisfactory in the highest degree, as

Blosius says, and also because it is a most noble alexipharmacum preserving against further falls. And hence, with as much exertion and efficacy of spirit as I can, I ask and beseech all confessors that they show to their penitents the very great treasure of the Way of the Cross, enjoining in place of penance a visitation of the Way of the Cross to be completed so many times, for example; I for now would say: once or twice; and when this has been done, let them set down the scruple whether the other imposed penances are proportionate, since a single visitation of the Way of the Cross very abundantly supplies many other penances.

C. Concerning penances for priests confessing. - A confessor receiving the Confession of a priest, upon which not only this man's salvation but also that of many can happen to depend, should before all else recall in his mind that he will render to God a terrible account if, overcome by human respect and having let go the holy liberty of spirit and speech, he exercises this office almost cursorily, as though it were the simple office of absolving, with some small penance indifferently chosen. Namely, without doubt, he must direct the penitent priest, who, otherwise than the rest of the faithful, is accustomed to have no Ananias outside Confession, as much as will seem necessary, to perfection and perseverance in the first charity of the priesthood received, by opportune admonitions, and no less by penances efficaciously salutary and suitable to him. But he will be able to choose penances of this kind sometimes from works which are generally useful for all, sometimes from works specially appropriated to the priestly state, such as, for example, are judged:

"a) Prayers from the Roman Missal to be said at will on certain days: for the priest himself; for the petition of tears; for the remission of sins; for repelling evil thoughts; for asking continence; for asking humility, patience, etc.

"b) A brief meditation concerning the very great utility of daily mental prayer of at least one quarter-hour, without which, says St. Alphonsus, it will be most difficult to be a good priest.

"c) Prayers for deceased priests who are paying penalties in purgatory because of defects committed in the hearing of Confessions, in the visitation of the sick, in the instruction of children, etc.

"d) Prayers for oneself and other priests associated in the priesthood in the same parish, that, united by the bond of charity, you may collaborate with fruit in the salvation of souls.

"e) Prayers for resuscitating in you, according to the admonition of the Apostle, the priestly grace received in the Ordination of the presbyter.

"f) Examination of conscience concerning your priestly duties.

"g) A fitting preparation for Mass, with an added act of charity and contrition; or a fitting thanksgiving with the joined prayer: O good and sweetest Jesus, etc., for gaining the indulgence.

"h) To be read ... from the Roman Pontifical, if it is at hand, some part of the prayers of the Ordination of a presbyter; or from the Roman Ritual, concerning the care and visitation of the sick, etc.

"i) A prayer for asking the grace of fervent devotion toward the Most Sacred Heart of Jesus, the Most Blessed Virgin, the mother specially of the ministers of her Son, etc.; or sometimes also a prayer for obtaining the grace of receiving the Sacraments of those departing this life, of which, if you consult experience, not a few priests have been deprived, with divine Providence so permitting."

And many similar things, very easy for a zealous confessor, as is fitting, to find.

(Kappa) n. 1401. q. 8°. p. 139. col. 1.

"A case reserved in the diocese of the confessor is not withdrawn from reservation for this reason, that it is not reserved in the diocese of the penitent." Thus Syn. Pl. apud Maynooth, 1875, n. 86. p. 84, Dublin, 1877.

(Lambda) n. 1618. III. p. 277. col. 1.

It is said: it renders the use of Matrimony illicit. "But if there is question of consequent perpetual impotence, per se, or with the danger of pollution excluded, those acts are licit which it is lawful for spouses to perform without the intention of completing copula. Which those acts are, see n. 1651. 1°. 3°. But it is clear that the danger of pollution is much more easily present in those about whom there is question here, precisely because they must perpetually abstain from copula; and this is especially true when there is speech of the touches set forth in the cited n. 1651 under 3°. See L. VI. 1095. § *Dixi* 2."

(Mu) n. 1619. 1°. p. 277. col. 1.

In the man, moreover, impotence is present from defect, or even from the extraordinary size of the virile member; and likewise from such contusion of both testicles that neither is fit for its office. In the woman it is present from defect of the uterus or vagina; likewise from constriction, which can be the cause of perpetual and also temporary impotence; for constriction does not always impede fecundation, and can often be removed through the dilating means of the medical art, Van de Burgt, *de Matr.*, n. 202, or is often removed through repeated experiment of copula. Capellmann, *Past.-Med.*, p. 116.

Besides these natural impotences existing from organic defects, there are also accidental impotences arising from moral defects, namely from frigidity or excessive heat. In a case of impotence of this kind, it must especially be investigated whence that state draws its origin, so that, when the cause is removed, if it can be done, the impotence may be removed. The cause of that frigidity can be malefice, but often, as several observe, not malefice but other causes produce this state. Zacchias, the celebrated Roman physician, teaches, *Qu. medico-legales*, L. III. T. I. q. 5, that impotence by reason of moral defect often arises either from shame and modesty, or from excessive love, or from hostile hatred of the wife. It can also arise from the excesses of a lustful life. - Moreover, what Bouvier notes, in *Sext. Prec.*, the cause sometimes is deformity in the wife, a foul-smelling breath, negligence in dress and cleanliness, hatred, contempt. Van de Burgt, ib.

Those to whom the name Hermaphrodites or Androgyni is given are not kept from nuptials by reason of impotence if they possess all things which are necessary for completing the conjugal act; on the contrary, impotence is ascribed to them where they lack the necessary organs; concerning which, and therefore also concerning the sex to which they pertain, it is necessary that physicians or surgeons pronounce judgment. Van de Burgt, ib., n. 203. Most so-called Hermaphrodites, says Capellmann, *Past.-Med.*, p. 116. 117, when subjected to the examination of physicians, have been discovered truly to enjoy only one sex and to have only the appearances of the other.

Notes to appendix annotation - note sequence 10.

1 This is not always perpetual, and it can happen that it is only relative, or even not impeditive of fecundation; see n. 1618, Note.

(Nu) n. 1628. q. 7°. R. 2°. p. 285. col. 1.

Dispensations for the forum of conscience conceded by quasi ordinary power, or not by force of faculties of the Holy See, do not necessarily have to be fulminated in Confession, unless the Ordinary has placed this condition. Feije, *de Imp.*, n. 757. § fin.

It can sometimes be foreseen that the parties, or one or the other of them, cannot be induced to make Confession; and this same thing sometimes happens in dispensations of the external forum. In a case of this kind, prudently, in the petition itself by which the dispensation is requested, it is asked that the clause not be added. Feije, ib., n. 746. 757.

(Xi) n. 1698. q. 1°. p. 327. col. 2.

Instruction of the Sacred Congregation de Propaganda Fide

Concerning the manner to be observed by the Bishops of the Federated States of North America in cognizing and defining criminal and disciplinary causes of Clerics.

Although the Second Plenary Council of Baltimore, recognized by the Apostolic See, decreed that a certain form of judgment, already previously sanctioned by the Provincial Council of St. Louis, was to be observed in the criminal causes of Clerics to be handled by the ecclesiastical courts of the dioceses of the Federated States of North America, nevertheless experience has shown that the established order of judgment is not everywhere equal to forestalling the complaints of those whom it may happen to be punished with some penalty. For often in these last times it has happened that presbyters condemned by judgments begun in that manner and by sentences rendered, especially those removed from the office of Missionary Rector, have complained here and there about their Prelates and frequently have also brought recourse to the Apostolic See. But it must be lamented that not rarely it happens that in the acts transmitted several things, and those necessary, are lacking, and, all things having been weighed, grave doubts often arise concerning the faith to be had or denied to the documents brought forward in these causes.

The Sacred Congregation de Propaganda Fide, seriously weighing all these things proposed to it, judged that some remedy must be prepared for these inconveniences, and that justice must be consulted in such a way that neither innocent Clerics be afflicted with penalty by injury, nor those guilty of some crime escape deserved penalty on account of a less correct form of judgments. And this indeed would be obtained by an easy arrangement, if it prescribed that all the prescriptions wisely issued by the Sacred Canons for ecclesiastical judgments, especially criminal ones, to be begun and completed, were altogether to be observed. But, considering in mind that in the aforesaid regions of the Federated Orders this cannot easily be observed, it judged that provision should be made in

such a way that at least those investigations concerning the admitted crime be accurately performed which are judged altogether necessary before one comes to imposing penalty.

Therefore, with Our Most Holy Lord Leo XIII, Pope by Divine Providence, approving, in the general meetings held on the 25th day of June 1878, the Sacred Congregation decreed, and strictly commanded, that the individual Sacred Antistites of the mentioned region, in a Diocesan Synod to be convoked as soon as possible, select five, or where because of peculiar circumstances of things so many cannot be had, at least three presbyters from the most approved and, insofar as can be done, skilled in Canon Law, by whom a certain judicial council, or, as they call it, a Commission of investigation, is to be constituted, and that they set one from among those chosen over the same. But if for some grave cause the Diocesan Synod cannot be held immediately, five or three, as above, ecclesiastical men are meanwhile to be deputed by the Bishop to the office in question.

The chief office of the Commission thus constituted will be to recall to examination, duly to cognize, and thus to furnish help to the Bishop in defining them, the criminal and disciplinary causes of presbyters and other clerics, according to the norm soon to be proposed. Moreover, those chosen ought to take care for this purpose that investigations be accurately made, that testimonies be brought forward, and that from the one presumed guilty all things be sought out which are judged necessary for eliciting the truth, and that certain or sufficiently firm arguments be supplied for rendering a just sentence safely and prudently.

But if there is question of the removal of some Rector of a mission, he cannot be cast down from the office entrusted to him unless at least three members of the aforesaid Commission have been employed by the Bishop for cognizing the cause and their counsel has been heard.

The chosen Counselors will remain in the office received until the next celebration of the Diocesan Synod, in which either they themselves are confirmed in office or others are designated. But if meanwhile, by death, resignation, or another cause, the prescribed number of Counselors is diminished, the Bishop, outside the Synod, should substitute others in the place of those lacking, as was established above.

In cognizing causes, especially those in which there is question of definitively removing a Missionary Rector from his office, the judicial Commission will follow this manner of acting.

1. Let recourse not be had to the Commission of investigation unless first, when the cause moving to final deposition has been clearly and precisely set forth by the Bishop, the Missionary Rector himself prefers that the matter be referred to the Council rather than that he spontaneously resign from his charge and office.

2. When the matter has been referred to the Council, let the Bishop commit to his Vicar General, or to another priest deputed by him for this purpose, that he compose in writing a relation of the cause, with an exposition of the investigation performed up to that point and of the circumstances which specially affect the cause or the demonstration of the same.

3. Let him indicate a suitable place, day, and hour for coming together, and this by letters to the individual Counselors.

4. By letters also let him call the Missionary Rector about whom there is question to the appointed place and day for holding the Council, setting forth, unless prudence forbids it, as in the case of an occult crime, the cause moving to deposition fully, and admonishing the Rector himself that he prepare in writing, supported by his own reasons, a response to those things which have been related in the exposition of the cause, either already previously orally, or then in writing.

5. When the Counselors have assembled at the time and place prefixed, let the Bishop prescribe silence to be observed concerning those things which are heard in the Council; let him admonish that the investigation is not a judicial process, but is held for this end and is to be made in this way, that one may arrive at the knowledge of truth by the more diligent method possible, so that each Counselor, all things having been weighed, may be able to form as accurately as possible an opinion concerning the truth of the facts on which the cause rests. Let him also admonish that nothing be done in the investigation which exposes either themselves or others to danger of damage or grievance, especially lest a place be given to an action for libel, or to any other process before a civil tribunal.

6. Let the relation of the cause be read before the Council by the Bishop's official, who will also respond to the questions to be made by the president or by the other counselors through the president, for obtaining a fuller knowledge of the matter.

7. Then let the Missionary Rector be introduced into the Council; he will read the response composed by himself and will likewise respond to the questions, with full faculty being given to him of bringing forward all those things, within the time nevertheless to be determined by the Council, which can contribute to his proper defense.

8. If it happens that the Missionary Rector whose cause is being treated does not wish to approach the Council, let him be called again by letters given, and let a congruous space of time for appearing be prefixed for him; and if on the appointed day he shall not have appeared, provided that he has not been legitimately impeded, let him be considered contumacious.

9. When all these things have been duly completed, let the Counselors confer their counsels together, and, if the greater part of the Counselors judges that the facts are sufficiently established, let each Counselor set forth his sentence in writing, with the reasons on which it rests expressed; let the sentences be compared; let the acts in the Council be drafted by the Bishop's official, signed by the president in the name of the Council, and together with the sentences of the individuals in full be referred to the Bishop.

10. But if further investigation seems necessary or congruous, on that very day, or on another appointed by the Council for coming together, let the witnesses be called whom the Council has judged opportune, after the Missionary Rector has also been heard concerning those whom he himself has wished to be called.

11. Let the individual witnesses for the cause be examined separately and accurately by the President and by others through the President, the Missionary Rector being absent at first. An oath is not required; but if the witnesses themselves do not refuse, and declare themselves

prepared to confirm by oath, when occasion is given, those things which they have declared, let a notation of a disposition or declaration of this kind be made in the acts.

12. With the witnesses consenting, and the prudence of the Council directing, let the testimony be repeated before the Missionary Rector, who himself also, if he wishes, may question the witnesses through the President.

13. In the same manner in which the witnesses for the cause are examined, let the witnesses against the cause be examined.

14. When counsels have then been compared, let it be done as above, n. 9.

15. But if the witnesses are unwilling or unable to attend the Council, or their testimony renders the matter not yet sufficiently clear, let at least two from the Council be deputed, who, going to the witnesses, inspecting the places, or in whatever other way they can, seeking light for resolving doubts, may bring the relation of their investigation to the Council, so that no way be left unattempted for cognizing the truth morally certainly before one comes to the pronouncement of sentence.

16. Let all the acts brought forward in the occasion of the judgment be carefully kept in the Episcopal Curia, so that in the case of appeal they may conveniently be exhibited.

17. But if it happens that appeal is made from the sentence pronounced in the Episcopal Curia to the Archiepiscopal Curia, let the Metropolitan proceed by the same method in the cognition and decision of the cause.

JOANNES CARD. SIMEONI, Pr.

JOANNES BAPTISTA AGNOZZI, Sec.

Given at Rome from the buildings of the aforesaid Sacred Congregation, on the 20th day of July in the year 1878.

(O) n. 1719. 8°. p. 346. col. 1.

It is said: "Tertiaries ... living in community." For "women leading a virginal or celibate, or chaste widowed, life by express vow and under the said habit, ought to enjoy the privileges by which the brothers of the Order whose habit of the third rule they wear enjoy." Thus Leo X, Const. *Dum intra*, issued in the Fifth Lateran Council, Sess. 21.

(P) n. 1759. 8°. p. 366. col. 1.

The Holy Doctor cautiously said: "although others deny this." - And in truth it seems that it must be denied from the Roman Resolutions apud Lucidi, *de Visit. SS. Liminum*, T. II. p. 567 under 18. "In Carchien.," he says, "the Bishop was refusing to confer Orders upon descendants from Indians, or, as they call them, from Mulattoes. The Sacred Congregation, to which the examination of this matter was committed, on the 18th day of February 1863 judged: 'That supplication is to be made to the Most Holy, that the Bishop of the Indies be warned that Indians and Blacks, and all descending from

them by paternal or maternal line, are to be kept away by no right from the reception of Orders and of the other Sacraments, provided they have the other things required by the Sacred Canons.'" Lib. 33. decret. pag. 19.

(Sigma) n. 1614. q. 1°. R. 2°. p. 274. col. 1; p. 398. col. 1. under 4°.

Responses of the Sacred Congregation of the Holy Roman and Universal Inquisition to the postulates of the Synod of Maynooth, Wednesday, 2 May 1877.

To the first postulate concerning the proper Pastor of those contracting Matrimony:

"The Eminent and Most Reverend Lords decreed to the first postulate:

"Let it be answered: that the Pastor of the domicile or quasi-domicile of the contracting parties is to be held as the proper Pastor.

"But for discerning quasi-domicile, the rule handed down in the Instruction of Wednesday, the 7th day of June 1867, to be transmitted to the Bishops of Ireland, is to be attended to.

Instruction.

"For the Bishops of England and the Federated States of America, Wednesday, the 7th day of June 1867.

"For constituting quasi-domicile, which in these cases must necessarily be acquired, two things are required together: namely, habitation in that place where Matrimony is contracted, and the intention of remaining there for the greater part of the year. Wherefore, if it is legitimately established that either both or one or the other of the spouses has the intention of remaining for the greater part of the year, from that first day on which these two things concur together, namely both an intention of this kind and actual habitation, it is to be judged that quasi-domicile was acquired and that the Matrimony which is consequently contracted is valid.

"Nevertheless, if the aforesaid intention is not established, recourse must be had to the indications which are at hand and which produce moral certainty. But in an occult and internal matter it is difficult to have indications of this kind which make the judge secure; hence it is that the rule confirmed by the Supreme Pontiff Benedict XIV must especially be applied, namely that it be inspected whether before Matrimony, for the space of at least one month, either both or one or the other dwelt in the place of Matrimony. But if it is found that this was done, from a presumption of law it must be judged that the intention of remaining for the greater part of the year existed, and that domicile was acquired, and consequently that the Matrimony is valid. But if this presumption of law, which arises from monthly habitation, is destroyed by contrary proofs, by which it is certainly and clearly established that the aforesaid intention existed in no way, then it is manifest that a contrary judgment must indeed be rendered, because presumption must yield to truth. Moreover, it is also manifest that actual habitation is unfit for producing quasi-domicile if someone stays in that region after the manner of a vagus and itinerant, and not as one truly and properly dwelling, namely in the manner in which the rest are accustomed, who in the same place have a true and properly so-called domicile."

To the third postulate concerning the sense of the clause of the Faculties: outside the limits of the diocese, it was answered:

"The words of the related formula are to be understood in this way: that the Bishop can use the faculties toward his own subjects who are actually, at the time when they are to be dispensed, staying in the proper diocese, although the Bishop himself may be outside his diocese."

(T) n. 1628. q. 10°. p. 286. col. 2.

Concerning the defects of matrimonial dispensations and the sanation of them.

The things which I have handed down scattered here and there on this matter in the Treatise on Matrimony, I wish here to exhibit collected together for an easier understanding of the matter and practical use.

The defects of matrimonial dispensations, or causes of nullity of the same, are either extrinsic or intrinsic.

Extrinsic ones especially arise from a defect of power in the one dispensing, in which case a competent Superior is to be approached for sanation; from the invalidity of the fulmination, which, if it was caused by the form of the mandate not being observed, the delegate can execute again. See n. 1628. q. 5°. R. 2°. q. 17. q. 9°. What is to be observed then in certain other rarer cases pertaining to this matter, see Feije, *de Imp.*, n. 735.

Intrinsic ones are subreption and obreption, n. 1625. Nullity arising from subreption or obreption admits a threefold hypothesis:

1°. If the dispensation was sought in the external forum alone, and a new impediment existing before the fulmination of the dispensation is detected, for that which arises only after this does not require sanation of the dispensation, or a defect to be sanated in the external forum is detected, convalidation is sought for the external forum alone. Examples: an impediment not rightly proposed; one only, although several concurred; public incest not set forth; a false final cause. But if a new impediment existing before the fulmination of the dispensation, or a defect, pertains to the forum of conscience, recourse is had for this alone in the same way in which a dispensation for the internal forum is sought when a public and occult impediment stands in the way of the nuptials, n. 1628. q. 1°. q. 2°.

2°. If the dispensation was sought in the forum of conscience alone, and a new impediment or defect also pertains to it, convalidation is asked for the forum of conscience alone. Examples: a dispensation was sought upon an occult impediment of affinity from illicit copula; when the dispensation has been obtained, the confessor understands that at the same moment, together with the impediment of affinity, incest existed between the spouses; or a dispensation was sought upon occult affinity, upon crime, and afterward it is detected that the alleged cause did not exist, or that the impediment was proposed erroneously, not well. But when an impediment or defect pertaining to the external forum has been detected, recourse is had both for this forum and for the forum of conscience, in which, that is, in the forum of conscience, the occult and public impediment will be set forth according to the things said in n. 1628. q. 1°. q. 2°.

3°. If the dispensation was sought both in the external forum and in the forum of conscience, and a new impediment or defect pertains to the external forum, a double convalidating recourse is necessary: one, namely, for the external forum, in which the new impediment or defect is set forth

together with the one already previously declared; the other for the internal forum, in which all the impediments or defects already known are set forth, both public and occult. - But when a new impediment or defect pertains to the forum of conscience, convalidation is to be sought in this alone. From Feije and Van de Burgt.

Query 1° What defective dispensations can a Bishop convalidate?

Resp. 1° Dispensations granted by himself, as often as the matter newly detected would not otherwise have exceeded his power at the time at which the dispensation was granted.

2° Dispensations also granted by the Holy See, if and insofar as power of revalidating them has been granted to him. But no such power is granted to our Bishops by force of the Formularies.

In the remaining cases he cannot.

But although he cannot convalidate dispensations granted by the Holy See, nevertheless in this case he will be able himself to dispense if the dispensation sought and granted by the Holy See was upon an impediment in which he himself could have dispensed, and with which nothing occurs which requires recourse to the Apostolic See. From Feije.

Query 2° What is to be done in doubt whether the dispensation was valid?

Resp. It is to be held as valid, n. 1625.

Query 3° What if there is doubt concerning the very fact of obtaining the dispensation?

Resp. A dispensation is to be obtained, as follows from those things which were said concerning a doubtful impediment from a doubt of fact, n. 1574. q. 5°. R. 3°.

Query 4° What if the defect of the dispensation is insanable, for example, on account of defect of an impediment of natural law?

Resp. The things said in n. 1638 are to be applied.

Query 5° Are those about to marry, or, Matrimony having already been contracted, the spouses, always to be admonished concerning the defect, even a sanable one?

Resp. Apply the things said in n. 1423. q. 3°. q. 4°. n. 1556. q. 3°. n. 1639.

(T) n. 1693. p. 327, 328.

To the doubts concerning the manner to be observed by the Bishops of the Federated States of North America in cognizing and defining criminal and disciplinary causes of Clerics.

The Instruction of the 20th day of July 1878 was issued concerning cases in which an ecclesiastical penalty or censure is to be inflicted, or there is place for grave disciplinary coercion. Hence the decrees of the Second Plenary Council of Baltimore, n. 125, as regards the nature of Missions, and nn. 77, 108, as regards the juridical effects of the removal of Missionaries from office, were in no way innovated or weakened.

But Bishops should take care not to transfer priests unwillingly from one Mission to another without a grave and reasonable cause. But if there is question of the definitive removal of some Rector from

his charge to be inflicted as a penalty for a delict, let Bishops by no means order this unless the Council has first been heard.

II. The election of Counselors is to be made in Synod after the likeness of the deputation, or canonical election, of Synodal Judges, who are chosen not by the Clergy, but by the Bishop, indeed with the counsel of the Clerics in Synod heard, although if for causes known to him the Bishop afterward should not wish to embrace it, as Benedict XIV well observes, *de Syn.*, lib. 4. cap. V. num. 5. Hence it is discordant that in the case about which the Instruction treats, the election of these Counselors should pertain to the Clergy.

Outside Synod the election pertains absolutely to the Bishop, whom it befits to hear the vote of the remaining Counselors in the case of the substitution of someone who has failed, just as a Bishop in the case of a Synodal Judge failing ought to seek the counsel of the Chapter, but is not bound to follow it.

III. The vote given by the Council is always consultative, and the definitive sentence is reserved to the Bishop; for when the Canons say that something is to be done by the Bishop with the counsel of the Chapter or Clergy, they do not on that account induce upon the Bishop the necessity of following it, unless this is expressly provided. Hence it is rightly said in the Instruction that these Counselors furnish help to the Bishop in defining causes, but by no means that they themselves decide. But the acts of inquiry and the opinion disclosed by the Counselors are always to be inserted in the process.

From these things it is clear that the office of the Counselors is indeed judicial, since the instruction itself prescribes that they assist the Bishop in the judicial inquest as Assessors; but it is also clear that the pronouncement of the judicial and definitive sentence is reserved to the Bishop alone.

IV. By the Instruction there has not been removed from Bishops the extraordinary faculty of proceeding to suspension from informed conscience, insofar as they judge in the Lord that very grave and canonical causes concur, or of providing by some remedy, even without the counsel being heard, if by grave and urgent necessity this must be done for the salvation of souls.

It is free to each Rector to have with him before the council another Priest, to be approved by the Bishop, either for simple assistance or for presenting his remarks or defense.

JOAN. CARD. SIMEONI SACR. CONGR. Pr.

J. B. AGNOZZI, Sec.

(Phi) Tom. I. p. LX. Tom. II. n. 1340. q. 4°. p. 90. col. 1.

"The Sacred Congregation in the Meetings held on Wednesday of this month," November, "1875, ordered it to be written back ... If there is question of those who must be baptized under condition, then, for the greater ease of the ecclesiastical function, they will be able first to be heard sacramentally as to the accusation of their faults; then, after the conferral of Baptism under condition, the confessor, again taking up by summary heads with the penitent those things concerning which he has already made accusation, may absolve him sacramentally, likewise under condition."

(X) n. 1230. q. 19. p. 19. col. 1.

Lest on account of notoriety, undeservedly judged to be such, a Sacrament be publicly denied, I have judged it useful to hand down a fuller exposition of notoriety.

What the notorious is, in general, was said in n. 522, Resp. 2°.

I say that something is notorious by law by juridical proof or sentence. Here proof is understood as full, such as that is called which produces as much faith as suffices for defining controversies; for example, the spontaneous Confession of the accused made in judgment and not revoked; the depositions of two witnesses greater than every exception, etc. - Sentence in this place is understood as definitive, or one which has passed into a thing judged.

Something is notorious by fact when it is done so publicly that it cannot be concealed by any tergiversation. As that fact itself is, so this notorious is threefold: namely, notorious of a permanent fact, which continually presents itself to the sight of men, as the concubinage of one who is publicly seen retaining a concubine in his house; notorious of a fact immediately passing or momentary, as heresy publicly uttered; notorious of an interpolated fact, which is done publicly indeed, not continuously, but nevertheless is repeated rather often at intervals, as, for example, drunkenness by a drunkard.

That something be notorious by fact, it is required that it be public by reason both of place, which must be public, for example a street, and not some private house; and of time, therefore not committed at night, unless on account of the multitude of those present in the public place where the crime is committed the night seems to be equated to day; and of the multitude of bystanders; for by defect of this the crime perpetrated by day and in a public place could be equated to one admitted at night.

Fame, by reason of the notorious about which there is question here, is not that which is called fame of name, "reputation," and about which there was speech in n. 516, but fame among men, which is so called with respect not to the man made infamous, but to those among whom it prevails or is circulated, that which people say or tell; the common talk, report, saying. Therefore the notorious of fame is public insinuation or proclamation, from suspicion indeed alone, yet proceeding from a certain author; and this, in the present matter, not concerning the general quality of some man, that he is good or bad, but concerning some particular fact, for example, that Titius admitted such a crime.

Fame of this kind, or fame arisen concerning some particular fact, by reason of its origin can still be distinguished in three ways: 1° As it is the vain voice of the populace and rumor among the people, which has no certain authors nor probable causes or reasons for believing thus, "rumor; hearsay"; 2° As it arises from some malicious, suspect persons, or those seeking their own advantage and utility. Neither the former nor the latter is to be attended to; 3° As it has drawn its origin from persons worthy of faith, grave, and concerning whose advantage there is no question, or, as St. Alphonsus says, from sufficient indications, so that it appears from what reason and cause the fame had its origin; and concerning this fame alone there is speech for the present.

Fame accepted in such a way differs from rumor. For fame properly is when the whole city, or neighborhood, or the greater part of a community asserts something; but a community ought to

consist of at least ten persons. But rumor is when some smaller part, for instance a half, a third, or a fourth part, speaks thus. Then fame proceeds from a certain author, for instance when it has arisen from certain and honest persons who said among the people that they had seen something and were present; but rumor proceeds from an uncertain author.

Resolves. - 1° In order that some crime be held as notorious, and this, as is required in our matter, in the reason of crime or as formally criminal, it suffices, if there is question of the notorious by notoriety of fact, that the fact be permanent or even interpolated. But if the question is about a fact immediately passing or momentary, for example, someone publicly utters heresy, from the very crime publicly perpetrated, from the very fact of heresy uttered, it is not yet established that he who perpetrated the crime, uttered the heresy, admitted the crime in the reason of crime, the heresy in the reason of heresy or as formally evil. Therefore in this case the Sacraments are not immediately to be denied, but inquiry must first be made whether, just as the fact itself, so also the formal malice of the fact is publicly certain.

2° In order that, on account of the notoriousness of an interpolated fact, for example in the case of a public customary sinner, a Sacrament can be publicly denied, it is required that perseverance in the evil custom be evident and publicly known. Wherefore the Sacrament is to be conferred if either the custom has been interrupted for a longer time, by the work of the customary sinner himself or even by some physical cause, for example illness, or nothing more has been publicly heard about it for a longer time.

3° The notorious of fame, in order to the denial of a Sacrament, is not to be attended to unless the fame, that is, the public insinuation or proclamation itself, is uniform, solid, constant, and perpetual, that is, not vague, light, or contrary, or, as Canonists have it, shaken by contrary allegations. It can be proved by two witnesses greater than every exception, deposing that they have heard it said so publicly, and indeed by the greater part of the people; for it does not suffice to depose that they heard it said so publicly, since it can happen that one alone said this publicly. Besides, they must express the certain persons, at least two, from whom they heard it, so that it may be known whether these are such that faith can be had in them. Finally, they must assign the probable causes by which the people was induced to believe: for example, because those persons, to whom faith can be had and from whom they heard it, asserted that they had seen it thus with their own eyes.

4° Before how many persons a crime ought to have been committed in order to be notorious by fact, and by how many, especially in a more populous community, it ought to be publicly insinuated or proclaimed in order to be notorious by fame, is defined rather by the judgment of a prudent man than by some general rule; compare nn. 522, 1564. But since this matter in practice is not without difficulty, and the judgment concerning the requisites for the notorious both of fact and of fame is also often arduous, in a matter of as much importance as the public denial of a Sacrament, the Ordinary is to be consulted if time permits; but if time does not permit this and the notoriety is doubtful, the Sacrament is not to be publicly refused.

Notes to appendix annotation - note sequence 1.

1 Reiffenstuel, L. 2. T. 19. n. 11. | **2** An apt, legitimate witness greater than every exception is one who can be repelled by no legitimate exception; and if anything differs here from those, it differs only as the comparative from the positive. Reiffenstuel, L. 2. T. 20. n. 7-11. But

exception is the same as exclusion, for example of a witness, judge, etc. Id. T. 25. n. 1-5; and it is called legitimate if it is granted by law. |

Notes to appendix annotation - note sequence 2.

1 A sentence is said to have passed into a thing judged when it has not been appealed from. Reiffenstuel, L. 2. T. 27. n. 2 sq. | **2** Cf. Schmalzgrueber, T. 10. P. 1. Tit. 1. § 1. |

Notes to appendix annotation - note sequence 3.

1 Lib. VI. 44. | **2** Reiffenstuel, Lib. 2. T. 20. n. 387 sq.

Appendix of Annotations

(Psi) n. 1251. I. p. 23. col. 1.

The common sense of the faithful in matters of Faith and morals, furnished with the required conditions, constitutes the passive infallibility, or the infallibility of the learning Church. - The common practice of the faithful, that is, legitimate custom, moderates the laws of the Church, n. 186. - The common use or estimation of men: 1° interprets ecclesiastical laws, as custom does, and this not rarely against the opinions of physiologists; as when, in interpreting the law of ecclesiastical fast, it holds beer, which for physiologists is food, as drink, or when, in interpreting the law of the natural fast to be observed before the reception of the Eucharist, it does not care about the drawing in of the fumes of foods in a kitchen; 2° sometimes also interprets the divine laws of the Sacraments, insofar as it shows in what signification the matter of some Sacrament is to be taken, for example water in Baptism, n. 1251. I, or wine in the Eucharist. For although some artificial wine perhaps may be true wine for physiologists, nevertheless wine from the vine, even granted that the Church had defined nothing about this matter, would be pronounced by the common estimation or use of men to be understood by the word wine. For Christ is to be judged to have used words in that sense in which the common use of men understands them. Let that text be an example, John 12. 24: "Unless the grain of wheat, falling into the earth, has died." *Linz. Past. Bl.*

(Omega) n. 1252. p. 24. col. 1; n. 1254. q. 4°. p. 24. col. 2.

Scented waters in which the very substance of the water has been changed are not valid matter of Baptism. Nevertheless dying infants in the case in which, on account of the resistance of unbelieving parents, etc., they cannot be baptized in another way, can and must be baptized with water varied even as to color by some mixture, which nevertheless does not change the substance of the water, by way of washing, "douche," cleansing, remedy, etc., in such a way, however, that at least part of the water flows over the head, or, if this is absolutely impossible, over some principal member of the infant. But if the matter, whether remote or proximate, which was used in the case of necessity, was doubtful, the infant, if perhaps he has recovered, should again be baptized under condition and instructed in whatever better way can be done. S. C. S. Officii, Collect. p. 116 n. 181. - The same is to be resolved if someone baptized a dying infant by wiping his forehead with his hand dipped in natural water, or with a finger or cloth similarly wet, without the water flowing or running down. Ib. p. 117 n. 182.

(1) n. 1257. IV. p. 26. col. 1.

A priest or deacon entangled in censure or irregularity, if he baptizes because of urgent necessity, is bound to do this, excepting the cases which theologians except, for example n. 1676. 1°. Excipe: b; n. 1688. 1°. Rule, in the manner of laymen.

(2) n. 1259. q. 4°. p. 27. col. 1.

This seems to be opposed by the fact that S. C. de Prop. Fide, on 2 Feb. 1804, wrote back to the Vicar Apostolic of Cochin-China, namely: "The Sacred Congregation has most fully approved the custom of this Mission concerning Baptism, that, when the Priest is absent, it is immediately administered to infants by Catechists or other approved laymen, although they are enjoying good health, concerning which you doubted; for the life of men, especially of infants, is exposed to continual dangers." Collect. p. 121 n. 197. Perhaps, however, the peculiar circumstances of so widely extended a Vicariate had great weight in this response. Thus, for example, the Synod of Suchuen expressly mentions the danger imminent to infants in this Vicariate from the custom of parents placing those recently born in the same bed with themselves. Ib. p. 125 n. 207.

(3) n. 1262. p. 29. col. 2.

S. C. de Prop. Fide on 29 Nov. 1672 declared "that it is lawful for the Pastor to baptize a child, with one of the Catholic parents consenting, even if he certainly knows that the other afterward will take care that the infant be baptized by a heretical minister; but the Catholic spouse is bound to warn the heretical spouse that the child has already been legitimately baptized." Collect. p. 122 n. 209.

(4) n. 1267. p. 34. col. 1.

The S. J. Missionaries in China had asked: "Whether all the Sacramentals are to be employed in the Baptism of adult women? The reason for doubting is the incredible modesty, zeal, and praiseworthy flight among Chinese women from all meeting with men, and not only meeting, but even sight; in which matter, unless great caution is employed by the Missionaries, enormous scandal is given to the Chinese, with the most evident danger of exposing the Christian Religion to persecution." Resp. "For a grave cause Sacramentals can be omitted in the Baptism of women. This response, however, is to be observed according to the things asked, the circumstances, and all the things expressed in them." S. C. S. O., 13 Nov. 1669, Collect. ib. n. 279 and n. 281. And thus it is easily reconciled with other Responses altogether contrary, since they were given for cases in which the circumstances set forth in the alleged doubt were not verified.

(5) n. 1284. q. 3°. p. 42. col. 2.

The controversy seems to some to be a dispute about a name, which owes its origin to the double signification of the word *siligo*. For the most ancient signification of this word denotes wheat of the first note, and St. Thomas seems to have had this signification before his eyes, P. III. q. 74. a. 3 ad 2, where he pronounces the validity of this matter as undoubted. But *siligo*, which is sometimes also called *secale*, also signifies that which the English call rye, the French *seigle*, the Germans *Roggen* or *Korn*, the Italians *segala*; and *siligo* taken in this sense is invalid matter. - *Linz. P. Bl.*

(6) n. 1296. q. 11°. R. 1°. p. 51. col. 1.

When the Sacrament of the Most Holy Eucharist must be administered in Paschal time, before or after a Mass of Requiem, *Alleluia* is not to be added to the versicles. S. R. C. Jan. 29, 1712, in Senen. Acta, T. I. p. 4.

(7) n. 1296. q. 11°. R. 2°. p. 51. col. 2.

It is said in the Response that a stole of the color suited to the Office of that day is to be used. Wherefore, if the Mass does not agree with the Office, not the color of the former but of the latter is to be used in the administration of the Eucharist, which does not take place within, or before or after, Mass. The case can be given on Thursday in the Lord's Supper, and when, according to the Rubrics, the Office is celebrated of the Octave and the Mass of the Vigil or Feria. Where the custom prevails of administering the Most Holy Eucharist with white stoles to the faithful fulfilling the Paschal precept, it is to be tolerated. S. R. C. Venet., 11 Aug. 1877. Acta, T. XIII. p. 430.

(8) n. 1300. p. 54. col. 2.

That canopy can be made from cloth, whether of cotton, wool, or hemp, and from whatever woven fabric; of a color either white or fitting to the character of the time and feast. But if it is not white, in obsequies or Masses of Requiem let it be of black or violet color. S. R. C.

(9) n. 1309. q. 9°. p. 64. col. 1.

Add from the response given by S. C. de Prop. Fide to the Vicar Apostolic of Eastern Tonkin, 13 Feb. 1806, the following case. "When salt has been tasted beforehand by Catechumens in the conferral of Baptism, although the fast seems to be broken, nevertheless there is still no doubt that, after Baptism has been received, they can be admitted to Sacred Communion; indeed, they ought to be admitted. Thus altogether the Church, in whose power it is to dispense in peculiar cases from the general law of the Eucharistic fast, introduced by itself for those who desire to receive Sacred Communion outside danger of death, prescribes in the Roman Ritual, where it hands down the rite by which Baptism is to be conferred upon adults." Collect. p. 161 n. 282.

(10) n. 1317. q. 2°. Note. p. 68. col. 1.

For deceased unbelievers, however, "if they truly die in unbelief, it is altogether not lawful" to offer Sacrifice, S. C. de Prop. Fide responded to the Dominican Missionaries in China, 12 Sept. 1645. Collect. p. 188 n. 369.

(11) n. 1325. q. 7°. p. 74. col. 1. to II.

It is clear of itself that to one celebrating a sung Mass in this and similar cases the ordinary alms is to be given, which has been established for sung Masses. Thus also S. C. C., 25 July 1874. *Past. Bl. für N. Am.*, 1881. p. 34.

(12) n. 1327. q. 7°. p. 78. col. 1.

A bination Mass can also be applied for a deceased priest-confrere by the members of a society who, by agreement, are bound to this. S. C. C., 14 Sept. 1878 in Nancien-Tullen. and Nemausen., apud *Nouv. Rev. Théol.*, T. XI. p. 25, where also the reasons of this resolution are exhibited.

(13) n. 1331. q. 8°. p. 82. col. 1.

Among reasonable causes De Herdt, *Pr. Lit.*, P. 1. n. 155, recounts: "necessity of the church; a gathering of priests for whom vestments of the due color are not sufficient; great solemnity, which brings it about that in less wealthy churches it is useful to use more precious vestments, if even only the cross of the chasuble is of a color conforming to the office. Besides, as several note, it is better on any day to perform the Sacred Rite in whatever color than to omit it."

(14) n. 1331. q. 18°. p. 83. col. 1.

Question. - If a priest celebrates without a minister, ought he to say the *Confiteor* twice before the introit? S. R. C. in Erien., 4 Sept. 1878, responded: Negatively. Gardellini, Appendix IV. n. 5627.

(15) n. 1334. 14°. p. 86. col. 2.

S. R. C. seems to have receded from the former severity as regards the singing of songs in the vernacular language. For it responded, on 27 Sept. 1864, n. 5336, and 11 March 1871, n. 5472, that this custom of singing before the Most Holy Sacrament, or in its processions, and likewise while, the Sacrament not being exposed, the divine offices are celebrated, can be tolerated and observed. Cf. *Nouv. Rev. Th.*, T. XII. p. 241. n. 27.

(16) n. 1344. q. 8°. p. 94. col. 2.

Note: 1° The alleged cases are not to be referred to taxatively, as if others were not given in which conditional absolution can be given, but by way of example. The two rules set forth in n. 1344. q. 8°. p. 93. col. 2 are always to be kept before the eyes; if the confessor, holding the middle way between laxity and excessive rigor, prudently applies these also to other cases not recounted here, he will be safe. 2° In the case of a penitent doubtfully disposed, one must always labor, insofar as morally it can be done, that from doubtfully disposed he become certainly disposed.

(17) n. 1385. q. 7°. p. 124. col. 1.

If the forgetfulness was gravely culpable, in the following Confession, as is clear, it must be accused, as Müller rightly notes, *Th. Mor.*, V. § 127.

I say: "if the penitent prudently presumes," etc.; for example, because he has just now confessed, or there were few penitents present.

I say besides: "if he can conveniently," that is, without much trouble and without moving the wonder of the bystanders.

Finally I say: "he would have to approach him"; not, however, outside the confessional when, for example, the confessor has already left it; for in the case there is no question of imposing or

commuting a penance.

What if the confessor did not impose a penance, for example from inadvertence? If the penitent notices this before he leaves the confessional, and immediately after absolution, he ought to ask the confessor to impose a penance upon him. But if he notices this only after he has left the confessional, he is not bound to this unless he can approach the confessor immediately after absolution has been given, as was established above for Resp. 2. h.

(18) n. 1394. q. 13°. p. 132. col. 2.

On the 28th day of November 1725, "in the General Congregation of the Holy Office, when the sheet sent back from S. C. de Prop. F. to the Holy Office had been reported, containing Ordinations made by the late Most Reverend Father Lord Bishop of Laranda, Vicar Apostolic of the Western Mission in the kingdom of Tonkin, of the following tenor, namely: 1. ... 2. ... 3. ... 4. ... 5. ... 6. ... 7. If some Minister of this Vicariate goes to another Vicariate to confess his sins, and the Minister of the other Vicariate should wish to confess with him, he will not be able to absolve such a Minister, and the same conversely; ... the Eminent Fathers decreed: that the reservation under numbers 1, 2, 3, 4, and 7 is to be abolished." Why, then, was it to be abolished, if custom does not confer jurisdiction over a stranger?

(19) n. 1403. q. 7°. p. 141. col. 1.

Note, however, that nothing prevents a crime public somewhere from being held as occult in other places. Titius, for example, incurs excommunication reserved to his Bishop because he contracted Matrimony with Caia before a petty minister; the delict is publicly known in the place of the diocese of that Bishop in which he contracted. Titius, having left that diocese, fixes his seat in another where his delict is occult. If the fame of the delict cannot easily pursue him in that other diocese, he will be able to be absolved in that diocese, with the faculty, however, of the Ordinary of that diocese, if there also an excommunication of this kind exists. Cf. *Theol. Pat.*, n. 309; St. Alphonsus, L. VI. 593 and L. VI. 78.

(20) n. 1410. a). 2). 3). p. 144. col. 1.

That phrase "immediately before or after" some understand morally, so that if only something physical intervenes, or the interval is so brief that it ought to be computed as nothing, the confessor is still to be denounced by force of these clauses. The common sentence, which St. Alphonsus follows, L. VI. 617, takes it strictly, that is, physically. *Nouv. Rev. Th.*, T. XII. p. 29. n. XXIX.

(21) n. 1410. a). 4). p. 144. col. 1.

From the examples which I allege it is clear that the word "occasion" here comes in a double signification: one of opportunity, the other of motive. "In both ways," says Passerinus, "Confession can be called an occasion of soliciting, either because they offer opportunity for doing this," as in the example which I bring forward in the first place, "or even because they offer a motive from which the confessor moves himself to solicitation," as in the example which I add in the latter place. *Nouv. Rev. Th.*, T. XII. p. 31. n. XXX.

I say at the end: "provided it is sufficiently established from indications," etc. Indications of this kind will be present if, for example, the confessor, after the sins have been heard, asks the woman where she lives, whether she is accustomed to remain at home alone, or asks some similar things; or, when he has approached for sinning, as Ballerini notes, by words or deeds he has recalled something from those things which he accepted from Confession. *Theol. Pat.*, n. 393; *Nouv. Rev. Th.*, T. XII. p. 34. n. XXXV.

(22) n. 1410. a). 5). p. 144. col. 1.

"But whether a confessor must be denounced who agreed with a woman that, to elude the domestics, she pretend to be sick and call him to the house for perpetrating sin? Concina and Mazzotta, l. c., affirm; likewise Fagundez apud Potestà, num. 513, and Sanchez apud Diana, p. 4. tr. 5. r. 37, because the pretext of confession then seems manifest enough. But more probably they deny, because then it is not verified that the confessor solicits or executes sin under the pretext of confession; thus the pretext of confession then is already ordered not to solicitation but to deceiving the domestics." St. Alphonsus, L. VI. n. 679. Cf. *Theol. Pat.*, n. 394, 395.

"External signs of simulation on the part of the confessor are to sit in a suitable place, to bless the woman, to hold the hand before the face, as is accustomed to be done in hearing confessions, and finally to extend the hand over her head while pretending to absolve her. But on the part of the woman the signs are genuflection, the sign of the cross, striking of the breast, joining of the hands, humble conversation with the confessor, which exteriorly appears as an accusation of sins." Potestà apud *Nouv. Rev. Th.*, T. XII. p. 44. 2.

(24) n. 1439. q. 2°. p. 167. col. 2.

I said: "ordinarily in one case alone ... he can be absolved." For it can happen, even outside danger of death, that 1° the concubine either in no way or here and now cannot be dismissed or avoided, that is, a necessary occasion; 2° the penitent is prepared to remove as soon as possible and in the best way he can the public scandal which exists from the concubinage, and to avoid that which would exist from access to Holy Communion; 3° no good effect can be hoped from the delay of absolution.

If these three things are present together, although they will be very rarely present, some teach that the concubinary, or concubine, can be absolved.

That the first truly be present, two things are required: 1° that the occasion be truly necessary; for the affection by which concubinaries cling to their filthy pleasures not rarely brings it about that either they oppose specious pretexts to separation or exaggerate the difficulties of it; 2° that it is necessary precisely because from separation there would exist damage in goods of fortune so grave that by force of this he would fall from his proper state or be cast into grave necessity. See the example of the maidservant which I bring forward, p. 168. col. 1. under: If 2). For other damages, for example in reputation, in the case of public scandal, which has already stripped the concubinary of reputation, are not to be attended to. Cf. St. Alphonsus, L. IV. n. 437. 441.

The second supposes a penitent who affirms as certain that the base commerce has now ceased for a long time, which nevertheless the people still believes to endure. They say that this man, if the first and third requisite are present, can be absolved, yet with the conditions of the second requisite being

observed. For hence, as is supposed, the occasion is necessary, and by the long interruption of the base commerce there is given an extraordinary sign of disposition; but from that, as likewise is supposed, the scandal which endures he cannot remove for the present, and he is prepared to remove it as soon as he can; nor is he going to give a new scandal, as again is supposed, namely by approaching Holy Communion, for he seriously promises that he will not approach it, at least in the place where he is known.

The third requisite would be lacking if, all things considered, the delay of absolution is judged to be the stimulus by which that phrase "as soon as possible and in the best way he can," concerning which in the second requisite, may be completed more quickly. Cf. Berardi, Ed. 2. n. 151; Aertnijs, p. 30.

(25) n. 1449. q. 1°. p. 178. col. 2.

I. From the things said it is clear that the confessor, if there is question of books or newspapers professedly impious or obscene, among other things is bound to these:

1° He is bound, when a prudent suspicion is present, to ask a penitent who is silent about this matter whether he reads them, and this even if he is existing in good faith, which can scarcely be admitted. The reason is that omission of the question does not free from formal sin against Faith or morals a penitent reading books or newspapers of this kind, since, as was said, such books or newspapers are maximally dangerous, that is, they cast those reading them into proximate danger of sinning formally against Faith or chastity.

2° He is bound to warn them, even in the case in which he hopes for no fruit from the warning. The reason is that from the warning greater evils are not to be feared than those which are produced from the reading.

3° He is bound to deny absolution to those refusing to abstain from the reading of them. For they are to be compared to those who do not wish to leave a voluntary proximate occasion.

4° He is bound to compel a penitent who retains such books to cast them away, and one who has subscribed to such a newspaper to withdraw his name. If he sincerely promises that he will do this, he can be absolved. But if afterward he shall not have stood by his promises, ordinarily he is not to be absolved before he has satisfied his obligation. This follows from the things said in n. 1436. q. 17.

5° He is bound to prescribe suitable antidotes to a penitent who from necessity and with due license reads books or newspapers professedly impious, lest the poison harm him: namely, that he at the same time read good books or good newspapers which defend Religion; that he pray for the conservation of faith, frequent the Sacraments, etc. I said: "professedly impious," for with respect to books or newspapers professedly obscene there is given no necessity or license of reading them, outside the case excepted in Rule VII of the Index.

II. As regards books and newspapers which are not professedly impious or obscene, the confessor must: 1. To the best of his powers impede the reading of them: especially a) when the penitent is conscious of the obligation of abstaining from the reading of them, or doubts about it; b) when he is ignorant of the obligation, yet can be warned with hope of fruit, or at least without fear of a greater evil; c) when the Confessor notices that that continual or frequent reading begins to bring notable detriment to the penitent in Faith or morals, for this he can in no way permit.

2. Sometimes to make the obligation of abstaining from the aforesaid reading, namely when the following conditions have been posited: a) that the penitent invincibly is ignorant of the grave obligation of abstaining from continual or frequent reading of this kind; this ignorance in many arises from the marvelous prejudices with which they are imbued; b) that from warning no fruit is hoped, but rather greater evils are to be feared, for example alienation from the Sacraments, from Religion; for a lesser evil can be permitted so that a greater may be avoided, and the Confessor must follow the example of Christ, concerning whom Matthew 12. 20 testifies: "The bruised reed He will not break, and smoking flax He will not extinguish"; c) that the Confessor try to draw his penitent away from reading of this kind by admonitions and persuasions, or at least to insinuate distrust concerning depraved little books and newspapers, and to induce him to the study of Religion; for as a physician he is bound to administer antidotes to the penitent, by which he may remove the danger. - Godschalk, *De proh. lib.*, c. 6, apud Aertnijs n. 86.

(26) n. 1452. q. 2°. p. 174. col. 1.

There are honest taverns, would that there were many, namely such as not only do not spontaneously offer occasions of sinning, for instance depraved newspapers, irreligious and base conversations, secret rooms for lust, prostitutes, dishonest amusements, but in which the tavern-keepers also strive, to the best of their powers, to impede sins. It is clear of itself that frequenting taverns of this kind for the sake of relaxing the mind, if moderation is observed in time, in drink, in play, and in conversations, is not unlawful.

(27) n. 1470. p. 179. col. 2.

I say: from the very nature of the sin. Wherefore, other things being equal, that is, the interval which intervenes between the acts, the character of the penitent, the intensity of the acts, etc., n. 1477. Note, p. 182. col. 1, more acts are required for inducing a habit in sins of work not consummated than in consummated sins, for instance in touches than in fornication; likewise, as regards consummated sins, in those which are committed alone, for example pollution, than in those which are perpetrated with another.

I say besides: from the manner in which it is committed. - For which reason, other things again being equal, more acts are required in order that a habit exist from sins of the mouth or heart than in order that it exist from sins of work. Thus it can happen that from sins of the mouth or heart a habit is not born unless they are repeated twice or three times in a week.

Universally it can be said that the matter depends on the difficulty or facility with which men are accustomed to commit diverse sins; and therefore, other things being equal, as was said above, the more easily some sin is accustomed to be committed by reason of itself, the more acts are required. And from this principle proceed the things just noted and set forth. - Aertnijs, n. 18.

(28) n. 1470. p. 179. col. 2.

The incontinent are found chiefly among those who are habituated in blasphemies and imprecations, and often also among those who have contracted a habit of pollution. You will find those habituated

in evil will especially among those who are habituated in hatred, in injustices, and in base love. Aertnijs, n. 13.

(29) N. 1508. Q. 2°. P. 202. COL. 1.

"Sometimes, when Missionaries are visiting the Christians committed to them, there occurs a sick person laboring under hectic fever or a similar disease, who according to experience will still live for several months, but will die within the year. It is asked whether, in such a case, the Missionary can administer Viaticum and Extreme Unction to him, because when the truer case of receiving them is present, the Missionary will not be able to be had present on account of great distance and other circumstances impeding this?" S. C. de Prop. F. - Affirmatively. February 20. - Collect. p. 184 n. 361.

(30) N. 1508. Q. 3°. P. 203. COL. 2.

Such, for example, are deficient drunkards who are established to be in mortal sin, L. VI. 782. But this seems then only to be established when it is evident that he has made himself perfectly drunk on purpose. But in the case of solitary drunkenness this will scarcely be able to be evident; it can be, however, if there is question of those drunkards who persevered notoriously in the custom of this vice until the end of life.

(31) N. 1508. Q. 8°. P. 203. COL. 2.

It is always supposed in this case that that adult has "some intention of receiving Sacred Unction for the benefit of his soul, ordered to the time of death," Collect. p. 323 n. 684; in which case he can also, indeed must, be anointed. Ib. n. 685.

(32) N. 1516. I. P. 209. COL. 1.

"Although one key can be sufficient matter for the ordination of an Ostiarius, nevertheless the Rubric is to be observed, which prescribes that keys are to be handed over; these, whether they are of silver, iron, or wood, provided they are apt for opening, constitute the remote matter of this Order." S. R. C. Civitaten., to 1, 11 March 1820.

It is not strictly necessary that the Ostiarius close and open the doors of the church with the key. S. R. C. Marsorum., 12 Nov. 1831.

In the Ordination of an Ostiarius, the keys need not necessarily be the keys of the church, but any key whatever can be employed. S. C. de P. F. to the Vicar Apostolic of Cochin-China, 23 March 1844. Collect. p. 355 n. 818.

(33) N. 1517. Q. 1. P. 210. COL. 1.

Strength is added to the sentence of St. Alphonsus from the Response of the Holy Office, 19 Aug. 1851, in which the imposition of hands in the ordination of Deacon and Presbyter is said to have to be supplied if it was done without corporal touch. Collect. p. 358 n. 824.

(34) n. 1523. q. 11°. p. 217. col. 2.

The Pontiff says: among other laws; for this is not the only law by which, by force of that promise, they are bound. In order that this may be rightly understood, these things must be noted.

I. The promise about which there is speech adds to the obligation of obedience, by which all diocesan and other secular clerics, yes, and Regulars outside the cases in which they are exempt from it, are bound to their Ordinary, the bond of contract. This is clear from the words of Benedict XIV in the praised Constitution *Ex quo dilectus*, 14 Jan. 1747: "Nor do We think that that solemn pledge of obedience and reverence, which the Presbyter makes into the hands of the one ordaining, according to the most ancient custom of the Church, is to be held as a bare and empty formula."

II. Obedience embraces the strict obligation of executing whatever the Ordinary, within the limits of his right, prescribes. - I say: within the limits of his right. - Hence:

A. To reject the command of the Ordinary: a) he would be bound, if there were question of a thing evidently evil; b) he could licitly do so if the Ordinary certainly exceeded the limits of his right. I said: evidently and certainly; for in doubt either concerning the liceity of the thing commanded or concerning the right of the one commanding, one must obey. Cf. the things said in n. 101. IV; n. 1171. III; n. 1664. q. 1°. § In doubt concerning obedience.

B. The rights of the Ordinary to which that obligation of obeying responds are reduced to these: 1. The right of teaching; 2. The right of commanding; 3. The right of judging; 4. The right of correcting and punishing; 5. The right of administering, and these indeed are said to be comprehended in the law which they call of jurisdiction; 6. The right of diocesan law, in which are contained the emoluments which pertain to the Bishop.

The Ordinary does not transgress the limits of his power, and therefore he is to be obeyed:

1° In the exercise of the right of teaching, when he condemns depraved opinions which are spread abroad in his diocese against sound doctrine, or concerning which there is danger that they be spread abroad, or when he prohibits books or newspapers by which dangerous novelties, etc., are disseminated. He decides the same when he prescribes a Catechism for procuring uniformity in teaching children. - But a Bishop would transcend the limits of his power if he wished to interdict in his diocese the defense of those opinions concerning which, with Faith and the rule of morals safe, one can freely dispute. This, however, is not so to be understood as if the Bishop did not have the right of interdicting by law, for example, some kind of dances or the manner in which lovers visit one another, etc., if he prudently judges that kind or this manner to be full of danger; for in such things there is no question of licit or illicit by reason of itself, but of licit or illicit by reason of danger. Besides, if even indifferent acts, according to the certain sentence of all theologians, can be the object of a prohibiting law when the prohibition of them conduces notably to the common good, n. 104. II, why not a fortiori dangerous acts? Therefore when the Ordinary prudently judges that such things are to be interdicted by law in his diocese, he acts not from a freely disputed opinion, but from a sentence altogether certain.

2° The right of commanding, or of making laws, embraces:

1. The right of procuring by opportune statutes the execution of the laws of the Church, for example, concerning the residence of pastors, n. 1139, concerning the negative obligations of

clerics, n. 1132, etc.; for Bishops are the executors of the Canons in their diocese.

2. The right of decreeing those things which have been left aside by Common Law, or those things which are not against the Canons but outside the Canons, Benedict XIV, *de Syn.*, L. 12. c. 6. n. 1. For although Bishops cannot prohibit those things which are expressly and certainly permitted by Common Law, for example, access to taverns in an itinerary on account of necessity, nor concede by law what is forbidden by the same Common Law, for example, access to taverns in whatever case, nevertheless they can: a. fill up, so to speak, the gaps of Common Law; for Common Law could not foresee all and singular necessities of whatever dioceses, and provide for them. Thus a Bishop, if he has judged it opportune, will be able to interdict to his clergy assistance at horse races. They can also b. in those things which are not passed over by Law, sometimes define by their laws the time, place, and mode not defined by Common Law. Thus Eugenius IV in his Constitution *Cantate*, 4 Feb. 1441. § 13, and the Roman Ritual, Tit. 2, command that newly born infants be baptized as soon as conveniently can be done; but they do not define the precise time, which nevertheless it is whole and entire for Bishops to determine. Benedict XIV, l. c. n. 7. Indeed, there are not a few heads of universal discipline in which Law itself expressly leaves to Bishops the mode in which they are to be observed to prescribe. Thus Trent, Sess. 14. c. 6 de Ref., indeed prescribes the clerical habit, but wishes the form of this to be determined by the Bishop: "according to the ordination of the Bishop himself." They can besides c. assist Common Law by their decrees, adding penalties, or increasing those which have been established by Common Law; for thus "they do nothing against the Canons, but protect and foster the Canons themselves." Benedict XIV, l. c. n. 2. Finally, they can d. sometimes prohibit certain things concerning which it is controverted among Doctors whether they are contained by Common Law. Let an example be quiet or non-noisy hunting, n. 1132. 2°, which, for example, the Provincial Council of Vienna permits if it is moderate, Coll. Lac. T. V. col. 199. b, but Cologne absolutely forbids, ib. col. 378. c. Cf. Benedict XIV, ib. L. 11. c. 10. n. 8.

In commanding, however, the Bishop must avoid lest the sanction by which he confirms his laws be immoderate and too grave, especially by inflicting censures. Benedict XIV, ib. L. 10. c. 1. 2. 3.

3° The right of judging regards either the internal forum, concerning which we treated in n. 1390 sq., or the external forum, concerning which in the Treatise on Censures.

4° The right of correcting and punishing belongs to the Bishop with regard to all things which have been introduced in the diocese against Faith, good morals, or ecclesiastical discipline; and to this extent this right differs from the right of judging, because in some things, for example in cases in which suspension from informed conscience is brought, n. 1686. 17, it can be exercised by him extrajudicially, especially in the very act of visitation of the diocese, n. 1136. § In all. To this also pertains the right of the Bishop "without the noise and figure of judgment, and with the truth of the fact alone inspected," that is, even the form of summary judgment being omitted, to proceed against Clerics who "dare to keep at home or outside women concerning whom suspicion can be had, or to have any familiarity with them." Trent, Sess. 25. c. 14 de Ref.

5° The right of administration includes among other things the power of the Bishop, with the rules of law, whether common or particular recognized by the Holy See, being observed, such as, for example,

is that which was established in the Second Plenary Council of Baltimore, of conferring benefices of free collation, or among us quasi-parishes or other ecclesiastical offices, for example of coadjutors or assistants; the right of transferring a Rector to other quasi-parishes; the right of erecting, uniting, dismembering parishes or quasi-parishes; the right of protecting and caring for the temporal goods pertaining to pious places or churches; the right of erecting schools, orphanages, hospitals, etc.

6° Concerning the right belonging to the Bishop from diocesan law, see the things said in n. 631.

Cf. De Angelis, *Præl. Jur. Can.*, L. I. Tit. XXXI. 12° sq., and *Linz. Quart. Schr.*, 1882. p. 15 sq.

(35) n. 1545. q. 8°. p. 235. col. 2.

The conditions which the Church imposes in conceding a dispensation for mixed Marriages or upon the impediment of disparity of cult express obligations to be assumed in the celebration of the union, rather than conditions properly so called concerning the future which are able to suspend the value of the Matrimony.

(36) n. 1548. q. 6°. R. 2°. p. 235. col. 2.

Some contend that an agreement, on the occasion of a mixed Matrimony, of educating all or part of the offspring in heresy, is repugnant to the substance of Matrimony; but the sentence denying this is most common. The reason is that the good of offspring, insofar as substantial to Matrimony, is to be understood as the physical good. Thus Feije, n. 566, who adds: "in practice we judge that Matrimony" with such an agreement "can safely be held as valid, but cannot be held as invalid without consulting the Apostolic See."

(37) n. 1556. q. 2°. p. 242. col. 1.

General decree concerning the nuptial blessing. - S. C. S. R. U. Inq., Wednesday, 31 Aug. 1881.

"The Eminent and Most Reverend Lords decreed:

"That the nuptial blessing, which the Roman Missal exhibits in the Mass for bridegroom and bride, is always to be imparted in the Marriages of Catholics, yet within the celebration of Mass, according to the rubrics, and outside forbidden time, to all those spouses who, in contracting Matrimony, from whatever cause did not obtain it; even if they ask after they have already lived for a long time in Matrimony, provided the woman, if a widow, has not accepted the blessing itself in other nuptials.

"Besides, that the same Catholic spouses who have not obtained the blessing of their Matrimony are to be exhorted to seek it at the first possible time. But it is to be signified to them, especially if they are neophytes or contracted validly before conversion from heresy, that the blessing itself pertains to the rite and solemnity, but not to the substance and validity, of the union.

"All things to the contrary notwithstanding.

"Fr. VINCENTIUS LEO SALLUA,

"Archbishop of Chalcedon,

"S. R. and Un. Inquis. Comm. Gener.

"JUVENALIS PELAMI,

"S. R. U. Inq. Not."

(38) n. 1574. q. 7°. p. 248. col. 2.

Besides the rules handed down in this number, in solving doubts concerning the value of Matrimony let those also be observed which we add here.

I. A negative doubt is never to be attended to. The rule is valid both concerning Matrimony contracted and concerning Matrimony to be contracted. Consequently its value or nullity is to be retained according as either liberty or the law of the impediment is in possession, n. 49. I. Wherefore, for example, a spouse negatively doubting about the death of the other party cannot fly to other nuptials; for the law of the impediment of bond possesses. On the contrary, a vain suspicion that a sister contracted betrothal with the bridegroom does not prohibit her from entering nuptials with him, because not the law of the impediment of public honesty, but liberty, is in possession.

To a negative doubt is equated, at least practically, that which is conceived from the saying of persons who are not worthy of faith; and this both as regards Matrimony to be contracted and as regards Matrimony contracted. The reason is that such a saying is not a prudent reason of doubting, nor consequently a positive doubt, but merely a negative one, n. 48 under 1. - The same, for the same reason, is regularly to be said concerning a doubt conceived from the assertion of the other party that he or she consented fictitiously. See the things said in n. 1548. q. 7°. I say: regularly, that is, unless, on account of the circumstances, the truth of the assertion is to be presumed. Ib. and St. Alphonsus. The same, again for the same reason, is to be said if there is question of a doubt which would exist from fame arisen from no certain author, or from rumor concerning an impediment. See n. 1566. 1°. Yet in this case, as regards practice, careful inquiry must be made whether the fame truly has arisen from no certain author; in other words, it must be asked from what sources the rumor came forth. But if the rumor stands firm, and the truth cannot be investigated by witnesses, the ecclesiastical Superior, before the celebration of Matrimony, will be able to defer oaths against this rumor both to the relatives and to the contracting parties themselves.

II. A positive doubt arisen from the saying of one witness worthy of faith, or from public fame which has a certain author, suffices for the celebration of Matrimony to be inhibited, n. 1566. 1°. But what the effects of a doubt of this kind are upon Matrimony already contracted, see n. 1574. q. 6°.

III. A positive doubt, by reason both of Matrimony to be contracted and of Matrimony contracted, is sometimes solved by proofs sought from presumption, and this either for Matrimony or against it. The cases more obvious than the rest are these:

1° The case in which the impediment is established and it is doubted whether a dispensation was given in it. Then namely the presumption stands for the impediment; for in doubt "a fact," the dispensation, "is not presumed, but must be proved," n. 67. 1°. b. On the contrary, if the dispensation is established and there is doubt concerning the value of it, the presumption stands for the dispensation, according to that very well-known principle: "in doubt one must stand for the value of the act," n. 67. 2° and n. 162. 5°.

2° The case about which there is treatment in n. 1589. II. § As regards practice.

3° The case about which there is speech in n. 1601. q. 3°. R. 3°. In that place a vehement presumption is understood as one which renders the death most probable, so that only a tenuous probability remains that the other party is still surviving.

4° The case of the other party asserting that he or she consented fictitiously, as we said above under I, v. I say: regularly.

Notes to appendix annotation - note sequence 12.

1 L. VI. 908. § Secunda. | **2** Ib. § Prima. | **3** Ib. § Secunda. | **4** Decr. L. IV. T. I. c. 27. Heiss, *De Matr.*, § 70. III.

(39) n. 1598. q. 3°. p. 261. col. 2.

Concerning dispensation in the diriment impediment of disparity of cult, when Matrimony has already been contracted and the unbelieving party refuses to offer the cautions.

Henry, not baptized, contracted before a civil magistrate or petty minister with Ludmilla, a Catholic. After some time she, repenting of the deed, by the persuasion of the pastor approaches the Ordinary, urgently asking from him a remedy for her miserable condition. There is indeed no difficulty in this case if, with a grave cause standing, Henry is prepared to renew consent and to promise what by law in this case must be promised. But what if he wishes to offer neither?

Resp. 1° "When from separation grave inconveniences are foreseen as going to follow, - the spouse remaining in infidelity refuses to be baptized," - a dispensation can be indulged to the party "truly" Catholic, yet in such a way that to this party "there be commended and enjoined also the Catholic education of the offspring, and that they ought to take care, in the way in which it can be done, of the conversion of the unbelieving spouse," with consent renewed, and "the nullity of the prior Matrimony being made known, insofar as it can be done, also to the unbelieving party." Thus nearly the Instruction of the Holy Inquisition, 12 Jan. 1769, apud Collect. p. 388. 389. n. 888 under 2. Cf. the same Collect., p. 383. col. 1. § Hucusque. - It is said: with consent renewed; which I understand according to the things said in n. 1633. III. Rule.

Resp. 2° If Henry not only refuses to offer the cautions, but is also going to impede, for example, the Catholic education of offspring born or to be born, at least of male offspring, a dispensation can be granted only when Ludmilla is found placed in danger of death and there is no other way in which provision can be made for the salvation of her soul, "provided nevertheless" then "she promises that, if she recovers, she will take care by all means of the conversion of the unbelieving party and of the education of whatever offspring in the Catholic religion." - From the letters of S. C. de Prop. Fide, 8 May 1828, to the Vicar Apostolic of Eastern Tonkin, apud Collect. p. 392. n. 896.

Resp. 3° If Henry is conscious of the impediment, no other remedy remains except sanation in the root, n. 1636 under 3. 1°. But this could not be given in this case by our Bishops by force of faculty D, n. 6, T. I. p. LXXIV, since its tenor, "the party conscious of the impediment having been warned," openly implies that it cannot have place when both parties know the impediment.

Concerning dispensation from the impediment of mixed religion as regards Matrimony already contracted.

Rescript of S. C. of the Holy Office to the Vicar Apostolic of Bombay.

"The Most Eminent and Most Reverend Lords Cardinals of the Holy Roman Church, General Inquisitors against heretical depravity, in the General Congregation held on Wednesday, the 9th day of the current month of March, having read the letters of Your Excellency, by which you were reporting to the Eminent Cardinal Prefect of the Sacred Congregation de Propaganda Fide that, in a certain Instruction to your Clergy, you had prescribed to all presbyters exercising the care of souls that they not omit to warn spouses who, grieving and penitent for their mixed Matrimony entered clandestinely, desire to be reconciled to God, concerning the necessity of obtaining from the Bishop a dispensation, so that in the future they may be able licitly to use their Matrimony, contracted validly indeed but illicitly; but that this prescription gave some missionaries occasion to doubt whether an obligation of this kind could be imposed by you: the matter having been carefully and maturely weighed, they judged that the Instruction is to be declared by you thus, namely, that it is fitting that satisfaction be made by the aforesaid spouses to the Church, whose most holy law has been violated, and that the cautions concerning the danger of eternal salvation to be removed from themselves and from their offspring be offered also in the external forum; and that for this end recourse to the Bishop be asked.

"While I signify these things to Your Excellency, I wish the devoted sentiments of my soul to be testified to the same, for whom I pray all favorable things from the Lord.

"Most devoted as a Brother to Your Excellency,

"P. Card. CATALINI.

"Rome, 12 March 1881."

(40) n. 1598. q. 5°. R. 2°. p. 262. col. 1.

You will compose a solid instruction concerning the dangers which are joined with mixed Marriages from the letters of Clement XIII, dated 16 Nov. 1763, to the Bishop of Strasbourg, which Collect. p. 394. n. 902 exhibits. Likewise from the booklet *An Instruction on Mixed Marriages*, by Rt. Rev. Ullathorne, Benziger, New York.

(41) n. 1598. q. 8°. p. 262. col. 2.

But what in doubt whether Baptism, I do not say validly, but in fact, was conferred upon the non-Catholic party?

Resp. 1° If there is question of Matrimony to be contracted with a Catholic party, the doubt persevering after diligence has been employed, there can be place for a dispensation in the diriment impediment of disparity of cult, and this, with a grave cause subsisting, is to be procured. It is clear from the things said in n. 1574. q. 5°. R. 3°.

Resp. 2° Resolve the same if there is question of a Matrimony contracted in the same circumstances without dispensation. It is clear from Resp. 1°.

Resp. 3° Although Matrimony was contracted without dispensation, and not afterward convalidated, nevertheless the party certainly baptized, who has flown or wishes to fly to other nuptials, contracts these nuptials illicitly and remains in them illicitly, unless it has been sufficiently proved that Baptism was not conferred upon the prior party. But sufficient proof of this matter, in my judgment, could also be had from vehement presumption. But a presumption of this kind, as it seems, would be present, for example, if the prior other party had parents who both pertained to a sect which rejects Baptism, for instance to the sect of the Quakers; likewise if they pertained to a sect, for example of the Baptists, which does not admit Baptism of infants; if, namely, in this supposition, the prior other party had been baptized, he or she would have no doubt concerning that matter, as being one which would have been done in adult age; likewise if he or she had parents who never pertained to any sect, who did not belong to any religion, as the common people say.

What likewise if in doubt concerning the value of Baptism certainly conferred, Matrimony was contracted, and afterward the presumption concerning value yields to truth, or the invalidity of Baptism becomes certainly known?

Ballerini responds: "The validity" of Baptism "is to be retained.... For then the Church is judged to dispense."

Finally it is asked "how one must act in the case of the conversion of a non-Catholic joined in Matrimony with another non-Catholic, when a doubt concerning Baptism occurs?"

"Resp. It will have to be distinguished whether the doubt is concerning the Baptism of one or of both spouses; likewise whether it is a doubt of law or of fact?

"I say: 1) If there is doubt concerning the reception of Baptism on each side, the Matrimony will not have to be revalidated by dispensation, because the ecclesiastical law concerning disparity of cult, until the reception of Baptism is proved, does not oblige them, and consequently the Matrimony previously contracted by them was valid. 2) If there is doubt on each side concerning the value of Baptism certainly received, the Matrimony would have to be held as valid. 3) If there is doubt concerning the reception of Baptism on one side, and concerning the value of Baptism received on the other, the Matrimony would have to be revalidated, and indeed by the sole renewal of consent, if the former were converted; and by dispensation, if the latter party returned to the Church. - But the Matrimony could not be dissolved as to the bond, on account of doubt concerning the bond standing in the way of a new Matrimony. - 4) If it is certainly established concerning the Baptism of one party, but the reception of Baptism is doubtful on the other side, the Matrimony must be revalidated, either by renewal of consent, if the second party is converted, or by dispensation, if the first returns to the Faith."

Notes to appendix annotation - note sequence 13.

1 Note (a) to Gury, P. II. n. 881. | **2** "The privilege, however, promulgated by Ap. I. Cor. 7 for non-converts in this case, if one party is converted to the Catholic Faith, would scarcely have place, because this privilege, since it is against divine law, is deservedly to be held of strict interpretation." Heiss, § 36. III. Quaer. 2°. | **3** Heiss, § 36. III. Quaer. 2°.

(42) n. 1605. c) p. 266. col. 2.

The Bishop of Heliopolis had proposed the following doubt, the third: "Since in some dominion there are very few churches, yet many are to be erected in the future, whether, when the Decree of the Council has been published in those few churches, it is judged published in the whole dominion; or rather, in whatever village in which afterward a church is to be erected, with Christians gathered in some decent house, as is accustomed to be done in celebrations of Mass, publication must be made there, so that meanwhile, since publication is not made in the individual villages, they can contract Matrimony without the pastor and witnesses?" S. C. de Prop. F. responds, 7 July 1670: "That the publication already made suffices, unless new peoples and inhabitants are added and new parishes are erected for them." Collect. p. 446. n. 981.

(43) n. 1614. q. 1°. Resp. ... 3°. p. 275. col. 1.

What under Resp. ... 3°. ... c), p. 274. col. 2, I say, with Murray, *De imp.*, n. 381, I understand as something commonly occurring, or joined to presumption, namely that those detained for punishment have domicile or quasi-domicile in the prison, since they are to be detained there perpetually or for the greater part of the year; but those detained for custody do not even have quasi-domicile in prison, since they are to be detained only for a few months or perhaps weeks. Wherefore, if you suppose someone to be detained for punishment only for a month, or for custody for a year, I judge that the contrary is to be resolved with Murray, ib.; for presumption yields to truth.

"Not a few, especially from the wealthier, merchants, jurisconsults, etc., who inhabit cities or large towns, besides a house in the city, have another in the country, in a different parish, spending the day in the former and the night in the latter. What is to be said of such persons? It would seem that they have two domiciles, for the intention of inhabiting in this way perpetually is supposed; for equally, at least morally, ... they dwell in each parish. I judge that a distinction must be made. 1°. If Caius lives permanently in the country, so that not only does he pass the night there, but also, his family having been transferred there, takes supper, receives friends as guests, etc., while he uses the city house only as a certain office with his ministers, I judge that not the city house, but his villa, 'his country-house,' must be held as his domicile. For in this alone can he be said truly to inhabit; but in the other he only transacts his business. 2°. But if, on the contrary, with the family, etc., remaining in the city house, Caius passes the night in his villa so that he may sleep more quietly and healthily, seeking it late in the evening and departing from it in the morning, I judge that his city house is his domicile and not the villa. 3°. Other middle cases, and more or less doubtful ones, are to be decided from the particular circumstances, or by invoking the due authority." - Ib. n. 383.

(44) n. 1628. q. 6°. p. 284. col. 1.

It can therefore be asked whether a Bishop using the faculties of Formularies D and E, T. I. p. LXXIII, LXXIV, for at least the internal forum himself ought to bestow the dispensation and also validly can do so, since from the practice of the Sacred Penitentiary in the commissory form, p. 279. col. 1, they are granted to the confessor of the petitioner. - The resolution of this question is clear from the Roman response to the following doubts:

"The extraordinary Faculties of Form D ... under n. 8 comprehend also the power of subdelegating, etc."

"Since there are not lacking among Canonists those who, although they admit that a mandate of the Apostolic See or a faculty of dispensing with a determinate person cannot be subdelegated to another unless the Holy See has permitted this, nevertheless teach that otherwise one must judge concerning an indult or general faculty, namely that this can, by the indultary, as one delegated to a universality of causes, by common law itself, be subdelegated to another in a particular case; but others either deny or doubt, because they think in this matter one must proceed rather from the mind of the Holy See than from some general principle, for the peace of my conscience I humbly seek a response to the following doubts.

"1°. Whether I can subdelegate the aforesaid faculties of the Formulae, whatever they are, in particular cases, to another, or rather ought to dispense myself?

"2°. Whether at least, by reason of the style of the curia to be followed by the indultary, I both can and ought to subdelegate the faculty of the aforesaid Formula under n. 2 of dispensing, etc. ... Likewise, at least in a case in which there is question of an impediment of the internal forum, the faculty of the same Formula under n. 6 of sanating, etc. ..."

"It was answered in the following tenor:

"To the doubts proposed by Your Excellency concerning the subdelegation of faculties which are granted by the Apostolic See to Bishops" - the name of the region follows - "I judge that it is to be answered: To the first, that Bishops in the case cannot be considered as delegates to a universality of causes, and therefore cannot indistinctly subdelegate the aforesaid faculties. To the second, that the extraordinary Faculties of Formula D," and by parity of reason the same is to be resolved concerning the Faculties of Form E, "can be subdelegated only in the mode and terms expressed in n. 8," Form D, "and n. 4," Form E, T. I. p. LXXIV, LXXV.

"But if Your Excellency in your prudence judges it necessary to subdelegate to confessors the faculties which are comprehended under 2 and 6," see T. I. p. LXXIII, LXXIV, "it is necessary that you be fortified by a special Indult for this purpose."

(45) n. 1628. q. 7°. p. 285. col. 2.

To the doubt of the Vicar Apostolic of Luchu: "Whether Missionaries, before they grant dispensations in the external forum, ought, by way of caution, to absolve those to be dispensed in the internal forum from Ecclesiastical censures, and whether they can and ought in the external forum?" S. C. de P. F., 26 Sept. 1821, responded: "Affirmatively to the first part; to the second, likewise affirmatively, with faculty obtained from the Ordinary." Collect. p. 490. n. 1020.

(46) n. 1629. p. 286. col. 2.

In whatever way Matrimony is revalidated, the parties, or at least the conscious party, ought to be in the state of grace. Yet if this cannot be taken care of, or if the revalidation of Matrimony must be hastened, nevertheless this is to be done. Cf. Feije, *de imp.*, n. 739.

(47) n. 1715. p. 343. col. 1.

To the doubt: Whether a confessor who, according to the mind of the Bull *Apostolicae Sedis*, n. 10, simulated absolving his or her accomplice in base sin, for example by reciting a certain prayer or

pronouncing other words, or even by being silent, in such a way nevertheless that by signs or gestures of the hands he seemed truly to release the penitent from sins, incurs the excommunication specially reserved to the Supreme Pontiff about which there is question in the aforesaid Bull: - S. Poenitentiaria, having maturely weighed the doubts set forth concerning these things, likewise responded: "Confessors simulating the absolution of an accomplice in base sin do not escape the excommunication reserved in the Bull of Benedict XIV: *Sacramentum Poenitentiae*. - Given at Rome in S. Poenit., on the 1st day of March 1873."

A similar response, given to St. Alphonsus himself by the same Sacred Penitentiary, on the 9th day of July in the year 1751, did not prevent the Holy Doctor from following the opposite sentence. "When I had run through," he says, "the Constitution of the same Pontiff Benedict XIV, *Inter praeteritos*, cited several times, I found the opposite declared sufficiently in § 59, as is clear from the following words: 'No less upon the priest accomplice who either outside the article of death receives the confession of the penitent and absolves him, or who in the article of death absolves when another priest is not lacking, ... the penalty of major excommunication was imposed by Us in the cited constitutions.'"

This having been weighed, the authors of the periodical *Nouvelle Revue Théologique*, Tom. XIV. p. 142, write these things: "Far be it from us to resist the authority of the Sacred Penitentiary; but we would not dare to condemn those who, having imitated St. Alphonsus, still adhere to the letter of the law, until the question is again brought to the Holy See and formally settled by it. It belongs to Bishops to submit questions of this kind to the decision of the Supreme Pontiff."

- In my judgment, no slight weight accrues to the repeated decision of the Sacred Penitentiary precisely from this, that it was given against the sentence of St. Alphonsus, and, if I am not mistaken, of all the theologians who wrote after him. For it must have been that it was repeatedly led into this decision by reasons not slight against their sentence.

Notes to appendix annotation - note sequence 14.

1 L. VI. 556. q. 1.

(48) n. 1721. 1°. d) p. 346. col. 2.

The things which we hand down in the cited place seemed too rigid to the writers of the periodical *Acta S. Sedis*, App. XIX. p. 614 sq. For they contend that the Response of the Sacred Inquisition, dated 21 Aug. 1850, is prior to the Constitution *Apostolicae Sedis* and has regard only to the Constitutions of the Pontiffs which precede it. - But that S. C. de P. F. and the Sacred Inquisition itself judge otherwise is openly clear: 1) from the Response by which S. C. de P. F. communicates to the Bishops of Canada the Decree of the Sacred Inquisition dated 1 July 1870; 2) from the Response of S. C. de P. F., 21 Aug. 1879, by which a copy of the same Decree is transmitted to the Bishop of Vincennes; 3) from the Response of S. C. de P. F., 20 Jan. 1877, by which the resolution of the Sacred Inquisition dated the 10th of the same month is given to the Archbishop of San Francisco. These responses certainly are not prior to the Constitution *Apostolicae Sedis*, but posterior. The first two declare in open words all those things which I hand down in n. 1721. 1° under d) and c). The third has these things: "Insofar as nothing illicit is detected in the signs," which the society uses about which the Archbishop of San Francisco was asking, "and the oath is not extended to this, that the secret cannot be manifested to

ecclesiastical authority whenever it is required by it, those who have given their name to the aforesaid society are not to be disturbed."

But, ask the *Acta*, "do not ... also other societies, for example of robbers, commonly of bandits, thieves, etc., sometimes bind themselves by oath both to keeping the secret and to undertaking mutual defense? Do therefore those also who enter societies of these incur excommunication?" I respond that by this very difficulty, if indeed it were a difficulty, the *Acta* are entangled, when on p. 616 col. 1 they write: "the cited response" of the Sacred Inquisition, dated 21 Aug. 1850, "has regard to the earlier Constitutions of the Pontiffs, in which in fact, especially in that which was issued by Clement XII, assemblies of this kind" - that is, those about which I treat in n. 1721. 1°. under d) and c) - "were comprehended." Therefore, lest they fight with themselves, the *Acta* would have to admit the very thing which they object, namely that the societies of robbers which they describe were subject to censure before the Constitution *Apostolicae Sedis*; which nevertheless no theologian will admit.

Notes to appendix annotation - note sequence 15.

2 See Conc. Pl. Balt. II. p. 335. XXVIII.

(49) n. 1779. q. 16°. p. 377. col. 1.

From the Response, however, of the Sacred Penitentiary on the 18th day of July 1881, which *Past. Bl. für N. Amer.*, 1881. p. 117, reports, "that confessors can use this faculty even outside Confession," it does not appear that the Response about whose limiting there was inquiry is to be restricted.

Notes to appendix annotation - note sequence 16.

1 Conc. Pl. Balt. II. p. 335. XXVIII.

(50) n. 1790. q. 3°. p. 387. col. 2.

The Decree of the Sacred Congregation of Indulgences, 13 Apr. 1878, by which absentees are prohibited from being enrolled in pious sodalities, the same Sacred Congregation, on 26 Nov. 1880, issued a benign interpretation of, whose summary is this:

1. "A distinction must be made between Sodalities canonically erected for the whole Catholic world and Sodalities canonically erected only for a certain diocese or region." In relation to these latter, "the faithful who dwell outside the limits established for the local Sodality are called absent, indeed they can be called not simply absent, but even strangers." In relation to the former, no one is a stranger; and although the personal presence of those to be enrolled is required, nevertheless presence is not required "at the place where the Sodality canonically erected has its proper seat and center; but the presence of those to be enrolled before anyone who, in whatever place, legitimately has the delegated or subdelegated faculty of enrolling suffices. But moral, interpretative, or representative presence by letters or in any other way through intervening persons, even, does not suffice."

2. In receiving members, certain Sodalities, "according to their proper laws for the inscription of members, observe some certain form with some solemnity and rite, such as public petition and

presentation of candidates, some probation and novitiate, or at least imposition of a habit, scapular, cincture, which from its nature" requires "personal presence." For these, "no general and ordinary exception is given from the law concerning absentees not to be enrolled; only this is conceded to their Moderators and their delegates, that in singular cases they can dispense from the established form between those present, and also duly enroll absentees by a singular or extraordinary exception."

But "for Sodalities" which "have no form and ceremony between those present for the enrollment of members, let the decree as regards absentees be duly observed insofar as it can be done; and rather let enrollment in person be rendered easier and promoted as far as possible, by multiplying canonically the centers of associations and increasing, as opportunity suggests, the number of Zelators, Zelatrices, Promoters, or by whatever name they are called, who, according to the approved laws of the Sodality, have not only the office of promoting enrollments in whatever way, but also the subdelegated faculty of enrolling. But since this can be done neither always nor everywhere, nor plainly suffices, ... by a broad exception from the letter of the law with apostolic authority," the Sacred Congregation "declares that even absentees can be enrolled in pious Associations of this kind," namely "also by letters," "or by intervening persons who represent them."

3. Special exceptions legitimately existing, for example by force of privilege, etc., the Sacred Congregation holds as ratified and confirms, and

4. It sanates invalid enrollments of absentees, if any were made up to 26 Nov. 1880.

(51) n. 1508. q. 3°. R. to b). p. 202. col. 2.

The response, as regards a surgical operation, is to be understood with this added: if he who is about to undergo it is at present laboring under an internal and dangerous disease. For which reason he cannot be held as a subject capable of Extreme Unction who allows himself to be cut with danger even of life, if that danger does not exist before the cutting. Nevertheless, he ought to be disposed for the Sacrament by Confession, etc., before the cutting, and the Sacred Oil ought to be at hand, so that when a probable danger of life is present, he may be anointed. *Linz. P. Bl.,* 1882. p. 596-598.

(52) p. 405. col. 1.

The words *utimur* and *convenit* indicate sufficiently that here there is no question of a strict precept. It is clear as regards Masses of Requiem from the following declaration of S. C. R., 31 March 1629, apud Mühlbauer, *Decr. auth.,* II. p. 588: "The organ can be permitted in Masses of Requiem, but with a certain sad and mournful sound, notwithstanding the prohibition of the Ordinary," that is, unless the Ordinary prohibits the use of the organ.

(53) n. 1590. 5°. p. 257. col. 1.

From the things said under rules 2, 3, 4, and 5, it is clear whether and how the following persons are connected by affinity.

"1. Two brothers with two sisters.

"2. Father and son with mother and daughter.

"3. A stepfather with the widow of a prior stepchild.

"4. A stepmother with the husband of the stepdaughter.

"5. The son of Titius from a first wife with the daughter, stepdaughter, of the same Titius.

"6. Two co-stepchildren, or the children of spouses received from another marriage-bed. Think, namely, that a widower and a widow, each having children from another Matrimony, were married.

"7. The brother of a stepfather with the latter's stepdaughter.

"8. Caius with the mother of his stepfather. Lucia with the father of her stepmother.

"9. Martin with the widow whom the brother of Martin's wife left behind.

"10. George successively with Sophia and Gertrude, whose husbands were two brothers.

"11. The surviving spouses of brother and sister.

"12. A widower with the daughter of his widow from the prior Matrimony of the widow.

"13. With the same daughter, the son of the same widower from a prior Matrimony.

"14. That widower with the daughter of the said daughter, or with the granddaughter in the direct line from the prior nuptials of his widow.

"The persons designated under the first eleven numbers and under the thirteenth are free from the impediment of affinity; but those described under the twelfth are bound in the first degree of the direct line from matrimonial copula, and those described under the fourteenth are bound by affinity in the second degree of the direct line, likewise from matrimonial copula." Van de Burgt, *De Matr.*, n. 194.

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Those impeding acts of the Holy See 1713. - See Injury. Promulgation. Recourse.

Administration. - See Church. Reception.

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- and reception of ecclesiastical goods without apostolic beneplacit 1738.

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B.

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C.

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- a woman to enter a monastery, or impeding her without just cause 1741. 5°.

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D.

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E.

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F.

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G.

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H.

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I.

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Those usurping jurisdiction, goods, etc., pertaining to ecclesiastical persons by reason of their churches 1716.

Those impeding the exercise of ecclesiastical jurisdiction 1711.

L.

Injury, etc., of letters or acts issued by the Holy See 1713. - See Congregation. Promulgation.

Liberty of the Church. - See Those Issuing.

Reading of books, etc. 1702.

- printing them 1702. 1741. 1°.

Those prohibiting the promulgation or execution of apostolic letters and acts. - See Promulgation.

Those using false apostolic letters 1735. - See Forgers.

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- granted to secular clerics, so that they may be ordained by another than the proper Bishop 1749. 4°. - See Ordination.

M.

Masonic sect. - See Sects.

One joining in Matrimony, or blessing the Matrimony itself, without license of the proper Pastor, etc. 1749. 7°.

Clandestine Matrimonies, or those without the consent of parents. - See Teachers.

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- of a secular cleric staying outside the City 1748.

P.

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S.

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U.

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Purchase-Sale (Emptio-venditio). - What it is 954. It essentially requires legitimate consent of seller and buyer - merchandise - price ib.; whether also delivery 955.

Legitimate consent excludes persons incapable of buying and selling, who are incapable of any contract whatsoever 957. § *To the first*; persons specially incapable of this contract ib. § *To the second*. What is to be said in the internal forum concerning those who are such by civil law only, not naturally incapable 958.

Merchandise supposes a thing which can be apt matter of a contract in general (see Contracts), and is prohibited by no law from being sold, whether absolutely, as, outside the case of Matrimony, the hereditary succession of a person still living 959. 1; certain things which of themselves are harmful to social order ib. 3; another's thing 960. q. 1; a thing which at the very time of sale has already perished, unless etc. ib. q. 3; or hypothetically, as the goods of wards 959. 2, and of those who have made cession of their goods ib. 3, or whose goods have been placed under custody ib. 4. Whether a thing which is validly sold is licitly sold, if the buyer is foreseen to be going to abuse it 960. q. 4°.

The price ought to be just 961, and it is that sum of money which, regard being had both to the usual nature of the thing and to diverse circumstances of time, place, etc., or from legitimate authority, or, when this is lacking, from common estimation, is appraised as equivalent to the thing for sale ib. § *Wherefore*, p. 342. Hence the price is either legal, what 962. at the beginning, which is determined arithmetically ib. § *First difference*, and is stable ib. § *Second difference*, or common, what 962. at the beginning, which is not determined arithmetically, but admits the breadth of the highest, middle, and lowest ib. § *First difference*, nor is stable, but grows or decreases by reason, etc. ib. § *Second difference*. The vendor, not the buyer, must stand by the just legal price and the still prevailing price 963. 2°; but if the thing for sale does not have a legal price, the common price now current here is to be attended to 964. Hence it is lawful to sell for the highest price and to buy for the lowest ib., fraud nevertheless being excluded ib. § *It is said*. The just price of singular things, however, in most cases is that concerning which the contracting parties themselves freely agree without fraud 965. 966. *Per accidens* it is lawful to sell above the highest price because of damage emerging from the present sale 967. 1°, because of gain ceasing from the present sale ib. 2°, because of some other inconvenience, estimable by price, arising from the present sale ib. 3°, because of the special affection of the seller toward the thing sold (whether also because of a special affection of the buyer) ib. 4°, because of the mode of selling, namely, in a public auction ib. 5°. Moreover scarcity of things, abundance of buyers, rarity of money, the mode of selling in small quantity, etc., are not titles for exceeding the highest price, but causes by which the price grows 968. 962. Because of the same titles, except the title of special affection, it is lawful to buy below the lowest price 969. But fewness of buyers, abundance of merchandise, mode of selling in large quantity, etc., are not titles for buying below the lowest price, but causes because of which the price decreases 970. 962. Finally, it is lawful to buy cheaper foreign goods, unless etc. 971; to procure an auction for oneself by selling above the highest price, if delay and buying below the lowest price are the remedy, or by buying in advance 972; and to sell or buy at the current price, if by private knowledge you know that the price is shortly going to be changed or is changing, unless, etc. 973.

The obligations of the seller are:

I. To manifest the defects of the merchandise, against which obligation he sins positively, if by words or deeds he deceitfully conceals the defects of the merchandise, unless etc. 975. a); negatively, if he does not manifest defects concerning the substance 974, by selling namely the thing as existing in its usual use (and not so much in a physical sense) wholly diverse from that which the buyer intends 976. 1°, in which case he is held, etc. 977; - concerning the quantity, that is, number, weight, measure 976. 2°, in which case he is held at least to diminish the price or make restitution according to the defect of quantity 978, exception, etc. ib. § *Probably nevertheless*; - concerning quality, if he is seriously asked concerning it by the buyer 979, exception, etc. ib. § *But in truth*; or if the vice is occult and notable 982; but a patent or not notable occult vice he is not bound by justice *per se* to manifest, yet sometimes *per accidens* or from charity 981. 983. In what way the vices of merchandise are to be manifested 984, and what if a poorer merchandise is mixed with the merchandise 985.

II. To hand over the sold thing, unless etc. 986. How immovables are to be handed over by our law ib. I, movables ib. II.

III. To warrant the thing, what 987, against eviction, what and how many kinds 988, which obligation requires one thing from a seller in bad faith, another from a seller in good faith 989. What it requires from a seller in good faith who stipulated that he would not warrant the thing 990; - redhibitory vices 991. 992. - See also 725. 736.

The obligations of the buyer are:

I. To buy the thing at a just price, and to pay it at the due place and time 993.

II. To manifest, either expressly or tacitly, by increasing the price up to the lowest, to a simple and ignorant seller the goodness of the merchandise 994. But etc. ib. a). b).

III. To manifest vices of the price which perhaps here and now exist ib. § *Second*.

The chief species of purchase-sale - see under their own words.

Buyer (Emptor). - See Purchase-Sale.

Newspapers (Ephemerides). - Whether those adverse to faith or morals may be displayed in inns 310. d), and whether they may be advertised 320. 8). - See Censures Latae, etc. Books.

Epikeia. - What it is, how many kinds, and when lawful 146.

Bishop (Episcopus). - Whether and how far he can make laws 103. What he ought to do, lest he seem to wound the right of ecclesiastical immunity, when he is compelled to observe laws adverse to it 113. Whether it suffices that his laws be promulgated in the episcopal city 119. Whether he can refuse to admit Pontifical laws 124. q. 4°. Whether and when he can dispense in synodal laws 153. b). Whether and when in general laws of the Church 154. Whether in his diocese in laws enacted in a Provincial or National Council 159. In what vows 391. 392, and whether in simple vows of Religion 1205. VI. In servile works 417. 13°. In irregularities 1144. I. 2°. 4°. 1757. q. 5. R. 1 under 2. In the divine Office 1129. 3°. With foreigners 155. Whether he can institute feast days 545. His rights and obligations concerning ecclesiastical goods 623. 1°. 2°. 3°. 4°. 5°. 6°. 624. 625. 626. a). b). 2°. 3°. 4°. 6°. 627. 631. 635. 1°. 2°. 3°. 4°. 636. 637. 636. R. 1. c). R. 2. R. 3°. a). c). R. 4. II. Regarding residence and causes excusing from it 1134, preaching and prayer 1135, visitation of the diocese 1136 and of Nuns 1159. 1°, examination of novices in convents of Nuns before Profession 1188. II, election of Superioresses of Nuns 1189. 2°, administration of the goods of the same ib. 3°. His power over Nuns subject to a Superior General ib. 4°. His power in inflicting and absolving censures (see Censure). He can be proper ordinary by reason of birth, domicile, benefice, and familiarity 1519. q. 1°. As regards ordinations of Regulars ib. q. 3°. He ought to say the Mass of the Feria in a general conferral of Orders, when, etc. ib. q. 4°. What touches the time and place of conferring Orders 1523. q. 3°. What is to be done by the Bishop, that he may sufficiently prove candidates for Sacred Orders 1524. Query. He can dispense: 1° in banns 1538. I. II. 1572. R. 2°, and when he ought to do so 1538. III; 2° as regards the contracting of Matrimony during the forbidden time, where it is interdicted; 3° in a vow of temporary chastity 1572. q. 1. R. 2°. Ordinarily and by proper right he cannot dispense in diriment impediments 1623. II; nevertheless he probably can in doubtful impediments, even with a doubt of fact, and in occult impediments, both as regards Matrimony contracted and as regards Matrimony to be contracted, the conditions nevertheless being

observed ib. What our Bishops can do p. LXX. n. 4. 6-11, p. LXXII-LXXV.

Error (Error). - What kind invalidates dispensation, and what kind does not 162. 1°. 2°. 3°. 1626. 3°. Error in the person to whom damage is inflicted 751. q. 6°. Its object in a contract 848. Which error invalidates a contract *per se* 849. I, and which does not ib. II. Whether and when error concerning quality invalidates a contract 850. q. 1°, concerning the person ib. q. 2°, concerning the motive 851. Cases 852. 1°. 2°. Error not irritating *per se* gives place to nullity and to reparation of damage, if fraud has intervened ib. 3°, and 989-992. Substantial error, or error concerning the person, always invalidates Matrimony by natural law; not, however, if it is concerned with qualities of the person only, unless these are intended either explicitly, as a condition *sine qua non*, or redound into substance 1576. Resolutions 1577. Concerning the value of a Sacrament, one committed with grave fault or negligence, even with grave inconvenience of the confessor, is to be repaired 1487. I. Exceptions ib. a). b). If inculpable, one is held only from charity ib. Except, etc. ib. Concerning accidents of a Sacrament, for example the species and number, it is not to be repaired outside Confession, if negatively; otherwise, however, if positively and with grave fault committed ib. II. Nevertheless the obligation of warning outside Confession is less, if it concerns accidents of a Sacrament ib. III. A confessor releasing a penitent from owed restitution, or obliging him to restitution not owed, is held under the burden of restitution to correct the error, if it was committed from malice or grave negligence; likewise if from light negligence and he neglects to warn, when he can do so easily 1488. q. 1°. q. 3°. He who omitted to warn concerning restitution to be made is held to warn in another Confession ib. q. 2°; nevertheless the simple omission of warning does not induce the obligation of restitution 774. q. 1°. A confessor cannot speak outside Confession, without the penitent's license, concerning a defect committed, except in the case in which he had not absolved, or had not rightly absolved 1488. q. 4°.

Eucharist, as Sacrament (Eucharistia, ut Sacramentum). - What it is p. 42. T. II. Christ is present in it as long as the species remain entire 1278. q. 1°, and how long they remain entire after the reception of the Sacrament ib. q. 2°.

Its effects in the soul 1278. q. 3°, and whether and when it blots out mortal sin 1208. q. 2°.

Valid remote matter: wheaten bread and wine from the vine 1279. I. II; invalid, juice from wholly unripe grapes ib. II; doubtfully valid, bread made not with water ib., or made from rye or spelt 1280. q. 1°. q. 2°.

Gravely illicit remote matter: leavened bread for a Latin priest, unless etc. 1280. q. 3°; - and wine without water 1279. III. 1280. q. 6°; must outside necessity 1279. II; wine generally turning sour 1280. q. 4°; likewise frozen wine ib. q. 5°.

Valid proximate matter, or Consecration, requires matter physically present and the virtual intention of the Minister determined in the individual 1281. I. Hence it is valid, although hosts are consecrated while lying under others or otherwise covered 1282. 1°. 1283. q. 2°, or more are present than the priest thinks 1282. 2°, provided that they were not then, without the priest's knowledge, placed separated from the heap ib. 4°. It is also valid if wine is consecrated in a covered chalice ib. 1°. Consecration of drops of wine adhering to the outside of the chalice is to be judged invalid 1283. q. 3°. R. 1°. Doubtfully valid: Consecration of only one species with a positive intention of not consecrating the other 1282. 6°; of a ciborium left outside the corporal or sacred stone through forgetfulness 1283. q. 1°; of drops of wine indeed adhering to the inside of the chalice, but wholly separated from the greater quantity ib. q. 3°. R. 2°. The whole heap must be consecrated conditionally if unconsecrated hosts are mixed with consecrated ones 1282. 2° at the end; likewise one species consecrated with the intention of not consecrating the other ib. 6°; likewise a ciborium left through forgetfulness outside the corporal or sacred stone, if the particles cannot easily be consumed; otherwise they must be consumed after both Communions and the ablution, but before the purification 1283. q. 1°.

Lawful proximate matter, or Consecration, what it requires 1281. II. How great a sin it is to consecrate a broken or stained host 1283. q. 4°. What if, after Consecration, and what if before Consecration, the priest notices that two hosts are joined together 1282. 2°. Likewise what if, after the oblation, small hosts to be consecrated are offered to him ib. 5°.

What the form is 1284. Examples of an illicit but nevertheless valid form 1285. 1°. 1286. q. 1°; of an invalid form 1285. 2°. 1286. q. 4°; of a doubtfully valid form 1285. 3°. 1286. q. 2°. q. 3°. It is to be pronounced recitatively at once and significatively 1285. 4°.

The ordinary Minister of the Eucharist, whether to be confected or to be distributed, is a priest 1287. I. II; the extraordinary Minister for distributing is a deacon, but, outside necessity, by commission and for a sufficient cause ib. III. 1288. q. 1°. Only the Pastor, his Superior, and one who has or legitimately presumes the license of either lawfully distribute it 1287. IV. What as regards Paschal Communion, Viaticum (concerning censure 1729), and the first Communion of children, notably among us ib. Whether or in what circumstances Religious can minister the Most Holy Eucharist 1200. E). F).

The obligation of ministering Communion from justice is incumbent upon the Pastor whenever subjects are held to receive it, or reasonably and not as impeded (1290. q. 5°) ask for it 1289. I. Nevertheless he does not sin gravely if, outside the case of precept, he sometimes refuses it, etc. 1290. q. 3°; nor, very probably, is he held to minister it with danger to life 1226. q. 2°. R. 7°, nor by himself 1290. q. 2°. From charity, when the Pastor is lacking, any priest is held to minister it to one about to die 1289. II, and, if a priest is lacking, a deacon 1288. q. 1°.

For lawful distribution the Minister is required to be not impeded by excommunication, interdict, suspension from Sacred Orders, or irregularity; to be in the state of grace, at least by contrition obtained; to be existent; and to observe the rite of the Church 1291. - The rite of the Church requires a stole, surplice, so that it is mortal to minister it without any sacred vestment outside the case of necessity of one dying 1299. q. 3°, light, the *Confiteor*, etc.; yet not each single thing under grave obligation 1292. - That, apart from gravest necessity, it not be ministered with other fingers than thumb and index finger, and this under grave obligation 1293. q. 1° - That several hosts not be given to one, nor one larger host 1297. q. 13°. It can be given on any day whatsoever, except from the reposition of the Most Holy Sacrament on Thursday in the Supper of the Lord until the end of Mass on Holy Saturday, unless custom permits it even within that Mass 1294. q. 6°; - at any hour of the day, except toward night and in the Mass of the Nativity of the Lord which is celebrated at midnight ib. q. 5°; - also before or after Mass 1295. q. 7°, and although it be celebrated as a Requiem, but then etc. ib. q. 8°. and 1296. q. 10; and within a Requiem Mass from particles even preconsecrated 1295. q. 9°. How it is to be ministered outside Mass 1296. q. 11°. What is to be done if the Host falls to the ground, etc. 1293. q. 2°. q. 3°. q. 4°; - if a minister is lacking to the priest 1297. q. 12°; - if particles do not suffice for all who are to communicate, or if some remain over and there is no tabernacle in which they may be placed ib. q. 14°. q. 15°. In what way it is to be ministered to the sick 1298. 1299. q. 3°. q. 5°. Whether and when it can be carried: at night 1299. q. 1°; secretly ib. q. 2°, and p. 513. col. 1. n. 1302. 1°. 3°, and how it is then to be carried 1302. 2°. 4°; - by running 1299. q. 4°. 1302. 5°; - by riding 1299. q. 7°. 1302. 5°; - with covered head, when it is carried publicly 1299. q. 6°. How often it can be ministered to the sick already fortified with Viaticum, although not fasting 1299. q. 8°. q. 9°. What the priest must do if, arriving at the sick person with the Most Holy Sacrament and hearing his Confession, he finds him indisposed ib. q. 10°.

In what churches or oratories the Eucharist ought or can be reserved 1300. I, and what concerning rural churches among us near which no priest resides or from which he is absent 1303. Of what sort the tabernacle ought to be; - what must not be placed or tolerated upon it, before it, or in it; by whom its key is to be guarded; in what way it is to be adorned externally and internally; of what sort the ciborium ought to be 1300. II. Before the Most Holy Sacrament a lamp must always be lit, apart from true necessity, even among us, and it would be mortal if it were not lit for a whole day; it is to be fed from olive oil, or, with the license nevertheless of the Bishop, from other oils, vegetable insofar as possible, ib. III. and 1301. q. 1°.

How often and in what way the particles are to be renewed, and whether these ought to be recent 1300. IV. 1301. q. 5°. What is to be done if fragments of hosts are found 1301. q. 2°; - or a certainly or doubtfully consecrated host ib. q. 3°; - or one rejected by a sick person ib. q. 4°.

The obligation of receiving the Most Holy Eucharist. Its real reception is necessary by necessity, not of means, but of precept, both divine and ecclesiastical, to all the faithful who have reached the years of discretion 1304. The divine precept urges *per se* in the article or danger of death, and several times in life 1305. q. 1°. R. 1°. 2°. When *per accidens* ib. R. 3°. Whether in danger of death he ought to communicate who communicated a few days before 1305. q. 2°; - or whether he ought or can, who communicated that very morning from devotion ib. q. 3°. Whether in danger of death Communion is to be given: to children not yet admitted to the sacred Synaxis ib. q. 5°; - to those recently converted to the Faith ib. q. 6°; - to the insane, half-witted, delirious, and those destitute of the senses ib. q. 7°; - to the deaf-mute, the possessed, and epileptics ib. q. 8°; - to those condemned to death ib. q. 9°.

In one about to communicate, that sacrilege may be avoided, there is required, as regards the soul, the state of grace, at least prudently judged to be present 1306. I, acquired through Confession, although not materially entire 1307. q. 3°. q. 6°, or, if the necessity of communicating or sacrificing urges and the supply of a confessor is lacking, through contrition ib. 1306. II. But that he may perceive the whole fruit of Communion, it is further required that voluntary affection to venial sin be absent 1307. q. 8°. When the supply of a confessor is reckoned to be lacking ib. q. 1°. q. 2°. - A priest who has celebrated, not a layman who has communicated, conscious of mortal sin, from the precept of the Church, is held to confess as soon as possible, before he celebrates again; or, if he does not celebrate, within three days ib. q. 4°. q. 5°. q. 7°.

In one about to communicate there is required, as regards the body, a natural fast, what it is 1308. I. That someone be held to abstain from Communion because of defect of fast, it must be morally certain that after midnight 1309. q. 6°, after midnight 1308. I. III, from without ib. II. 1°, by way of eating or drinking ib. 2°, something which has the nature of food or drink ib. 3°, has been conveyed. If remnants of food adhering between the teeth are swallowed on purpose, abstinence from Communion is altogether to be counseled; it is sufficient, however, to spit out only those which are sensibly perceived on the tongue 1309. q. 1°. Tobacco powder or smoke does not dissolve the fast ib. q. 3°. q. 4°, nor do little drops of water or broth tasted and mixed with saliva, unless they are swallowed either in great quantity or on purpose ib. q. 2°. What if a leaf of tobacco or a spice is crushed with the teeth ib. q. 5°. It is venial, without some cause, to take something immediately after Communion ib. q. 7°. Provided that no fragment of the host has remained in the mouth, it is not illicit, but unfitting, to spit immediately after Communion ib. q. 8°. When it is lawful for one not fasting to communicate ib. q. 9°. q. 10°. q. 11°. Further there is required, as regards the body, dress and composure exhibiting reverence and devotion 1310. I. 1311. 1°. 4°. Stains of the body, even apparent, but here and now indelible, although very notable, do not prevent Communion; nevertheless it will be fitting to defer it, if it can conveniently be done, in the case in which very notable apparent ones should soon cease 1310. II. III. 1311. 2°. Yet a priest infected with a stain or infirmity exciting horror cannot celebrate in public 1311. 3°. What concerning Communion after pollution ib. 2°, or conjugal copulation 1646. 7°.

Communion, to whom, as publicly unworthy, it is to be denied 1233. 1°. 1439. q. 2°.

Frequent Communion, what it is 1312; always most desirable ib. 1); to be left to the judgment of the confessor ib. 2); what if it is a matter of Nuns ib. 3). Monthly Communion is to be counseled to all 1313. I. To whom weekly Communion is to be permitted ib. II; frequent ib. III; daily ib. IV. What spiritual Communion is; greatly to be commended 1314.

The first Communion of children, by whom it is to be given 1287. IV. Ordinarily it is not to be given before the tenth year of age, nor delayed after the fourteenth year 1315. The manner in which it is received contributes much to the whole course of the remaining life. Hence children are to be diligently prepared for it, and inquiry is to be made into their life. What is to be done in the three days before; what on the day itself ib.

Eucharist, as Sacrifice (Eucharistia, ut Sacrificium). - What Sacrifice is, before 1316. In what its essence consists 1317. q. 1°. What the priest does in offering it in the name of Christ, of the Church, of himself ib. q. 2°. Preliminary. For whom, under that threefold name, or under some one of these, and which one, it can be offered ib. q. 2°. The fruit on the part of the one offering is *ex opere operato* or *operantis* ib. q. 3°. R. I; on the part of the victim, general, special, most special ib. R. II. Whether and in what sense its value is infinite ib. q. 4°. How it profits the dead ib. q. 5°. q. 6°.

What application of the Sacrifice is, before 1318. It is not required for the general fruit, nor for the most special 1318. I, but for the special fruit ib. II. III; for which, however, habitual intention suffices and is required 1319. 1°, and one implicitly determined ib. q. 3°. Habitual intention, of which the priest is unmindful, is revoked by a new one ib. q. 2. How it is determined if stipends have been given, for example, by ten persons ib. q. 4°, or by many unknown persons ib. q. 5°.

The obligation of celebrating by reason of Priesthood is of divine law, and requires under grave obligation that Mass be celebrated at least three or four times in the year 1320. 1321; - by reason of office, Bishops after having obtained possession of the See, and Pastors, are held to celebrate for their sheep on all Sundays and also Feasts enumerated in the Catalogue of Urban VIII (p. 87. T. II), but not Vicars Apostolic or Missionaries, provided it is not a matter, etc. 1322. One impeded is held through another ib. Query; - by reason of stipend, it is lawfully celebrated 1323. I, even by a rich priest 1325. q. 11°, and on the day of the Commemoration of All the Faithful Departed ib. q. 17°; but if outside the day of the Nativity of the Lord he celebrates twice, then for one Mass only, unless etc. 1327. q. 7°. q. 8°. But from justice and under grave obligation it must be celebrated, and indeed although the stipend itself is not grave matter 1323. II. 1324. q. 4°. When delay of a Mass to be celebrated from a stipend is grave 1324. q. 3°. A Mass to be celebrated for another cannot be committed by giving a smaller stipend than was accepted, unless etc. 1325. q. 7°. q. 9°; but he who retains a part is held to restitution ib. q. 8° (censure 1727). How great a stipend can or ought to be exacted 1324. q. 1°. 1325. q. 10°, and to what he is held who, having accepted a stipend for celebrating at a privileged altar, celebrates at another, and whether he ought there to celebrate a Requiem if the rite permits it 1325. q. 14°. q. 15°. Whether one obliged from a stipend to read a Requiem or votive Mass satisfies if he says another ib. q. 16°. What the Plenary Council of Baltimore II counsels and prescribes concerning founded or to-be-founded Masses ib. q. 18°. What reduction, condonation, and composition of Mass stipends are, and from whom they are to be obtained ib. 19°.

Time of celebration. It is lawful to celebrate daily, except etc. 1326. I, provided that, outside the case of privilege, dispensation of the Bishop, legitimate cause, and the first Mass on the Nativity of the Lord, Mass begins at least by midday and is not completed before dawn 1326. II. 1327. q. 2°. q. 3°. In what way that privilege is to be interpreted 1326. III. How great a sin it is to celebrate before the recitation of Matins and Lauds 1100. q. 2°. Whether and when it is lawful to celebrate more often on the same day 1327. q. 4°. q. 5°. q. 6°. For how much time a low Mass and thanksgiving after it ought to last ib. q. 10°. q. 11°.

Place of celebration is a church, at least blessed, and not polluted, execrated, or interdicted 1328. I; likewise with the license of the Bishop, public oratories, and every place religious, as a Seminary, etc., erected by ecclesiastical authority, or pious, that is, dedicated to works of mercy, as a hospital, etc., although erected without ecclesiastical authority 1329. q. 1°. Whether and when outside the aforesaid churches and oratories 1328. II. 1329. q. 2°. Faculties of our Bishops concerning the place of celebration 1329. q. 3°. In what way a church is polluted and reconciled ib. q. 4°; is execrated and again rendered fit for worship ib. q. 5°.

Mode of celebrating, or requisites for Mass, and Rubrics. Requisites for Mass, where concerning the altar; concerning cloths; concerning sacred vestments and their colors; concerning chalice and paten; concerning corporal, pall, purificator; concerning missal and its cushion; concerning the Cross; concerning candles; concerning burse, veil, hand-towel, cruets, minister 1330. 1331. Whether and which Rubrics are preceptive 1333. q. 1°, and whether a sick priest can celebrate although he cannot observe them all ib. q. 2°. What concerning decrees of the Sacred Congregation of Rites and custom against the Rubrics 1335. 1336. Whether and when interruption of Mass is lawful 1333. q. 3°. What is to be done if a priest, overcome by illness or death, cannot complete the Sacred rite ib. q. 4°. What concerning one celebrating with false hair, a wig, 1334. 2°; concerning one omitting, or not performing entirely or performing too quickly, blessings, inclinations, genuflections, etc. ib. 3°. The omission of which parts of Mass is mortal ib. 4°. 5°, venial ib. 6°. 9°. How great a sin it is not to recite with that voice those things which must be said in a loud or secret voice ib. 7°; to mutilate words or cut them short by syncope ib. 8°; not to wash hands or to omit the prayers before or after Mass ib. 10°. 11°. 1333. q. 1°. R. 2°; to celebrate with distraction 1334. 13°.

Eviction (Evictio). - See Purchase-Sale.

Examination of conscience (Examen conscientiae). - Penitents are held under grave obligation *per se* to a diligent one 1372. I. Serious diligence is required, but not the highest ib. II, nor equal from all ib. III, and the fear that sins may fall from memory does not oblige one to write them down 1374. q. 1°. Order to be followed in it 1374. q. 2°. If instructed penitents approach without conscience sufficiently examined, they are to be dismissed kindly; otherwise, if they are uncultivated or little instructed ib. q. 3°.

Excommunication (Excommunicatio). - What it is 1673 (against animals 1663. 5°. Against the dead ib. 6°). How many kinds 1673. Whether and when it is lawful to communicate in divine things with an excommunicated person ib. § *Formerly*. How an excommunicated person is to be denounced, that he may be one to be avoided 1674. q. 1°. What is to be held concerning minor excommunication ib. q. 2°.

Its mediate effects are two 1675. § *And these indeed*; immediate effects: privation: 1) of Sacraments 1676; 2) of divine offices 1677. 1678; 3) of common suffrages of the Church 1679. 1680; 4) of ecclesiastical burial 1681; 5) of ecclesiastical jurisdiction 1682; 6) of benefices 1683; 7) of forensic communication 1684; 8) of civil society 1685.

Excommunicated person (Excommunicatus). - Whether he is subject to the laws of the Church 110. § *It follows*. - See Excommunication.

"**Excursions.**". - See "Fairs."

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Addenda and Corrigenda

Tom. II.

Page 62, col. 2, n. 1308, III. What is said in this place understand according to the following response of the Sacred Penitentiary. "Whether, where clocks accommodated to mean time are used, one must stand by them both for fulfilling the burden of the Divine Office and for observing the natural fast; or whether one ought, or at least can, use true time? The Sacred Penitentiary responded: The faithful, in observing the natural fast and in reciting the Divine Office, can follow mean time, but are not bound to do so. - On 29 Nov. 1882."

Page 215, col. 2, n. 1523, q. 3°, R. 4°. The opinion of St. Alphonsus concerning the sense of the indult for conferring Orders outside the times is confirmed by the Response of the Sacred Congregation of Rites of the same day, 18 May 1883, in the Marionopolitana. "Doubt II. Whether the faculty of conferring Sacred Orders outside the times, by force of art. 1, Form. I., generally granted to missionary Bishops, is limited, unless there is a very special indult, to those days alone on which by common law it is lawful to confer Minor Orders, namely feast days of precept, even those abrogated in favor of the faithful? Or whether it extends to all individual days of the year, or at least to all on which an Office of double rite is recited?" The Sacred Congregation responded: "Affirmatively to the first part: negatively to the second."

Page 266, col. 2, n. 1607. I hold as probable the opinion that the Decree *Tametsi*, without a special Pontifical indult, can validly be promulgated only in parishes strictly so called. Yet I add that it would be very desirable for the Holy See to be consulted on the matter. Here is the response given to Bishop N. N. "Bishop N. N., in the Canadian region, set forth to the Sacred Congregation of the Inquisition that now doubts arise concerning the validity of certain marriages contracted without the solemnity required by the Decree *Tametsi* of the Council of Trent in the missions or quasi-parishes of this diocese. For before the year 1872 many places of the diocese N. N., commonly called Cantons or Townships, had not yet been canonically divided into parishes. In these places there were: 1° Missions properly so called, namely without a resident priest, but visited through the year, at times both fixed and unequal, by a missionary delegated for this purpose; 2° quasi-parishes, by which must be understood a territory which, as to external appearance, more or less approached the likeness of a parish, inasmuch as it had a church near which a priest ordinarily, or at least principally, resided, and boundaries designated by the Bishop. - Nevertheless, in these missions and quasi-parishes, just as also in parishes properly so called, the Decree *Tametsi* of the Council of Trent had been published annually by the priests placed over their care. For to this end the Bishops of the Province of Quebec had commanded: 'Since the Tridentine Council, by the solemn decree (*Tametsi*, Sess. 24 de Ref. matrim.), declared null and invalid marriages entered otherwise than in the presence of the parish priest and witnesses, whose number it determines, we judge it a matter of greatest moment that parish priests and missionaries announce so salutary a decree to the people. We will, therefore, that they read it on the first Sunday after Epiphany, on the occasion of the sermon. In parishes especially, and in newly erected missions, this decree will be published opportunely, as the very tenor of the same decree and the response of the Sacred Congregation de Propaganda Fide, given to the Bishop of

Quebec on 16 Nov. 1824, prescribe.' But since there is doubt whether the Tridentine Decree can validly be published outside parishes properly so called, it is humbly asked of the Sacred Congregation to declare: Whether the promulgation of the Decree *Tametsi* of the Council of Trent in the missions and quasi-parishes above mentioned was valid?

"The response was given on Wednesday, 14 Nov. 1883. 'According to the things set forth, affirmatively, and according to the mind. The mind is that in places where a Parish Priest cannot be had, a marriage entered before two witnesses is valid, with the obligation, however, upon the contracting parties of receiving the nuptial blessing as soon as they conveniently can, and of taking care that the marriage be entered in the sacramental registers of the mission or nearer church on which they depend.

"This resolution was confirmed by Our Most Holy Lord on the same feria and day.'

"If I have been rightly, although not authentically, instructed, the reason for the response of the Sacred Congregation is this. The Decree *Tametsi* must indeed be interpreted strictly, but according to the mind of the Tridentine Fathers. But their mind in composing that Decree was not that parishes should be distinguished from missions among Catholics, but that the Catholic assemblies of the same city or region should be distinguished from the assemblies of heretics, because they did not wish heretics to be comprehended in this Decree where they had distinct assemblies and congregations; and this is the simple and true signification of the word Parish in this Decree according to the mind of the Tridentine Fathers."

Page 384, col. 2, n. 1787. Note 2 on the same page must be reformed according to the following Response of the Holy See. "The Most Reverend Archbishop N. N. enjoys an Apostolic indult of erecting the Way of the Cross with the faculty of communicating a license of this kind also to other priests subject to his spiritual jurisdiction. Supported by such an indult, he has bestowed the aforesaid faculty upon the priests of the archdiocese in a general way, so that in individual cases they need not have recourse to him. But since, according to the decrees of the Sacred Congregation of Indulgences set forth above, erections of the Way of the Cross of this kind are deservedly to be considered invalid, hence the humble petitioner, on bended knee, asks that Your Holiness deign to heal in the root all and singular erections of the Way of the Cross existing for the time being in the Archdiocese N. N., which may have been invalid either because of the cause stated in the petition or because of any other cause.

"From the Audience of His Holiness held on 21 Oct. 1883: Our Most Holy Lord Leo XIII, Pope by Divine Providence, . . . deigned graciously to grant the requested sanation; but in order to avert in the future any doubt concerning the legitimate erection of the Way of the Cross thereupon, the Parish Priests or Rectors of the churches in which the Way of the Cross was erected in the manner set forth should take care to ask in writing from the Ordinary the required consent for each erection individually." *The Pastor*, vol. II, p. 23 (125).

For the peace of consciences we add that by Our Most Holy Lord Pope Leo XIII, on 31 July 1883, all defects which have occurred anywhere in the erection of the Way of the Cross were healed. *The Pastor*, vol. II, p. 21 (121).

Page 386, col. 2, n. 1790, q. 2°. Resp. . . . under 1. - Add the following response, or rather indult. "The Vicar General N. N., prostrate at the feet of Your Holiness, humbly sets forth as follows. As regards

the erection of confraternities of the same name and institute, the law requires a certain distance of churches. But among us, and in most cities of the United States of North America, in the same place there are quasi-parochial churches for diverse nations speaking diverse languages, chiefly English and German. The parishes have boundaries so distinguished one from another as to the others, that the faithful of the English language, for example, belong to their own churches, and those using the German language to other churches of their own language, and have almost no communication among themselves. By this law it happens that very often two churches, although of diverse language, have almost no distance between themselves. This division and separation is of greater difference in reality than mere local distance. For morally it is impossible that, if there is question of a confraternity erected in a church of one language, the faithful using another language should approach this for enrollment, and especially for public devotion in a different vernacular language. Therefore it is asked whether the law concerning the distance of confraternities also avails for these circumstances or not?

"From the Audience of His Holiness, held on 21 October 1883. Our Most Holy Lord Leo XIII, Pope by Divine Providence, upon the report of me, the undersigned Secretary of the Sacred Congregation de Propaganda Fide, deigned graciously to consent in favor of the grace of dispensation from the required distance, yet under this condition, that each instituted Confraternity can enroll only those who belong to the determinate nation for which, as is said, the same Confraternity has already been erected or is to be erected. And this under penalty of nullity of the Indulgences." *The Pastor*, vol. II, p. 22 (124).

The response contains an indult, which avails only for the diocese of that Vicar General.

Page 388, col. 1, n. 1792, under a). I say that the blessing and imposition of Scapulars must be done by the prescribed or indulted formula. It was asked: "Whether one who obtained from the Superior of the respective Order the faculty of blessing and imposing 'the said four Scapulars' (which are blessed and imposed by the Fathers of the Congregation of the Most Holy Redeemer) can licitly and validly use the shorter formula approved by the Sacred Congregation of Rites" (for the aforesaid Fathers), "without having obtained for this a special faculty from the Holy See?" The response was given by the Sacred Congregation of Indulgences, on 12 Sept. 1883: "Validly indeed, but not licitly." *The Pastor*, vol. II, p. 22 (123).