INSTITUTIONES MORALES ALPHONSIANAE

The Moral Doctrine of the Doctor of the Church St. Alphonsus Maria de Ligorio, Adapted for the Use of Schools

by P. Clement Marc, C.SS.R.

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adapted for the use of schools

by the care and study of

P. Clement Marc

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Part Third: On the Sacraments

Prologue

1389. In order that men, who have suffered the loss of original justice, may return into that state in which they can truly satisfy all the precepts of the natural law; and that they may be able to rise again to supernatural life, which in them, through sin, has been utterly extinguished, and thus be gathered into the most honorable company of the sons of God: they are commanded to approach the fonts of grace and salvation placed in the midst of the Church, namely the SACRAMENTS OF THE NEW LAW: which indeed were instituted for this end by Christ the Lord, that through them, conferred by the ministers of the Church, supernatural life may either first be infused, or, if lost, restored, or, once acquired, increased, and thence the Christian people be divinely constituted.

Hence there arises a new order of offices, regarding both those who are about to receive these Sacraments, and those by whom, from the will of Christ, they are to be administered. The explanation of these offices is the task of moral Theology, in which nevertheless, by reason of the intimate connection of things, not a few matters which properly pertain to the dogmatic discipline are commonly touched upon.

There will be eight treatises: 1. on the Sacraments in general; 2. on Baptism; 3. on Confirmation; 4. on the Eucharist; 5. on Penance; 6. on Extreme Unction; 7. on Order; 8. on Matrimony.

Treatise I: On the Sacraments in General

One must treat: 1. of the Nature; 2. of the Minister; 3. of the Subject of the Sacraments; 4. of Sacramentals.[1]

(1) On the Sacraments in general see St. Thomas, 3, q. 60-65; Salmanticenses, tr. I; Billuart, etc.; but the Roman Catechism should be read first.

Chapter I: On the Nature of the Sacraments

So that the nature of the Sacraments may become known, 1. certain things must be premised concerning their notion and distinction, whether numerical or specific; 2. their efficacy, or power, must be inquired into; 3. their constitution must be weighed, which is placed in matter and form.

Article I: On the Notion and Distinction of the Sacraments

1390. DEFINITION. A Sacrament of the New Law is a sensible sign of invisible grace, for sanctifying the people of God, permanently instituted by Christ.[2]

It is said: 1. a sensible sign, that is, one which denotes internal grace and can be perceived by an external sense. For thus the means of salvation are adapted to the nature of man, who, in operating, is subject to the senses, and at the same time they become the foundations of divine worship and of Christian society. 2. Of invisible grace, which the Sacrament produces *ex opere operato*, that is, by force of the divine institution, independently of the work of the one operating, namely of the minister conferring and of the subject receiving, provided the subject is rightly disposed. 3. Instituted by Christ, in distinction both from the Sacraments of the old Law and from the Sacramentals of the Church, which have not been instituted by Christ. There is added: permanently, or stably; for as long as the Christian religion shall remain, so long also will the Sacraments remain.[3]

"Therefore three things are required for constituting a Sacrament: 1. an external sign; 2. a promise of grace; 3. the institution of Christ, since all the Sacraments have their power from the passion of Christ the Lord."[4] See the Dogmatic theologians.

(2) Cf. book VI, 2, and the work on Trent, sess. 7; Exam. Ordin., n. 1. (3) Cf. book VI, 1-5. (4) Exam. Ord., n. 2.

1391. NUMERICAL DISTINCTION. "It is of faith that there are seven Sacraments of the New Law, neither more nor fewer," as the Council of Trent defined, sess. 7, can. 1.

The Council of Florence, in the Decree to the Armenians, thus demonstrates the fittingness of this sevenfold number: "For spiritual life, just as bodily life, needs seven things: 1. That the faithful be generated, and this Baptism furnishes; 2. that they be increased and strengthened, and this Confirmation gives; 3. that they be nourished, and this the Eucharist furnishes; 4. that they be healed, and this Penance bestows; 5. that the remains of sins be taken away and the powers of the soul be refreshed, and for this there is Extreme Unction; 6. that ministers of the Church be formed, and this Sacred Ordination furnishes; 7. that children be begotten and religiously educated for the worship of God and the conservation of the human race, and this Matrimony gives."[5]

(5) Cf. Catech. Rom., p. 2, c. 1, n. 15; St. Alph., Condotta ammir., p. 2, c. 1, n. 6-12.

1392. SPECIFIC DISTINCTION. The Sacraments, according to their various properties, are distinguished:[6]

1. Into Sacraments of the dead, that is, Baptism and Penance, which of themselves are conferred upon the spiritually dead, that is, those lacking grace, and produce first grace; and of the living, which of themselves are not administered except to those having first grace, and work an increase of grace in them.
2. Into repeatable Sacraments, as the Eucharist, Penance, Extreme Unction, Matrimony; and unrepeatable, as Baptism, Confirmation, and Order, on account of the character which they impress indelibly.
3. Into a permanent Sacrament, as is the Eucharist, which consists in a permanent thing; and transient Sacraments, as are all the others, "because they are Sacraments only when they are made and applied."[7]
4. Into Sacraments necessary by necessity of means for salvation, as are, for all, at least in implicit desire, Baptism, and more probably also the Eucharist, as will be explained in its own place (n. 1563); likewise, for those fallen into mortal sin, Penance; and necessary by necessity of precept, such as are Confirmation and Extreme Unction, according to the more probable opinion, altogether to be urged. Order and Matrimony are not necessary for private persons, but for the community.
5. Sacraments are called formed, when in the one receiving they really produce grace; unformed, when indeed they are valid in themselves, but in the one receiving, on account of the obstacle which he places, they do not produce the ultimate form of the Sacrament, that is, grace.[8]

(6) Book VI, 6; Exam. Ord., n. 4. (7) Book VI, 190, 2. (8) Book VI, 6, note 4; Exam. Ord., n. 4.

1393. Note. In the old Law there were true Sacraments, as the Council of Trent openly implies when it hands down that the Sacraments of the New Law differ from the Sacraments of the Old Law. Such was the tree of life in the state of innocence; the sacrifice of Melchisedech and circumcision in the state of the law of nature; the paschal lamb, various purifications, and consecrations of priests in the Mosaic law. Yet these Sacraments, and even circumcision itself (as the more probable opinion teaches), did not confer grace by a power proper to themselves, that is, *ex opere operato*, but *ex opere operantis*, that is, from the merit of acts of faith, religion, penance, etc., which those ministering or receiving elicited. But for blotting out original sin there sufficed, more probably, faith in Christ to come, manifested by some exterior sign, especially through circumcision.[9]

(9) Book VI, 3-4.

Article II: On the Power and Efficacy of the Sacraments

1394. There are two EFFECTS of the Sacraments: one common to all, namely grace; the other proper only to some, namely character.

§ 1. On the Grace of the Sacraments

A twofold grace is conferred through the Sacraments: sanctifying grace and sacramental grace.

1395. Principles. I. All the Sacraments confer SANCTIFYING GRACE, which renders man a friend of God (see the Dogmatic theologians).[10]

This grace is FIRST or SECOND, namely: the Sacraments of the dead, Baptism and Penance, of themselves and primarily confer first grace, by which namely the sinner is justified; the other Sacraments, which are called of the living, confer of themselves and primarily second grace, that is, an increase of pre-existing grace.

We said of themselves and primarily. For: 1. The Sacraments OF THE DEAD sometimes and accidentally confer second grace, when namely they find grace already existing in the soul; otherwise they would be sterile, which assuredly would be said absurdly and impiously. 2. The Sacraments OF THE LIVING, according to the common opinion, can likewise confer first grace, when namely someone in the state of lethal sin receives the Sacrament with good faith and at the same time with attrition. That this must be said of the Most Holy Eucharist seems to be concluded from the words of Trent (sess. 13, can. 5), defining: "If anyone shall say that the principal fruit of the Most Holy Eucharist is the remission of sins, let him be anathema." St. Thomas hands down this very thing,[11] not only concerning the Eucharist, but also concerning Extreme Unction; and theologians commonly agree with the Angelic Doctor, who affirm the same concerning the other Sacraments of the living. But the reason for the affirmation is that in Trent (sess. 7, can. 6) it is read: "If anyone shall say that the Sacraments of the New Law ... do not confer grace on those placing no obstacle ... let him be anathema"; now indeed, "he who approaches a Sacrament of the living with attrition, which excludes affection for sin, both actual and habitual, already places no obstacle"; therefore.[12]

Note. It can happen in many ways that one guilty of mortal sin receives a Sacrament of the living in good faith, namely: 1. if he invincibly does not know that he is in the state of sin; 2. if he invincibly thinks himself perfectly contrite, or rightly absolved, when he is not; 3. if he invincibly does not know that the state of grace is required for the reception of a Sacrament, etc. (cf. n. 1547).

(10) Cf. Lugo, De Sacram., disp. 4, sect. 3. (11) 3, q. 72, a. 7, ad 2; and q. 79, a. 3. (12) Book VI, 6; Exam. Ord., n. 4.

1396. II. "The Sacraments also confer SACRAMENTAL GRACE, namely helps for obtaining the end for which each Sacrament is instituted."[13] See again the Dogmatic theologians.

In particular: 1. BAPTISM supplies to a man not placing an obstacle a special help, so that he may be able to conquer concupiscence, despise the enticements of the world, and perform Christian works. 2. CONFIRMATION, so that, when occasion is given, he may profess and defend the faith fearlessly. 3. The EUCHARIST, so that he may remain in the love of Christ and in union with God, by advancing in it from day to day. 4. PENANCE, so that he may detest more perfectly the crimes committed, avoid occasions of sins, persevere in grace, and be able to expiate past faults. 5. EXTREME UNCTION, so that he may be purged from the remains of sin, be relieved in illness, and more easily resist the snares of the demon. 6. ORDER confers on sacred ministers helps by which they may worthily carry out ecclesiastical offices. 7. MATRIMONY bestows powers upon spouses for restraining inordinate

concupiscence, for preserving conjugal fidelity, for piously educating offspring, and for constantly fulfilling all the obligations of the conjugal state.[14]

(13) Ibid. (14) Cf. Exam. Ord., n. 22; work on Trent, sess. VII, n. 8-10.

1397. Questions. Q. 1. Whether Sacraments received FEIGNEDLY, or WITH AN OBSTACLE, revive when that obstacle has been removed?

Preliminary notes. 1. When a Sacrament is indeed valid, but unformed, it is said to be received FEIGNEDLY, because the one receiving in a certain way feigns that he is disposed for the fruit of the Sacrament, when he is not. 2. This feigning is called an OBSTACLE to grace, and is either material, when namely the omission of the required disposition is inculpable, on account of ignorance, forgetfulness, etc.; or formal, when the omission is culpable, so that it contains the malice of sacrilege.

Resp. 1. The Sacrament of BAPTISM, received with feigning, whether material or formal, when the obstacle has been removed through a subsequent disposition, revives. Thus commonly the authors (except Scotus and a few others) from St. Augustine and St. Thomas.[15] "The reason is that sin before Baptism, or consummated in the very reception of Baptism, is not subject to the keys of the Church; whence it must necessarily be remitted through the power of Baptism alone, which, when the obstacle has been removed, has the effect previously suspended by reason of the feigning."[16]

2. Many probably teach the same concerning CONFIRMATION, ORDER, EXTREME UNCTION, and MATRIMONY. The reason is that Confirmation and Order absolutely, Extreme Unction in the same danger of death, and Matrimony while the same spouse is living, cannot be repeated; nevertheless it seems consonant with divine goodness that such recipients should not remain forever deprived of the sacramental grace which they need.

3. The Sacrament of PENANCE does not revive when the feigning is formal, and the reason is that then the Sacrament is invalid. But whether it revives when the feigning is only material depends on the question whether this Sacrament can be valid and at the same time unformed. Some indeed deny it, because the dispositions of the recipient required for the liceity of the Sacrament are at the same time the matter of the Sacrament required for its validity; but others commonly and more truly affirm it, for the case namely in which someone places some material obstacle; if, for example, having two mortal sins, one of theft and the other of sacrilege, he in no way thinks of the sacrilege, nor confesses it, nor grieves over it, not even implicitly, and receives absolution for the theft alone, having conceived attrition from the supernatural turpitude of that sin. For in this case, the Sacrament, in which all the essential parts are found (that is, attrition and sincere confession with absolution), cannot, on the one hand, be called invalid; but on the other hand, it is not informed by grace, because the sin stands in the way, concerning which he neither accuses himself nor grieves. Whence that confession, since it is valid, is not to be repeated, and therefore the Sacrament received with a material obstacle, when this has finally been removed, revives. Thus Suarez, Lugo with St. Thomas[17] and others.

4. The EUCHARIST, as is commonly taught, whether the feigning is material or formal, does not revive, unless the obstacle is removed before the sacred species are consumed. It does not

revive if the feigning was formal; "otherwise this absurdity would follow, that a priest who several times in his life had celebrated sacrilegiously, if at death he confessed with remiss attrition, would receive the whole heap of graces of so many sacrilegious Communions; indeed, the more often he had celebrated unworthily, the more abundantly he would be enriched with graces."[18] Nor, more probably, does it revive if the feigning was only material, because, since this Sacrament from its institution can be frequently repeated, there was no need that a broader efficacy be attributed to it.

Q. 2. How must the OBSTACLE be removed, so that the Sacrament may revive?

Resp. In order that Sacraments validly, but feignedly, received may revive, more probably there is required and suffices the same disposition which was required and sufficient in the reception itself for obtaining grace. Hence: 1. The Sacraments of the dead, namely Baptism and Penance (received with a material obstacle), revive through universal attrition. 2. The Sacraments of the living, that is, Confirmation, Extreme Unction, Order, Matrimony, and, while the sacred species have not yet been consumed, the Eucharist, likewise revive through attrition, if they were received with a material obstacle; for in such a case, even these Sacraments accidentally produce grace in one attrite. Otherwise, if they were received with a formal obstacle, because otherwise they do not seem able to revive except through the Sacrament of Penance received, either in reality with attrition, or in desire with perfect contrition.[1]

(15) 3, q. 69, a. 10. (16) Book VI, 87. (17) In 4, dist. 17, q. 3, art. 4, ad 1. (18) Book VI, 87. (1) Cf. Lugo, disp. 9, n. 50 ff.

§ 2. On Character

1398. "Character is a certain spiritual, indelible seal, impressed on the soul of one receiving a Sacrament. It is impressed only in Baptism, Confirmation, and Order; and it signifies the power or dignity received from Sacraments of this kind."[2]

It is fitting, according to the Angelic Doctor,[3] that Sacraments through which a man is constituted in some state which of itself is perpetual should impress a character, by which man is deputed to that state; but through these three Sacraments alone man is constituted in some new state which of itself is perpetual, namely through Baptism he is enrolled forever in the family of Christ, through CONFIRMATION in the army of Christ, through ORDER in the ministry of Christ. Thus there are only three Sacraments which, even if received illicitly, impress a character. Hence: "1. In Baptism character is the sign of the sheep of Christ, by which the faithful are made fit for receiving the other Sacraments. 2. In Confirmation it is the sign of the soldiers of Christ, by which they receive strength for constantly professing the Faith. 3. In Order it is the sign of the ministers of Christ, by which they acquire power for ministering the Sacraments to the faithful."[4]

(2) Exam. Ord., n. 24. (3) 3, q. 63, a. 6. (4) Exam. Ord., l. c.

Article III: On the Constitution of the Sacraments, or on Matter and Form

1399. "All the Sacraments are perfected by three things, namely by things as matter, by words as form, and by the person of the minister conferring the Sacrament with the intention of doing

what the Church does." Thus Eugene IV, to the Armenians. We shall treat of the MINISTER in chapter II.

DEFINITIONS. Generally, that has the notion of matter which is determinable and perfectible through another; but that has the notion of form which is determinative and perfective of another.[5] Hence in the Sacraments:

1. MATTER is a sensible thing, to be determined to the notion of a Sacrament through the form. It is twofold: remote, or the pre-existing sensible thing which is employed in the Sacrament, or about which the sacramental action is exercised; and proximate, which 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.
2. FORM is the part of the Sacrament which determines the matter to producing the sacramental effect; and it consists in words uttered by the minister, or, for the Sacrament of Matrimony, and this alone, in signs which can hold the place of words.[6]

(5) Billuart, de Sacram., diss. 1, art. 4, § 2. (6) Cf. book VI, 887.

1400. Principles. I. Each Sacrament has its OWN matter and form, divinely instituted. It is certain that Christ determined in species the matter and form of Baptism and the Eucharist, as is clear from the Scriptures. As regards the other Sacraments, the same is not altogether certain. For some, with St. Bonaventure, probably think that the Lord constituted the matter and form of several Sacraments, for example Confirmation and Order, only in a general way, by committing to his Apostles the care of determining those signs more particularly when occasion should be given. Yet others, with St. Thomas, more commonly and more probably affirm that all matters, and also forms as to substance, were determined in species by Christ; and consequently that the diversity of sacramental rites which exists between Latins and Greeks, or between the ancient and present Church, does not pertain to the essence of the things.[7]

Hence you will deduce: 1. Christ the Lord must be called the immediate author of the Sacraments, because, even in the former opinion, he distinguished all the Sacraments singly. 2. The Church, in the dispensation of the Sacraments, can establish or change those things which she judges to be more expedient for the utility of those receiving or for the veneration of the Sacraments themselves, yet with their substance preserved, as Trent has it, sess. 21, cap. 2.

(7) Book VI, 12; H. A., XVII, 15; 1 Elench. qq. ref., n. 60.

1401. II. For making a Sacrament, certain matter and form must be applied TOGETHER by the same minister, with every essential VARIATION excluded. But that, from the institution of Christ, conjunction, invariability, and certitude of matter and form are required will be clear from what is to be said; for each must be treated singly.

1. As Regards the Conjunction of Matter and Form

1402. So that a Sacrament may be validly made, two RULES must be observed:

Rule 1. Matter and form must be UNITED or applied by the same minister and toward the same subject.[8] The reason is that, if one should place the matter and another the form, the words of the form would not be verified; for example, if Titius should say: "I baptize thee," while Caius pours the water, Titius would utter something false, as is plain.

Rule 2. Between matter and form there must be such a CONJUNCTION that, according to the moral estimation of men, with the nature of each Sacrament considered, the one affects the other; or, in other words, the conjunction must be such that, according to human usage, the words are judged to fall upon such a thing and to constitute with it one moral sign. Otherwise the words of the form would not express the truth.

We said with the nature of each Sacrament considered; for according to the diversity of the Sacraments, the conjunction, or simultaneity, must be diverse.

Whence: 1. In the EUCHARIST physical conjunction is required, since the demonstrative pronoun This and This cannot be verified unless the matter is present. 2. In BAPTISM,[9] CONFIRMATION, EXTREME UNCTION, and ORDER it suffices for validity that the matter be applied immediately before the form is pronounced, or immediately after it has been uttered. But a delay of one Our Father between the two would invalidate the Sacrament. Whence, in practice, the opinion of Cajetan, as safer, is to be advised; he requires that the form be begun before the application of the matter is completed, or conversely. 3. In PENANCE, which follows the nature of a judgment, a longer delay of time, for example of one hour, can intervene between accusation and absolution. 4. Finally, in MATRIMONY, the same interval is admitted as in contracts, namely it suffices that the consent of one be placed while the consent of the other perseveres.[10]

(8) Gury, n. 197, III. (9) 1 Elench. qq. ref., n. 59. (10) Book VI, 9, 10, 446.

2. As Regards Invariability

1403. Preliminary note. In the matter and form of the Sacraments there can occur a twofold variation or change, namely substantial and accidental. "A substantial change of matter is said to occur when, according to the common use and estimation of men, it differs, in name and in reality, from that which Christ prescribed. An accidental one is said to occur when it retains the same use and name with it. A change of form is essential when the same sense does not remain; accidental, when it remains."[11]

(11) Book VI, 11.

1404. Principles. I. A SUBSTANTIAL change in matter or in form, whether it is made on purpose and deliberately, or from error or inadvertence, always prevents the validity of the Sacrament. The reason is that through such a change the rite instituted by Christ is taken away (cf. n. 1400).

1405. II. An ACCIDENTAL change does not prevent the validity of the Sacrament; but, according to the gravity or smallness of the change, it induces grave or light sin. The reason for the first is that an accidental change does not take away the institution of Christ. The reason for the second is that it takes away the rite prescribed by the Church: either under grave obligation, for example when she commands that consecrated water be employed in solemn Baptism; or

under light obligation, for example when she orders that even the least interruption in pronouncing the words of the form be avoided.[12]

Matter is changed substantially in many ways, the principal of which we shall enumerate in their proper places.

(12) Book VI, 109; cf. Exam. Ord., n. 6.

1406. Form can be changed especially in six MODES, as is indicated by these little verses:

Take nothing from the form, add nothing, vary nothing; Beware to transpose, to corrupt words, to delay.

1. By OMISSION: a change of this kind is substantial if essential syllables or words are omitted, for example the word Thee in the conferral of Baptism; but it is only accidental if non-essential words are omitted, for example I, in the same conferral of Baptism.
2. By ADDITION: this is substantial if it takes away the truth of the Sacrament, for example if you say: I baptize thee in the name of the greater Father, of the lesser Son, etc.; accidental, if it does not remove the due sense, for example if you say: In the name of the Father, who created thee, etc.
3. By VARIATION of words: this can be substantial or accidental according as the explicit sense of the form is taken away, for example if you say: In the name of the Most Holy Trinity; or is retained, for example, I wash thee.
4. By TRANSPOSITION; this ordinarily is only accidental, as: Thee I baptize.
5. By CORRUPTION of words, namely from a change of letters. Such a change is more easily substantial at the beginning than at the end of words, because the sense is more easily changed for those hearing, for example if one says: in the name of the mother instead of of the Father; than if one says: chalis instead of chalice.
6. By INTERRUPTION, by which the unity of the speech can be taken away, as if, after having said, This is, you recite a psalm or delay much; but not if, after having said, I thee, you cough, or impose silence on children, and then immediately conclude baptize, etc.

3. As Regards Certitude

1407. Preliminary note. Doubt concerning the matter or form of the Sacraments can be of law or of fact. The first is when it is doubted whether such matter, for example water extracted from flowers in Baptism, or such a form, was instituted by Christ as valid. The other is when it is doubted whether the matter or form to be employed, or already employed, is that which Christ instituted: for example, whether this liquid is water; whether the form was duly uttered.

RULES. In every doubt, whether of law or of fact, concerning matter and form, or generally concerning the VALIDITY of the Sacraments, three rules must be observed: The first is: If there is possibility, let the safest way be chosen, that is, the safer or morally certain opinion. The second: If there is no possibility, let the way be chosen which is nearest to the safest, that is, when certain

matter is lacking, let doubtful or probable matter be employed, but under a conditioned form, so that counsel may be taken both for the necessity or grave utility of the recipient, and for the reverence due to the Sacrament. The third: When the impossibility ceases, what the impossibility prohibited must cautiously be supplied.[13] The first and second rule have already been weighed in the Treatise on Conscience (n. 82). Finally, concerning the third, here:

(13) Cf. Haine, de Sacram., cap. 4, dub. 11.

1408. IT IS ASKED. Whether and when a Sacrament not rightly made can or must be REPEATED?

Resp. 1. If it is prudently doubted whether one of the three unrepeatable Sacraments has been validly conferred, it must again be conferred under condition: Baptism indeed, on account of the greatest necessity of this Sacrament; Order, lest it happen that the Sacraments be invalidly administered; Confirmation, lest the soldier of Christ lack strength for constantly holding and professing the faith. The reason is that, on the one hand, in doubt concerning the validity of a Sacrament, the opinion favoring souls is to be preferred; but on the other hand, no irreverence is inflicted upon the Sacrament when it is conferred under condition from a reasonable cause.

Resp. 2. If there is prudent doubt concerning the validity of a repeatable Sacrament, it CAN be conferred again under condition when notable utility of neighbor is present; but it MUST be, when the Sacrament is necessary. The reason is the same as above.

Resp. 3. To repeat, on account of an empty doubt, a Sacrament, although under condition, is of itself a grave sin. The reason is that a rash repetition of a sacramental action is grave irreverence. Nevertheless, by accident the scrupulous are excused, on account of perplexity. And he seems to sin only venially who repeats a word or syllable in the utterance of the form.

Note. When doubtful Baptism is conferred publicly, the condition must be expressed in words (as the Ritual wills), lest those standing by believe that Baptism is being repeated absolutely against the law of the Church. Indeed, it will be safer (or at least more becoming) to express the condition in words whenever any Sacrament whatever is ministered under condition, whether publicly or privately.[1]

(1) Book VI, 28-29, and 2 Elench. qq. ref., 17; cf. also the MISSAL, de Defectibus, V, 2, where a tacit condition is valid.

Chapter II: On the Minister of the Sacraments

1409. DEFINITION. The minister of the Sacraments is called the one who, in the name of Christ, whose mandatary he is, completes the sacramental action.

DIVISION. One minister is ordinary, who, according to the customary order constituted by Christ and by the Church, can make the Sacrament. Another is extraordinary, who, outside this order, makes some Sacraments, but on account of a peculiar privilege, delegation, or necessity. Thus in Baptism the ordinary minister is a priest; the extraordinary minister, in a case of necessity, is any man whatever (cf. n. 1411).

These things having been noted beforehand, we shall treat of those things which are required in the minister, 1. that he operate validly, 2. that he operate licitly.

Article I: On the Requisites in the Minister That He May Operate Validly

1410. Principles. I. For the valid making or administration of the Sacraments there is not required in the minister either the STATE OF GRACE, or PROBITY OF LIFE, indeed not even FAITH itself. This is established from Trent, sess. 7, can. 11 and 12; and the reason is that the Sacraments operate not from the disposition of the minister, but through divine power, according to the institution and merits of Christ.[2] But indeed:

(2) Book VI, 13.

1411. II. There is required in the minister POWER divinely granted. The reason is that God alone can join grace to the acts of the minister. But certain Sacraments can be conferred by Bishops alone, either exclusively, as Order, or by ordinary faculty, as Confirmation. Others fall equally under the power of Bishops and simple priests, yet with suitable subordination, as the Eucharist, Penance, and Extreme Unction. Finally others do not require for themselves a specially consecrated or deputed minister, as Baptism, which can validly be conferred by every man; and Matrimony, whose ministers are the contracting parties themselves.[3]

(3) Exam. Ord., n. 10; book VI, 113, 170, 539, 761, 897.

1412. III. There is required in the minister at least an INTENTION, or will of doing what the Church does; but a VIRTUAL intention suffices. The reason why some intention is required is that the matter and form of the Sacraments are of themselves indifferent to the being of a Sacrament, since they can be ordered to a joke or to another end; therefore they must be determined through intention.[4] Now, to denote the object and quality of the intention:

It is said 1. There is required at least the intention of doing what the Church does; this is clear from the Decree of the Council of Florence, where it is said that the Sacraments are made "with the intention of doing what the Church does." Nicholas I declared the same, who responded that Baptism conferred by a Jew or pagan is valid, "if it was conferred with true matter and form; for such a Baptism is valid, on account of the general intention of doing what the Jew or pagan has heard is done by Christians or by the Church of Christ."[5]

From this you will deduce: 1. That for the validity of a Sacrament there is not required an explicit intention of making a Sacrament; or of performing an external rite as formally and absolutely sacred; or of producing the effect of the Sacrament: for these are held implicitly in the intention of doing what the Church does. 2. That a mimicking intention, or another by which the intention of doing a sacred thing would be excluded, does not suffice, as is drawn from the condemnation of Luther;[6] nor does an intention, even a serious one, of placing an external act suffice; for that act could be directed to other ends, for example to exciting faith, as heretics will; whence the opinion of Catharinus, teaching that an external intention suffices, is scarcely probable (and therefore in no way safe), although concerning this opinion no express definition of the Apostolic See has come forth.[7] 3. The authors add that there is not required the intention of doing what the Roman Church does, but that the intention of doing what the true Church instituted by Christ does suffices. Whence those rightly baptized by heretics, who deny that the Roman Church is the true Church, are not to be rebaptized.[8]

(4) Exam. Ordin., n. 9, 18. (5) Book VI, 22, end. (6) Trent, sess. 14, can. 9, on Penance. (7) Cf. Panzuti, book VI, 19-21. (8) Book VI, 20-23.

1413. It is said 2. A VIRTUAL intention suffices (cf. n. 272, 6). For it is certain that an actual intention is not required; although this is excellent, and therefore greatly to be desired, nevertheless it is not always possible to man, "because, besides the intention," as St. Thomas writes,[9] "when a man wishes to intend much, he begins to think other things." It is likewise certain that a habitual intention does not suffice (namely one which someone had at some time and has not revoked, and which endures in no effect); because an intention of this kind does not make the action elicited in a human manner, as is required in the minister, from whom the Sacraments proceed as from an operating cause. Much less sufficient will be the intention which is called interpretative, when someone, for example sleeping or drunk, has no actual intention and never had one, but would have it if he noticed. Therefore a VIRTUAL intention is required and suffices, namely that by which someone, although here and now he does not intend to make a Sacrament, nevertheless acts by force of an actual intention previously had; as if someone, for example, having had in the morning the intention of celebrating Mass, afterwards goes to the church, clothes himself with sacred vestments, etc. For, led by such an intention, the minister operates in a truly human manner, since the intention is the true cause of the act which he places. Thus all.[10]

Hence you will deduce: 1. A minister who in the usual manner placed the actions required for a Sacrament, provided he did not exclude the intention, afterwards doubts concerning the same only imprudently; because at least he willed to do what otherwise is usually done by himself or by others, and thus he had the intention in act exercised. 2. Even a coerced intention and one extorted by fear suffices for the validity of the Sacrament, because fear does not take away the voluntary. Matrimony is excepted, from which force and fear must be absent, at least from the definition of the Church. 3. The Sacrament is valid even if the minister perhaps erred concerning the person of the recipient, unless his intention was bound exclusively to some determinate person, which is wont to happen only in Matrimony.

(9) 3, q. 64, a. 8, ad 3. (10) Book VI, 15-18; H. A., XIV, 2.

1414. Questions. Q. 1. Whether a Sacrament conferred with a CONDITIONED intention is valid?

Resp. Affirmatively, if the condition is appended concerning a present or past thing; for, since the added condition has already been verified, the conditional intention passes into an absolute one. Nor does an appended condition of this kind prevent the validity of the Sacrament, nor even its liceity, if namely it is appended on account of a just cause, as we shall say in its own place (n. 1663, q. 5).

But the Sacrament is not valid if the condition concerns the future; because no Sacrament is perfected unless the form is applied to present matter. Matrimony is excepted, which, after the likeness of other contracts, can be celebrated under a condition concerning the future; for then the Sacrament is perfected when, the condition having been fulfilled, the contract is perfected.[11]

Similarly, a Sacrament is not valid if a condition is appended which cannot be known humanly, for example, "I absolve thee, if God truly foreknows that it will be that thou restore." The reason is that, since God has committed the administration of the Sacraments to the knowledge and will of men, a condition cannot be appended which is impassable to human knowledge.[12] Recall what was said, n. 1408, Note.

Q. 2. What if the minister has two contrary intentions?

Resp. 1. If those two contrary intentions are simultaneous, the predominant one prevails, namely that which would be chosen by the minister if he knew that both could not stand together; but if neither is predominant, the minister effects nothing, for the one destroys the other. 2. If one intention succeeds another, the later one prevails. Except if through the former any subsequent will whatever was revoked, at least virtually; for then the prior will, provided it is not expressly revoked, certainly prevails. If doubt perseveres, the validity of the Sacrament will be doubtful. These things can happen especially in the Eucharist and in Matrimony.[13]

Q. 3. Whether, besides intention, ATTENTION also is required in one making a Sacrament?

Resp. Certainly attention is required for LICEITY, as will be seen below.[14] But the opinion of Lacroix, who affirms that attention is necessary for the VALIDITY of a Sacrament, seems improbable. For all authors say that for the validity of a Sacrament, nothing else is required, besides matter and form, than the intention of the minister, as was defined by the Councils. Nor does it prevent this to say that an action which happens without attention is not human; for although a man, about to operate in a human manner, must attend to the end of the work which he intends to perfect, nevertheless it is not required that he actually attend to the work which he executes. Hence Suarez excellently teaches that a minister, although distracted, truly makes the Sacrament; because, as he says, his action is simply human and free, and proceeds from a prior intention.[15]

(11) Book VI, 25, 26. (12) Ibid., 26; see also St. Alphonsus on Trent, sess. 7, n. 31. (13) Book VI, 24. (14) Cf. book VI, 224, and 410, dub. 5. (15) Book VI, 14.

Article II: On the Requisites in the Minister That He May Operate Licitly

Besides those things which are necessary for validity, three things are required on the part of the minister, namely that 1. he be worthy and fit; 2. that he act worthily and rightly; 3. that he confer the Sacraments on the worthy.

1. That He Be Worthy and Fit

1415. Principles. I. In order that the minister of the Sacraments be worthy and fit, there is required first that the CHURCH in some way have DEPUTED him. The reason is that the making and administration of the Sacraments is part of the sacred ministry, which Christ committed to his Church.

But one is deputed either generally or specially: generally indeed for private Baptism in a case of necessity, and for Matrimony; specially, however, for the other Sacraments; for these cannot validly be made except by a consecrated or ordained minister, nor licitly administered (indeed, if Penance is in question, not even validly), unless by a minister endowed with some jurisdiction, at least delegated.

1416. II. For the licit making and administration of the Sacraments there is required that the minister (at least if he is consecrated and ministers solemnly) be IN THE STATE OF GRACE. The reason is that holy things are to be treated holily, and because the minister must be conformed to Christ, whose person he bears and in whose name he operates.[16] "Wherefore" (thus the Roman Ritual) "he will perpetually take care of this, that he conduct life integrally, chastely, and piously; for, although the Sacraments cannot be defiled by the impure, nor the effect

impeded by wicked ministers, nevertheless those ministering them impurely and unworthily incur the guilt of eternal death" (cf. n. 583).

(16) Cf. St. Thomas, 3, q. 64, a. 6.

1417. From these things it follows: 1. Pastors and other priests upon whom from office it is incumbent to minister the Sacraments are bound always to have themselves prepared for ministering the Sacraments in the state of grace. But if someone, existing in mortal sin, must minister them, he is first bound to elicit an act of perfect contrition; but he is held by no law to confess, except before Communion or the celebration of Mass, according to the Decree of Trent, sess. 13, cap. 7.[17] "But if he has an abundance of a Confessor, and the account of time and place allows, it is fitting to confess." Thus the Roman Ritual (cf. n. 1547).

2. One celebrating Mass in mortal sin commits four mortal sins, because he unworthily consecrates, unworthily ministers, ministers to himself unworthy, and unworthily receives.[18] Yet he sufficiently expresses these in confession if he says: "I celebrated in mortal sin."

3. A priest (or Deacon) ministering the Eucharist in mortal sin sins mortally, because he unworthily places an act by which he proximately concurs toward the sanctification of those communicating. Thus one must hold with Suarez and many against Lugo and others. Yet he does not commit several sins if he distributes Communion to several, because it is one banquet.[19]

4. A Confessor commits as many sins as the persons whom he absolves while constituted in mortal sin; because each absolution is a complete judgment. But if he only hears confession, more probably he does not sin gravely, because he does not make the Sacrament.[20]

NB. See other things n. 1439, on the unworthy MINISTER.

(17) Book VI, 33, end, and 34. (18) Ibid., 35, Hence; and Exam. Ordin., n. 11, end. (19) Book VI, 35; Exam. Ordin., 13; 1 Elench. qq. ref., n. 62. (20) Book V, 50, q. 6; VI, 36.

1418. Questions. Q. 1. Whether one sins gravely who, necessity compelling, ministers a Sacrament in mortal sin if he HAS NOT BEEN ORDAINED to it; or, if he has been ordained, ministers it NOT SOLEMNLY?[21]

Resp. The first opinion denies this with St. Thomas; because he does not exhibit himself as a minister of the Church, but aids one suffering necessity. This opinion is indeed probable; but the second opinion, affirming, considered according to reason, seems more probable. The reason is that the obligation of ministering in the state of grace is not derived only from the consecration of the minister, but also from the sanctity of the Sacraments themselves, which must always be handled holily; and indeed under grave obligation, in a grave matter. Moreover, although a minister who is not consecrated does not act in the name of the Church, nevertheless he acts in the name of Christ, cooperating immediately with Him for the sanctification of the soul; whence whoever exercises such an office ought to be endowed with sanctity.[1]

Hence, more probably, speaking per se, the following sin gravely: 1. a layman, or a priest, ministering Baptism non-solemnly in a case of necessity, if he ministers in mortal sin; 2. one contracting

Matrimony in mortal sin; and since such a person at the same time receives and ministers the Sacrament, he stains himself with a twofold sin.[2] We have said, speaking per se; for, per accidens, a minister, whether consecrated or not consecrated, is excused if he ministers in mortal sin the Sacrament of Baptism or Penance in necessity, for example if he could not be contrite so quickly, and there were danger that the dying person would depart without Baptism or absolution, as is commonly taught.[3]

Q. 2. Whether a minister sins gravely who, in mortal sin, exercises other SACRED FUNCTIONS which are not the making or administration of the Sacraments?

Resp. Some affirm with St. Thomas, who says that all who exercise, from office, the functions of the Order received, from the Bishop even to the Porter, commit grave fault if they are in mortal sin. But others more commonly, and sufficiently probably, deny this with Suarez; and the reason is that, since all the other exercises of Orders, besides the making and administration of the Sacraments, are not proximately ordered to the sanctification of the soul, they do not seem under grave obligation to require the sanctity of those exercising them. Yet these commit venial fault, and indeed the graver, the more their action approaches the ministry of a Sacrament.[4]

Hence: 1. Not improbably several authors assert that he does not sin gravely who, existing in mortal sin, touches the Eucharist immediately or mediately from office, for example by carrying it in procession, or by blessing the people. Yet the opposite opinion of St. Thomas is also very probable.[5]

2. Deacons and subdeacons who, in mortal sin, minister at the altar do not sin gravely, according to a sufficiently probable opinion, even if they minister frequently.[6]

3. A Bishop who, in mortal sin, makes chrism or holy oil does not seem to sin gravely.[7] Nor does a Bishop or priest sin mortally who, in mortal sin, consecrates a church, blesses sacred vestments or corporals, assists at Matrimony, blesses ashes, lustral water, etc. Thus very commonly against a few.[8]

4. A preacher, preaching in mortal sin, does not sin gravely, as is taught more commonly and more probably. Yet authors commonly do not excuse him from venial sin, on account of some irreverence which is done to the divine word. Nay more, if the preacher inveighs against a vice concerning which he himself is publicly defamed, he does not seem to be excused from mortal sin; because then he gives scandal and impedes the end of doctrine.[9]

(21) H. A., XIV, 6, end; Exam. Ordin., n. 12. (1) Book VI, 32; Exam. Ordin., n. 12. (2) Ibid., end; 1 Elench. qq. ref., n. 61. (3) Ibid., 33. (4) Ibid., 37-40. (5) Ibid., 35, end. (6) Ibid., 38. (7) Ibid., 39. (8) Book VI, 40. (9) Ibid., 41.

2. That He Act Worthily and Rightly

1419. Among SACRAMENTAL RITES, some are essential, others only accidental: ESSENTIAL rites are those which Christ the Lord Himself instituted, and without which the Sacrament is invalid. ACCIDENTAL rites are called those which the Church has prescribed for the more fitting decency and splendor of the sacramental action.

1420. Principles. I. There is a grave obligation of observing all ESSENTIAL rites of the Sacraments. This namely is required: 1. by religion; "for it is in a certain way to mock Christ, the author of

the Sacraments, to employ, against His institution, signs for conferring grace in His name which He Himself did not assume for this";[10] 2. by charity, because otherwise one's neighbor is deprived of a great spiritual good; 3. by justice, if the Sacrament is requested; for by the very fact that the minister consents to confer it, he tacitly obliges himself to its valid conferral.[11]

Hence: 1. One ministering sins mortally if he uses false matter or form, or, outside necessity, doubtful matter or form. 2. He also sins gravely when he pronounces the words of the form corruptly, inarticulately, without devotion, if from this he undergoes proximate danger of erring in substantial matters. Otherwise venially, unless scandal or contempt is present (cf. nn. 1405 and 1406).

(10) Reuter, p. 4, tract. 1, cap. 1, n. 14. (11) Book VI, 619.

1421. II. All rites prescribed by the CHURCH, or received by custom, even IN ACCIDENTAL MATTERS, must be observed with diligent care.

The reason is that the Sacraments, as holy things, must be handled holily, and the precepts of the Church oblige in conscience. Whence Trent (sess. 7, can. 13): "If anyone shall say that the received and approved rites of the Catholic Church, accustomed to be used in the solemn administration of the Sacraments, may either be contemned, or be omitted by ministers according to pleasure without sin, or be changed into other new rites by any pastor whatsoever of the Churches: let him be anathema" (cf. n. 583).

Hence: 1. If the aforesaid rites are omitted or changed from contempt, it is mortal. 2. If from negligence, it is often mortal, when the omission or change is notable, or in a grave matter. But what omission, in individual Sacraments, is to be held notable matter, will be explained below in the proper places. 3. If some ceremony or laudable custom is omitted which is only of counsel, there will per se be no sin.

1422. It is asked: Whether it is of precept to use the ROMAN RITUAL in the administration of Sacraments and Sacramentals?

Resp. Affirmatively, unless perhaps other rites have been granted somewhere. This is established from the Bull of Paul V, *Apostolicae Sedis*, of June 16, 1614, in which one reads that the Roman Ritual contains "rites ... which ought to be observed" by all exercising the care of souls.[12] The Sacred Congregation of Rites declared the same thing, on April 7, 1832, and May 23, 1835, saying: "Those books alone are to be employed, and in them only blessings which are conformable to the Roman Ritual; ... nor are other formulas to be employed, provided it is not established that they have been approved by this Sacred Congregation."[13] Nor is it licit for Bishops to change the prescriptions of the Roman Ritual at will; and if perhaps a Bishop had established changes, this is not a sufficient dispensation for priests (S. R. C., January 10, 1852).[14]

We have said unless other rites have been granted somewhere; for the Holy See, for diverse dioceses, has approved Rituals differing in several matters from the Roman Ritual. Moreover, customs according to or beside the law can be retained, as is clear from the Roman Ritual itself and from several declarations of the Sacred Congregation of Rites. But customs contrary to the Rubrics and decisions of the Sacred Congregation of Rites must be eliminated. Yet if abuses are general and inveterate, the Bishop "in correcting these should proceed with all patience and doctrine, and,

according to the opportunity given him, should strive to eliminate them in such a way that the faithful suffer no scandal from it." S. R. C., May 9, 1857, to the Bishop of Limburg.[15]

Note from the ROMAN RITUAL: 1. "In every administration of the Sacraments the priest is to be vested in a surplice, and over it with a stole of that color which the rite of the Sacrament demands; unless in ministering the Sacrament of Penance occasion, or custom, or place sometimes advises otherwise. 2. He shall also employ at least one cleric, if he has one, or several, according as the nature of the place and of the Sacrament requires, in becoming habit and likewise vested in surplice."

(12) Ibid., 285, dub. 4. (13) Cf. Gardellini, n. 4681, 5; 4748, 9. (14) Ibid., n. 5165, 4. (15) Benger, Compend., n. 317.

3. That He Confer the Sacraments on the Worthy

1423. Principles. I. A minister conferring the Sacraments on the UNWORTHY sins gravely, unless from denial graver inconveniences would follow.

The first is clear: 1. from Matthew 7:6: "Do not give what is holy to dogs..." And from 1 Corinthians 4:2: "Here now it is required among dispensers that a man be found faithful." 2. From reason; for a minister who knowingly and willingly would dispense the Sacraments to the unworthy would violate both the virtue of religion, because he would handle the Sacraments irreverently and defraud them of their effects, and the precept of charity, because he would cooperate in the sin of those receiving unworthily. The second follows from what was said on Cooperation; for it is licit, on account of proportionately grave causes, and by giving one's work to a good thing, to cooperate materially in the sins of others. Whence it is licit to minister the Sacraments to one asking unworthily, if this is necessary to avoid scandal, or unjust defamation, or violation of the sacramental seal.

1424. II. The minister ought to INQUIRE concerning the worthiness of the recipient, according to the nature of each Sacrament. Namely, Sacraments are to be distinguished in whose administration the priest is judge, from those in whose conferral he is only dispenser. Of the former kind are Baptism of adults, Penance, Order, and Matrimony with respect to the impediments of Matrimony: therefore for these Sacraments the minister ought, from positive indications, to form for himself a prudent judgment concerning the worthiness or fitness of the recipients. Of the latter kind are Confirmation, the Eucharist, and Extreme Unction, to which Sacraments all have a right who live as Catholics. Whence for administering these it suffices that it is not established to the minister that those asking are positively unworthy.[16]

From the preceding principles the following RULES are drawn:

(16) Book VI, 43.

1425. Rule 1. A HIDDEN sinner asking publicly is not to be denied a Sacrament. This is established by the example of Christ, who gave Communion to Judas. And the reason is that in these circumstances Christ is judged to yield His right, both so that the sinner may not lose the reputation to which he has a right, and especially so that many very grave inconveniences, such as scandals, omission of the Sacraments, etc., may be avoided.[17]

(17) Book VI, 50; cf. Lugo, De Sacram., disp. 8, sect. 10-14.

1426. Rule 2. A HIDDEN sinner, asking secretly, is to be denied the Sacrament until his penitence is established. The reason is that both reverence for the Sacrament and the good of the one asking demand this.

It is said 1. a hidden sinner, namely one whom the minister knows as such from certain knowledge, but outside confession; 2. asking secretly: this happens when the one asking is found either alone with the minister, or only with a few, and of such condition that no attention should deservedly be paid to them, as little children would be; 3. until his penitence is established; but this is established if it is known to the minister that the guilty man has made confession either with him or with another priest, even secretly. Nor is one to inquire whether absolution was given; for, even if the minister himself had denied it, he could not, without breaking the seal, admonish the guilty man, nor, as the truer opinion holds, repel him from the Sacrament under the pretext of other causes.

1427. Rule 3. A PUBLIC sinner, unless he has given sufficient signs of conversion and has removed scandal, is to be denied the Sacrament, whether he asks for it publicly or secretly. The reason is that the divine precept presses: "Do not give what is holy to dogs"; nor is an excusing cause given, as is plain from what has been said.

It is said 1. a public sinner. But a sinner is called public either absolutely, namely when his unworthiness is certain and notorious to the community, by notoriety of law, or of fact, or of reputation (cf. n. 1199); or respectively, when the unworthiness is known only to those in whose presence the Sacrament is requested. If, therefore, the community, or all those present, know the unworthiness of the one asking, the Sacrament is to be denied. And the same must be said if knowledge of a crime committed in another place will easily come into the parish, or if there already exists so grave a suspicion of it that it is equivalent to moral certainty. More probably, however, it is not to be denied if the unworthiness of the one asking is known only to most of those present. The reason is that such a sinner still possesses his reputation with respect to those who are ignorant of his crime.[18]

It is said 2. the Sacrament is to be denied; under this name not only the Most Holy Eucharist is to be understood, but also the other Sacraments, even though the priest is their simple dispenser. Penance alone is excepted, which, since it was instituted for sinners, is never to be denied to anyone, unless perhaps a special prohibition has been made, for example on account of reserved censures, or because the penitent must first make satisfaction or furnish a guarantee of making satisfaction.[19]

It is said 3. unless he has given sufficient signs of conversion. For whenever the crime is certain and notorious, the penitence likewise ought to be certain and notorious. But a sufficient indication of conversion is had if a sinner who is not living in habitual scandal makes confession publicly or before several, so that the penitence is shortly to be manifested. It is otherwise if there were a notorious occasion first to be left, or if some retraction to be made beforehand were pressing.[20]

(18) Book VI, 44, 45. (19) Scavini, III, n. 40. (20) Book VI, 47.

1428. Let it be noted: 1. Among those who are to be kept from Communion as publicly unworthy are enumerated in the Roman Ritual: excommunicated persons who are notorious, those interdicted, and those manifestly infamous, as prostitutes, concubinarians, usurers, at least those who are public by law or condemned by sentence of a judge, magicians, sorcerers, among

whom are fortune-tellers, blasphemers, for example those who are accustomed by writings or words to assail religion and the Church with calumnies, and other public sinners of this kind,[21] as are

public customary sinners, those notoriously enrolled in condemned sects, actors and actresses exhibiting impious or shameful plays, those rebelling against the legitimate authority of their prelates, etc. To these, moreover, must be added, as is clear, those who are publicly and actually in sin, for example those manifestly here and now drunk, or women so immodestly uncovered that the uncovering is per se mortal.

2. "The Sacraments, if they are to be publicly denied, must be denied in a prudent manner. Whence all things must be avoided by the minister by which either he himself would become liable to the laws punishing defamation, or a greater impediment would be put in the way of the conversion of the unworthy person. Therefore the motives of the denial are not to be publicly explained; wherefore, if the unworthy person approaches the sacred Table with others, the priest should pass him by in such a way that he reveals nothing either by words or by nod. But if during Mass he alone approaches, let the priest remain at the altar, and through another let him inform him that he cannot offer him the sacred banquet, yet without saying why he cannot."[1]

With respect to the dying in particular, see n. 1854 in the Treatise on Penance.

(21) Konings, n. 1233. (1) Konings, n. 1233.

1429. Questions. Q. 1. What is to be done IN DOUBT concerning the crime or concerning penitence?

Resp. Distinguish. 1. If the crime is certain and penitence doubtful, the Sacrament certainly is to be denied until penitence is established, because infamy possesses. 2. If there is doubt concerning the crime, the Sacrament cannot be denied, except in the case in which a positive sign of the fitness of the one asking would be required, as was said (n. 1424).

There is excepted: 1. The Sacrament of ORDER, from which an unworthy cleric, even though hidden, must altogether be kept; because he who thrusts himself into public offices for which he is not fit is to be repelled even with infamy, if it cannot be done otherwise, on account of the public good. Thus from Trent (sess. 14, cap. 1, *de Ref.*).[2] Nor is the Bishop obliged to manifest the cause of the rejection; nor does appeal belong to the one rejected, but only recourse to the Holy See[3] (see n. 1916, q. 2).

2. MATRIMONY, at which the pastor is prohibited from assisting, for example if outside Confession he has known some impediment, as will be said in its place. Yet he can be excused, even though the contracting parties are publicly unworthy, if he assists in order to avoid death or grave evils of the community, or of the contracting parties themselves, for example lest they themselves persevere in sin, e.g. in civil marriage.[4]

Q. 2. Whether fear of DEATH or INFAMY can excuse a minister if he confers a Sacrament on the unworthy?

Resp. 1. "The first opinion affirms, provided the Sacrament is not demanded in hatred of the faith, or in contempt of religion. The reason is that, if the infamy of a sinner publicly asking for a Sacrament excuses such ministration and repairs the irreverence toward the Sacrament, why ought not death or infamy to be undergone by the minister excuse him?"[5]

2. But the second opinion, to which St. Alphonsus adheres, denies; because the adequate reason on account of which the Sacrament is not to be denied to a hidden sinner is not that his reputation be preserved for him, but especially, except in the case of Matrimony, that "grave inconveniences be avoided which would follow from it, namely scandals of others, by which, if a priest could publicly deny Communion on account of a hidden crime, perhaps even the good would be deterred from the reception of Communion, fearing lest because of hatred or imprudence they might be cast away by the priest, etc. But these inconveniences and scandals certainly do not intervene in a minister who would be forced by fear to minister a Sacrament to an unworthy person; indeed it would be an edification to the people if, in order to preserve reverence for the Sacrament, he exposed himself to the danger of death."

Q. 3. Whether it is licit to SIMULATE or DISSIMULATE a Sacrament, lest it be conferred on the unworthy?

Note beforehand. 1. SIMULATION of a Sacrament is had when the minister places its matter and form, or the form alone, without the internal intention of making the Sacrament. It is distinguished into formal and material. Formal is that by which the deception of another is directly intended; material is that by which the deception of another is only permitted. 2. DISSIMULATION of a Sacrament is said to be had when the fiction or defect is so exterior that it can be known of itself: as, for example, if the matter or form of the Sacrament is not placed, but in its place something else is substituted, so that something other than a Sacrament is done.

Resp. 1. It is never licit, not even materially, to SIMULATE a Sacrament. The reason is that every simulation inflicts a grave injury on the Author of the Sacraments, by abusing sacred things instituted by Him. Hence Innocent XI proscribed this proposition: "Urgent grave fear is a cause for simulating the administration of a Sacrament." Say the same concerning reception, because the same reason applies.

Resp. 2. It is licit, for cause, to DISSIMULATE a Sacrament, provided this is done apart from contempt, scandal, intention of deceiving, or another evil circumstance. The reason is that then neither is sacrilege committed, since the sacred sign instituted by Christ is absent, nor a lie, since deception of neighbor is neither intended nor necessarily had; only the truth is hidden, which, when a just cause accedes, all with St. Thomas permit[6] (cf. n. 1181).

(2) Book VI, 50. (3) Ibid., 52. (4) Ibid., 54. (5) Ibid., 49; cf. 1 Elench. qq. ref., n. 63. (6) Book VI, 59.

1430. From these things you resolve: 1. It is never licit to utter the words of absolution over one indisposed, or the words of consecration over bread without the intention of consecrating, or to omit the consecration during the celebration of Mass. Nor similarly is it licit to give to one approaching the sacred Table, even one knowing and consenting, a host not consecrated in place of a consecrated one. The reason is that in this case, "although indeed a Sacrament is not simulated, which is not there, nevertheless bread is exposed to the adoration of those standing

by and of the recipient himself, who, just as he would sin externally by adoring an idol, even from fear of death, so also would sin externally by adoring an unconsecrated host; and he would sin more gravely than if he communicated unworthily."

2. It is licit for a confessor to pray over one indisposed and to impart a blessing to him, lest his indisposition be disclosed to the others; for this is not an abuse of a sacred thing, since no sacramental thing is placed; nor a lie, because either of itself or from the circumstances the action can be explained, and only for a grave cause is the error of others permitted. Likewise, one can, without simulation, approach the confessional, kneel, and speak about a matter. Likewise, in the case in which someone cannot dispose himself for Communion, it is licit for him, to avoid infamy or scandal, to agree with the priest that the latter only pronounce over him the words: *Corpus D. N. J. C.*, etc., without giving a host; because then a Sacrament is not simulated.

Finally, neither is it illicit for spouses, on account of grave fear, for example of infamy or scandal, to simulate the external celebration of Matrimony; for where voluntary consent is lacking, there the matter and form of the Sacrament are lacking: whence indeed the contract is simulated, but the Sacrament is not simulated.[7]

Note. On the OBLIGATION which a pastor has of ministering the Sacraments, it will be said in the Treatise on the Clerical State (n. 2271). See what has already been said, nn. 485 sqq. and 491 sqq., with respect to the obligation of charity by which other priests are bound.

(7) Book VI, 59-62; Exam. Ordin., 16-17.

Chapter III: On the Subject of the Sacraments

1431. The SUBJECT of a Sacrament is he who receives the Sacrament and is capable of the effect of the Sacrament.

That only man as wayfarer is the subject of a Sacrament is established both from Sacred Scripture and from the perpetual tradition of the Church; for he alone is capable of first grace or of its increase. Yet not every man as wayfarer is capable of all Sacraments. Thus infants are incapable of Penance and Matrimony; women, of Order; the healthy, of Extreme Unction.[8]

In this chapter we must treat: 1. of the requisites for valid reception of a Sacrament; 2. of the requisites for licit reception.

(8) Book VI, 79.

Article I: On the Requisites for Valid Reception of a Sacrament

1432. Principles. I. For VALID reception of the Sacraments there is not required faith, nor probity in the subject, if you except Penance. This is established from the practice of the Church, which never permitted heretics or wicked men, rightly baptized or ordained, to be baptized or ordained again. A fortiori, ATTENTION is not required, which is not even demanded in the minister.

1433. II. In every recipient, BAPTISM is prerequisite for the validity of the other Sacraments: "The reason is that the Sacraments were instituted for the Church alone, and men become of the body of the Church through Baptism alone, as Eugene IV defined in the Decree of Faith to the Armenians."

Hence: 1. If the Eucharist were ministered to a Jew or pagan, he would indeed receive the Body of Christ, but only materially, as the pyx receives it. 2. The marriage of unbelievers, even if it were made according to the rite of the Church, would always be a mere contract.[9]

(9) Book VI, 79.

1434. III. In ADULTS, for valid reception of the Sacraments, INTENTION is required, yet diverse according to the diverse nature of the Sacraments. The reason is that God, in His present providence of things, does not will adults to be justified or sanctified without their will and consent; and therefore He has established that the means of salvation be applied only to those willing. Whence Innocent III says: "But he who never consents, but wholly contradicts, receives neither the thing nor the character of the Sacrament."[10] Therefore one who has himself merely passively, neither willing nor dissenting, and a fortiori one who resists, or one who intends to make a game, does not perceive the Sacrament.

We have said, intention is required, yet diverse according to the diverse nature of the Sacraments. The reason is that some Sacraments require one cooperation from the recipients, others another. For: 1. Some, as PENANCE and MATRIMONY, are not made except by the acts themselves of the subject, which have themselves as matter or form, and therefore for the validity of these Sacraments there is required in the recipient, as in the minister, at least a virtual intention.

2. Others, as BAPTISM and ORDER, have this proper to themselves, that they impose on the recipients obligations of a new state. But since it is in no way equitable that such obligations be imposed on an adult without his positive consent, it follows that for reception of each Sacrament there is required an intention at least habitual, that is, an intention already had and not retracted. The assertion is confirmed by the practice of the Church; for on the one hand it is prohibited in the Roman Ritual that an adult who has fallen into madness or into a sudden illness be baptized, unless before, when he was in possession of himself, he had desired Baptism; and on the other hand the Church never reiterates the Sacraments of Baptism and Order for those who received them from a will previously had.[11]
3. Finally others, as CONFIRMATION, the EUCHARIST, EXTREME UNCTION, require for themselves only this, that the subject be capable of the sacramental operation, which is a benefit of God from the work worked. Whence, that they be validly received, an interpretative intention suffices, namely that which the recipient indeed never had, but probably would have had, if he were in possession of himself. Specifically concerning Extreme Unction the Roman Ritual has this: "This Sacrament is to be given to those destitute of their senses, who previously asked for it, or who would probably have asked for it." The same is also commonly admitted concerning Confirmation and the Holy Eucharist, with Lugo, Sporer, etc.[12] Yet take notice that it is illicit, outside danger of death or perpetual madness, to confer Sacraments on adults while they do not enjoy the actual use of reason.

(10) Cap. Majores, v. fin., de Baptismo. (11) Book VI, 82; Exam. Ordin., 19. (12) Book VI, 82.

1435. IV. In INFANTS, and the perpetually insane, for VALID reception of the Sacraments of which they are capable, namely Baptism, Confirmation, the Eucharist, and Order, no disposition or intention is required. This is established from the practice of the Church and the common opinion. The reason is that infants are not justified or sanctified through an act of their own will, of which indeed they are incapable, but through the will of another; whence Christ and the Church are judged to supply their intention, just as in civil matters a tutor supplies for a ward.[13]

(13) Ibid., 80.

Article II: On the Requisites for Licit Reception of a Sacrament

In infants and the perpetually insane, that no disposition is required in order that they usefully receive the Sacraments of which they are capable is the common opinion. But in adults, besides those things which are required for valid reception, several other things are required for licit reception of a Sacrament. Hold the following:

1436. Principles. I. For licitly and fruitfully receiving the Sacraments OF THE DEAD, namely Baptism and Penance, there are required in adults acts of FAITH, HOPE, at least virtual, and sorrow for sins, which must at least be ATTRITION. This is established from Trent, sess. 14, cap. 1, where the dispositions necessary for justification are set forth at length. Yet sorrow in one to be baptized ought to concern actual sins, not original sin; because no one repents of the deed of another.[14]

(14) Ibid., 86.

1437. II. For licitly and fruitfully receiving the Sacraments OF THE LIVING, by divine law the preexisting STATE OF GRACE is required. The reason is that the Sacraments of the living were instituted primarily for increasing sanctifying grace; therefore, speaking per se, they already presuppose

it present in the subject, although per accidens they can generate it (cf. n. 1395).

Hence: 1. He who knowingly receives a Sacrament of the living in the state of mortal sin sins gravely; and indeed more gravely than the minister who makes or ministers it, because he not only handles it unworthily, but also renders it useless, and thus impiously mocks Christ the Lord, the Author of the Sacraments. 2. He who is conscious to himself of grave fault is held to confess before he receives the Eucharist, as Trent commands.[1] If the matter concerns the other Sacraments of the living, he is held to be contrite;[2] whether he is also held to confess is denied more commonly and more probably (cf. nn. 1500 and 1684, 2).

(1) Book VI, 86. (2) Ibid., 34.

1438. III. Besides the said conditions, the reverence owed to the Sacrament requires actual DEVOTION; the greater this is, the more abundant are the fruits perceived from the Sacrament. This is established from Trent, sess. 6, cap. 7. The reason of the first part is clear of itself. The reason of the second is that, although the Sacraments confer grace from the work

worked, nevertheless divine wisdom, which in all things and through all things strives to promote the good will of man, has so instituted the Sacraments that, according to the greater disposition of the subject, a more abundant supply of graces is conferred. "Thus from the same fire," says the Angelic Doctor, "he receives more heat who approaches it more, although the fire, as far as concerns itself, pours forth its heat equally to all"[3] (cf. n. 534).

Hence it follows that in practice one must not admit the opinion which makes licit the RECEPTION of the Sacraments with a probable opinion; because such an opinion, although speculatively it is not destitute of some foundation, "almost never will be able to be brought down into practice by recipients without detriment to their own soul."[4]

Moreover, there are also other CONDITIONS, from the law of the Church, to be fulfilled in reception of the Sacraments; these we shall explain when we have come to the individual Sacraments. Meanwhile:

(3) 3, q. 69, a. 8. (4) Book I, 51.

1439. It is asked: Whether it is licit for a faithful person to RECEIVE or ASK for Sacraments from an unworthy minister?

Resp. 1. When the minister is unworthy ON ACCOUNT OF SOME CENSURE or INABILITY, it is licit to ask Sacraments from him, even without grave cause, if he is tolerated; because the Council of Constance absolutely conceded to the faithful communication with tolerated persons. But if he is not tolerated, but one to be avoided, or is a heretic or schismatic, then only in extreme or very grave necessity is it licit to receive from him Penance or Baptism; probably also the Eucharist and Extreme Unction, namely in the case in which the sick person cannot receive the other Sacraments, provided scandal or suspicion of communication with intruded ministers or heretics is avoided.[5] And these things indeed are from the law of the Church concerning censures (cf. n. 1292, 2 and 1327, Question). With respect to natural law, attend to the following RULE:

2. If the minister is certainly unworthy ON ACCOUNT OF MORTAL SIN, it is not licit, without grave cause, to ask Sacraments from him. The reason is that from the law of charity we are held to impede the sin of neighbor, when we can impede it without grave inconvenience. And this holds, even if the one ministering is the pastor, or is otherwise already prepared; because even external sin must be impeded. "Only," says St. Alphonsus, "would I except him who would receive the Eucharist from an unworthy priest who was actually ministering it to others, according to the opinion ... that it is only one sin to minister the Eucharist to several." We have said, without grave cause, namely of necessity or notable utility: when this stands, it is licit to ask Sacraments from an evil minister, because cooperation with his sin is merely material (cf. n. 519).

"Hence the doctors say that Sacraments are LICITLY received from a sinner minister: 1. if the precept of confession or communion presses; 2. if from delay of reception danger of a fall is imminent; 3. if you must fulfill the precept of hearing Mass; 4. if otherwise you must remain for a long time in mortal sin, and you cannot, indeed if you do not wish to, approach another confessor, nor wait an hour, because to be liberated from sin as soon as possible is not a small utility; 5. if you must be

without Communion, at least for a long time, or without the fruit of confession, even if you do not have mortal sin; 6. if otherwise you cannot gain a jubilee; 7. if you need a skilled director and do not have another, provided, adds Sporer, you would have to wait a long time for another; 8. if you wish to apply Mass for a deceased friend."[6]

What, YOU WILL ASK, in doubt whether the minister is unworthy?

Resp. 1. Any minister is presumed worthy, unless the contrary is established. Hence, probably, you can ask a Sacrament even from him whom you know to have sinned a little before, because he is to be presumed to have already disposed himself, at least by contrition. 2. A minister is judged unworthy if he is a customary sinner, or if he is voluntarily living in a proximate occasion of sin. Likewise, if after sin he has not confessed beforehand, before the celebration of Mass.[7]

(5) Book VI, 88; cf. VII, 339 and II, 79; cf. also 2 Elench. qq. ref., n. 19. (6) Book VI, 89. (7) Ibid., end.

Chapter IV: On Sacramentals

1440. DEFINITION. Sacramentals are ecclesiastical ceremonies, or external acts of religion accommodated to worshiping God.[8]

DIVISION. Sacramentals are reduced to four species, which 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 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 prayer in a dedicated church, the Lord's Prayer, especially recited in the name of the Church, striking of the breast, the *Confiteor*, alms prescribed by the Church.[9]

The principal Sacramentals are customarily expressed by this verse:

Praying, sprinkled, eating, confessed, giving, blessing.

(8) Cf. Cavalieri, tom. IV, cap. 11-15 and cap. 23-28. (9) Book VI, 90.

1. On the Power and Efficacy of Sacramentals

1441. I. "Sacramentals have some EFFECTS, yet not infallible, of which those using them piously and duly are made participants. The first is the excitation of pious movements through prevenient graces. The second is remission of venial sins, by means of movements of this kind, penance expressed or implicit. The third is remission of temporal punishment due to sins. The fourth is the putting to flight or repression of the devil. The fifth is bodily health, or a similar temporal benefit."[10]

What particular effect, in the temporal order, this or that Sacramental can especially produce is to be gathered from the institution of each, from the manner and prayers of the Church by which they are made; for individual Sacramentals have not been instituted for the same singular end, although all tend to divine worship and to our progress.[11]

(10) Polman, 3, p. n. 197; cf. Suarez, in 3 P., disp. 15, q. 65, sect. 5. (11) Book VI, 93.

1442. II. "Sacramentals cause these effects, not from the work worked, but FROM THE WORK OF THE WORKER: namely by the prayer of the Church impetrating them; also by the prayer of the faithful piously using Sacramentals, for example the sign of the cross, blessed water."[12] "Hence, after the taking of blessed water, etc., it is advised to all the faithful to excite themselves to an act of sorrow or of love."[13]

(12) Polman, loc. cit. (13) Book VI, 92.

2. On Exorcisms and Blessings

The principal place among Sacramentals is held by Exorcisms and liturgical Blessings.

1443. I. EXORCISMS, from the common opinion of the doctors, have this special property, that they infallibly expel or at least repress demons quasi from the work worked, on account of the peculiar power, conceded by Christ the Lord to the Church, of commanding demons. Recall what was said, n. 622.

1444. II. LITURGICAL BLESSINGS are rites which, in the name of the Church, are performed by sacred ministers, and thus they differ from blessings which are given in a private name by laymen, for example by parents to children. They are DIVIDED in various ways:[14]

1. By reason of effects, they are constitutive or invocative. 1. CONSTITUTIVE or consecratory blessings are those by which either persons or things are deputed to divine worship, or are permanently constituted in a sacred and religious being; they are called permanent Sacramentals, because they imitate the Sacraments which imprint a character. Of this kind are: 1. with respect to PERSONS, first tonsure, the consecration of an Abbot, Abbess, nun, etc.; 2. with respect to THINGS, the blessing of a church, oratory, cemetery, chalice, paten, chrism, sacred oils, salt for baptism, vestments for the Sacrifice, altar, wax lamb, etc. 2. INVOCATIVE blessings are those by which the kindness of God is invoked, that He may bestow something good on persons or things to be blessed; they are called passing Sacramentals, because the things so blessed do not change their state, or do not become strictly sacred, and therefore can be turned to profane uses, provided these are honorable.

Of this kind are the blessing of the Supreme Pontiff, of a Bishop, and of a presbyter in Mass, and much more the Blessing with the Most Holy Sacrament, the nuptial blessing, the blessing of a woman after childbirth, etc.; likewise the blessing of houses, fields, produce, foodstuffs, etc.

2. By reason of rite, some are REAL, in which an anointing is employed; others VERBAL, which are perfected by words alone. Likewise, some are solemn, others simple, according as they are done with greater pomp or without preparation.

3. By reason of minister, some are PAPAL, as the blessing of the Pallium, wax lamb, golden rose, and prince's sword; others EPISCOPAL or PRIESTLY, concerning which fuller things must be said.

A) To BISHOPS belong: 1. Real blessings, as of a chalice, altar, bell; likewise the blessing of chrism itself and of the sacred oils. These are found only in the Pontifical, and are so proper to Bishops that

without a Pontifical Indult they cannot be delegated to presbyters. Whence things which have been blessed without an Indult of this kind ought before use to be blessed anew, if it can be done without scandal (S. R. C., decree of September 22, 1703, ad 3).[15] 2. Blessings which are found in the Missal and Ritual under the title: Blessings to be done by Bishops, or by others having faculty, namely: the blessing of priestly garments, cloths and corporals, the tabernacle, that is, the pyx and lunette; likewise of a cross or images if it is done solemnly with concourse of the people; then: the blessing and reconciliation of a church not yet consecrated, of a public oratory, or cemetery, or of the primary stone. In these, from the Ritual itself, and in those, from the Holy See by indult, Bishops receive the faculty of delegating. Yet the blessing of a cross can be done by permission of the Bishop.[16]

B) To PRIESTS, without delegation, belong all blessings which are contained in the Missal and Ritual, from the blessing of water up to the blessings to be done by Bishops, or by others having faculty. Yet not a few of them are by right of the pastor, and are noted in the Ritual as to be done by the Pastor, or by another priest, understand, by permission of the pastor, according to the common interpretation. Of this kind are the blessing of nuptials, the blessing of the baptismal font, the blessing of houses on Holy Saturday, the common blessing over produce, and the blessing of fields, at least if it is done solemnly; likewise the blessing of women after childbirth, to which only women who have given birth in legitimate marriage have a right,[17] where custom or synodal statutes so dispose.[18]

(14) Cf. Quarti, De sacris Bened.; and Ferraris, verb. Benedictio. (15) Gardellini, n. 3663. (16) Gardellini, n. 764. (17) S. C. Conc., June 18, 1859. (18) Konings, n. 1247-D.

1445. It is asked: With what rite are blessings to be done?

Resp. "Blessings which by precept or publicly in churches or in public oratories before the people gathered for this are done, outside Mass are to be given with surplice and stole according to the nature of the time, standing and with head uncovered, with 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 Sacred Congregation of Rites. For blessing those things for which no special blessing is had, the blessing *ad omnia* can be used; 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 to be sprinkled with blessed water.

"If the cross has the image of the Crucified, the blessing for images is to be used. If the blessing is done at the altar, all things are recited on the Epistle side, and the priest uses a cope. The things to be blessed, if they are priestly vestments, can be placed upon the altar; otherwise, if they are candles and other things of this sort, they are to be placed upon a table before the altar, or on the Epistle side."[19]

(19) Konings, n. 1248.

3. On the Sign of the Cross and Lustral Water

1446. I. In blessings, in ceremonies, and in our actions we often use the SIGN OF THE CROSS, and most fittingly; for this sign has power: 1. by way of invocation, namely of Christ crucified and His merits; 2. as a work of faith and a profession of the Christian religion; 3. on account of the honor which we give to the cross.[1]

II. The use of LUSTRAL OR BLESSED WATER is commended by antiquity; for learned men teach that it flowed from Apostolic tradition and always flourished in the Church. The sprinkling of lustral water is a symbol of interior washing; and, sanctified through the prayers of the Church, it has, from the merits of the same Church, much efficacy for producing salutary effects, and especially for warding off demons. Hence, "the sick are sprinkled with blessed water according to the prescription of the RITUAL, that they may be stronger for repelling the temptations of the demon. The corpses themselves of the dead are sprinkled with prayer, that for the souls of Purgatory the ardor may be mitigated and wholly extinguished."[2]

Note. 1. To blessed water, when a cause accedes, water not blessed can be added, provided the latter is always in a lesser quantity. 2. In time of Interdict the sprinkling of blessed water can be done, provided the people are sprinkled without any solemnity. For obtaining the effects of blessed water, moral contact suffices.[3]

(1) Scavini, book III, n. 211. (2) Scavini, II, 212. (3) Cf. Ferraris, v. Aqua; Quarti, De sacris Benedictionibus.

Treatise II: On Baptism

1447. Baptism is placed first among the Sacraments, and not without cause; for it is first, not indeed in dignity, but in necessity and order of reception.

We shall discuss: 1. the nature of Baptism; 2. its minister; 3. the subject; 4. the ceremonies of solemn Baptism.[4]

(4) On Baptism St. Thomas treats in 3, q. 66 sqq.; see especially Tournely; book VI, 95-97.

Chapter I: On the Nature of Baptism

We must treat: 1. of the notion, efficacy, and necessity of Baptism; 2. of the matter and form by which it is constituted.

Article I: On the Notion, Efficacy, and Necessity of Baptism

1448. DEFINITION. Baptism is derived from the Greek verb βαπτίζω, that is, I wash, dip, immerse, and it is customarily distinguished as threefold, namely, of blood, of spirit, and of water.

1. Baptism of blood is the pouring out of blood, or death endured for the faith, or for another Christian virtue. 2. Baptism OF SPIRIT, or of desire, is perfect conversion to God through contrition, or love of God above all things, with the explicit or implicit vow of true Baptism of water. 3. Baptism OF WATER is the Sacrament itself, concerning which we must now treat.

It is defined: A Sacrament of the New Law instituted by Christ, for spiritual regeneration, through external washing of the body, under the prescribed form of words.

1449. Principles. I. It is of faith that BAPTISM is a true Sacrament of the New Law. The reason is that the three requisites for a true Sacrament concur in it: 1. a sensible rite, namely washing with water and the express invocation of the Most Holy Trinity. 2. The institution of Christ, as is proved from Matthew 28:19. More probably, it was instituted before His Passion, namely at the time when He Himself was baptized by John; whence it is said, John 3:22: "Jesus came ... and baptized," namely through the disciples, as is established from chapter 4:2: "although Jesus Himself did not baptize." 3. The conferral of grace, from divine institution: "Unless anyone shall have been born again, etc." (John 3:3).

1450. II. The EFFECTS of the Sacrament of Baptism are: 1. Remission of all guilt, original and personal, which it finds in the soul; whence Trent (sess. 5, can. 5): "In those reborn God hates nothing" (see, with respect to adults, n. 1475). 2. The condonation of all punishment, eternal namely and temporal, so that absolutely nothing delays the baptized from entrance into heaven, as the same Council of Trent has (ibid.); and hence no penance, at least laborious and satisfactory, ought to be imposed on baptized adults, from the Council of Florence.[5] 3. The bestowal of sanctifying grace, by which we are made sons of God and heirs of heaven; and at the same time the infusion of the gifts of the Holy Spirit and of all virtues, both theological and

moral, as the Roman Catechism has. Moreover, in view of the same grace, actual graces accommodated to the end of Baptism are conferred in their own time, namely for living holily and Christianly, as befits adoptive sons of God. 4. The impression of character, which is as it were the seal of Christ, a sign of eminent dignity, by which the baptized person is consecrated to God and bound forever to His service.[6] 5. Co-optation into the company of the faithful, by which namely the baptized person becomes a member of the Church and is subjected to her authority.[7]

"Yet there remains in the baptized the tinder of sin, which is not sin, and if it is resisted, it will profit unto the crown."[8] There remain also the penalities of this life, for example pains, death, etc., both so that we may be conformed to Christ, and because God, in raising man up, did not will that he put away the traces of his fall.[9]

(5) Decree to the Armenians. (6) Cf. St. Thomas, 3, q. 63. (7) Book VI, 138. (8) Ibid. (9) On these see the Roman Catechism, n. 41-48.

1451. III. Baptism, after the sufficient promulgation of the Gospel, IS NECESSARY for all unto salvation, by necessity of means, unless the vow of the Sacrament or martyrdom supplies its place. It is of faith, from Trent, defining thus: "If anyone shall say that Baptism is free, that is, not necessary for salvation, let him be anathema."[10] Declaring this necessity, it teaches that the translation of man from the state of original sin into the state of grace, after the Gospel has been promulgated, cannot be done without the laver of regeneration or its vow, from that which is written (John 3:5): "Unless anyone shall have been born again of water and the Holy Spirit, he cannot enter into the kingdom of God."[11]

From these things it follows: 1. that any adult, as soon as he has been sufficiently instructed, is held, and indeed by divine law, to receive Baptism, and through this to enter the Church of Christ and profess her faith. 2. That little children, since they are incapable of a vow or desire, cannot be saved, outside the cause of martyrdom, except through Baptism in reality;[12] whence St. Augustine: "Do not say, do not teach, that infants overtaken by death before they are baptized can arrive at indulgence of original sins, if you wish to be Catholic."[13] 3. That those sin gravely who, without an urgent cause, notably delay the Baptism of an infant. But a notable delay, more commonly and more probably, is judged to be that which would run beyond 10 or 11 days.[14] Hence several Synods threaten the penalty of excommunication to parents who through negligence prolong Baptism beyond the eighth day.[15]

(10) Sess. VII, can. 5. (11) Sess. VI, cap. 5. (12) Cf. St. Alphonsus on Trent, sess. VII, n. 45. (13) Book 3, De Anima, cap. IX, n. 12. (14) Book VI, 118. (15) Analecta J. P., series 2, p. 1807.

1452. Questions. Q. 1. How does Baptism OF SPIRIT and OF BLOOD supply the place of the Sacrament?

Resp. 1. Baptism OF SPIRIT supplies from the work of the worker, inasmuch namely as man, the divine Spirit breathing upon him, is justified by force of charity with respect to original sin, but by force of perfect contrition with respect to actual sins of which he is conscious. Nor, for producing these effects, is it required that the vow of Baptism be explicit, but there suffices, at least in him who is ignorant of the law of Baptism, or does not advert to it, an implicit vow, such namely as is included

in the disposition of doing all things whatsoever have been enjoined by God. Thus St. Alphonsus[16] with St. Thomas.[17] Yet this baptism does not impress a character, nor confer a right to the other Sacraments; nor does it remit all temporal punishment, unless perhaps charity is so intense that it merits relaxation of every punishment (cf. n. 1674).

Resp. 2. Baptism OF BLOOD OR MARTYRDOM is equated with true Baptism, because quasi from the work worked, after the manner of true Baptism, it remits every guilt and punishment. It is said quasi, because it does not operate so strictly as the Sacrament, but from a certain privilege by reason of imitation of the passion of Christ.[18] Therefore martyrdom profits even infants. The practice of the Church confirms this, for she honors as Saints and true martyrs both the holy Innocents slain for Christ and those witnesses of the faith who were slaughtered without having perceived Baptism of water.[19]

Q. 2. What is required that martyrdom be true and produce the aforesaid effects?

Resp. 1. There is required the suffering of death, or of lethal torment, or of such evils as by their own nature lead to death, even if someone miraculously escapes from them, as Benedict XIV affirms according to the common doctrine of theologians.[20]

2. A pious cause is required; because "punishment does not make martyrs, but the cause," says St. Augustine.[21] Whence it is necessary that violent death be sustained for the profession of faith, as is established from Luke 9:26; 12:8; or for the exercise of some other Christian virtue, because the works of all virtues are certain protestations of faith, as the Angelic Doctor says.[22] Indeed, as true martyrs, more probably, those are to be held who, in service to those suffering plague, die from charity; and St. Alphonsus affirms that for this opinion stand 12 Academies, 13 Cardinals, and more than 300 authors against Hurtado and others.[23]
3. In adults there are required certain positive dispositions, which are: 1. acceptance of death, at least habitual, from a supernatural motive, as is commonly held against some; because death, that it be meritorious, must be in some way voluntary in those who are capable of voluntary acts. Whence there must be absent the will to defend oneself, as also the rash exposure of one's own life; and therefore soldiers who are killed in a war of religion are probably not true martyrs, because they defend themselves. 2. Supernatural sorrow for sins; otherwise these are not remitted.

But whether perfect charity is required is indeed denied by some; but more probably it is affirmed by others with St. Alphonsus,[24] both from 1 Corinthians 13:3 and because martyrdom does not necessarily import perfect charity, namely when someone from fear of hell prefers to die rather than to sin. St. Thomas seems to agree, when he says: "The outpouring of blood does not have the notion of baptism, if it is without charity."[25] From this it is clear that baptism of spirit is included in baptism of blood, but not vice versa.

(16) H. A., XIV, 7. (17) 3, p., q. 68, a. 2. (18) Cf. St. Thomas, in 4, dist. 4, q. 3, art. 3, ad 3am q., ad 1. (19) Book VI, 97. (20) De Beatific. SS., book 3, cap. 12. (21) In Psalm. 34, n. 13. (22) 2, 2, q. 124, a. 5. (23) Book VI, 100. (24) Ibid., 98. (25) 3, q. 66, a. 12, ad 2.

Article II: On the Matter and Form of Baptism

§ 1. On the Matter of Baptism

The remote matter of Baptism is water; but the proximate matter is the washing itself.

I. On the Remote Matter

1453. Principles. I. The VALID matter of Baptism is natural or elemental water. It is of faith, as is established from the Councils, especially from Trent, sess. 7, can. 2, on Baptism: "If anyone shall say that true and natural water is not of the necessity of Baptism, and therefore shall twist to some metaphor the words of Our Lord Jesus Christ, Unless anyone shall have been born again of water and the Holy Spirit: let him be anathema."

Hence: 1. Matter certainly valid is: 1. water of springs, wells, the sea, rivers, lakes, ponds, cisterns, and rainwater; and thus any simple and pure water which retains the proper species of water; nor does it matter whether it is cold or warm, from the Roman Ritual; 2. water resolved from snow, ice, and hail; 3. sulphurous or mineral water; 4. water flowing in stormy weather from a wall, leaves, etc.; 5. turbid water mixed with another thing, provided water is the predominant matter; 6. dew, and water collected from condensed vapors, for example on the lid of a pot; 7. water simply distilled, roses or other leaves having been infused in the water.[26]

2. Matter certainly invalid is: 1. blood, milk, wine, urine, phlegm, saliva, sweat, tears; 2. juice expressed from flowers, herbs, and roots.[1]

3. Doubtful matter is: 1. broth and lye; 2. water from dissolved salt; 3. thin beer, thin ink, water flowing from a vine or other trees, and ice or snow not melted; 4. water drawn out by chemical art from flowers, plants, roots, wine, or oil; 5. one or another drop of water.[2]

(26) Book VI, 103, 104. (1) Book VI, 103, 104. (2) Ibid.; H. A., XIV, 8; see Ninzatti, n. 1001.

1454. II. The LICIT matter of Baptism is clean water alone, and in solemn Baptism it must moreover be consecrated. The reason is that this is required both from the prescription of the Church and on account of reverence for the Sacrament.[3]

Hence: 1. He commits sacrilege who without necessity uses impure, turbid, or muddy water, although natural. 2. He sins gravely against the precept of the Church who does not use consecrated water in solemn Baptism. 3. If the consecrated water has been corrupted, natural water is to be preferred; but if time is sufficient, new water should be consecrated by the brief formula, as is contained in the Ritual. Thus from the Response of the Holy Office, April 17, 1839.[4] 4. In private Baptism, unconsecrated water is probably licit; nevertheless care must be taken that at least blessed or lustral water be employed, for greater decency.[5]

(3) Book VI, 102. (4) Collectanea S. Sedis, n. 186. (5) Book VI, 102, end; thus also Collectanea S. Sedis, n. 185.

1455. III. In cases OF NECESSITY, when certainly valid matter is lacking, doubtful matter is to be employed, but with this CONDITION added: "If this matter is sufficient"; for then even a slight probability concerning the value of the matter suffices (see nn. 82 and 1407). But if one so

baptized survives, once a supply of matter certainly valid has been had, he must again be baptized under this condition: "If thou art not baptized, I baptize thee, etc."[6]

(6) H. A., XIV, 8; book VI, 103, end.

II. On the Proximate Matter

1456. Principles. I. For the validity of Baptism there is required a true WASHING of the body through water: that is, such an application of water as, in moral estimation, is necessary that a man be said truly washed or bathed.[7]

Whence there is required: 1. That water immediately touch the body of the one to be baptized. Therefore Baptism is invalid if, the child not yet having been born, the body of the mother is washed; likewise, if the water touches only the garments of the one to be baptized; but doubtful, if only his hair, or the afterbirth. 2. That it be done on the head, as is becoming, because in it all the senses flourish, or at least, as is very commonly taught, on another notable part of the body, for example on the shoulders or on the breast. Whence, if from necessity Baptism has been conferred on a less notable part, for example on the hand, fingers, or foot, it must altogether be repeated under condition; nay more, the same seems to be done for caution, even if Baptism has been conferred on a notable part; "because, from St. Thomas,[8] in none of the exterior parts does the integrity of life consist as in the head." 3. That the contact of water be successive, namely in such a way that either water is applied successively to the body, or the body to water. Hence Baptism would be doubtful if the one to be baptized were thrown into water from which he did not emerge. 4. That there be a quantity of water truly sufficient for washing: therefore he would validly baptize who would put the one to be baptized under water flowing from a roof and would pronounce the form; but, according to the common opinion, he would not validly baptize if he touched the body of the one to be baptized with only one or another drop. Baptism conferred thus, especially if the drop has not flowed, would be altogether doubtful. Yet if the one baptizing, by motion of a moistened finger, were to wash a part of the body of the one to be baptized, authors commonly hold such Baptism as certain, although not a few still doubt concerning its validity.[9]

For validity it makes no difference whether the washing is done by immersion, or by sprinkling, provided water flows; whether by threefold or single infusion.[10]

(7) Book VI, 105. (8) 3, q. 68, a. 11, ad 4. (9) Cf. book VI, 105-107; H. A., XIV, 11-12. (10) H. A., ibid., 13; cf. St. Alphonsus on Trent, sess. 7, n. 56.

1457. II. With respect to LICEITY, the manner of washing which is used in individual Churches must be observed, and indeed generally under grave obligation. The Greeks indeed retain threefold immersion, which they can also employ while they stay among Latins, as is established from Benedict XIV's Constitution *Etsi pastoralis*. But the ROMAN RITUAL has these things: "The priest takes baptismal water with a small vessel or pitcher, and from it pours three times over the head of the infant in the manner of a cross, and at the same time pronouncing the words, says distinctly and attentively only once: N... I baptize thee in the name of the Father, he pours the first time; and of the Son, he pours the second time; and of the Holy Spirit, he pours the third time." But where there is the custom of baptizing by IMMERSION, for example in the Milanese Church, the priest receives the infant, and taking care lest he be injured, cautiously

immerses his head, and baptizes by threefold immersion, saying only once: N... I baptize thee, etc.[11]

The threefold washing, outside the case of necessity, from the truer opinion, is prescribed under grave obligation; because a rite of this kind is sufficiently grave matter: for in it the mystery of the Most Holy Trinity is expressed. And it must be noticed that the form is not to be ended before the third washing.[12]

(11) Scavini, book III, 55, note 3. (12) Book VI, 107, q. 5; H. A., XIV, 13.

§ 2. On the Form of Baptism

1458. I. The valid and legitimate FORM of Baptism in the Latin Church is: I baptize thee in the name of the Father, and of the Son, and of the Holy Spirit.[13]

Thus the Council of Trent defined according to the words of the Lord Himself (Matthew 28:19): "Going therefore teach all nations, baptizing them in the name of the Father, and of the Son, and of the Holy Spirit." Among the Greeks it is equivalently said: The servant of Christ is baptized in the name of the Father, etc. This form is valid from the Instruction of Eugene IV to the Armenians; but it is licit only in the Greek Church.[14]

(13) Inst. catech., p. 2, cap. 2, n. 6; and Conf. dir., XIII, 10; according to the Roman Ritual amended by Benedict XIV; cf. Collectanea S. Sedis, n. 192. (14) Gury, II, 241.

1459. II. That, in a variation of the form, the validity of Baptism may be discerned from invalidity, attention must be paid to whether the substance of the sense remains or not. Now, the substance requires that there be expressed: 1. the person baptizing, at least in the act exercised; 2. the person baptized; 3. the action of the one baptizing; 4. the invocation of the Most Holy Trinity expressing both the unity of the divine nature and the distinction of the Persons, and more probably with the proper words.[15]

Hence it follows: 1. The form is VALID per se, although illicit at least venially, if a Latin uses the words of the Greeks; if the language is changed, although it is better for lay persons, especially women, to use the vernacular tongue, to avoid the danger of erring; if synonymous words are substituted, for example "I bathe thee, wash, dip, etc."; if the words are corrupted at the end, because Pope Zacharias declared valid this form employed from ignorance of the Latin tongue: "I baptize thee in the name of the Fatherland, and Daughter, and Holy Spirita"; likewise, if the word I is omitted, because the sense is still rendered sufficiently, though otherwise in a vernacular tongue, for example in French, English, German; or the conjunction and, provided it is set before the third Person; likewise if one says "with the name of the Father, etc.," from the decision of the S. C. C., May 24, 1823.[16] The form is also valid if words not corrupting the sense are added, for example if someone should say: "In the name of the almighty Father" or "who created thee, etc."; or if transpositions are made: "In the name of the Son and of the Father, etc."; because the name of Father of itself sounds as being the principle of the Son, and therefore there the confession of the Most Holy Trinity is still right substantially; nor does it obstruct that the minister errs internally concerning the faith, because internal error does not prejudice the value of the Sacrament.[17] We have said per se; because, as St.

Thomas notices, if someone, by so changing the form, intended to introduce another rite, he would no longer intend to do what the Church does, and thus the Sacrament would be invalid.[18]

2. INVALID is this form: "I anoint thee in the name, etc.," or "I baptize in the name, etc."; because the word thee, or an equivalent, is of the essence.[19] Likewise, if someone should say: "I baptize thee in Father and Son, etc.," or "with Father and Son, etc."; or "in the name of the Father through the Son"; or "in the names of the Father, etc."; because these and similar things either signify diversity of divine nature, or do not express its unity sufficiently. Likewise, if he should say: "In the name of the greater Father and of the lesser Son"; for thus the truth of the Sacrament would openly be taken away. Likewise, if someone were to use these words: "I baptize thee in the name of God," or "in the name of Christ." Nor do the things which are read in Acts 8:12 obstruct; because, according to the more probable opinion, there by the name of Christ is understood Baptism instituted by Christ, in distinction from the baptism of John.[20]
3. DOUBTFUL is the form of Baptism: "In the name of the Most Holy Trinity," or "in the name of God one and triune," or "in the name of the three Persons"; indeed, according to several, it would certainly be invalid. Likewise Baptism conferred "In the name of the Begetter and of the Begotten and of the One Proceeding from both" must be held doubtful, from St. Thomas, because the common names must more probably be used. Likewise, if someone says: "In the name of the Father, in the name of the Son, etc."; because, although this repetition more probably does not change the sense, nevertheless the opposite opinion is not altogether improbable.[21] Likewise, the omission of the word in introduces some doubt concerning value; and much more the total omission of the word and, if namely one says: In the name of the Father, Son, Holy Spirit.

But if someone should add the name of the Blessed Virgin Mary to the names of the three Persons, St. Thomas says[22] that, if he did this with a heretical mind, intending to confer Baptism in the name of the Virgin as in the name of the Most Holy Trinity, it would be invalid; because the true confession of Divinity would be perverted. Otherwise, if some rustic should add the name of the Virgin only from intrusive devotion.

Note. The pastor must take care, says the ROMAN RITUAL, that the faithful, especially midwives, know and observe well the right rite of baptizing.[23]

(15) Book VI, 108. (16) Thesaurus, tom. 83, p. 134, 137. (17) H. A., XIV, 14; book VI, 109-112. (18) 3, q. 60, a. 8. (19) Cf. Collectanea S. Sedis, n. 190. (20) Book VI, 112, dub. 3. (21) Book VI, 109, Whether; and 111; cf. also work on Trent, sess. 7, n. 57-58. (22) 3, q. 60, a. 8. (23) Cf. Scavini, book 3, n. 223.

Chapter II: On the Minister of Baptism

1460. Every man using reason validly baptizes, provided matter and form and the intention of the Church are observed.[24] It is of faith from the Decree of Eugene IV to the Armenians, and from the Fourth Lateran Council, cap. *Firmiter*.

With respect to LICEITY, several things must be distinguished; for, because Baptism can be conferred either solemnly, that is, with the rites prescribed by the Church, or privately, namely on account of a case of necessity, hence the minister is either the minister of solemnity or the minister of necessity.

Then, in order to Baptism itself, the minister of solemnity is either ordinary or extraordinary, according as by force of his ordination he confers it; but in order to the one to be baptized, he is either the proper minister or a delegated minister, according as, from the disposition of ecclesiastical law, he confers it by proper right or by delegated right.

These things having been premised, we establish the following:

(24) Book VI, 113; Exam. Ord., n. 27.

1461. Principles. I. The ORDINARY minister of solemn Baptism by divine law is the priest; by ecclesiastical law it is the Bishop in his diocese, and the pastor in his parish. The first is established from the Decree of Eugene IV, in which it is handed down: "The minister of this Sacrament of Baptism is the priest, to whom it belongs from office to baptize." The second is established from canon law and from the Roman Ritual; and the reason is that through Baptism each one is aggregated not only to the universal Church, but also to a particular one. But to aggregate to a particular Church belongs to him who presides over this Church. Yet the pastor cannot attribute this right to himself if in his church there does not exist a baptismal font, but the Provost of the church in which the baptistery is found; for he alone, from the prescription of the Roman Ritual, ought to confer Baptism.[25]

It suffices, however, that the permission be tacit, or even presumed from a just and reasonable cause.[1]

3. "Pilgrims or those who do not have domicile can be baptized in the church which they have chosen. But if a woman by chance gives birth in a village not her own, the offspring is to be baptized by the pastor of that village; nevertheless, if that village is little distant from her own village, for example by two or three hours, the offspring can also be baptized in her own church."[2]

4. Strangers, according to the more common and more probable opinion, can receive Baptism and the other Sacraments from the pastor of the place where they have already contracted quasi-domicile.[3]

Note. The Sacred Congregation DE PROPAGANDA FIDE, on January 21, 1789, decreed: "A suspended and interdicted priest can at no time administer Baptism with solemnities; but when because of urgent necessity he must baptize, let him baptize privately."[4]

(25) Book VI, 115. (1) Book VI, 115, end. (2) Ibid., 115, beginning. (3) Ibid., But here. (4) Cf. Collectanea S. Sedis, n. 196.

1462. II. The EXTRAORDINARY minister of SOLEMN Baptism is a Deacon. This is established from canon law and from the Pontifical. But although a Deacon, by force of his ordination, can baptize solemnly, nevertheless he cannot do this licitly unless from the commission of the ordinary minister. Nor indeed can such commission be given at the will of the pastor or of the Bishop himself, but only on account of necessity, or on account of great utility of the Church: for example, if other priests are lacking and a multitude of those to be baptized is present; or if the pastor is gravely ill, or excommunicated, or otherwise occupied with hearing confessions or preaching. But if a deacon, without legitimate delegation, even in a case of necessity, baptizes solemnly, according to the very common opinion, he incurs irregularity; and clerics of a lower

Order certainly incur this penalty;[5] for these, that they may be able to baptize solemnly, are not sufficiently supplied in any case by the commission of the pastor or Bishop; but delegation of the Supreme Pontiff himself is required.[6]

(5) From cap. Si quis 1, de cler. non ord. min. (6) Book VI, 116.

1463. III. The legitimate minister of PRIVATE Baptism, in a case of NECESSITY, is any man using reason. For the Roman Ritual has thus: "Whenever an infant or adult is in danger of life, he can without solemnity be baptized by anyone in any language, whether cleric, or layman even excommunicated, whether faithful, or unbeliever, whether Catholic, or heretic, whether man, or woman, provided however that the form and intention of the Church are observed."

But the order to be observed among ministers is that which the RITUAL thus designates: "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 becoming that a woman rather than a man baptize an infant not wholly brought forth; or unless a woman knew better the form and manner of baptizing." Likewise, from the Ritual and from Canon Law, outside utmost necessity, neither the father nor the mother is permitted to baptize their own offspring. A stranger, if any is present, should baptize this offspring brought into danger of life. But a layman not excommunicated is to be placed before a priest who is excommunicated, since an excommunicated person is no longer numbered among the members of the Church.[7] The Sacred Congregation of the Holy Office, August 20, 1671, responded: "Let the Bishop not permit schismatics to administer the Sacrament of Baptism, except in a case of necessity, and when any other person whatsoever is lacking."[8]

From these things you resolve: 1. Anyone who omits to confer Baptism in a case of necessity sins gravely; because, as Tertullian says, "he is guilty of a lost man."[9] But the principal SIGNS of danger for an infant are these: "if he is born without crying and tears; if he breathes moderately; if he appears livid, especially in face or head; if he is born after much labor of the midwife, or before the seventh month; if he has the cranium soft, or sutures too open, or other parts disjoined."[10]

2. Likewise a layman who, the order having been spurned, baptizes in the presence of a priest sins gravely, as also does the priest himself who, without a legitimate reason, yields his office of baptizing to a layman. In the other cases, inversion of the order of ministers is only a venial sin; which probably must also be said if a layman baptizes in the presence of a deacon not deputed by the pastor.[11]

(7) H. A., XIV, 16; book VI, 117. (8) Cf. Collectanea S. Sedis, n. 195. (9) De Bapt., cap. 17. (10) Book VI, 106, v. end. (11) Book VI, 117.

1464. Questions. Q. 1. Whether several can baptize ONE at the same time, or ONE several?

Resp. 1. If each of those baptizing intends to act independently of the other, as a particular and individual cause, Baptism is valid; because all requisites are present, as is clear from the similar case in Ordination, by which newly ordained priests consecrate together with the Bishop; and in such a case, he who first completes the form, he alone baptizes. But if one intends to act dependently on the other, as a common and simultaneous cause, Baptism is INVALID, whether he says: "I baptize thee," or says: "we baptize thee." For, as St. Thomas says,[12] "a man does not baptize except as minister of

Christ and bearing His place. Whence, just as Christ is one, so there must be one minister who represents Christ." In each case one acts ILLICITLY, unless haste excuses.[13]

Resp. 2. Illicitly, outside a case of necessity, several are baptized at the same time by one; for the Ritual reprobates that form "I baptize you," directed to several at once, unless there is danger of death and time does not allow that individuals be baptized separately. "Yet they are validly baptized; because, by acting thus, the necessary form is not diversified, since the plural is the singular doubled."[14]

Q. 2. Whether someone can baptize HIMSELF?

Resp. He cannot, either licitly or validly; both because the person baptizing must be altogether diverse from the person baptized,[15] and because Baptism is spiritual generation: now, no one can generate himself. But see what was said, n. 1452, q. 1.

(12) 3, q. 67, a. 6. (13) Book VI, 120. (14) Book VI, 124, end. (15) Ibid., 118.

Chapter III: On the Subject of Baptism

1465. The SUBJECT capable of Baptism is every and only living man descending from Adam, not yet baptized. This is established from the words of Christ the Lord, who says indiscriminately of all: "Unless anyone shall have been born again of water and the Holy Spirit, he cannot enter into the kingdom of God" (John 3:5).

Hence, validly and licitly baptized are: 1. infants, as was expressly defined by Trent (sess. 7, can. 13, on Baptism); 2. the perpetually insane, who have never used reason; because they are judged of the same condition as infants.[16] Recall what was said, n. 1435.

These things having been premised in general, we must now treat specifically: 1. of infants to be baptized in the womb of the mother; 2. of abortive fetuses and monsters; 3. of the children of unbelievers or heretics; 4. of adults; 5. of the doubtfully baptized.

(16) Cf. Collectanea S. Sedis, n. 218.

1. Infants in the Womb of the Mother

1466. I. Outside danger of death, no infant is to be baptized unless he has been perfectly born. The reason is that to be born is prior to being reborn, and this is what Christ the Lord seems to suggest when He says: "unless anyone shall have been born again, etc."

We have said outside danger of death; for the Roman Ritual has these things: "But if the infant has put forth the head, and danger of death is imminent, let him be baptized on the head, nor afterwards, if he escapes alive, is he again to be baptized. But if he has put forth another member which indicates vital motion, let him, if danger is impending, be baptized on that; and then if when born he lives, he will be baptized under condition."

1467. II. "If a pregnant mother has died, the fetus is to be cautiously extracted as soon as possible, and if it is alive, it is to be baptized." Thus the Roman Ritual, and it is plainly established from the obligation of charity (cf. n. 483, Rule 2). Wherefore parents sin gravely who neglect that

incision of the womb be done; and likewise surgeons or other experts, who omit or delay doing it; but also the pastor is held to take care that the mother not be buried, incision having been omitted.[17]

Today, however, in diverse regions the local Prefect must be admonished concerning the matter, and witnesses approved by him must be employed, both for recognizing the death and for greater certainty of the matter, and especially lest the author of the operation be brought forward as guilty of homicide.[18]

(17) Book VI, 106; cf. Konings, n. 1269, where more; Craisson, Notiones theol. circa Sextum, n. 342. (18) Cf. Collectanea S. Sedis, n. 208, where response is made to several difficulties raised.

1468. Questions. Q. 1. Whether an infant in danger of death can be baptized enclosed in the womb of the mother?

Resp. 1. If he is altogether enclosed in the womb, so that water cannot reach him, he cannot be baptized: this is certain among all.

2. If, the mouth of the womb already having been opened, he can be reached by water through an instrument, the doctors dispute. Some indeed deny, because no one is said to be reborn unless he has first been born; but others very probably affirm, because such an infant is already a man as wayfarer, and can be said to have been born inchoatively, according to that (Matthew 1:20): "That which is born in her," that is, conceived, "is of the Holy Spirit." Therefore, in practice, he is to be baptized by the surgeon or midwife under condition: "If thou art capable, etc." (cf. n. 1456). But indeed: "A fetus baptized in the womb upon the crown is after birth to be rebaptized anew under condition." Thus the S. C. C., July 12, 1794, in Sutrina.[19]

Q. 2. Whether the mother can and is held to undergo a CAESAREAN SECTION, that the offspring may be baptized?

Resp. Affirmatively, if the following conditions concur together, namely: 1. if she herself cannot give birth naturally; 2. if the section, in the judgment of an expert surgeon, will not bring her into proximate danger of death, and from the powers both of the mother and of the fetus, and from the other circumstances, the safety of each can prudently be hoped for; for where the danger of death is judged only slight and remote, death, if it follows the incision, must be held to have happened per accidens; 3. if the offspring cannot otherwise be baptized. For in these circumstances there presses the obligation of suffering any temporal inconvenience whatever, for procuring the spiritual and eternal life of the infant.[20] But if only slight hope shines forth that the offspring can be saved, the mother can indeed, but is not held to, undergo the operation; because charity does not press in such uncertainty of the event (cf. n. 744).

For the rest, prudence will for the most part advise that the mother, who is in good faith, not be admonished concerning the grave obligation. She is only to be exhorted to consent to the section, lest perhaps, on account of denied consent, she die in a bad state, as Cangiamila rightly observes.[21]

Note. A girl dishonestly and secretly pregnant, and near death, if on account of advanced pregnancy it is probable that Baptism can be conferred on the fetus, is held to reveal her state outside confession,

so that the operation may be done after she has died. Yet she must not be admonished if she is living in good faith and no fruit is at all hoped for from the admonition.

(19) Collect. S. Sedis, n. 218. (20) Book VI, 106; H. A., VIII, 26; cf. Capellmann, Med. pastor., p. 21. (21) Book VI, 106.

2. Abortive or Monstrous Fetuses

1469. I. An ABORTIVE fetus, however small, must be baptized; and indeed absolutely, if its animation and formation are established; but under condition, if there is doubt concerning its life or formation. Nor is Baptism to be omitted because the fetus is very recent; for, "today the opinion flourishes, not without applause received by experts," says St. Alphonsus, "that fetuses are informed by a soul from the beginning of conception, or at least after some days." And hence it is that, whenever some sign of life is found in them, and it is not established that they are destitute of a soul, they are to be baptized, with much caution indeed, lest they be killed, and with the condition added: If thou livest. "How many abortive fetuses," says Roncaglia,[22] "through ignorance of midwives and mothers, the privy receives, whose soul, if it were not defrauded of Baptism, would see God eternally, and whose body, although it was unformed, would be more decently buried! But to whom especially under grave fault does it belong to expel ignorance? Is it not to pastors?"[23]

Let the following things be noted: 1. The fetus is to be baptized which has at least the first outlines of a human body, which experts assert already happens on the third day, as Cangiamila reports.[24] Yet recognition of a fetus as such within the first weeks is difficult; but after a month easy, as Capellmann testifies.[25] 2. An incomplete fetus, or one not yet formed, is to be baptized by immersion in a basin or cup full of lukewarm water: absolutely indeed, if vital motion is apprehended in it; under condition, IF THOU LIVEST, when it appears without motion but is certainly distinguished from a mole; finally under the condition IF THOU ART CAPABLE, when it is doubtfully a human fetus. 3. A fetus or embryo which is enclosed in the membranes of the afterbirth,

and which softens and yields when touched by the finger, must be broken; but a mole appears as formless flesh, of bloody or varied color, hard to the touch.[1]

(22) De Bapt. cap. 17. (23) Book VI, 106, v. end. (24) Cangiamila, l. c., n. 12 and 13. (25) Capellmann, loc. cit. (1) Cangiamila, l. c., n. 12 and 13.

1470. II. MONSTROUS births are to be baptized in a similar way. But these according to the following rules:

1. "A monster which does not show forth the human species must not be baptized: but if there is doubt concerning this, let it be baptized under this condition: If thou art a man..." Thus the ROMAN RITUAL. Hence, if the monster has a human head, it is to be baptized absolutely, whatever may be the case concerning the other members; indeed, even if it has a bestial head, it is to be baptized at least under condition, If thou art capable; because, as today's physicians testify, the bestial species is to be ascribed only to the woman's imagination, or to a defect of conformation.[2]
2. A monster concerning which there is doubt whether it is one person or several is not to be baptized until this is discerned. But it can be discerned: 1. if it has several heads and several

distinct breasts; for then there are the same number of distinct men, and in that case each is to be baptized separately. But if danger of death is imminent, and time is not sufficient that each be baptized separately, the minister will be able, pouring water on the heads of each, to baptize all at once, saying: "I baptize you, etc." 2. If it has two heads and one breast, or two breasts and one head, or finally two heads and two breasts not well distinct, then first one must be baptized absolutely, and afterwards the other under condition, in this way: "If thou art not baptized, I baptize thee, etc." Thus the ROMAN RITUAL. If it has one head and two breasts, after the baptism of the head, each breast is to be baptized under condition: "If thou art not baptized"; because it is unknown by which breast the soul of the head is informed.

For the rest, in these cases, unless necessity presses, the matter is not to be done hastily; both so that the Ordinary of the place, or another expert, may be consulted, as the RITUAL admonishes, and so that with the lapse of time nature may explain itself.[3]

(2) Cf. Capellmann, loc. cit., where he adds: "Generation between man and beast, which Liguori indeed thinks incredible, most certainly does not exist." (3) Book VI, 125.

3. Children, Against the Will of Parents

1471. Children are indeed VALIDLY baptized against the will of parents; for it is not written, says St. Augustine, unless anyone shall have been reborn from the will of parents, but unless anyone shall have been reborn of water, etc. But here it is asked whether always LICITLY? Concerning this, hold these things:

Principles. I. It is certain that with the Church there is the right of baptizing infant children of HERETICS or SCHISMATICS, and of preventing them from being imbued with the errors of their parents, nor can any doubt be raised concerning this right of the Church (cf. n. 132 sq.). But indeed, for the sake of prudence, "that a Catholic minister licitly furnish Baptism, it is necessary that he conceive a probable hope that such a baptized child can, in his own time, be instructed in the true faith. But if in no way he can have such a moral hope, he certainly ought rather to abstain from Baptism, supposing the little child not to be in extreme necessity, in which anyone else can be baptized." S. C. de PROP. FID., April 17, 1777.[4]

Note. The same Sacred Congregation, on November 29, 1672, declared: "It is licit for a pastor to baptize a child, with one Catholic parent consenting, even if he knows certainly that the other will afterwards take care that the infant be baptized by a heretical minister; but the Catholic spouse is held to admonish the heretical spouse that the son has already been legitimately baptized."[5]

(4) Collect. S. Sedis, n. 217; cf. Nouv. rev. th., XVII, 605. (5) Ibid., n. 200.

1472. II. It is licit to baptize children of UNBELIEVERS, against the will of parents, in the following cases: 1. If they have the use of reason, or, in doubt, have completed seven years, and ask for Baptism, yet precaution having been taken against the danger of perversion. 2. If they are in danger of death and can be baptized secretly, without violence inflicted on parents, and without scandal of unbelievers.[6] 3. If they have been placed outside the care of parents, and fear is absent lest they return to them, as if they were exposed or abandoned. 4. If they are perpetually insane. 5. If they have been captured by right of war; likewise, if their parents are

slaves of Christians. 6. If one of the parents consents to Baptism, the other resisting. The same must be said if, the father being dead, the paternal grandfather consents to Baptism, although the mother resists.[7]

(6) Ibid., n. 211, ad 3. (7) Book VI, 128-131; cf. Ninzatti, n. 1022.

1473. III. Outside the aforesaid cases, it is NOT LICIT to baptize the children of unbelievers AGAINST the will of parents. The reason is that, if they are left in the power of the parents, the Sacrament would certainly be exposed to the danger of profanation on account of the undoubted danger of perversion and apostasy; if they are withdrawn from the parents, the natural right of parents would be injured, by which children, as long as they do not enjoy the use of reason, are under the power and care of parents, just as their other things are. Thus the more common opinion of the doctors against the Scotists, confirmed by the use of the Church and by the Constitution of Benedict XIV *Postremo mense*, February 28, 1747.[8]

IV. Offspring baptized, whether licitly or illicitly, against the will of parents, ARE TO BE WITHDRAWN from their power, that they may be INSTRUCTED in the faith received and persevere in it. The reason is that man through Baptism is subjected to the jurisdiction of the Church, and consequently is by right liberated from paternal care in those things which look to the government of the soul, insofar as it can be contrary to the acquired right of the Church; for the right of natural paternity ought to yield to the right of the spiritual paternity of the Church.[9] Yet scarcely today can this doctrine be brought into practice, since civil laws obstruct it.

(8) Book VI, 132. (9) Book VI, 127, 128.

4. Adults

In ADULTS certain dispositions are required, both for the valid and for the licit reception of Baptism. Concerning this, hold these things:

1474. Principles. I. For the VALID reception of Baptism in adults there is REQUIRED and SUFFICES an intention at least habitual, that is, had and not retracted, of receiving Baptism (cf. n. 1434).

Hence it is inferred: 1. Baptism received from grave fear is valid. For since it is sufficiently voluntary, the Sacrament is received, although the thing or grace of the Sacrament is not received. 2. Likewise, Baptism conferred on one sleeping or insane is valid, if before, when in possession of himself, he asked for it, or in whom, as the Roman Ritual says, the desire of Baptism appeared.[10]

(10) Ibid., 139; H. A., XIV, 28.

1475. II. For the LICIT and FRUITFUL reception of Baptism there are required in adults, besides intention, the DISPOSITIONS which the Council of Trent teaches are necessary for the justification of the impious (cf. n. 1644).

Hence you will deduce: 1. If some adult has already been justified beforehand through charity or contrition, nothing further is required in him except the will of receiving the Sacrament, by which character is impressed, the punishment of sin is remitted, and grace is increased (cf. n. 1450).

2. If he has not been justified, yet has only original sin, there is required and suffices in him explicit faith of the mysteries of faith which are to be believed by necessity of means, and implicit faith of the others which have been revealed by God; then hope of justification and eternal life, with the beginning of love, by which namely he begins to love God as the fountain of all justice, and proposes to himself to observe the divine commandments.

3. If he also has personal sins, there is moreover required supernatural sorrow for sins, according to that (Acts 2:38): "Do penance, and let each one of you be baptized"; and the reason is that actual sins cannot be destroyed without the retraction of the sinner. But the doctors more truly hand down that attrition suffices; for since Baptism has been instituted for destroying even actual sins committed before its reception, if it should pre-require contrition, which covers a multitude of sins, it would pre-require the effect for the producing of which it was instituted; therefore. Thus very commonly with St. Thomas, who says: "For this, that man prepare himself for grace to be perceived in Baptism, faith is pre-required, but not charity; because preceding attrition suffices, even if it is not contrition."[11]

The ROMAN RITUAL admonishes: "1. If some adult is to be baptized, he ought first, according to the apostolic rule, to be diligently instructed in the Christian faith and holy morals, and for some days to be exercised in works of piety, and his will and purpose are to be explored more often, and he is to be baptized only knowing and willing, and well instructed."[12] In antiquity, diverse times had been prescribed for proving and instructing CATECHUMENS; now the whole matter is left to the judgment of the Bishop.[13]

2. For reverence of the Sacrament, it is fitting that both the one baptizing and those to be baptized who are healthy be fasting. Thus also the RITUAL.

(11) In 4, dist. 6, q. 1, a. 3, ad 5. (12) Cf. Collectanea S. Sedis, n. 224 and sqq. (13) Cf. Scavini, book III, n. 76.

5. The Doubtfully Baptized

1476. It is asked: Whether and when Baptism must be repeated UNDER CONDITION?

Resp. 1. There has always been in the Church the practice of baptizing, at least under a tacit condition, those concerning whom it was doubted whether by the laver of regeneration they had been expiated from original fault, as Benedict XIV proves at length against Natalis Alexander.[14] But Alexander III established thus: "Concerning those of whom it is doubtful whether they have been baptized, let them be baptized with these words premised: If thou hast been baptized, I do not baptize thee; but, if thou hast not yet been baptized, I baptize thee, etc."[15]

2. "Baptism must be repeated under condition, not everywhere and without cause; but only then when a prudent and probable doubt underlies whether someone has been baptized, nor, diligent inquiry having first been made, could the truth of the matter become known," as the same Benedict XIV has.[16] And this is to be observed under grave obligation, both in doubt of law, namely when it is established that baptism was conferred with doubtful matter, or form, or intention, or with one concerning whose value there is controversy; and in doubt of fact, when it is prudently doubted, whether positively or negatively, whether Baptism has been

given or not: because in each doubt, the salvation of man is equally endangered. Hence the rule which the Fifth Council of Carthage hands down: "Whenever there are not found most certain witnesses who testify without doubt that they have been baptized, they are to be rebaptized without scruple."[17]

(14) De Synodo, book 7, cap. 6. (15) Cap. 2, De Baptismo. (16) Loc. cit. (17) Can. Placuit, 111, de Consecr., dist. 4.

1477. From what has been said you will deduce:[18] I. The following MUST be baptized under condition: 1. Exposed infants who are found without a certificate concerning Baptism. And the same must be thought with Benedict XIV, even if they carried on the neck testimony of Baptism, when the paper does not produce certainty, that is, when it is not discovered that the author of the paper is worthy of faith. Thus from the declaration of the S. C. C., December 18, 1723.[19] 2. All those for whom no sign can be had of received Baptism, nor of the marriage of the parents. 3. Many heretics. But these are to be rebaptized, not because they have been baptized by heretics, but because heretics baptizing are not accustomed to fulfill the conditions which the Church prescribes. And St. Alphonsus asserts this by name concerning Lutherans and Calvinists, who, since they judge Baptism not to be absolutely necessary, care little for matter and form. "Some of them," he says, "use distilled waters; others are accustomed in baptizing to observe this custom, that one pronounces the form and another applies the matter; some pour water upon the garments only, and others more commonly fail in intention."[20]

Note. 1. The Greek Schismatics, Eutychians, Nestorians, and other Oriental heretics are accustomed to confer Baptism accurately and VALIDLY; likewise the French Schismatics (*petite Eglise*), Old Catholics, and among Anglicans Ritualists. 2. Less accurately, and therefore DOUBTFULLY, Methodists and Presbyterians administer Baptism, who are accustomed to baptize by sprinkling; also Episcopalians, who especially today judge Baptism to be a bare rite without true efficacy; then finally Congregationalists, Unitarians, and Universalists, who consider Baptism as something free. 3. Baptists baptize adults only, and indeed doubtfully, because they pronounce the whole form before the immersion begins. Socinians and Quakers confer no baptism at all.[21]

Moreover, let it be noticed that Sects are changeable, and that today, in various places, they approach Rationalism more and more.

(18) With respect to the manner of proceeding, see Craisson, n. 6120; book VI, 135-137. (19) Thesaur. Resolut., tom. 2, p. 413; cf. also Collectanea S. Sedis, n. 246 and 247. (20) H. A., XIV, 26; cf. Scavini, III, 219. (21) Sabetti, n. 662; Konings, n. 1264.

1478. II. The following are not to be baptized again, not even under condition: 1. Infants whose Baptism at least one witness worthy of faith affirms, as Benedict XIV himself teaches.[22] And this, even if the witness is a woman, provided she is above exception, and there are not other witnesses deposing the contrary. 2. An adult who was born from truly Christian parents and was educated among the faithful; because, unless most evident reasons to the contrary are given, for his Baptism stands a violent presumption, which produces certitude. Yet if he is to be ordained, positive testimony of Baptism is required. 3. One baptized by a midwife, or by another skilled person, unless, the matter having been diligently examined, a probable suspicion of error is present.[23]

(22) Inst. 8, n. 8. (23) H. A., XIV, 23, 27; book VI, 134-137, where more.

1479. Let the following Responses of the HOLY OFFICE be noted: I. To the proposed doubt whether Baptism should be conferred under condition on heretics who are converted to the Catholic faith, from whatever place they come, and to whatever sect they belong, the Eminent Fathers responded Negatively; but in the conversion of heretics, from whatever place or from whatever sect they have come, inquiry must be made concerning the validity of Baptism received in heresy. Therefore, an examination having been made in individual cases, if it has been found either that none was conferred or that it was conferred invalidly, they will have to be baptized absolutely. But if, according to the account of times or places, the investigation having been completed, nothing is detected either for validity or for invalidity, or a probable doubt concerning the validity of Baptism still remains, then they are to be baptized secretly under condition. Finally, if it has been established that it was valid, they are to be received only to abjuration or profession of faith[24] (Decree, Wednesday, November 20, 1878).

II. It was asked: "1. Whether, in a case of doubt concerning the value of Baptism, Japanese persons who have thus received Baptism are still to be considered as Christians or unbelievers? 2. Whether, if doubt concerning the value of Baptism remains, and it has not seemed opportune to solve the doubt concerning those who have thus been doubtfully baptized, in matters which look to Matrimony, judgment must be made as if they had truly and validly been baptized, or not? To 1. Generally speaking, those concerning whom it is doubted whether they have been validly baptized are to be held as Christians. To 2. Baptism is to be judged valid in order to the validity of Matrimony" (Decree, September 9, 1868).[1]

(24) Cf. Nouv. Rev. theol. (year 1884), tom. XVI, p. 264. (1) Collectanea S. Sedis, n. 243.

Chapter IV: On the Ceremonies of Baptism

1480. Things to be noted beforehand. 1. "Private Baptism is called that in which no other ceremony prescribed by the Ritual is employed except the washing of the one to be baptized, with the words of the form pronounced, namely those things which by divine law are necessary for Baptism. But it is judged solemn when those rites and ceremonies are employed which the Roman Ritual records as having been received and approved from Apostolic and most ancient tradition, and as pertaining to its solemnity."[2]

2. It was asked: "Whether in places where there is no parochial church, nor baptismal font, Baptism can be conferred with all the solemnities and ceremonies customary in the Church?" And by a Decree of the HOLY OFFICE, on February 29, 1663, it was prescribed to missionaries that they can, indeed are held to, use those ceremonies which they can use. "Wherefore it is at once clear that private Baptism is not to be substituted for solemn Baptism because some ceremony cannot be done; for, this being omitted, the others are to be fulfilled."[3]

These things having been premised, we shall treat: 1. of the place and time of solemn Baptism; 2. of sponsors; 3. of the accessory rites of Baptism.

(2) Ibid., n. 270. (3) Ibid.

I. On the Place and Time of Baptism

1481. I. The place of solemn Baptism regularly cannot be except a church in which a sacred font is found constituted. This is established from the Roman Ritual and from the Decree of Clement V in the Council of Vienne. Whence St. Alphonsus says: "It is mortal to baptize outside the church without necessity."[4]

We have said regularly; for there is excepted: 1. The case of necessity, which is judged present not only when danger of death is imminent for the infant, but also when the infant cannot be carried into the church without danger of infamy of the parents, or of another grave harm: in which case, from at least the permission of the Bishop, Croix with others affirms that Baptism can be conferred solemnly at home.[5] 2. The privilege of Kings and Princes, whose sons and descendants it is licit to baptize solemnly in their chapels. But by the name of Princes, according to the more probable opinion, magnates are not to be understood, even those having temporal jurisdiction, but only those who possess absolute authority. "Yet, I think," says St. Alphonsus,[6] "that where the custom has been introduced of baptizing the sons of magnates at home, it is not easily to be disapproved, as Croix says."

(4) Book VI, 142; H. A., XIV, 30. (5) Ibid., 142. (6) Ibid., 118, end.

1482. II. Formerly the TIME of solemn Baptism was assigned twice in the year, namely on the Vigil of Easter and on the Vigil of Pentecost. And this custom indeed still flourishes at Rome for the Baptism of Hebrews or other converted unbelievers; but elsewhere it has now gone into desuetude.

II. On Sponsors

SPONSORS are as it were spiritual parents, who receive the baptized person from the sacred font into their care.[7]

(7) Ibid., 146.

1483. Principles. I. In SOLEMN Baptism at least one sponsor is to be employed, and indeed under grave obligation, whether this is a man or a woman; nor can more than TWO be licitly employed. Thus the Council of Trent established (sess. 24, *de ref. matr.*, cap. 2). "But the presence of sponsors in Baptism, from most ancient tradition, has always been held as a principal ceremony in the Church of Christ, so that the signification of spiritual generation might be preserved through sponsors, and the religious education of the child might be placed in safety by their pledge."[8]

We have said: 1. in solemn Baptism; for although a sponsor can be employed, indeed is laudably employed, in private Baptism, nevertheless he is licitly omitted.[9] 2. Whether man or woman: these are the words of Trent, from which it is more probably gathered that, if there is only one sponsor or one sponsa, a male or a female can be employed, of whatever sex the one to be baptized may be. 3. Nor can more than two be licitly employed, namely one man and one woman, lest relationships be multiplied.

Hence: 1. A pastor who admits no sponsor, or more than two sponsors, sins gravely; for he transgresses the precept of the Church imposed under grave obligation. The sponsor and sponsa cannot be two males or two females, although it is controverted whether this would be mortal or only venial. Yet it seems more truly to St. Alphonsus to be mortal, if the sponsors or sponsae differ in sex from the one to be baptized, because thus relationships would be multiplied, contrary to the intention of the Council of Trent.[10]

2. The carelessness of parents is to be disapproved, who entrust the office of sponsor not to chosen and suitable persons, but to anyone whoever first comes, even though they know for certain that he is never again going to visit his spiritual son.[11]

3. It is most fitting that sponsors be at least at the age of puberty and marked by the Sacrament of Confirmation. ROMAN RITUAL.

(8) Collect. S. Sed., n. 270, p. med. (9) Book VI, 147, end. (10) Book VI, 155; H. A., XIV, 36. (11) Collect. S. Sedis, n. 270, end.

1484. II. That someone VALIDLY be sponsor and contract the obligations annexed to the office of sponsor, the following conditions are required: 1. That he have the use of reason and be baptized. 2. That he have the intention of carrying out that office. Whence the laws require: 3. That he be designated by the parents, or at least by the pastor, if the parents had not designated him; but it is not licit for the pastor, unless a grave reason is present, concerning which see n. 1486, to change the sponsor designated by the parents. 4. That in Baptism itself, by himself or by a proxy, he physically hold or touch the infant while he is baptized, or immediately lift or receive him from the sacred font, or from the hands of the one baptizing.[12]

(12) H. A., XIV, 32; book VI, 146-154.

1485. III. From the receiving of the baptized person from the sacred font there arises the office of pedagogue and spiritual relationship. 1. The OFFICE OF PEDAGOGUE; for sponsors are held to have care concerning the baptized person, that is, to instruct him concerning faith and morals. Yet this obligation presses only when true necessity demands it, for example in the case in which the baptized were being nourished among unbelievers. "But when they are nourished among Catholic Christians," says St. Thomas,[13] "they can sufficiently be excused from this care, presuming that they are diligently instructed by their own parents. Yet if in any way they should perceive the contrary, they would be held, according to the manner, to expend care upon the salvation of their spiritual children." 2. SPIRITUAL RELATIONSHIP, which arises between those lifting, the sponsor and sponsa, and the baptized person, and his father and mother, and between the one baptizing and the baptized person and the father and mother of the baptized.[14] This relationship is an impediment diriment of matrimony, concerning which there will be speech in the Treatise on Matrimony, n. 2021 seq.

(13) 3, p., q. 67, a. 8. (14) Book VI, 156, end.

1486. It is asked: Who are PROHIBITED from being sponsors?

Resp. Illicitly, although validly, sponsors are: 1. Apostates, heretics, publicly excommunicated persons, and all those infamous from crimes. 2. Those ignorant of the rudiments of faith; for no one becomes a teacher unless he first has been a disciple. 3. Monks, Nuns, and all Regulars separated from the world, unless Regulars have been made Bishops. 4. Spouses with respect to spouses, and parents with respect to children; for, with respect to those of others, at least from today's custom, both spouses can be admitted.[15] And "nothing prevents parents, in a case of necessity, from performing the place of sponsors, materially holding their infants, and responding for them to the one baptizing, yet apart from the prerogative of true and properly so-called sponsorship, namely apart from the necessity of undergoing the burdens which an office of this kind carries with itself, of contracting the impediment of spiritual relationship prohibiting the use of matrimony."[16]

Note. From the ROMAN RITUAL public sinners must be kept from the office of sponsor. "But it is necessary: 1. that they truly be such, publicly known; 2. that the rejection be done prudently, for example by taking care beforehand in good ways that they do not present themselves, or by calling them to a secret conversation and saying that the Church cannot admit them as sponsors, although they can assist as witnesses; but let the motive never be publicly indicated, and often not even privately, to avoid quarrels; and, if another sponsor cannot conveniently be called, let Baptism be conferred without a sponsor; 3. that the rejection can be carried out in such a way that greater evils are not provoked; concerning which in our cities there will scarcely ever be no reason for fear"[17] (cf. n. 1294).

PARTICULAR STATUTES are to be observed, where they are in force, which remove certain others from the office of sponsor, for example secular clerics, lay persons not fulfilling the precept of annual confession or Easter Communion, etc. In involved cases, the Bishop is to be consulted, as far as this can be done.[18]

(15) Ibid., 156, 157; H. A., XIV, 37. (16) Collect. S. Sed., n. 270, p. med. (17) Berardi, Prax., n. 757, X. (18) Cf. Scavini, book III, 228-230.

III. On the Accessory Rites

1487. I. The ACCESSORY rites or Ceremonies preceding, accompanying, or following Baptism must be employed under grave precept. The reason is that they are prescribed by the Roman Ritual for a grave end, and have special fruits, so that it is mortal, without grave cause, to omit all the ceremonies of Baptism, or some notable one from among them, especially the use of consecrated water, the anointing of the oil of catechumens, and of chrism.[19] Hence Laymann judges that magnates sin gravely who, outside necessity, have their sons baptized at home, or privately in church, so that afterwards, with pomp, the ceremonies may be completed in church after the sponsors have arrived; who, moreover, Baptism having already been conferred before, are not truly made sponsors.[20] (Cf. n. 2021 seq.)

(19) Book VI, 141, and work on Trent, sess. 7, n. 62. (20) Book VI, 118, end; cf. Nouv. Revue theol., tom. X, p. 149 and XI, p. 614.

1488. II. When the ceremonies have been omitted on account of necessity or negligence, they are to be SUPPLIED solemnly, and indeed under grave obligation, in church. This is established from the Roman Ritual, title *Order of supplying omitted things*, and from the common opinion. Yet this

is not the custom in converted heretics, lest the people think that we disapprove their Baptism, even if rightly conferred. But whether the ceremonies are to be repeated when Baptism solemnly conferred is discovered to be invalid is controverted. Yet it is safer to repeat them, and in practice it is advised, unless danger of scandal or infamy obstructs.[21]

Various decrees of the HOLY SEE pertain here:

1. To the question: "Whether, in the administration of Baptism, the questions to which the sponsor of the infant ought to respond can be made in the vernacular tongue whenever the said sponsor is ignorant of Latin; or whether at least the question made in Latin, as the Ritual bears, can immediately be translated into the common tongue?" The S. Rit. C., August 31, 1867, in Ambianen., responded: Negatively to each, according to the Decree in Molinen., of September 12, 1847:[22] "For the rest, nothing obstructs that in the vernacular tongue all those things which pertain to the Sacrament of Baptism itself be explained." Thus the S. C. DE PROP. FIDE to the Vicar Apostolic of Siam, April 30, 1808.[23]
2. If a priest baptizes, in a case of necessity, outside the church, he ought to omit all ceremonies which precede Baptism, even if the infant seems about to live so long. But Baptism having been conferred as above, he ought to anoint him on the crown with chrism if he has it, impose the white garment, and provide the lighted candle. But when the infant has recovered, he is to be presented in church; and there the omitted ceremonies which precede Baptism are to be supplied. Thus the S. Rit. C., September 23, 1820, in Colagurit.[24]
3. It was asked: 1. What ceremonies are to be supplied over a Catholic adult: those which in the Ritual are assigned for the Baptism of adults, or for the Baptism of infants? 2. What are to be observed for an adult heretic converted to the Catholic Faith, when he is to be baptized under condition, on account of a founded doubt concerning the validity of Baptism? And the S. Rit. C. responded (August 27, 1836, in Rhedonen., under 3 and 4): To 1. "Let the ceremonies and prayers be observed which in the Ritual are assigned for the Baptism of infants." To 2. "Insofar as the ceremonies are to be supplied, and are believed to be supplied, as in doubt, those are to be supplied which are prescribed for the Baptism of adults."[25]

"For ENGLAND faculty was given of conferring Baptism in this case without ceremonies, which for AMERICA, when the Bishops asked in the year 1866, was denied. Yet in a particular case, from a grave cause, it seems that the Bishop can dispense so that it is licit to omit the ceremonies, as you may conjecture from the note itself which is added in the Collection of Gardellini to the decree just cited in Rhedon."[26]

4. To the question of the Bishop of Tonkin: "Whether in these places, where there is no common church or oratory, it is licit for a priest solemnly, that is, with all

the ceremonies and prayers prescribed in the Roman Ritual employed, to baptize the children of Christians in their private homes?" The S. C. Prop., on January 21, 1789, responded: Not only that it is LICIT, but that he MUST.[1]

(21) Book VI, 144. (22) Gardellini, n. 5382, ad I. (23) Collectanea S. Sedis, n. 273 and 274. (24) Gardellini, ad n. 4572. (25) Gardellini, n. 4780; cf. also Collectanea S. Sedis, n. 285; and Konings, n. 1264, II. (26) Lehmkuhl, II, n. 69,

note 4. (1) Analecta J. P., series 8, col. 1703, n. 185.

1489. Questions. Q. 1. How is the prohibition of using OLD CHRISM, or chrism of another year, to be understood?

Resp. It is to be taken strictly when new chrism is had. Therefore a priest would sin gravely who, new chrism having been set aside, should use old. But it is licit, whether in Baptism itself or in the blessing of the Font to be carried out on Holy Saturday, to use chrism of the preceding year, when fresh chrism cannot be had. Nor is the ceremony prescribed by the Roman Ritual to be deferred until new oils are received. From the response of the S. R. C. in Oriolen., September 23, 1837[2] (cf. n. 545, end).

Q. 2. What must be noted concerning the imposition of the NAME?

Resp. Generally a name must be imposed: except if danger of death presses and there is doubt concerning the sex. But the ROMAN RITUAL admonishes: "Let the pastor take care that obscene, fabulous, or ridiculous names, or names of empty gods, or of impious pagan men, not be imposed, but rather, as far as can be done, names of Saints." Whence it is only prohibited to impose obscene names, etc., and it is advised to impose names of Saints. But names imposed in Baptism can licitly be changed in Confirmation, indeed also at other times, even by private authority.[3]

Q. 3. What ought the minister to do AFTER Baptism?

Resp. The pastor ought: "1. to note down in the Book the names of the baptized person and of his parents and sponsors; 2. to admonish the sponsors concerning the relationship contracted and their obligation; 3. to inculcate to mothers and nurses that they not lie down with infants, on account of danger of suffocation." Yet if "the bed is wide, the child inconsolable, who cannot otherwise be defended from cold, and the woman is accustomed in sleep to retain her own position and place," the danger seems absent.[4]

(2) Gardellini, n. 4820; Collectanea S. Sedis, n. 289. (3) Book VI, 145. (4) Book VI, 160.

1490. Note. Concerning DESCRIPTION in the Book let these things also be noted: 1. Since the inscription of Baptism and of the names of the baptized and of the sponsors is necessary, for making faith concerning the existence of Baptism and the impediment of relationship, the pastor is held under grave obligation to write and preserve accurately the book of Baptisms. 2. If an infant has been validly baptized privately at home, or in church under condition on account of a positive doubt concerning the value of prior Baptism, it is better to note each diligently.[5] 3. The inscription of an illegitimate infant must be cautious. Concerning an adulterine child there is no difficulty; for, unless it is established concerning the adultery by sentence of a judge, one must stand by the saying of law: "He is the father whom the nuptials demonstrate." If he was born from a merely civil marriage, let him be inscribed as such, without another note. If he is natural, acknowledged by no one, let him be inscribed as born from unknown parents; if he is acknowledged by the father before witnesses, let his declaration be inserted, to be subscribed by him and the witnesses; likewise concerning the mother, if she by herself, or in writing, or through suitable witnesses, acknowledges the infant as her own. Thus Martinet.[6]

When the baptism of illegitimate children is celebrated, the same solemnities in extrinsic apparatus as for legitimate children are not to be employed (S. C. Conc., July 31, 1867).[7]

(5) On the books to be kept from the Roman Ritual, see Lucidi, De Visit. SS. Liminum, ed. 3, tom. I, p. 396; Mach, Tesoro del sacerd., tr. XI, c. I. (6) Th. mor., book 3, art. 3, n. 4 (tom. II, p. 334). (7) Nouv. Revue theol., tom. XVII, p. 229.

Treatise III: On Confirmation

We must treat: 1. of the nature; 2. of the minister and subject; 3. of the ceremonies of Confirmation.

Chapter I: On the Nature of Confirmation

We shall speak: 1. of the notion and effect of Confirmation; 2. of the matter and form by which it is constituted.

Article I: On the Notion and Effect of Confirmation

1491. DEFINITION. Confirmation, a certain perfection and consummation of Baptism, can be thus defined: A Sacrament instituted by Christ, in which, through imposition of hands and through an anointing of chrism, under a certain form of words, made on the forehead of the baptized person, an increase of sanctifying grace is conferred, and singular strength for firmly holding and intrepidly professing the faith.[8]

I. It is of faith, against Luther and Calvin, that Confirmation is a true and proper Sacrament. This is established from Trent, sess. 7, can. 1, on Confirmation: "If anyone shall say that the Confirmation of the baptized is an idle ceremony, and not rather a true and proper Sacrament: let him be anathema." It is also proved from Scripture (Acts 8:15, 17), where it is read that when Peter and John had come to the believers of Samaria, "they prayed for them, that they might receive the Holy Spirit. Then they laid hands upon them, and they received the Holy Spirit." For here there is had: 1. an exterior rite, in the imposition of hands and prayer; 2. the conferral of grace, because all received the Holy Spirit; therefore sanctifying grace: for graces gratis given were not conceded to all, as is established from 1 Corinthians 7; 3. divine institution, which is sufficiently understood from the effect, since it belongs to divine power alone to raise inanimate things to that dignity that they produce grace in us.

Concerning the TIME at which this Sacrament was instituted, there exists controversy among theologians. Yet more commonly, it is believed to have been instituted on the night of the Supper, in which Christ the Lord taught the Apostles to make chrism; as is gathered from Apostolic tradition, and from the practice of the Church consecrating chrism on Thursday in the Supper of the Lord.[9]

(8) Cf. St. Thomas, 3, q. 72. For practice see Analecta J. P., series 1, p. 293. (9) Book VI, 161.

1492. II. The EFFECTS of Confirmation are: 1. Character, by which the Christian is enrolled in the army of Christ. 2. Sanctifying grace, that is, the increase of the same grace with increase of the Gifts of the Holy Spirit; per accidens first grace can also be produced, as was said (n. 1395).[10] 3. Sacramental grace, which is grace perfecting and strengthening the Christian for the intrepid profession of faith and Christian life against any enemies whatever of the faith and against the temptations of the devil and the world. Whence St. Thomas says:[11] "In this Sacrament the Holy Spirit is given for strength, as He was given to the Apostles on the day of Pentecost." There is also had, from canon law, as in Baptism, a secondary effect, namely: 4. Spiritual relationship, which is contracted both between the one confirming and the confirmed and his father and

mother, and between the sponsor and the one received and his father and mother (cf. nn. 1504, 1506).

(10) Ibid., 169. (11) 3, q. 72, a. 7, c.

Article II: On the Matter and Form of Confirmation

§ 1. On the Matter

1493. Principles. I. The REMOTE matter of Confirmation is chrism made from olive oil and balsam, and blessed by a Bishop. This is established both from the Council of Florence in the decree of Eugene IV and from perpetual tradition and use of the Church. Wherefore we say:

1. OIL is of the necessity of the Sacrament, and indeed expressed from olives, as St. Thomas teaches,[12] because this is properly oil, through which is signified the grace of the Holy Spirit, which is poured out from Christ our Head into us.
2. BALSAM, by which is designated the good odor of Christ and immunity from the corruption of vices, is required by precept, and more probably also by necessity of the Sacrament. For it is said that those to be confirmed are to be anointed with chrism; but chrism denotes oil mixed with balsam. Yet the opposite opinion is also probable: wherefore, in a case of necessity, Confirmation can be administered with oil alone, for example with the oil of catechumens or of the sick, but under condition. But balsam of any region suffices, whether Palestinian or Indian, provided it is in such quantity that it gives its odor, although it is not mixed with each part of the oil.[13]
3. That chrism, by necessity of precept, must be BLESSED by a BISHOP is certain, and is established from the perpetual practice of the Church. But whether this blessing of a Bishop is of the very necessity of the Sacrament is indeed disputed, but the common and safer opinion, and therefore the one to be followed, affirms, from the decree of Eugene IV, where the matter of Confirmation is said to be chrism blessed by a Bishop. Yet the opinion which teaches that balsam can also be blessed by a simple priest, by permission of the Roman Pontiff, is not improbable. But chrism ought, from the precept of the Church, to be new, that is, of that year. Hence he who uses old chrism sins gravely; yet the Supreme Pontiff sometimes dispenses from this precept, when, for example, a simple priest must confirm in a distant region.[14]

(12) Loc. cit., art. 2. (13) Book VI, 162; H. A., XIV, 39. (14) Book VI, 163; H. A., XIV, 40.

1494. II. The PROXIMATE matter of Confirmation is the anointing of chrism made by the imposition of the Bishop's hand. Thus more commonly and more truly. But because there is a twofold imposition of hands in Confirmation, one which is premised to the anointing and is had when the Bishop extends his hands over those to be confirmed, invoking the Holy Spirit; the other, which is indistinct from the action of the Bishop's hand anointing the forehead: therefore theologians are not lacking who with Aureolus and Sambovius say that the first imposition, and not the second, is the matter of Confirmation; while others with Merbesius, Concina, etc., contend that each is necessary. Against these, St. Alphonsus in a longer dissertation demonstrates that the third opinion is most certain, and therefore to be held in practice,

namely the opinion of St. Thomas, St. Bonaventure, Bellarmine, and others, which places the adequate, total, and necessary matter of Confirmation altogether in chrismation by the hand of the Bishop, or in the imposition of hands which is joined with the anointing of chrism.[15]

Especially relevant here is the axiom of St. Augustine: "what the whole Church holds, and has not been instituted by Councils, but has always been retained, is most rightly handed down as delivered by Apostolic authority." Now, from history it is proved that the anointing of chrism has always been employed in the Church, both Latin and Greek: which same thing cannot be said concerning that first imposition of hands. It is confirmed from the Roman Catechism, from the decree of Eugene IV to the Armenians, and finally from the Encyclical Letter of Benedict XIV *Ex quo primum*, given to the Archbishops

and Bishops of the Greek rite, in the year 1750, where mention is made only of the anointing of chrism carried out by the hand of the Bishop, as of the total or adequate matter. From all these things Sylvius concludes that this must be held as of faith.[1]

(15) Ibid., 164. (1) Cf. dogmatic work on Trent, sess. 7, n. 9-16.

1495. Hence it is inferred: 1. It is not necessary, for the value of the Sacrament, that those to be confirmed be present at the beginning of the rite, when the first and general imposition of hands is made; nor at the end, while the Bishop gives the final blessing: because these are mere ceremonies.

2. It is necessary for the value of the Sacrament that the anointing be made immediately by the hand of the minister, not through the mediation of an instrument, for example a brush; because then the imposition of the hand would be lacking, which is not necessary in Extreme Unction. Likewise, it is essential that the one to be confirmed be anointed on the forehead, for showing that he is not ashamed of Christ, and indeed in the form of a cross, that the form be verified: "I sign thee with the sign of the cross, etc."[2]

3. By precept, the anointing ought to be done with the right thumb of the Bishop, as the PONTIFICAL prescribes. Yet the anointing would be valid if it were done with another finger, and even if it were a finger of the left hand, because it would truly be done by the imposition of the Bishop's hand. But the Bishop would sin who would do this without necessity; because he would depart from the practice of the universal Church; although it does not appear that the inversion of the said ceremony reaches grave fault.

4. With respect to the quantity of chrism, that is required and suffices which is enough for anointing the forehead in the form of a cross; whence the Bishop should take care lest chrism fail on the thumb.[3]

(2) Book VI, 165, 166; H. A., XIV, 42. (3) Loc. cit.

§ 2. On the Form of Confirmation

1496. Consequently to those things which we have said concerning the matter, these things must be held concerning the form:

I. The form of the Sacrament of Confirmation consists in these words, which accompany the anointing, namely: 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. This is established from the Roman Catechism,[4] where it is said that "this is the true and absolute form of this Sacrament," and it is added that "the authority of the Catholic Church does not allow anything to be doubted concerning this matter." Eugene IV hands down the same form in the decree to the Armenians.[5]

"In this form, as St. Thomas teaches, all things which are contained in this Sacrament are adequately explained, namely the SIGN of the army of Christ, when the confirmed are enrolled by those words, I sign thee with the sign of the cross; the EFFECT of the Sacrament, that is, strengthening grace, by those words, I confirm thee with the chrism of salvation; and the CAUSE OF GRACE, namely the Most Holy Trinity, by those words, In the name of the Father, and of the Son, and of the Holy Spirit."[6]

II. To the ESSENCE pertain: the words sign and confirm; the expression of the Trinity, which is invoked earlier by the Greeks; the word thee; likewise sign of the cross, chrism of salvation.

The change would be ACCIDENTAL if one said I strengthen for I confirm, or of sanctification for of salvation.

The form of the Greeks is: The seal of the gift of the Holy Spirit: in which, according to the character of that language, behold or is given to thee is understood. This form is indeed valid, as Urban VIII declared.[7]

(4) On Confirmation, n. 11 and 12. (5) H. A., XIV, 43. (6) Book VI, 167. (7) Ibid., 169.

Chapter II: On the Minister of Confirmation

1497. I. The ORDINARY minister of Confirmation is the Bishop alone. It is of faith, against Photius, the modern Greeks, etc., as is established from Trent, sess. 7, can. 3, on Confirmation: "If anyone shall say that the ordinary minister of holy Confirmation is not the Bishop alone, but any simple priest whatsoever: let him be anathema." Yet:

II. A simple priest can be the EXTRAORDINARY minister of Confirmation from the concession of the Supreme Pontiff. This is established from the Decree to the Armenians, where Eugene IV thus says: "Yet it is read that sometimes, by dispensation of the Apostolic See, from a reasonable and very urgent cause, a simple priest, with chrism made by a Bishop, has administered this Sacrament of Confirmation." It is also established from the practice and authority of several Pontiffs, especially Benedict XIV, who by the Bull *Eo quamvis tempore* granted that missionary priests give Confirmation to the Copts in a case of necessity.[8] Moreover, presbyters of the Greek Church, from custom, anoint children with sacred chrism immediately after Baptism has been conferred, which is not reprobated by the Supreme Pontiffs. Whence it must be said that priests through Ordination receive this power incompletely and inchoatively, and that it is made complete and perfected through delegation of the Supreme Pontiff, whether express, as is required among Latins, or tacit, as is conceded from prudence among the Greeks.[9]

We have said from the concession of the Supreme Pontiff; for neither for the liceity nor for the value of the Sacrament does the delegation of the Bishop alone suffice; as Benedict XIV proves,[10] who

affirms that a concession of this kind is an act of that supreme power which Christ the Lord committed to His Vicar on earth.

(8) And most recently, when the Asiatic disease was raging in Naples, faculty was conceded to the Archbishop of delegating priests who would minister this Sacrament to the dying (Monit. eccles., September 30, 1884). (9) Book VI, 170; H. A., XIV, 44. (10) De Synodo, book 7, cap. 8.

1498. It is asked: What sin does a Bishop commit by not confirming his own, or by confirming strangers?

Resp. 1. He sins gravely by omitting, for a long space of time, for example for eight or ten years, the Confirmation of his own. The reason is that he deprives of an enormous fruit those whose good, from office, he ought to consult. Hence, unless he is excused by moral impossibility, he is held, and indeed at his own expense, to go around his diocese, at least the principal places, for conferring Confirmation. Yet since this Sacrament is not absolutely necessary, as will be said below (n. 1501), he does not seem held to confer it on those affected by plague, nor on every dying person asking for it. For grave inconvenience excuses him, as also does common practice.[11]

Resp. 2. A Bishop confirming in a diocese not his own, whether strangers or his own subjects, without the consent of the diocesan Bishop, sins gravely and incurs suspension from Pontificals by the law itself, from Trent, sess. 6, cap. 5, *de Ref.* (cf. n. 1368). But if he confirms strangers in his own diocese, this is per se illicit; but, from common usage, the consent of their Bishop is presumed.[12]

(11) Book VI, 175. (12) Ibid., 172, 173; H. A., XIV, 45.

Chapter III: On the Subject of Confirmation

1499. I. VALIDLY confirmed are all and only those baptized who have not yet been confirmed. This is established both from what was said concerning the nature of the Sacrament and from the use and tradition of the Church (cf. nn. 1432 and 1433).

Hence you will infer: 1. The dying are to be confirmed, that in the resurrection they may appear perfect, and may be able to fight bravely with the devil, especially concerning faith, if perhaps they have need.[13]

2. The perpetually insane are validly and licitly confirmed; for although they never seem about to fight spiritually, nevertheless this happens per accidens. For the rest, it can happen that they enjoy at least some lucid interval, in which so great a help will profit them unto salvation.[14]

3. Infants not yet having attained the use of reason are validly confirmed; because bodily age does not prejudice the soul, and therefore just as an old man can obtain spiritual birth through Baptism, so a child or infant can obtain perfect spiritual age through Confirmation. Thus St. Thomas.[15]

Whether infants not yet having attained the use of reason are licitly confirmed, YOU WILL ASK? Resp. Regularly this is illicit, as Benedict XIV declared.[16] For the contrary usage has prevailed in the Roman Church, both on account of reverence for the Sacrament, and to avoid the danger of repetition, and finally so that those receiving may understand that through Baptism they had indeed been accepted into the Christian army, but through Confirmation they had been strengthened for

battle, and instructed by grace for bearing contests. "Wherefore, if the twelfth year does not seem to be awaited, at least until the seventh it is especially fitting to defer this Sacrament."[17] We have said regularly; because they are licitly confirmed before the use of reason if just causes accede, for example danger of death, long absence of the Bishop, legitimate custom, etc.

4. One doubting whether he has been confirmed can be confirmed under condition: but a greater doubt is required than for Baptism; and he who is probably confirmed is not held to this, even if he is to be ordained.[18]

(13) Scavini, book III, 95. (14) Book VI, 180; H. A., XIV, 49, end. (15) 3, q. 72, a. 8; book VI, 177, 178. (16) Const. Eo quamvis. (17) Catech. Rom., On the Sacrament of Confirmation. (18) Book VI, 178; H. A., XIV, 48; cf. Collectanea S. Sedis, n. 300.

1500. II. That an adult LICITLY receive the Sacrament of Confirmation, besides the conditions to be placed for validity, there is required in him: 1. The state of grace, because Confirmation is a Sacrament of the living. Hence the Roman Pontifical: "Adults ought first to confess sins and afterwards be confirmed, or at least concerning mortal sins, if they have fallen into them, let them be contrite." To the unworthy, character is indeed conferred, but not grace.[19] 2. Knowledge of the rudiments of faith, especially those which are of the necessity of means, and which look to receiving the Sacrament. 3. From law it seems also to be required that both the one confirming and the one to be confirmed be fasting; but authors say this is of counsel, or if it is a precept, that it does not oblige under grave obligation, or that it has not been received, or that it has now ceased by contrary custom.[20]

(19) Book VI, 179. (20) Ibid., 174; H. A., XIV, 50, 4.

1501. It is asked: Whether there is an OBLIGATION of receiving the Sacrament of Confirmation?

Resp. The Sacrament of Confirmation is not necessary by necessity of means unto salvation. All confess this, and the reason is that through Baptism alone the grace of sanctification and eternal life can be had. But it is, without doubt, necessary by necessity of precept whenever, from omission of it, either contempt of the Sacrament would be had, or grave scandal would arise, or danger of the soul losing faith or charity would certainly be imminent, for example in places in which persecutions against Catholics break out. Thus commonly.

But the question is whether there is an obligation PER SE of receiving this Sacrament? Some indeed deny with St. Thomas[21] that any precept exists concerning this matter, whether natural or positive, at least under grave obligation. But others more truly affirm with St. Antoninus and St. Bonaventure; and they say that there is a grave obligation, from divine precept, of receiving this Sacrament, at least during the course of life and when opportunity is given. The reason is that, by the very fact that Christ the Lord instituted it as a peculiar remedy for beating back the attacks of enemies, chiefly against faith, He assuredly annexed to it such sacramental grace as is of the greatest help and utility to all. But voluntarily to deprive oneself of so great a good is gravely repugnant to charity and to care for salvation; therefore he manifestly sins against charity toward himself who, detained by no impediment, neglects to be confirmed.[22]

But indeed, this grave obligation is principally proved from the declaration of BENEDICT XIV in the Bull *Etsi pastoralia*, on the rites and dogmas of the Greeks. For he speaks thus (§ 3, n. 4): "They who have not been confirmed are to be admonished by the Ordinaries of places that they are held by guilt of grave sin if, when they can approach Confirmation, they refuse and neglect it." The ROMAN RITUAL agrees, in whose newest Appendix these things are read: "Although this Sacrament is not of the necessity of means unto salvation, nevertheless, without guilt of grave sin, it cannot be spurned and neglected, when a suitable occasion of receiving it is present."[23] Whence, the denying opinion does not seem to remain probable.[24]

(21) In 4, dist. 7, q. 1, a. 1, ad 2am. (22) Book VI, 181-182. (23) Instr. for a simple priest from the decree of the S. C. DE PROP. FIDE, May 4, 1774. (24) Book VI, 182; H. A., XIV, 47; cf. dogmatic work on Trent, sess. 7, n. 17; Inst. Catech., p. 2, c. 3, n. 4.

Chapter IV: On the Ceremonies of Confirmation

1502. Some ceremonies of Confirmation precede, others accompany, others follow the conferral of this Sacrament. Since they are prescribed in the Pontifical, it must be said that they, in general, oblige under grave obligation, so that it would certainly be mortal to omit them all.[25] Thus commonly.

We shall treat specifically: 1. of the sponsor; 2. of the other ceremonies.

(25) Book VI, 184.

1. On the Sponsor

1503. I. A SPONSOR is required, and indeed under grave obligation, as is commonly taught. "He who receives this Sacrament," says St. Thomas,[1] "is held by another, as if to be instructed by another in spiritual combat." Yet if a sponsor could not be had, it would be licit to confer Confirmation without one.[2]

(1) 3, q. 72, a. 10. (2) Book VI, 185.

1504. II. That someone VALIDLY be sponsor, it is necessary: 1. that he be in possession of reason, although still before puberty. 2. That he be designated by the one himself to be confirmed, or, if this one is a child, by the parents, or at least by the Bishop. 3. That he physically touch the one to be confirmed; whether the latter, according to the rubric of the Pontifical, places his foot upon the right foot of his sponsor; or the former, according to approved custom, puts his right hand upon the right shoulder of the one to be confirmed (S. Rit. C., September 20, 1749, in Laurin.).[3] 4. That he himself be confirmed; for in the Roman Pontifical it is had: "No one who has not been confirmed can be a sponsor in Confirmation." This is understood not only concerning a grave prohibition, as is certain among all, but more probably also concerning nullity of the act. And this, at least for practice, is safe from the declaration of the S. C. C., which in Lycien., June 13, 1654, decreed: "One not confirmed does not contract spiritual relationship."[4]

"But, because it can happen that in places of the Missions no one is present who had previously been confirmed, it is permitted, in this case, that some be confirmed without a sponsor, who afterwards

will be able to be sponsors of the others." Instruction of the S. C. PROP. FIDE, May 4, 1774.

(3) Gardellini, n. 4205, ad 8. (4) Pignatelli, tom. I, consult. 10; cf. Lucidi, tom. I, p. 187, n. 142; Berengo, Theol. past., n. 93.

1505. III. That someone LICITLY be sponsor, there is moreover required: 1. that there be only one man, or one woman, from canon law; 2. one diverse from the sponsor of Baptism, unless there is a just cause to the contrary; 3. of the same sex as the one himself to be confirmed, and not less than fourteen years old, from the cited Instruction of the S. C. PROP. FID., May 4, 1774; 4. that he not be a Religious or a Nun, unless the person to be confirmed is likewise a regular, from canon law; 5. nor the father or mother, husband or wife of the one to be confirmed, from the Roman Pontifical; 6. not excommunicated, interdicted, contaminated by graver crimes, or ignorant of the rudiments of faith, from the same Pontifical.[5]

(5) H. A., XIV, 51.

1506. Note. 1. Formerly in the Diocese of Fiesole the usage had prevailed that one sponsor for all males, and one sponsa for all females, be deputed by the pastor or by the Bishop. Since from this it had happened that the spiritual sons for the most part did not know the sponsors, nor the sponsors the spiritual sons, the following doubt was proposed: Whether and how the usage of the Diocese of Fiesole is to be approved in the case? And the S. C. CONC., July 12, 1823, responded:[6] "It is not to be approved, but to be tolerated in a case of necessity to be judged by the Bishop, according to the form of the Roman Pontifical." But this form is: "Let no one present except one or two, not more, unless necessity advises otherwise, at the judgment of the Bishop." If the Bishop wishes to perform not only the office of minister, but also of sponsor, let him perform the office of sponsor through a proxy (S. Rit. C., June 14, 1873, in Policastren.).[7]

2. Concerning SPIRITUAL RELATIONSHIP, which is contracted in this Sacrament, the Tridentine Synod established these things:[8] "Let that relationship also, which is contracted from Confirmation, not go beyond the one confirming and the confirmed, and his father and mother, and the one holding him, all impediments of this spiritual relationship among other persons having been altogether taken away." This decree of the Council indeed has place in those who are bound to observe the Tridentine statutes. But the rest should conform themselves, in this part, to the discipline in force in their own regions. Thus the Instruction of the S. C. PROP. FID., May 4, 1774 (cf. n. 2021).

(6) Thesaur. Resol., tom. 84, p. 167. (7) Gardellini, n. 5555. (8) Sess. 24, de Ref. Matrim., cap. 2.

2. On the Other Ceremonies

1507. Let the following things be noted: 1. The Sacrament of Confirmation can be conferred less solemnly, on any day, hour, and place, from a just cause, at the judgment of the Bishop. But to minister this Sacrament without cause outside a church or chapel cannot be excused from venial sin.[9]

2. "The Bishop ought to be vested with amice over rochet, or over surplice if he is a Religious, and with stole, cope of white color, miter, and staff." And, according to the truer opinion, "it is mortal to omit all the aforesaid instruments, since they pertain to reverence for the Sacrament; otherwise, if only one is omitted, because this does not seem to be grave matter."[10] Yet the use of Pontificals is prohibited to a simple priest administering this Sacrament from the concession of the Supreme Pontiff, unless he has a special privilege.[11]

3. To omit the candle and the slap does not exceed venial sin.

4. It is licit to change the name in Confirmation.[12] Indeed, "if someone has a shameful name, or one not fitting for a Christian man, let him assume another in Confirmation." From the Instruction of the S. C. PROP. FID., May 4, 1774.

5. After the anointing, the forehead ought to be bound with a linen band, from the Pontifical; but now wiping of the forehead has prevailed in its place.

6. The blessing is given by the Bishop to all at the end: yet this ceremony is customarily omitted, as also the admonition that they not depart beforehand, when there is a great concourse of those to be confirmed.[13]

7. Let the pastor note in the Book the names of those confirmed and of the sponsors: both for detecting spiritual relationships and on account of the reception of sacred Orders.[14]

(9) Book VI, 174, 184. (10) Ibid., 184. (11) Decree of the S. C. PROP. FID., April 23, 1774, in the newest Appendix of the Roman Ritual. (12) Book VI, 145. (13) Book VI, 188. (14) Ibid.; and H. A., XIV, 52.

Treatise IV: On the Most Holy Eucharist

1508. "Of all the sacred mysteries which our Lord and Savior commended to us as most certain instruments of grace, there is none which can be compared with the most holy Sacrament of the EUCHARIST,"[15] in which He "as it were poured out the riches of His divine love toward men, making a memorial of His wonders."[16]

But why this most august Sacrament was instituted, the Roman Catechism brings forward two chief causes, saying: "The one is that it should be the heavenly FOOD of our soul, by which we might be able to guard and preserve spiritual life; the other, that the Church might have a PERPETUAL SACRIFICE, by which our sins would be expiated, and the heavenly Father, often gravely offended by our crimes, would be brought from wrath to mercy, from the severity of just punishment to clemency."[17]

From this it is clear that this treatise is aptly divided into two dissertations: the former of which will treat of the Eucharist insofar as it is a Sacrament, the latter insofar as it is a Sacrifice.

(15) Catech. Rom., p. 2, cap. 4, n. 1. (16) Trent, sess. 13, cap. 2. (17) Loc. cit., n. 70.

Dissertation I: On the Most Holy Eucharist Insofar as It Is a Sacrament

In this dissertation one must treat: 1. of the nature of the Eucharist; 2. of the Minister; 3. of the Subject; 4. of the reservation and worship of the Eucharist.

Chapter I: On the Nature of the Eucharist

We shall investigate the nature of the Eucharist in a twofold article. Speech will be in the first on its notion and effect; in the second on its constituents, that is, on its matter and form.

Article I: On the Notion and Effect of the Eucharist

1509. DEFINITION. The Eucharist, that is, good grace, is the Sacrament of the Body and Blood of Christ, under the species of bread and wine, divinely instituted for the spiritual refreshment of the soul.[18]

It is said 1. is a Sacrament; "for in it there are external signs and signs subject to the senses; it then has the signification and efficacy of grace; moreover, concerning the institution of Christ neither the Evangelists[19] nor the Apostle[20] leave a place for doubting."[21]

It is said 2. of the Body and Blood of Christ, under the species of bread and wine: for the Tridentine Synod teaches that "in the nourishing Sacrament of the holy Eucharist, after the consecration of bread and wine, Our Lord Jesus Christ, true God and man, is contained truly, really, and substantially, under the species of those sensible things."[22]

It is said 3. divinely instituted for the spiritual refreshment of the soul: by which words the principal effect of this Sacrament is expressed. For "just as earthly bread nourishes the body, so heavenly bread

nourishes the soul, and makes it grow in divine love."[23]

(18) Book VI, 189. (19) Matthew 26:26; Mark 14:22; Luke 22:19. (20) 1 Corinthians 11:24, 25. (21) Catech. Rom., p. 2, c. 4, n. 7. (22) Trent, sess. 13, c. 1. (23) Inst. catech., p. 2, c. 4, n. 3.

1510. Since, therefore, the Most Holy EUCHARIST consists both of the body of Christ and of the species under which the body of Christ lies hidden, if it is asked in what precisely the essence of this Sacrament is situated, St. Alphonsus responds: "There are several opinions, but two more received. Some say the essence of the Eucharist consists directly in the species of bread and wine; and that the body of Christ pertains to the Sacrament only obliquely, that is, as something extrinsically connoted. Others say that it consists directly equally in the species and in the body of Christ. Each opinion is probable."[24]

But if it is asked IN WHAT MANNER the Body of Christ begins to become present, it must be said that it becomes present neither by production from nothing, nor by being brought from heaven, but "by the conversion of the whole substance of bread into the substance of the Body of Christ our Lord, and of the whole substance of wine into the substance of His Blood; which conversion has fittingly and properly been called TRANSUBSTANTIATION by the holy Catholic Church."[25]

(24) Book VI, 189, 190. (25) Trent, sess. 13, cap. 4.

1511. Principles. I. The whole CHRIST under each species, and under any part of each species, is REALLY PRESENT. The first part of the proposition is of faith; likewise the second, if it is understood of separated parts of the species.[26] But if it is understood of continuous parts, before separation has been made, it is certain, and altogether to be held.[27]

The COUNCIL OF TRENT speaks thus aptly to the matter: "This faith has always been in the Church of God, that immediately after consecration, the true body of Our Lord and His true blood exist under the species of bread and wine, together with His soul and divinity; but the body indeed under the species of bread, and the blood under the species of wine, by force of the words; but the body itself under the species of wine, and the blood under the species of bread, and the soul under each, by force of that natural connection and concomitance by which the parts of Christ the Lord, who has now risen from the dead, no longer to die, are joined among themselves; moreover the divinity, on account of that admirable hypostatic union of it with the body and soul. Wherefore it is most true that just as much is contained under either species as under both: for whole and entire Christ exists under the species of bread, and under any part of that species; likewise whole under the species of wine, and under its parts."[28]

Therefore Christ EXISTS in the Sacrament in a singular and altogether ineffable MANNER, which St. Thomas thus expresses: "The Body of Christ is in this Sacrament by way of substance, that is, by the manner in which substance is under dimensions... But it is manifest that the nature of substance is whole under any part of the dimensions under which it is contained, just as under any part of air there is the whole nature of air, and under any part of bread there is the whole nature of bread. And this indifferently, whether the dimensions are actually divided, as when air is divided or bread is cut, or even are actually undivided, but divisible in potency."[29]

And hence it is why some teach that the whole specific notion of this Sacrament is saved in the species of bread or wine alone, taken separately. This opinion is indeed probable; but the opposite is

more probable, since only through each species is signified a BANQUET or refreshment of food and drink, in which the specific notion or essence of this Sacrament consists.[30]

It is asked: Whence is the NUMERICAL UNITY of this Sacrament taken?

Resp. Some say it is taken from the unity of the body of Christ; others from the physical continuation of the parts themselves of the species; finally others, and more probably, from the moral conjunction which the species have while they are proposed or taken after the manner of one thing. Whence, if diverse consecrated species, or several parts of the same species, are proposed at the same time and on the same altar, or ministered to the same person, there will be one Sacrament; but if the same species are divided, and proposed on diverse altars, or ministered to diverse persons, or to the same person at diverse turns morally distinct, there will be diverse Sacraments.[31]

(26) Ibid., sess. 13, cap. 3 and can. 3. (27) Cf. Lugo, De Euchar., disp. 7, sect. 3. (28) Sess. 13, cap. 3. (29) 3, p., q. 76, a. 3. (30) Book VI, 191, q. 1; cf. Laymann, book V, tr. 4, c. 1, n. 2. (31) Book VI, 191, q. 2.

1512. II. The Eucharist is a PERMANENT Sacrament. "That excellent and singular thing is found in it, that the remaining Sacraments then first have the power of sanctifying when someone uses them; but in the Eucharist the Author Himself of sanctity is before use; for the Apostles had not yet received the Eucharist from the hand of the Lord, when nevertheless He Himself truly affirmed that what He was giving was His Body."[32]

Q. When does the body of Christ CEASE to be under the species?

Resp. It ceases when so great a change of the species has been made as would have had to be made in order that the substance of bread and wine in unconsecrated species would be corrupted.[33]

Hence: 1. If a little consecrated wine is mixed with other wine, at least of the same species, as happens in the first ablution, Christ does not cease to be there. If the wine is very diverse, it is disputed whether from the mixing of the species such a change arises as would suffice to destroy the substance of consecrated wine. Yet, in this doubt, it must be held that the species are not corrupted. But if to consecrated wine there is mixed a liquid of another species, for example water, in so great a quantity that the accidents of wine are corrupted, namely in such a way that the substance of wine, if it were present, could not be conserved, Christ ceases to be present under those species.[1]

2. The species, in one receiving the Sacrament, are consumed sooner or later according to the greater or lesser digestive power. Yet commonly, in a healthy man, the species are judged to be corrupted at least after a quarter hour from Communion, even in a priest.[2] Otherwise in a sick person, who even after an hour can reject the species plainly incorrupt.

3. "Species rejected by vomiting, if they are such that under them bread or wine can exist, are truly to be adored; and if they are again taken, they again confer grace, as Cardinal de Lugo teaches."[3]

(32) Trent, sess. 13, cap. 3. (33) Book VI, 225. (1) Ibid., 229. (2) Ibid., 225. (3) Ibid., 223.

1513. III. The EFFECT of the Eucharist is the NOURISHMENT of souls through the perfection of charity. The Most Holy Eucharist indeed has this in common with the other Sacraments of the living, that it confers an INCREASE OF GRACE, but not first grace except per accidens, as was

said above, n. 1395. But its proper effect is that this increase of grace imports the refreshment of the soul, namely for fostering charity and perfecting UNION with Christ, as He Himself promised in John 6:57, saying: "He who eats My flesh and drinks My blood abides in Me, and I in him."

But since this nourishing Sacrament has the notion of FOOD, "therefore, every effect which material food and drink makes with respect to bodily life, namely that it sustains, increases, repairs, and delights, this whole thing this Sacrament does with respect to spiritual life." Thus St. Thomas.[4]

Therefore the principal EFFECTS of the Eucharist in the SOUL, besides the increase of grace, are the following:[5]

1. REMISSION OF VENIAL SINS (it repairs); for this Sacrament, according to Trent,[6] "is an antidote by which we are freed from venial faults and preserved from mortal sins." "But the Salmanticenses think with others that Communion of itself destroys venial sins from the work worked, through the very infusion of grace by which the soul is refreshed. But Tournely says better that the Sacrament destroys venial sins not immediately of itself, but by means of an act of charity which it excites in the soul."[7] And in the same way it remits temporal punishment due for sins.
2. PRESERVATION FROM MORTAL SINS (it sustains); as is established from the praised words of Trent. But the Eucharist preserves us from death of the soul through the help of sacramental grace, by which devotion is excited, temptations are more strongly resisted, demons are put to flight, etc. Indeed, grave authors assert that from the reception of the Eucharist the soul is fortified by such external protection that God does not permit it to be living in occasions in which it would fall into sin.[8]
3. INCREASE OF VIRTUES (it increases); for just as the body through natural food is not only conserved, but also grows, so similarly the soul through supernatural food, that is, the Eucharist, is not only sustained, but also strengthened and enriched with a supply of graces, by which the exercise of all virtues, especially charity, is promoted more and more.
4. SPIRITUAL SWEETNESS (it delights); and this effect indeed is infallible, unless it is impeded on account of the fault of the recipient. But this sweetness consists in a certain cheerfulness of the will for accomplishing all things which are known to be pleasing and acceptable to God (cf. n. 536).
5. ATTAINMENT OF GLORY, according to that of Christ (John 6:59): "He who eats this bread will live forever." "By the grace of this Sacrament, namely, the faithful, while they pass this life, enjoy the highest peace and tranquillity of conscience; then, recreated by its power, not otherwise than Elias, who by the strength of the hearth-baked bread walked even to the mountain of God Horeb, when the time of departing from life has come, ascend to eternal glory and beatitude."[9]

(4) 3, p., q. 79, a. 1. (5) Book VI, 269; cf. St. Bonaventure, in 4 Sent., dist. 12, a. 1, q. 3. (6) Sess. 13, cap. 2; cf. St. Thomas, 3, q. 79, a. 4. (7) H. A., XV, 5. (8) Salmanticenses, De Euch., c. 6, n. 30. (9) Catech. Rom., p. 2, c. 4, n. 54.

1514. Nor do the effects of the Eucharist extend to the soul alone, but also to the BODY itself, as the Fathers teach. But they are the following:

1. THE QUIETING OF CONCUPISCENCE and of the tinder of sin. But the Eucharist works this quieting partly by putting demons to flight, lest they excite species of a shameful object, partly by repressing the powers of the humors, mitigating ardor, etc.[10]
2. The future RESURRECTION AND GLORY of the body, on account of a special title, namely because of the union of our bodies with the life-giving flesh of Christ, which is the cause of our resurrection, as Christ promised, saying in John 6:55: "I will raise him up on the last day."

It is asked: Whether the Eucharist, insofar as it is a Sacrament, can profit OTHERS than those receiving?

Resp. 1. It cannot profit DIRECTLY and from the work worked; because it was instituted by way of food; but food does not profit except the one taking it. 2. It can profit INDIRECTLY and from the work of the worker, both the living by way of impetration, and the departed by way of satisfaction and suffrage, if namely the one communicating offers this act of religion to God in their favor. Add that the prayers which accompany or follow Communion are more acceptable to God than those which are poured forth at another time. Whence the Congregation of the INDEX, under Innocent X, condemned the book of Theophilus Raynaud, who attacked the custom of communicating for the departed.[11] See the dogmatic authors.

(10) Lugo, De Euch., disp. 12, n. 100. (11) Decree of December 18, 1646.

Article II: On the Matter and Form of the Eucharist

§ 1. On the Matter of the Eucharist

1515. "Just as in the other Sacraments there is a twofold matter, namely proximate and remote, so also here, but in an inverted order: for in the others, the remote matter is a permanent thing; but the proximate is its use, which passes away; here, however, the remote passes away, and the proximate remains, namely the species of bread and wine."[12] And since, for practice, one must treat only of the remote, that is, of that which, through consecration, passes into the body and blood of Christ, we shall treat: 1. of the remote matter in general; 2. of the matter of bread; 3. of the matter of wine; 4. of the conditions required for consecration on the part of the matter.

(12) Book VI, 194.

I. On the Remote Matter in General

1516. Principles. I. The matter of the Eucharist is BREAD and WINE. It is of faith, from the definitions of the Council of Florence,[13] Lateran IV,[14] and Trent.[15] The reason is that Christ, in instituting this Sacrament, employed bread and wine, and commanded His Apostles to do the same.[16]

(13) Decree to the Armenians. (14) Cap. Firmiter, I, 1, 1. (15) Sess. 13, cap. 3 and sess. 22, cap. 1. (16) Matthew 26:26 sqq.

1517. II. Each matter, namely bread and wine, is REQUIRED for making the Sacrament LICITLY. "It is certain that it is necessary by necessity of precept to consecrate the Eucharist under each species, as St. Thomas teaches[17] with others commonly... Whence it is common and certain among all that it is not licit, even in the article of death, to consecrate one species in order to offer Viaticum to the sick person."[18]

But that this precept is not only ecclesiastical, but also divine, "is clear from Trent, sess. 22, cap. 1, where it is said that Christ commanded priests to offer His body in no other way than under each species. Behold the words of the Council: 'Christ offered His body and blood under the species of bread and wine to God the Father, and under the symbols of the same things, note, handed them to the Apostles that they might receive them, and to the same and their successors in the priesthood commanded that they offer, by these words: Do this in commemoration of Me; as the Catholic Church has always understood and taught.'"[19]

But whether the Supreme Pontiff can DISPENSE so that it is licit to consecrate in only one species is controverted. Commonly, however, authors deny, both because the Church cannot change the divine institution in the manner of making the Sacraments and offering Sacrifice to God, and because it is not improbable that outside sacrifice a Sacrament is not made; whence the affirming opinion cannot be brought down into practice, and "the Church never dispensed in this precept, nor ever will dispense."[20]

(17) 3, p., q. 80, a. 12, ad 3. (18) Book VI, 196. (19) Ibid., dub. 1. (20) Book VI, 196, dub. 2.

1518. It is asked: Whether the consecration of one species without the other is VALID?

Resp. 1. No one doubts that it is valid if this happens by accident, for example if someone through error had consecrated water for wine. 2. But if a priest should have the positive intention of consecrating only one species without the other, it is disputed. "Lugo denies, because, as he says, the notion of Sacrament cannot be divided from the notion of sacrifice... But others commonly affirm, because in every Sacrament, whenever the minister pronounces the form over the matter, with due intention, he perfects the Sacrament. This opinion is indeed very probable; but the opposite does not seem improbable."[21]

(21) Ibid., dub. 3 and n. 197.

II. On the Matter of Bread

1519. Principles. I. The VALID matter of the Eucharist for the first consecration is only WHEATEN and USUAL BREAD; such namely as, in the moral judgment of men, is judged to be only that which is mixed from wheat flour and natural water, and cooked or baked by fire, and incorrupt in its species: because this alone is simply called BREAD. It is established from the Decree of Eugene IV, where it is said concerning the Eucharist: "whose matter is wheaten bread and wine from the vine"; and from the Rubrics of the Missal, where one reads: "If the bread is not wheaten, the Sacrament is not made."[22]

It is the same for the value of the Sacrament whether the bread is unleavened or leavened. Yet from the precept of the Church, which obliges under grave obligation, Latins are held to use unleavened bread, Greeks leavened.[23]

Hence: 1. By defect of wheat flour, INVALID matter is bread from rice, oats, millet, and similar grains: for these differ in species from wheat, according to common estimation. DOUBTFUL matter would be bread from spelt; likewise from rye. The admixture of a foreign substance in notable quantity, for example in equal or almost equal quantity, renders the matter invalid.

2. By defect of natural water, INVALID matter is bread kneaded from oil, butter, milk, eggs, sugar, or another liquid; because it would not be usual bread. The admixture of artificial water renders the matter at least doubtful.

3. By defect of preparation, INVALID would be raw wheaten dough, hardened by the heat of the sun, or not cooked after the manner of bread, but fried or boiled after the manner of a cake.[24]

(22) Book VI, 198. (23) Ibid., 202. (24) Book VI, 199, 200.

1520. II. Matter, although valid, is ILLICIT if it is not fitting and made according to the prescription of the Church. Now:

1. Bread would not be fitting if, for example, some grains or drops of another species were mixed with the wheat and water, even if the wheat and water greatly predominated. Likewise, moldy bread, which already tends toward corruption, would be unfitting or illicit. "This would be," says St. Alphonsus,[25] "if the taste were changed in some way, and then it would be mortal to use it." Therefore one must watch carefully that hosts and particles be fresh, made within one month at the most. For the Sacred Congregation of Rites condemns, as an enormous abuse, the custom of consecrating hosts which had been made three or four months before.[26] Nor must they only be fresh, but also whole and clean. Yet "scandal being excluded, it is only venial, without a reasonable cause, to consecrate a broken or stained host; unless the fracture or stain were enormous; for then it would be mortal. Yet if the fracture is discovered after the oblation, such a host will licitly be consecrated, unless scandal of the people is feared."[27]

2. With respect to the FIGURE of the bread, among Latins a round host is required, larger for the celebrant, on which the sign of the cross is expressed, as is the constant custom of the Church.[28] If a larger host is lacking, the priest can probably, even for the sake of devotion, consecrate a smaller one, provided scandal is avoided: which can be avoided if, for example, the people are admonished concerning the lack of a larger host. Indeed, authors are not lacking who teach that a priest is HELD to consecrate in a smaller host if, from precept, the people would have to attend Mass, or if Viaticum had to be given to a sick person. But it is never licit for a priest, the larger host being set aside, for example for exposing in the monstrance, to take a smaller one, unless he has also consecrated this in the same Mass; because he must communicate from his own Sacrifice.[29]

(25) Ibid., 201. (26) Decree of December 16, 1826, Gandaven. (Gardellini, n. 4623). (27) Book VI, 204. (28) Gardellini, n. 4723 (April 26, 1834, Immolen.). (29) Book VI, 205.

1521. It is asked: Whether a Latin can ever celebrate in LEAVENED bread, or a Greek in UNLEAVENED.

Resp. 1. In places where a church of one's own rite is had, this is absolutely prohibited, and indeed under penalty of perpetual suspension from Divinis;[1] even if Viaticum had to be given to a dying person: because in this case reverence toward so great a Sacrament is to be preferred to the utility of neighbor, for whom such a Sacrament is not simply necessary.[2]

Resp. 2. But in places where a church of one's own rite is not had, for example if a Greek passes through places of Latins, or a Latin through the territories of Greeks, it is licit to celebrate either in leavened or in unleavened bread.[3]

(1) Book VI, 202. (2) Ibid., 203, dub. 2. (3) Ibid., dub. 1.

III. On the Matter of Wine

1522. Principles. I. Valid matter of the second consecration is only WINE FROM THE VINE, and indeed USUAL wine. This is established from Matthew 26:29: "I will not drink henceforth of this fruit of the vine, until the day, etc."; and from the Florentine Decree already cited, which the constant practice of the Church confirms.

Hence, the following is not apt matter for valid consecration:

1. "Strong drink, and any liquid from mulberries, pomegranates, apples, etc., whether it is called wine or not. 2. Verjuice, or *omphacium*, that is, juice expressed from immature grapes; because it is not wine, but on the way to wine, whose nature it has not yet put on. 3. Vinegar, which is wine substantially corrupted; whence, if the priest after consecration prudently doubts whether it was vinegar or wine, the consecration is to be repeated, but under condition, on account of the doubt. 4. Grapes, or wine contained within grapes, or imbibed in a morsel of bread; because it is not so much drink as food. 5. *Sapa*, or boiled-down must, that is, must cooked down to a half or third part; because it is no longer wine, nor drink, but food. 6. *Lora*, that is, water poured over pressed grapes. 7. Spirit of wine, since it is not properly wine."[4]

(4) Ibid., 206; cf. 1 Elench. qq. ref., n. 75.

1523. II. Valid but ILLICIT matter is true wine, VITIATED in some way, or MIXED. The reason is that it is against the reverence owed to the Sacrament. Whence exotic wine must be employed cautiously, because it is very often mixed with foreign substances and therefore illicit; indeed, not rarely one finds that which is altogether artificial, and consequently invalid.

Hence, consecration is indeed valid, but illicit: 1. in must, and indeed under mortal sin, according to Suarez, at least outside necessity; for although it is substantially wine, nevertheless it is not perfect wine, nor pure, as being not yet ripened nor separated from the lees. 2. In wine so moderately mixed with other liquids or aromatics that it indeed retains the nature of wine. But if the mixing is immoderate, the matter will be doubtful. 3. In wine becoming sour: as is established from the Rubric, where it is said: "If the wine has begun to become sour or to be corrupted, or has been somewhat sharp..., the Sacrament is made, but the one making it sins gravely." Yet when other wine is lacking, it is licit to use wine only slightly becoming sour; for the Rubric does not seem to be accepted with so great rigor that it includes even the very first degrees of sharpness. 4. In frozen wine; whence it is gravely prohibited to consecrate it unless it has been liquefied. But in the case in which the priest had

illicitly consecrated frozen wine, it must be held as truly consecrated, nor could he licitly consecrate another wine; for from the Rubric it is clearly evident that the consecration is valid; and the reason is that, although frozen wine is not actually drinkable, nevertheless it is drinkable from its nature.[5]

To the QUESTION: "Whether it is licit to celebrate with wine made from dried grapes?" the S. C. DE PROPAG. FIDE, July 23, 1706, responded: "It is licit, provided the liquid is recognized from color and taste to be true wine."[6]

(5) Exam. Ord., n. 98; book VI, 207, from the 6th edition. (6) Collect. S. Sed., n. 318.

1524. III. WATER is to be mixed ceremonially with the wine to be consecrated; not indeed from necessity of the Sacrament, but by force of a precept gravely obliging. Let Trent be heard:[7] "Then the Holy Synod admonishes that it has been prescribed by the Church to priests that they mix water with the wine to be offered in the chalice: both because Christ the Lord is believed to have done thus, and also because from His side water came forth together with blood: which sacrament is recalled by this mixing; and since in the Apocalypse of Blessed John waters are called peoples, the union of the faithful people themselves with Christ the Head is represented."

But the water ought to be natural: "but he who would mix rose water or another artificial water, even in necessity, although he would validly consecrate, nevertheless would sin mortally."[8] With respect to quantity, one drop suffices, provided it is sensible; but it is required, even if the wine is very strong, that it never exceed its third part. Indeed, if the wine is not very strong, this quantity is already held by many as excessive; wherefore it is advised that the priest not exceed eight or ten drops.[9] Hence, if he pours in too much water, some wine must again be added.

But the mixing is to be done in the chalice itself and within the Sacred itself; for otherwise it would not suffice for the signification of the sacrament, and it would be a grave omission of the Rubrics. Hence, in the case in which it had been omitted, it must be supplied, if the omission is discovered before the consecration of the chalice; otherwise, if it is discovered after consecration.[10]

It is certain, although it is not of faith, that that mixed water is converted into the Blood of Christ. Thus St. Thomas,[11] who denies that the opposite opinion can be defended. But how this conversion is made, whether immediately or mediately, namely through a prior conversion of the water into wine, is affirmed on each side probably.[12]

(7) Sess. 22, cap. 7. (8) Book VI, 208. (9) Ibid., 210. (10) Ibid., 208. (11) 3, q. 74, a. 8. (12) Book VI, 209.

IV. On the Conditions Required for Consecration on the Part of the Matter

1525. Principles. I. For VALID consecration, besides apt matter, it is required that this matter be PRESENT and DETERMINATE.

It is required 1. that the matter be morally and sensibly PRESENT to the consecrating priest. The reason is taken from the institution of Christ and from the demonstrative words of the form; likewise from the notion of Sacrifice, which requires a present victim. But for moral presence it suffices that the thing can be seen or touched, whether in itself or in another.

Hence: 1. Matter so small that it cannot be perceived by sense, or very remote, for example at a hundred paces, or placed behind the back, or enclosed in the tabernacle, is invalidly consecrated; because it is not judged morally present to the priest. 2. A blind man, or one existing in darkness, validly consecrates if he is otherwise morally certain concerning the presence of the matter. Likewise, the wine in a covered chalice, hosts in a closed ciborium, or lying hidden in a heap under others, or under a pall, veil, etc., are validly consecrated. Moreover, here it must be noted that the practice of those is commonly disapproved who move their mouth close, that they may breathe their breath into the chalice and bread.[13]

It is required 2. that the matter be CERTAIN and DETERMINATE in the individual through the intention of the one consecrating. And this opinion indeed is common, both because the pronouns This and This require this, and because actions are concerning singulars, which must be certain and determinate.[14] But a virtual intention suffices, as was said above (n. 1413).

Hence: 1. "He would invalidly consecrate who wished only to consecrate a third or half part of a host, or, from many, for example twenty present, only four or five, designating none; because there is no reason why one should be consecrated more than another. Likewise, a host is not consecrated which, the priest being unaware, is placed either on the corporal, yet separated from the heap, or beneath it. The reason is that it is not determined in the mind of the priest, whose will is not borne toward the unknown."[15]

2. But consecration is valid if the priest consecrates several hosts in a heap, although he is in error concerning their number: the reason is that he is always presumed to wish to consecrate whatever is decently consecrable. Whence, if after consecration he notices two hosts joined together at once, let him take each as consecrated, according to the Rubric of the Missal. But if before consecration, after he has offered, he notices it, let him set one aside and after Mass either he himself or another take it as blessed bread. Likewise, consecration is valid if he himself has brought several particles to the altar to be consecrated, or in a reasonable manner has noticed that they are brought by another to be consecrated by him, or before the Sacrifice has been admonished concerning those to be consecrated already placed on the altar; for then, even if within the act of consecration he does not remember them so expressly, or even does not uncover them at the oblation, nevertheless he consecrates all, provided they are present on the corporal; because the intention had with respect to them virtually perseveres.[16]

(13) Ibid., 211-213; Exam. Ord., n. 99. (14) Ibid., 214. (15) Ibid., 214, 215. (16) Book VI, 216.

1526. II. "For LICIT consecration of matter there is required: 1. That there not be a greater quantity than can be consumed at a suitable time, because there would be danger lest the species rot. 2. That the celebrant not depart from the usage of the Church, especially prescribed in the Missal."[17] Concerning this, these things especially are to be held:

1. The matter to be consecrated is to be placed upon the corporal and sacred stone: this obligation presses under grave obligation.[18]
2. The hosts which are to be consecrated in Mass for the Communion of the faithful are to be placed upon the corporal or upon the paten, or in some chalice or in a pyx. This pyx is then to be opened at the first oblation and at the consecration, so that the celebrant may direct his

intention also to offering and consecrating those.[19] Yet to consecrate in a closed pyx does not seem gravely unbecoming.[20]

3. "If a little after the oblation has been made, small hosts are brought for communicating the people, these are licitly consecrated, the oblation being supplied mentally." If, the Canon already having been begun, they are brought, one must distinguish: in the case in which several would remain without Communion, it is licit to consecrate; but in the case in which only one would remain, it is not licit; to him, however, for a just cause, a part of the large host should be offered. Moreover, a cause would be sufficiently just if the one about to communicate would have to wait a long time, or if Viaticum had to be given to a sick person.[21]

(17) Ibid., 218. (18) Ibid., 217. (19) Rit. celebr. Miss., tit. II, 3; VII, 3; VIII, 5, 6. (20) Gury, II, 283, q. 2. (21) Book VI, 217.

1527. Questions. Q. 1. Whether a ciborium is to be judged consecrated which, from forgetfulness, has been left outside the CORPORAL or SACRED STONE?

Resp. 1. If the celebrant intends with actual intention to consecrate, not noticing that the ciborium is located outside the corporal, it is certainly consecrated, since it is really present, and the intention of the priest is borne absolutely toward it, although, if the defect were known, this would not be done.[22]

Resp. 2. Likewise, the consecration is certain if the ciborium is placed indeed outside the stone, but ON THE CORPORAL extended over the stone, even if thought does not recur concerning the ciborium to be consecrated. For in this case it is already morally found on the stone; whence the consecration is valid from the virtual intention of consecrating whatever apt matter is placed on the corporal.[23]

Resp. 3. If the ciborium remains OUTSIDE THE CORPORAL, without the priest thinking of consecrating it, it is controverted: "The first opinion, which various authors hold as probable, affirms; because, as they say, the will of consecrating was already present and was not retracted. Yet the second opinion, common and more probable, denies. The reason is that, since the intention of consecrating outside the corporal would have been a grave sin, you are not presumed to have had that intention. But because the first opinion does not seem improbable, the matter remains doubtful." Therefore those particles thus doubtfully consecrated are either to be consumed after the precious Blood and ablution, but before the purification, since the remains of the Blood are certainly the Sacrament, while concerning those hosts it is doubted whether they are the Sacrament; or, if a just cause is had, they are to be consecrated in another Mass, under condition. Moreover, the cause would be just if those particles were in too great a quantity, so that they could not easily be consumed, or if, at a suitable time, other particles could not be had.[24]

Q. 2. Whether hosts are judged consecrated if the ciborium indeed was placed on the corporal, but at the time of consecration, from forgetfulness, remained CLOSED?

Resp. Affirmatively; for: 1. the matter was sufficiently present in the closed pyx; 2. intention was not lacking, since the one previously had was not retracted by the aforesaid forgetfulness.[25] But the intention which any good priest has, of violating no precept of the Church, in no way includes the intention of not consecrating whenever, while he does not notice, some defect occurs.

Q. 3. What is to be done by the priest if, by some accident, unconsecrated hosts are MIXED with consecrated ones?

Resp. The whole heap is to be brought to the altar, so that the priest either intends to consecrate the unconsecrated ones, or, according to others, consecrates the whole heap under condition, if they are not consecrated. "And this rather must be done, because in consecrating unconsecrated hosts,

true determination of the matter is lacking, nor can the word This be verified; whence all the hosts ought to be consecrated under condition, that they may be validly consecrated."[1]

Q. 4. Whether DROPS OF WINE adhering to the chalice are judged consecrated, if the priest has intended nothing concerning them?

Resp. 1. Drops adhering exteriorly to the chalice are not consecrated, because the intention of consecrating them cannot be presumed, since it would be gravely illicit. 2. More probably neither are drops adhering interiorly consecrated, because the intention of the Church seems to be, and therefore that of the priest ought to be, to consecrate that which is in the chalice by way of one continuous thing. Whence, for guarding against every anxiety, the priest will do well if, once for all, he determines the intention. But it is expedient that he intend to consecrate separated drops, but only those which are nearest the bottom, not those remote. Similarly, "the priest ought to consecrate crumbs adhering to hosts, but not those separated on the paten or corporal. Nor does it obstruct that, by taking them, the fast would be injured; for then the irreverence of the Sacrament seems more to be guarded against than injury of the fast. But if crumbs are in the ciborium, let him also intend to consecrate them, since danger of losing them is absent."[2]

(22) Elbel, De Euch., n. 48. (23) Konings, n. 1283, q. 1. (24) Book VI, 217. (25) Ibid. (1) Book VI, 216. (2) Ibid., 215.

1528. Q. 5. What is to be done by the celebrant if he has noticed some DEFECT concerning the matter, whether of bread or of wine?

Resp. From the Rubric of the Missal these things are to be held:

I. With respect to a defect of BREAD: 1. "If the celebrant before consecration has noticed that the host is corrupted, or is not wheaten: that host having been removed, let him place another, and the oblation having been made, at least conceived in the mind, let him proceed from that place where he ceased."

2. "If he has noticed this after consecration, even after the reception of that host, another having been placed, let him make the oblation as above, and begin from the consecration, namely from those words: Who the day before He suffered; and the former, if he has not received it, let him receive after the reception of the Body and Blood, or let him give it to be received by others, or let him reverently preserve it somewhere. But if he has received it, nevertheless let him receive that which he consecrated: because the precept concerning the perfection of the Sacrament is of greater moment than that it be received by those fasting."
3. "But if this happens after the reception of the blood, new bread, and wine with water, must again be put; and the oblation having first been made as above, the priest should consecrate,

beginning from those words: Who the day before: and immediately receive each, and proceed with the Mass, lest the Sacrament remain imperfect, and so that due order may be preserved."

4. "If the consecrated host disappears, or by some accident, as by wind, or by miracle, or having been taken by some animal, and cannot be found; then another is to be consecrated, beginning from that place: Who the day before He suffered, its oblation having first been made, as above."[3]

II. With respect to a defect of WINE: 1. "If the celebrant BEFORE the consecration of the blood, although after the consecration of the Body, notices that either wine, or water, or each is not in the chalice, or that the wine is corrupted, he ought immediately to put wine with water; and the oblation having been made as above, to consecrate, beginning from those words: In like manner, etc."

2. "If after the words of consecration he notices that wine had not been put, but water: the water having been placed in some vessel, let him again put wine with water in the chalice, and consecrate, resuming from the aforesaid words: In like manner, etc."

3. "If he notices this after reception of the Body or of water of this kind, let him put another host again to be consecrated, and wine with water in the chalice, offer each, and consecrate and receive, although he is not fasting. Or if Mass is celebrated in a public place, where several are present, to avoid scandal, he will be able to put wine with water, and the oblation having been made as above, consecrate, and immediately receive, and proceed with the rest."[4]

The same is to be done if after reception, with foundation, it is doubted whether the liquid drunk was pure or corrupted wine; but among the doctors it is not agreed whether the words of consecration are to be pronounced absolutely or conditionally. "I think," says St. Alphonsus, "that another certain wine is not to be consecrated again absolutely, because then the same danger would press of making a second mutilated Sacrifice, if perhaps the prior matter was truly apt; I say therefore that this second consecration ought to be made under condition, namely if the prior matter was not consecrated; for the danger of not leaving the Sacrifice mutilated will be a just cause of repeating the consecration under the aforesaid condition."[5]

4. "If it happens that all the Blood is spilled after consecration, if indeed something, or a little, remained, let that be received, and concerning the rest of the spilled Blood let it be done as was said in the preceding Rubric" of the Missal. "But if absolutely nothing remained, let him again put wine and water, and consecrate from that place, In like manner, yet the oblation of the chalice having first been made, as above."[6]

It must be noted: "If the matter which would have to be put, by reason of the defect either of bread or of wine, could in no way be had; if this is before the consecration of the body, one must not proceed further: if after the consecration of the body, or even of the wine, the defect of the other species is discovered, the other already consecrated; then if it can in no way be had, one must proceed and the Mass must be completed, yet in such a way that the words and signs are omitted which pertain to the lacking species. But if by waiting for some time, for example for an hour, it can be had, one must wait, lest the Sacrifice remain imperfect."[7]

(3) Rubric De defectibus, tit. III, 4-7. (4) Rubric De defect., tit. IV, 3-5. (5) Book VI, 206. (6) Rubric, l. c., tit. X, n. 13. (7) Ibid., tit. IV, n. 8.

§ 2. On the Form of the Eucharist

1529. The FORM of the Sacrament of the Eucharist is the very words by which Christ the Lord made this Sacrament. For in the name and in the person of Christ the priest speaks and operates in making the Sacred.

Principles. I. The form prescribed for the consecration of BREAD is taken from St. Matthew the Evangelist, and consists in these words: FOR THIS IS MY BODY. The word for is placed according to the custom of the Roman Church derived from Blessed Peter; but it is inserted that the form may cohere with the preceding words.

In this form, the essential words are: "This is My body"; for they signify completely and import the conversion of bread into the Body of Christ. Hence, the word for does not pertain to the essence, and therefore its omission is judged to be only venial. "But not improbably Concina and Roncaglia condemn this as mortal; and in truth, in a matter of so great moment, any change deliberately placed does not seem light."[8] And the same must be said concerning the same word in the following form.

(8) Book VI, 220.

1530. II. For the consecration of the CHALICE the following form is assigned: FOR THIS IS THE CHALICE OF MY BLOOD, OF THE NEW AND ETERNAL TESTAMENT, THE MYSTERY OF FAITH, WHICH WILL BE POURED OUT FOR YOU AND FOR MANY UNTO THE REMISSION OF SINS. All these words are taken either from diverse places of Sacred Scripture, or from Apostolic tradition, as St. Thomas teaches.[9]

The essential words are more probably these alone: "This is the chalice of My Blood," since they perfectly express the presence of the Blood of Christ under the species of wine. Nor, however, does the other opinion lack probability, which teaches that the other words also, as expressing the power of the passion of Christ, are essential, excepting only these: eternal and mystery of faith, which are included virtually in the others. Hence a priest would certainly sin gravely if he did not pronounce all the words which are contained in the consecration of the chalice; and if perhaps he had said only the first words, he ought indeed to repeat, under condition, the whole form.[10]

(9) 3, p., q. 78, a. 3, ad 9. (10) Book VI, 223.

1531. III. "The form of the Eucharist ought to be pronounced RECITATIVELY AND SIGNIFICATIVELY, that is, by referring the words of Christ and applying them to the present matter, so that it may be transmuted into the Body and Blood of Christ."[11] Thus all with St. Thomas.

IV. A change of words which imports no change of sense does not render the consecration invalid. This is established from the rubric of the Missal: "But if someone should diminish or change something from the form of consecration, and the words would not signify the same, he would not make the Sacrament. But if he added something which would not change the signification, he would indeed make it, but would sin most gravely."[12] Nor similarly does faulty pronunciation impede the

consecration from being valid. "The reason is that words have been so constituted that, if sometimes they are pronounced with a fault, they signify the same thing; for it suffices that the words of the form convey the sense intended by Christ; otherwise, if they conveyed another sense."[13]

From these things you resolve: 1. Consecration is valid but GRAVELY ILLICIT if it is said: This food is my body, this chalice is my blood; *colpus* for *corpus*, *meus* for *meum*, *es* for *est*, *calis* for *calix*, *sanguis* for *sanguinis*, etc. Whence, he cannot be excused from venial sin who does not employ due diligence for pronouncing the words of consecration rightly.[14]

2. Consecration is invalid if it is said: This for my body, omitting is.[15] Likewise, if it is said: Here, adverbially, is my body; this body is mine; or this blood is mine; because these words do not have the sense by which that is signified which they ought to effect. Likewise, if it is said: That is my body; that is my blood; for the sense of the form is changed, as is clear of itself.[16]

3. Consecration is doubtful if it is said: This is my flesh; this thing is my body; this is my blood.[17]

(11) Exam. Ord., n. 100. (12) De defect., V, 1. (13) Book VI, 224. (14) Book VI, 221; Exam. Ord., n. 100. (15) Book VI, 223, q. 4. (16) Ibid., 221. (17) Thus rightly in Busembaum in his Medulla, editio princeps 1650, p. 591.

1532. Questions. Q. 1. Whether in consecration these words are to be held as essential: WHO THE DAY BEFORE, etc.; IN LIKE MANNER, etc.?

Resp. The common and most probable opinion denies, and it is proved: 1. from the Decree of Eugene IV to the Armenians, where it is said that consecration is made by no other than the words of Christ, which are only these: This is the body, etc., This is the chalice, etc.; 2. from the rubric of the Missal, which teaches that the words required by necessity of the Sacrament are the words of the form, namely This is My body, etc., This is the chalice, etc.[18]

Q. 2. What is to be done by the celebrant if he DOES NOT REMEMBER that he has pronounced all the words of consecration?

Resp. From the rubric of the Missal these things are to be held: "If the celebrant does not remember that he has said those things which are commonly said in the consecration, he ought not therefore to be troubled. Yet if it is certain to him that he has omitted something of those things which are of the necessity of the Sacrament, let him resume the form. But if he very probably doubts that he has omitted something essential, let him repeat the form, at least under a tacit condition."[19]

(18) Book VI, 222. (19) De Defect., tit. V, 2.

Chapter II: On the Minister of the Eucharist

The minister of the Eucharist ought to be rendered FIT for his office through the power of Order, to have jurisdiction, and to observe the order prescribed by the Church. Hence there will be a threefold article: 1. on the power of Order required in the minister; 2. on the required jurisdiction; 3. on the order to be observed.

Article I: On the Required Power of Order in the Minister

A twofold minister of the Eucharist is distinguished: the minister consecrating and the minister dispensing.

1533. Principles. I. The CONSECRATING minister of the Eucharist is only a priest rightly ordained. This is established from the words of Christ, who said only to the Apostles and to their successors in the priesthood: "Do this in commemoration of Me."[20] Hence the Fourth Lateran Council[21] defined thus: "No one can make this Sacrament of the Eucharist, except a priest who has been rightly ordained."

It is asked: Whether SEVERAL priests can consecrate the SAME matter at the same time?

Resp. Affirmatively, if they pronounce the words of the form at the same instant. It is common. "Conversely, if one of them completes the form before the others independently of the intention of the others, he then makes the Sacrament, so that the others would afterwards complete the form in vain. Hence, new priests, who consecrate with the Bishop, first ought to take care, as far as can be done, to complete the form together with the Bishop. Moreover, they ought to have the intention of consecrating only then when at the same time with the Bishop they complete the form; indeed, beyond this, in the consecration of the chalice they should also intend not to consecrate, if perhaps they themselves have not consecrated the bread."[22]

(20) Book VI, 231. (21) Cap. Firmiter. (22) Book VI, 232.

1534. II. The ordinary minister of DISPENSING the Eucharist is the priest alone.[23] This is established from Trent, sess. 13, cap. 8, where it is said: "It has always been the custom in the Church of God that laymen receive Communion from priests; but that priests communicate themselves." The theological reason also advises the same; for since consecration is ordered to distribution, it ought to belong to him to distribute, to whom it belongs to consecrate. And this the universal practice of the Church confirms.

It is asked: Whether a priest can communicate himself OUTSIDE MASS?

Resp. "It is probable that, even outside danger of death, from a grave cause, scandal being removed, it is licit for a priest to take the sacred Host from the sacrarium, or brought to him by a deacon, and give it to himself, for example if in a long illness he had not communicated for a long time. Indeed Croix, Suarez, and others say that for the cause of devotion alone a priest can always communicate himself; because, scandal being removed, there is no irreverence, nor is it forbidden anywhere, unless another priest is present."[24]

(23) Ibid., 230. (24) Ibid., 238.

1535. III. A Deacon, by force of his Ordination, is the EXTRAORDINARY minister of the Eucharist, so that the dispensation of this Sacrament can be committed to him FROM A JUST CAUSE. This is established: 1. from the practice of the first centuries, in which deacons universally ministered the Eucharist, especially the divine Blood; 2. from various Councils, for example Nicaea I general, Carthage IV, etc.[25]

We have said from a just cause; which is not only extreme necessity, as Habert and Tournely wish, but also grave or notable necessity, as if the pastor were occupied on a day of a great feast, or the number of those communicating were great. In extreme necessity, when a priest is absent, a deacon not only can, but IS HELD to minister Viaticum, even without express commission. But in other

cases, if without the commission of the Bishop or pastor legitimately conceded, he dispenses the Eucharist, he sins gravely and incurs irregularity.[1]

Note. Grave theologians assert with Suarez, although St. Thomas dissents, that a simple CLERIC, indeed even a LAYMAN, can in a case of extreme necessity, or in time of plague, furnish Viaticum to himself or to others. The reason is that then the divine precept of communicating presses, nor is any injury done to the Sacrament if, in such necessity, the Eucharist is ministered by a layman, as formerly the usage had obtained in the primitive Church. Nor does scandal obstruct; for such scandal or wonder can be forestalled if those standing by are admonished that this is permitted in such necessity. But neither can contrary custom be objected; since this case happens very rarely, this contrary custom cannot be proved.[2]

(25) Ibid., 237. (1) Book VI, 237, and H. A., XV, 9. (2) Book VI, 237, qq. 2 and 3; H. A., XV, 10; cf. Laymann, De Euch., c. 7, n. 3, 6.

Article II: On the Required Jurisdiction

1536. Principles. I. ORDINARY jurisdiction of dispensing the Eucharist belongs only to pastors of souls, namely to Bishops in their diocese, pastors in their parish, regular Prelates in their Religion. The reason is that it is proper to pastors to feed, which is done chiefly through the Sacraments.[3] Hence, he who dispenses the Eucharist without due permission sins mortally, because he injures the jurisdiction of the legitimate pastor in a grave matter; unless he can reasonably presume his consent.[4] Wherefore this must be noted: if faculty of celebrating is conceded to someone, by that very fact faculty of ministering the Eucharist is also conceded: for thus common usage bears. But indeed, the consent of the pastor is not easily to be presumed if Communion to be received from obligation is in question.[5]

Moreover, in a case of necessity, namely "if a sick person is to be fortified with sacred Viaticum, and his proper pastor is absent, or being present cannot carry the Eucharist; any other priest, whether regular or secular, and this one lacking, even a deacon, can confer it on him; because then the will of the Bishop or Pope is presumed, even if the pastor refuses, but unjustly."[6]

(3) Book VI, 230. (4) Ibid., 234. (5) Ibid., 235. (6) Ibid., 236.

1537. II. From privilege, REGULARS can in their churches, by themselves or by other priests celebrating there, dispense Communion to any of Christ's faithful, excepting only Easter Communion and Viaticum.[7] Concerning this, these things have been established:

1. Regulars are prohibited on Easter day[8] and in some places, for example Rome, also on Thursday in the Supper of the Lord, to dispense Communion to the faithful in their churches, excepting only those to whom it has been conceded to satisfy the Easter precept in these churches (cf. n. 1571). But if in some place contrary custom has been introduced, they can, on Easter day, offer Communion to all the faithful, since custom furnishes jurisdiction.[9]
2. Regulars cannot minister Viaticum except to those who enjoy the privilege of exemption: such are Religious both professed and novices; likewise servants of monasteries, "who actually serve, reside within their enclosures and houses, and live under their obedience."[10] "But Religious presuming to minister the Sacrament of the Eucharist by way of Viaticum to clerics

or laymen, outside a case of necessity, without the permission of the pastor," incur excommunication reserved to the Pope (cf. n. 1341).[11]

(7) Book VI, 239. (8) Ibid. (9) Ibid., 240, 5. (10) Ibid., 240, 10; cf. Benedict XIV, De Synodo, book 7, c. 42. (11) From Const. Apostol. Sedis, sect. II, n. XIV.

1538. Questions. Q. 1. Whether it is licit for Regulars to carry the Eucharist to the sick, for Communion from DEVOTION?

Resp. "Never, without the permission of the Bishop or pastor, is it licit for Religious publicly to carry the Eucharist through streets, since this derogates from the right of pastors obtained by custom." But indeed, on the occasion of a Mass which the Religious legitimately celebrates in the house of the sick person, he can licitly offer Communion to him.[12]

Q. 2. What, for the minister, is the OBLIGATION of ministering the Eucharist?

Resp. Pastors of souls and their coadjutors, or others delegated by them, are held, from justice, to minister Communion not only to the dying, but also to the healthy, whenever they have been reasonably and opportunely required.[13] When the pastor is lacking, any other priest is held to this from charity, and indeed under grave obligation, if the ministering of Viaticum is in question (cf. n. 2271).

Note. Besides power and jurisdiction, the state of grace and exemption from censure are also required, as was said above (n. 1416).

(12) Book VI, 240, 7. (13) H. A., XV, 8.

Article III: On the Order to Be Observed in the Administration of the Eucharist

There are two matters concerning which one must treat here, namely: 1. concerning the manner of administering sacred Communion in general; 2. concerning the order to be observed in administering sacred Viaticum.

§ 1. On the Manner of Administering Holy Communion

1539. The prescribed order regards both the due place, and the time, and the rite; concerning this, these things are to be held:

I. With respect to place. The Most Holy Eucharist can be dispensed to the faithful in all churches or public oratories, but not in private oratories, unless by express permission of the Ordinary.[14] It can also be dispensed in a private house, if a sick person is to be communicated.

(14) Benedict XIV in Const. Magno, § 15.

1540. II. With respect to time. The dispensation of the Most Holy Eucharist is permitted: 1. on any day whatever, except in time of local Interdict (cf. n. 1308, 2), and, unless Viaticum is in question, in the time from the reposition of the Most Holy Sacrament on Thursday of Greater Week until the end of the solemn Mass on Holy Saturday;[15] and also within this Mass, where custom flourishes. Thus S. R. C., September 23, 1837, in Brundusina.[16]

2. It is permitted at any hour of the day; but it is not permitted when it has now begun to grow dark or become much evening, unless a just cause is present. But at an untimely hour of night, that is, when many hours of the night have already elapsed, it is never licit, unless Viaticum must be carried in necessity.[17] Yet in Communities where the Most Holy Eucharist is reserved in the domestic chapel, it can be ministered even during the time of night, when a just cause is present, for example if some sick person cannot prolong the fast.

It is asked: Whether it is licit to dispense Communion in the Mass of the Nativity of the Lord which is celebrated AT MIDNIGHT?

Resp. Negatively, unless from special privilege.[18] This was conceded to some Bishops of France under this law, that no danger of scandal be present.[19]

(15) Book VI, 252. (16) Gardellini, n. 4815, ad II. (17) H. A., XV, 17. (18) Book VI, 252. (19) Gury, II, 297, end.

1541. III. With respect to rite: 1. Communion, as far as can be done, is to be offered within Mass, namely after the Communion of the celebrant himself. The Roman Ritual brings forward the reason for this matter, saying: "since the prayers which are said after Communion look not only to the priest, but also to the others communicating."[20] Moreover, from a reasonable cause, it is to be offered also outside Mass, for example if those about to receive Holy Communion cannot conveniently wait, or if many are to communicate, lest those who do not communicate be affected by weariness. And in many places the usage has already prevailed of ministering Communion indifferently either within or outside Mass.[21]

2. A priest about to minister the Most Holy Eucharist should be vested in sacred vestments, namely outside Mass in surplice, or alb, and stole of a color suitable to the Office of that day; a deacon, if he ministers, should wear this transversely. Let candles burn, let the general confession be premised, and let the accustomed prayers be said, as is prescribed in the Ritual.

On these matters let it be noted: 1. If necessity demands it, Communion can be given by a priest vested in Mass vestments, who has celebrated or is about to celebrate Mass at another altar. Thus S. R. C., March 12, 1836, in Trident.[22]

2. In offering sacred Communion, the priest must use only the thumb and index finger; for, although the whole hand is consecrated, nevertheless the thumb and index finger alone, from the rite of the Church, are deputed for this ministry. Yet authors commonly except a case of extreme or most grave necessity[23] (cf. n. 1544, q. 3 and 4).

3. If a minister serving the priest is lacking, the one about to communicate himself, if he is a man, can respond; but a woman indeed cannot do this, unless she is a nun within the cloister. Therefore let the priest supply, saying the *Confiteor*, responding Amen, etc.

4. In the Communion of Nuns, *Misereatur*, *Ecce Agnus*, etc., are to be said facing the Nuns, not facing the people. But the priest ought to descend and return by the front steps of the altar, not by the side steps.[24] The practice received among Nuns of making the renewal of vows immediately before Communion is licit. S. R. C., September 12, 1857, in Taurinen.[25]

5. Communion is first to be ministered to the serving ministers, not by reason of preeminence, but of ministry (S. R. C., July 13, 1658).[26]

6. "According to the present discipline it is never licit, without dispensation of the Pontiff, even for furnishing Viaticum, to administer the Eucharist under each species, or in the species of wine alone; for the precept of Viaticum does not oblige when it cannot be received according to the rite of the Church."[27] It is similarly prohibited TO GIVE the one communicating several particles or one larger one: from Decree of the S. C. C., February 12, 1679.[28]

7. Communion having been given outside Mass, "the priest, having returned to the altar, will be able to say: *O sacrum convivium*, etc.; soon he says: *Domine exaudi*, etc.; *Dominus vobiscum*, etc."; then the Prayer *Deus qui nobis*, etc., with the whole conclusion. In Paschal time the prayer *Spiritum nobis*, etc., is said with the shorter conclusion. After these things, the fingers having been washed, and the sacred Ciborium having been replaced in the tabernacle, let him bless with the hand, not with the pyx, unless after Viaticum, those who have communicated, with the formula: *Benedictio Dei omnipotentis Patris*, etc. Thus from the Roman Ritual, and from the Response of the S. R. C., September 24, 1842.[29]

(20) Cap. 2, Ordo admin. S. Commun., n. 10. (21) Cf. Gardellini, n. 4984 (Januen., December 7, 1844). (22) Gardellini, n. 4777, ad 12. (23) Book VI, 244. (24) H. A., XV, n. 88, end. (25) Gardellini, n. 5252, ad 19. (26) Ibid., n. 1907. (27) H. A., XV, 14. (28) Cf. Analecta, series 7, p. 829. (29) Gardellini, n. 4947; cf. Schober, p. 119.

1542. Questions. Q. 1. What sin is it to OMIT the ceremonies prescribed in ministering Communion?

Resp. "To minister the Eucharist without light and the usual confession is commonly reputed only venial. But to minister without stole and surplice, authors commonly judge to be mortal from its kind; yet, only the stole having been omitted, it seems to several to be only venial. But to carry the Eucharist to another altar without sacred vestments, they commonly say, does not exceed venial sin."[30]

Q. 2. Whether Holy Communion can be given WITH BLACK VESTMENTS or in Masses of the dead?

Resp. There was formerly a great controversy concerning this matter; but at present the case is finished; for on June 27, 1868, a general Decree was issued by the Sacred Congregation of Rites, and confirmed by Pius IX on July 23, by which it was declared: "That in Masses of the dead, with black vestments, sacred Communion can be ministered to the faithful, even from preconsecrated particles, by drawing the pyx from the tabernacle. Likewise, Communion can be ministered in black vestments immediately after a Mass of the dead; and, a reasonable cause having been given, immediately also before the same Mass; yet in each case the blessing is to be omitted. But Masses of the dead are altogether to be celebrated in black vestments; so that violet ones cannot be employed, except in the case in which, on November 2, the Sacrament of the Most Holy Eucharist is publicly exposed to the adoration of the faithful for the solemn Prayer of Forty Hours, as was provided in the Decree of this Sacred Congregation on September 16, 1801."[31]

Q. 3. What is to be done if SACRED PARTICLES for the Communion of the people are not found in sufficient number?

Resp. Let the custom be observed of dividing consecrated particles into smaller parts;[32] yet not so small that they cannot be given honorably.[33]

Q. 4. What is to be done in the case in which a host FALLS?

Resp. "First the place is to be covered, and afterwards washed, as the Rubrics prescribe; yet these do not oblige under grave obligation, and thus ordinarily the washing of a garment or beard can be omitted, to avoid disturbance of the people. But the place where the species of wine fall must always be washed, since they are imbibed, even if there is no need to burn them. If the host falls upon the breasts of a woman, the priest himself must not remove it, but the woman herself should draw it away with the hand and replace it in the ciborium."[34] Likewise, if it falls within the cloister of Nuns. But the fingers of the woman should be washed, and the ablution thrown into the sacrarium. If the woman cannot easily take the host there, let her withdraw separately, for example into some chapel, or into the sacristy, etc.[35]

Q. 5. What is to be done if FRAGMENTS of hosts are found?

Resp. The Rubric of the Missal responds to this question in this manner: "If he notices after the consumption of the Body and Blood, or even after the ablution, that some consecrated relics have been left, let him consume them, whether they are small or large, because they pertain to the same Sacrifice." And this not only immediately after Mass, as is common, but also if the priest is in the sacristy, yet still clothed in the sacred vestments. It was said, still clothed; for if the priest has now taken off the sacred vestments, then the relics either are to be replaced in the tabernacle, if it is present, or are to be reserved for another priest about to celebrate on the same morning; otherwise, they are to be consumed by the same one who celebrated.[1]

But if those fragments are relics of another Sacrifice, it is not licit to consume them, unless danger of irreverence is present; because the Rubric permits a priest who is not fasting only to consume relics which pertain to the same Sacrifice, since they complete it.[2]

Q. 6. What if an entire PARTICLE is found?

Resp. "But if an entire consecrated host has been left, he [the priest] should replace it in the tabernacle with the others; if this cannot be done, he should leave it, decently covered on the altar upon the corporal, for the following priest about to celebrate there, to be consumed together with the other which he is about to consecrate; or if neither of these things can be done, he should preserve it decently in the chalice itself or on the paten, until either it is replaced in the tabernacle, or consumed by another; but if he has no way in which it can be preserved honorably, he himself can consume it."[3] Particles found outside the corporal, in doubt whether they are consecrated, are to be consumed after the ablution, and better with the same ablution.[4]

Note. If a layman finds a particle or fragment of a host, let him warn a priest as soon as possible, who will act according to the things said above. But if a priest cannot be had, let the fragment be reverently collected by the layman himself in paper or a clean linen cloth, by means of a small pin, and be placed within a corporal or in a decent vessel, until a priest arrives.[5]

(30) Book VI, 241. (31) Gardellini, n. 5403; ibid., n. 4477. (32) S. R. C., March 16, 1833, in Veronen. (Gardellini, n. 4707). (33) Book VI, 245. (34) Ibid., 250. (35) Gury, II, 296, end. (1) Book VI, 251. (2) Ibid. (3) Rubric, De defect., VII, 3. (4) Book VI, 251, end; and H. A., XV, 18. (5) Gury, II, 312.

§ 2. On the Order to Be Observed in Administering Sacred Viaticum

1543. From the ROMAN RITUAL we note the following:

1. With respect to the obligation of ministering. "1. Viaticum of the most sacred Body of Our Lord Jesus Christ is to be procured for the sick at the opportune time with the highest zeal and diligence, lest perhaps it happen that they die deprived of so great a good by the negligence of the pastor... 2. Let the pastor exhort the sick person that he receive Holy Communion, even if he is not gravely sick, or danger of death is not imminent, especially if the solemnity of some feast suggests this, nor will he himself refuse to minister it... 3. But he will minister it as Viaticum when it is probable that he will not be able to receive it any more... 4. But let it not be carried to someone only for adoration, or for showing it, under the pretext of devotion or of any matter." Thus the Ritual.
2. With respect to the manner of carrying it. Let the pastor warn beforehand that in the room of the sick person all things be rightly arranged according to the prescriptions of the Ritual. Let lights be prepared, and a small vessel with water, with which the fingers are to be washed. Besides, let a clean linen cloth be placed before the breast of the one communicating, and other things for the adornment of the place, according to the ability of each.

Moreover, the Most Holy Eucharist is to be carried from the church to the private houses of the sick, in decent habit, with a clean veil laid over it, manifestly and honorably before the breast, with all reverence and fear, always with a light preceding. But the priest, clothed in surplice and stole of white color, and having first placed a decent oblong veil from each shoulder, should take the vessel with the Sacrament with both hands, and then go beneath the baldachin or umbrella, if it can be had, and proceed with uncovered head. Going, he says the *Miserere*, and other Psalms and Canticles; returning, *Laudate Dominum de coelis*, and other Psalms and Hymns; but these are only by way of counsel.

3. With respect to the rite of ministering. Let the prayers be recited, and let the rest be observed, as is prescribed in the Roman Ritual. According to the diversity of circumstances, let the return be solemn or private.

1544. Questions. Q. 1. Whether sometimes the Eucharist can be carried SECRETLY to the sick?

Resp. With the license of the Bishop this is licit in places of heretics, and also of Catholics, if it cannot be carried otherwise without proximate danger of irreverence.[6] Concerning the manner of carrying the Eucharist secretly, these things are had in the Supplement to the Roman Ritual: "Where the force and wickedness of the Turks prevails, let the priest always have the stole covered by his own garments; let him hide the pyx in a small sack or burse, which, hung from his neck by little cords, he should place in his bosom; and let him never proceed alone, but let him be accompanied by at least one faithful person, in defect of a cleric." - From the Constitution of Benedict XIV, *Inter omnigenas*, § 25.

Q. 2. Whether it is licit for a priest carrying the Eucharist, in a case of NECESSITY, to run, ride, or proceed with covered head?

Resp. 1. To run in necessity probably is not against the reverence due; whence, when necessity urges, it will be licit.[7] 2. It is licit to ride on a gentle horse, so that there is no danger of falling, if indeed a longer or more difficult journey must be undertaken; but it is never licit to give the pyx to be carried to a layman, however tired the priest may be, in which case the burse should rather be suspended from the neck.[8] 3. It is licit sometimes, from Apostolic Indult, to go with covered head, nor is this conceded with great difficulty, on account of weather or infirmity; wherefore, when necessity urges, it could even be presumed. The Bishop can also probably dispense that Viaticum be carried with a hat on the head, when one must proceed for a long time through villas and villages.[9]

Q. 3. Whether it is licit, in a case of necessity, to minister Viaticum without LIGHT and SACRED VESTMENTS?

Resp. Affirmatively, according to the more common and sufficiently probable opinion. "The reason is that it is not reasonably presumed that Christ, who instituted this Sacrament for the help of souls, and the Church, which is a kindly mother, wished the dying to be deprived of so great a good, lest the prescribed ceremonies be omitted."[10]

Q. 4. Whether it is licit, in time of plague, to offer the Eucharist with some INSTRUMENT?

Resp. Affirmatively and probably, for example with the particle placed in a spoon, as far as can be done, of silver, with wine or water; for necessity seems a sufficient cause why it is licit to depart from the usual rite of the Church. And similarly it can be offered with a spoon to a sick person who, because of dryness of mouth, would be unable to swallow the host.[11]

Q. 5. Whether a priest ministering Viaticum can sometimes omit those words prescribed in the Ritual, RECEIVE VIATICUM, etc., substituting the common formula: THE BODY OF OUR LORD JESUS CHRIST, etc.?

Resp. Affirmatively and probably, in the case in which the sick person is judged likely to receive Viaticum with great sadness of soul; for the precept of pronouncing those words induces only a light obligation, from which any just cause well excuses, such as excessive disturbance of the sick person.[12]

Q. 6. What is to be done if the sick person VOMITS the host received?

Resp. If the sacred species appear, they must be carefully collected in a clean vessel, carried to the church, and kept in a safe and well-closed place, until they are altogether corrupted, so that they can be cast into the sacrarium without irreverence. - If they cannot be discerned, as being altogether mixed with filth, the mouth of the sick person is indeed to be wiped; but whatever was rejected should be collected with tow; then, the tow having been burned, the ashes are to be cast into the sacrarium.[13]

(6) Gousset, De Euch., 210. (7) Book VI, 242. (8) Book VI, 243. (9) Ibid., 241, end; H. A., XV, 12. (10) Ibid., 241. (11) Ibid., 244; H. A., XV, 12. (12) H. A., XV, 50; Book VI, 285, doubt 4. (13) Gousset, II, 232; cf. Haine, t. II, q. 42, concerning sacrilegious persons.

Chapter III: On the Subject of the Eucharist

In this chapter four things come to be weighed: 1. Who can receive the Most Holy Eucharist? 2. What dispositions are required for this? 3. What and how great is the obligation of receiving the Eucharist? 4. What is to be thought concerning frequent Communion?

Article I: On Those Who Can Receive the Most Holy Eucharist

1545. Principles. I. The CAPABLE subject of receiving the Eucharist with fruit is every baptized human being, provided that through mortal sin he does not place an obstacle to grace. - For it was instituted for all Christians; therefore it can profit all rightly disposed persons, according to the words of Christ (John 6:55): "He who eats my flesh and drinks my blood has eternal life."

II. From the present discipline of the Church, the Eucharist OUGHT NOT to be conceded to those who cannot discern this heavenly food from profane food. This is universal practice, and it is clear from the Roman Ritual.

Hence: 1. Baptized children, still lacking the use of reason, although in the reception of the Sacrament they would truly receive an increase of grace, nevertheless, on account of greater reverence, are prohibited from its reception, even at the article of death.[14]

2. It is likewise altogether to be denied to those perpetually insane. But to other insane persons, who have not always lacked the use of reason and have lived piously, it is to be given IN THE ARTICLE OF DEATH, unless danger of vomiting or spitting out is present. Thus St. Thomas and the Roman Catechism with the Council of Carthage.[15] "The reason is that, on the one hand, such a one is presumed interpretatively to ask Communion; on the other, the Eucharist can still be necessary for him, namely if he fell into insanity while existing in mortal sin, concerning which he had only attrition. Yet the Doctors except if it is certainly presumed that such a one fell into insanity altogether impenitent." - To these same persons, OUTSIDE THE ARTICLE OF DEATH, it is not licit to give Communion. "Yet it will be licit to do so, likewise to the frenzied, if at some time they have lucid intervals and show devotion, while they remain in that state, if no danger of indignity is present." Thus the Roman Ritual.[16]

(14) Book VI, 301. (15) Ibid., 302; H. A., XII, 44. (16) De Euch., cap. I, n. 10, typical edition.

1546. Questions. Q. 1. Whether the Eucharist is to be conceded to the half-witted, deaf-mutes, epileptics, and those possessed?

Resp. 1. To the HALF-WITTED, provided they are able to discern this heavenly food from profane food, Communion is to be given, in the article of death and at the time of precept; indeed even more frequently, if they possess greater discretion. - The same applies to OLD PEOPLE who, as is said, become children again.

2. To DEAF-MUTES from birth, according to the same norm, Communion is to be given, provided it is clear from signs that they have discretion. But from present-day experiments it is clear that deaf-mutes not instructed according to more recent methods can scarcely have knowledge of religion and of the mysteries. - But those who have been instructed in present-day institutes can communicate no otherwise than other faithful. - On the contrary, to those mute, deaf, and at the same time blind from birth, Communion is altogether to be denied.

3. To EPILEPTICS Communion is to be denied only during the paroxysm.

4. To those POSSESSED BY A DEMON it is likewise to be denied when they are not masters of themselves. - For the rest, authors rightly say that it is to be conceded to them several times in the year, according to the prudence of the confessor, since the Eucharist is a special remedy for driving away demons.[17]

Q. 2. Whether Holy Communion is to be conceded to those CONDEMNED TO DEATH?

Resp. Affirmatively, provided through sacramental confession they are disposed for it; for, from the prescription of the Council of Nicaea, the Eucharist is to be given to all who have come to the end of life. Indeed, the guilty person can communicate, not fasting, after the manner of Viaticum, because then he is truly in the article of death. And St. Alphonsus adds: he can laudably communicate on the very day of death, provided Communion precedes the execution by an hour[18] (cf. n. 731).

NB. Who are to be kept from Holy Communion as unworthy, see n. 1426 and 1427 seq.

(17) Book VI, 303. (18) Ibid., 247; Book III, 379; cf. Collect. S. Sedis, n. 363.

Article II: On the Dispositions Required for Receiving the Most Holy Eucharist

For receiving the Eucharist, certain dispositions are required, both on the part of the soul and on the part of the body.

§ 1. On the Dispositions Required on the Part of the Soul

1547. A) In one receiving the Most Holy Eucharist, besides faith and immunity from censures, there is required first of all the STATE OF GRACE; both because the Eucharist is a Sacrament of the living, which presupposes first grace in the subject, and because it is spiritual food, which cannot profit one spiritually dead.

The TRIDENTINE SYNOD speaks aptly to the matter:[1] "If it is not fitting," it says, "for anyone to approach any sacred functions unless holily, certainly the more the holiness and divinity of this heavenly Sacrament is known to a Christian man, the more diligently he ought to beware lest he approach to receive it without great reverence and holiness, especially since we read those words full of fear in the Apostle: He who eats and drinks unworthily, eats and drinks judgment to himself, not discerning the Body of the Lord. Wherefore, to one wishing to communicate, that precept must be recalled into memory: Let a man prove himself. But ecclesiastical custom declares that this proving is necessary, so that no one conscious to himself of mortal sin, however contrite he may seem to himself, ought to approach the Holy Eucharist without previous sacramental confession; and this holy Synod has decreed that this is perpetually to be observed by all Christians, even by priests upon whom it has fallen by office to celebrate, provided they do not lack the opportunity of a confessor: but if, necessity urging, a priest has celebrated without previous confession, let him confess as soon as possible."

But indeed these prescriptions of Trent ask for a fuller explanation for themselves. Whence let there be the following:

(1) Sess. 13, cap. 7 and can. 11.

1548. Principles. I. No one conscious to himself of mortal sin, however contrite he may seem to himself, can approach the Holy Eucharist WITHOUT PREVIOUS SACRAMENTAL CONFESSION. For the Apostle says: "Let a man prove himself, and so let him eat of that bread." But it is clear, from ecclesiastical custom, that confession itself is that necessary proving.[2]

There are indeed some, but these are few, who say that this precept is only ecclesiastical; but "the common and true opinion teaches that this PRECEPT is DIVINE. The reason is that, on the one hand, it is clear that from the precept of Christ proving must be premised, since the Apostle testifies that he received it from the Lord; on the other hand, from Trent it is clearly evident that this required proving is confession...; for the Council did not say that this precept of confession had been introduced by ecclesiastical custom, but that by it such a precept had been declared; whence confession is commanded from divine precept. - Nor is it opposed to this that it is called a precept of the Apostle, because in reality it is a precept of Christ promulgated through the Apostle."[3]

It is said 1. of mortal sin, because venial sins, however many they are, just as they do not deprive one of divine grace, so neither do they prohibit someone from approaching the sacred Table.[4]

It is said 2. conscious to himself, that is, morally certain concerning a grave sin committed, which has not been remitted through the Sacrament of Penance. - But in doubt whether it has been committed, St. Alphonsus teaches that the following distinction must be made: "If someone doubts whether he has sinned gravely or not, then he can licitly approach Communion without previous confession, whether the doubt is negative or positive, it sufficing for him, that he may more safely receive the fruit of the Sacrament, to premise contrition...; because the precept of prohibition does not begin to possess, except after the man is conscious of his sin. On the contrary, if someone is certain concerning a sin committed, then he cannot communicate unless he is certain that he has been proved through confession; because then the precept of prohibition certainly possesses in him."[5]

(2) H. A., XV, 22. (3) Book VI, 256. (4) H. A., XV, 23. (5) H. A., XV, 34.

1549. It is asked: Whether if someone after confession REMEMBERS some mortal sin inculpably forgotten, he is held to confess it before Communion?

Resp. It is controverted. The first opinion, most common among authors, affirms, because this seems more conformable to the words of Trent. "But the second opinion denies.... and, the intrinsic foundation having been considered, it seems altogether consonant with reason, and it seems very probable to others. The reason is that he who premised confession to Communion has already fulfilled the precept of confession, by force of which the forgotten sin has already been indirectly remitted, and the penitent already exists as proved.... For in Trent only this is prescribed, that the penitent approach Communion justified not by contrition alone, but also through confession; but here he has already been justified also through confession, and therefore is not held at once before Communion to confess again. But the practice of the faithful which is opposed is not to be held as a certain rule of obligation, but rather as a pious and laudable usage, which, for the rest, is to be counseled to all as often as some cause in opposition does not suggest something else."[6]

But neither is such a faithful person, according to the common opinion, held to elicit an act of contrition. For since he has been justified, no foundation appears from which contrition is required;

not from precept, because this is nowhere found prescribed; not for deleting the sin, because this has already been deleted through the confession previously made.[7]

(6) Book VI, 257; H. A., XV, 23. (7) Ibid., 257, end.

1550. II. It is licit to receive the Eucharist, with contrition alone premised without confession, when there is present a NECESSITY of celebrating or communicating, and OPPORTUNITY OF A CONFESSOR is lacking. Thus Trent, and the reason is that a positive precept does not oblige with so great an inconvenience.

It is said 1. WHEN NECESSITY IS PRESENT; but by necessity is not understood great devotion, nor the poverty of the priest, unless the poverty were very grave; but urgent necessity is understood. Hence:

1. Danger of death excuses, namely when a host is to be consecrated for one dying; likewise, danger of infamy or scandal, for example if someone were already found at the rail of those communicating, and could not depart without being noticed by others. The same must be said if, Viaticum having been brought to the sick person, confession, because of shortness of time, could not be completed without danger of death or infamy. In which case the priest, having heard some sin, ought to absolve the dying person and offer him Communion, with the obligation imposed on him of completing confession if he recovers. Yet here it must be carefully noticed that scandal is then said to occur when occasion is given for detracting or rashly judging, but not when only occasion for wonder is given.
2. The obligation from office of celebrating excuses, so that the people may hear Mass, provided there is not another who may celebrate. - But one who is not held from office to provide that the people be present at Mass cannot celebrate, even if he himself or the people, on a feast day, would have to lack Mass. For the precept of confessing, which is divine, is to be preferred to the ecclesiastical precept of hearing Mass. But whether, opportunity of a confessor being lacking, someone can communicate with contrition alone, so that he may satisfy the Paschal precept, is controverted: very commonly they affirm, from the fact that the Paschal precept is also divine; yet others deny, and say that the precept of Paschal Communion can be deferred until opportunity of a confessor is had. Each opinion is probable.
3. The necessity of completing a Sacrifice already begun excuses, for example if a priest, while celebrating, remembers a mortal sin. Yet here a distinction must be made. If he remembers the sin after consecration, the Mass is not to be interrupted so that he may confess, as St. Thomas teaches, and as is expressly had in the Rubric. But if he remembers before consecration, and especially before the Canon, he ought to confess if a confessor is present, and if he can effect this without note of infamy, for example in a solemn Mass, during the chant or during the sacred sermon. But if he cannot confess, and no danger of infamy is to be feared, he is more probably held to desist from Mass. Thus many, and this seems to be clear from the Rubric saying: "If before consecration the priest remembers that he is in mortal sin..., if scandal is not feared, he ought to abandon the Mass begun." We have said more probably, because it is not certain whether the Rubric by the word ought imposes a grave precept. For the rest, the

Doctors well notice that in such a case it can scarcely happen that the note of infamy be avoided.[8]

It is said 2. AND OPPORTUNITY OF A CONFESSOR IS LACKING; but it is judged to be lacking, not, as some wish, if that one is absent to whom he is accustomed and would desire to confess, or to whom he would confess more devoutly or usefully; but if no suitable one is present, and one absent cannot be approached without great difficulty. - Moreover, this difficulty is to be estimated by considering both the weakness, age, and occupations of the person, and other circumstances, such as weather, shortness of time, distance, etc. Regularly, a distance of two hours excuses; and a much smaller distance, if the priest would be about to celebrate shortly.[9]

(8) Book VI, 259-263; H. A., XV, 24, 25. (9) Book VI, 264; H. A., XV, 26.

1551. It is asked: Whether one who has a RESERVED sin, in defect of a confessor endowed with faculty, is held to confess to a simple confessor, that he may communicate?

Resp. 1. If he has no other sin than the reserved one, from the common opinion, he is not held; so that, necessity urging, he can communicate with contrition. - Nevertheless, if he has only attrition, he is held to confess the venial sins which he has, or a mortal sin already confessed on another occasion, so that thus, at least indirectly, he may be absolved from the reserved one. And he can do this same thing, although he has contrition, so that he may receive the Eucharist more safely (cf. n. 1283, 3).

Resp. 2. If he has reserved and non-reserved sins, we say with the most common and more probable opinion that he is held to confession. The reason is that, since the divine precept of premising confession to Communion urges, confession ought to be made at least formally entire, if it cannot be made materially entire. But, in this second case, from an opinion truly probable, by itself it suffices for the penitent that he declare the non-reserved sins. We say by itself; because by accident he is sometimes held also to declare the reserved sins, so that the confessor can rightly judge concerning the disposition, for example if he is relapsed in reserved sins, or in a proximate occasion of sinning (cf. n. 1778).

1552. III. A priest who, necessity urging, has celebrated without previous confession, is held to confess AS SOON AS POSSIBLE. It is an ecclesiastical law openly expressed in Trent.

It is said 1. A priest; for, from the most common and more probable opinion, this precept of confessing as soon as possible does not oblige laymen. The reason is both that the Council names priests alone, and that the same reason does not run for laymen as for priests. For in priests the necessity of communicating without confession occurs more easily, and therefore they themselves would more easily, under the pretext of this necessity, celebrate with confession omitted.[10]

It is said 2. is held; because Trent does not express counsel, but precept. This is evident from proposition 38 condemned by Alexander VII, which sounds thus: "The mandate of Trent made to a priest sacrificing from necessity with mortal sin, of confessing as soon as possible, is counsel, not precept." - But whether this precept obliges a priest who remembers the sin after consecration is controverted. Others deny, because the Rubric, speaking of him, says only: let him be contrite with the purpose of confessing. "This opinion does not seem improbable, but the contrary is more common and perhaps more probable, because then the case supposed by the Council is already

verified, namely that he now celebrates in sin and without confession; so much the more because in that phrase of the Rubric, of confessing, the word as soon as possible is easily understood, already expressed by the Rubric a little before."[11]

It is said 3. as soon as possible, that is, within three days, according to the common interpretation of authors. For in ecclesiastical laws that phrase as soon as possible, or another similar word, must be understood morally, and therefore, as they commonly teach, it is extended to the space of three days. "Yet the authors notice that it can happen that a priest, by accident, is held from this precept to confess on the same day, and perhaps in the same hour, for example if he then had a confessor, whom he will afterwards lack for several days, or if tomorrow the same necessity of celebrating would urge, and he could not confess."[12]

(10) Book VI, 268; H. A., XV, 33. (11) H. A., XV, 31. (12) Book VI, 266, q. 4, end.

1553. It is asked: Whether a priest is held to confess as soon as possible if, confession having been omitted, he celebrated SACRILEGIOUSLY?

Resp. Distinguish. 1. If without necessity, or with opportunity of a confessor given, he celebrated, the most common and truer opinion denies that he is held. The reason is that the precept of Trent is ordained toward instilling fear in those who, under the pretext of necessity, defer confession; but not in those celebrating sacrilegiously, for whom this precept would very rarely be profitable. For those who, with the divine precept contemned, dare knowingly to celebrate in sin, will more easily contemn an ecclesiastical precept.

2. But if, necessity urging and opportunity of a confessor lacking, he celebrated not contrite, he is indeed held to confess as soon as possible; because the precept of Trent does not distinguish between a priest having or not having contrition, but speaks of any priest whatever celebrating from necessity.[13]

(13) Ibid., 266, q. 5.

1554. B) Besides the state of grace, which is altogether necessary, there is required in one receiving the Holy Eucharist IMMUNITY FROM VENIAL SINS, and ACTUAL DEVOTION, namely so that a richer harvest of graces may be gathered from the reception of the Sacrament. - For the purer the soul is, the more closely it is joined with the Lord, who is Purity itself; and the greater devotion with which it is borne toward Him, the more lovingly it is treated by the Lover of souls and heaped with richer graces.

Moreover, that actual devotion is best promoted through acts of living faith, sincere humility, ardent desire, and burning charity.

And this is why the people are often to be admonished "with what PREPARATION, and with how great religion and piety of soul, and also humble bearing of body, they ought to approach so divine a Sacrament. Moreover, those communicating are to be warned that, the Sacrament having been received, they should not immediately depart from the church, or converse, or at once look around with wandering eyes...; but, with the devotion that is fitting, they should remain for some time in

prayer, GIVING THANKS TO GOD for so singular a benefit, and also for the most holy Passion of the Lord, in memory of which this mystery is celebrated and received."[1]

(1) Roman Ritual, De SS. Euch., c. I, n. 3, 4.

1555. Questions. Q. 1. Whether to approach the Eucharist WITH VENIAL SIN is a new venial sin?

Resp. 1. To approach with habitual venial sin probably is not a new sin. "The reason is both that it would rather be a defect of perfect reverence than a positive irreverence; and because the very will of receiving the Eucharist and its effect is a certain virtual detestation of venial sins, by which faults are removed, so that they by no means impede the fruit of the Sacrament."[2]

Resp. 2. To approach with an actual concomitant venial sin, for example because of vainglory, or with a purpose of lying afterwards, is a sin; because such a communicating person inflicts a positive injury on the Sacrament. Thus commonly and more truly, against some.[3]

Q. 2. Whether an actual venial sin IMPEDES the fruit of the Sacrament?

Resp. From the far more common opinion, it does not impede the principal effect, namely an increase of habitual grace; although it impedes some fruits, for example fervor of charity, and from this it is why several priests are observed who celebrate daily in grace, and nevertheless profit nothing. The reason is that venial sin does not fight with habitual grace, nor with any increase whatever of it, and therefore does not impede it (cf. n. 1548).

Q. 3. When does the Eucharist produce its effects in one receiving it who is rightly disposed?

Resp. 1. Grace is given in the very act of eating, namely when passage is made from the mouth into the stomach. Whence "the species are not to be retained in the mouth so long until they entirely perish; because then Christ would not be eaten, nor would the grace of the Sacrament be conferred"; just as it is not conferred if someone dies while he retains the host in his mouth.[4]

Resp. 2. It is very probable that, if the disposition of the subject becomes better, grace is always increased as long as the sacramental species endure in the stomach. "The reason is that this Sacrament was instituted after the manner of food; whence, just as food nourishes the body during the whole time in which it remains in the stomach, so likewise, whenever the Eucharist remains in the body, it nourishes the soul by increasing grace."[5]

Q. 4. What if a PRIEST should dispose himself during the consumption?

Resp. "If someone had consumed part of the wine or host while indisposed, and then disposed himself, he would still receive grace in the consumption of the other part; because even then the Eucharist has the power of conferring grace *ex opere operato*. Some also probably say that this would happen if he disposed himself before the species are consumed in the stomach."[6]

(2) Book VI, 270, q. 1. (3) Ibid., q. 2. (4) Ibid., 226. (5) Book VI, 228; H. A., XV, 6. (6) Ibid., 227.

§ 2. On the Dispositions on the Part of the Body

On the part of the body, two things are required: 1. fasting; 2. cleanliness and decent habit.

1. Fasting

First we shall speak concerning the obligation of fasting, then concerning the causes excusing from it.

I. On the Obligation of Fasting

1556. Principles. I. For the licit consumption of the Eucharist NATURAL FASTING is required, namely that the one about to communicate has consumed nothing of food or drink from midnight. - This is clear both from universal custom, which has constantly flourished from the time of the Apostles to the present, and from various Councils, especially from Constance.[7] But this precept was sanctioned on account of the reverence due to the Sacrament, and on account of its signification, "namely that it may be given to be understood that Christ, who is the reality of this Sacrament, and His charity ought first to be founded in our hearts."[8]

But although this precept is not of divine law, but only of ecclesiastical law, nevertheless it does not admit smallness of matter: "because the precept is not now of approaching the Eucharist fasting, but of not approaching after food or drink; but he who communicates after any very small part whatever already communicates after food or drink. Thus all."[9]

(7) Sess. 13, § In nomine sanctae, etc.; Book VI, 278. (8) St. Thomas, 3 p., q. 80, a. 8. (9) Book VI, 278.

1557. II. For breaking the natural fast THREE things are required: 1. that what is consumed come from outside; 2. that it have the nature of food or drink; 3. that it be consumed after the manner of eating or drinking. - Thus authors commonly.[10]

It is required 1. That what is consumed come from outside; for, as St. Thomas observes, what comes from within is not eaten, and therefore does not harm the natural fast. - Hence, he can communicate who has swallowed saliva, or phlegm, or blood flowing from the interior head or gums, even if he has swallowed it purposely. - But indeed he cannot communicate who at night placed sugar in his mouth, and after midnight swallowed some; nor he who swallowed blood flowing from the fingers, or tears flowing from the eyes; nor he who, having fallen or been thrown into a river, swallowed water.[11]

It is required 2. That it have the nature of food or drink; for according to the more common and more probable opinion, only digestible things break the fast, but not indigestible things. Hence: hair, metals, crystal, nails, silk or woolen threads, little fruit-stones altogether cleaned, because they are not digested, do not have the nature of food. - The contrary must be said of paper, straw, linen threads, medicinal powder, wax, earth or chalk, etc., which, altered in the stomach, can be converted into the substance of a human being.[12]

It is required 3. That it be consumed after the manner of eating or drinking. Therefore every digestible thing which is deliberately transmitted into the stomach breaks the fast, although it is transmitted in an unaccustomed manner, for example through the nostrils; because such an action is morally equivalent to drinking or eating. But that which is drawn in unintentionally, after the manner of breathing or saliva, does not break the fast. - Hence, the fast is not broken if someone, breathing, accidentally draws in flies, water, snow, etc.; but it is broken if someone draws in such things purposely. Likewise, it is not broken by tobacco taken through the nostrils, nor by the smoke of tobacco, or by juice of camphor, nor by tobacco rubbed with the teeth; provided the juice is spat out, and if anything is swallowed beyond intention, it is mixed with saliva and passes as such, not as food. But although chewing of this kind does not impede Communion, nevertheless it is indecent, nor is it easily excused from venial sin.[13]

(10) Book VI, 278. (11) Ibid., 279; H. A., XV, 35-37. (12) Ibid., 281; ibid., 42, 43. (13) Ibid., 280; H. A., ibid., 38-41.

1558. Questions. Q. 1. Whether to swallow REMAINS OF FOOD left in the mouth, or DROPS OF WATER mixed with saliva, breaks the fast?

Resp. The first opinion, not improbable, denies simply, whether this happens accidentally or purposely. The reason is both that the passing down of such remains is not to be regarded as a new eating, but as part of the preceding eating; and because they are consumed not after the manner of food, but after the manner of saliva. And the Rubric of the Missal indeed seems to favor this opinion. But the second opinion, more common and more probable, says that the fast is broken if they are swallowed purposely, but not if accidentally. The reason is that the passing down of remains of this kind, when it happens by design, seems to be a new eating. Yet no obligation is given of applying diligence to extracting those remains from the teeth; "for otherwise this obligation would be liable to innumerable scruples and perplexities, to which certainly the Church is not presumed to have wished to oblige."[14] Hence also the fast is not broken, according to the Rubric, "if, in washing the mouth, a drop of water is swallowed beyond intention"; provided it does not pass down in a great quantity, but mixed with saliva, which cannot be avoided. And the same must be said of the remains of wine, or of broth, which someone has tasted.[15]

Q. 2. Whether it is licit, immediately after the Eucharist has been received, to consume an ABLUTION, by which the particle may be swallowed more easily?

Resp. Affirmatively, where such a custom flourishes, or necessity requires it, for example if someone suffers extreme dryness of mouth. But in this case, "although the ablution is swallowed before the host or fragments of the host, nevertheless this does not obstruct the fast. The reason is that the violation is not judged morally to have preceded Communion; for the precept of the fast is that nothing be consumed before the reception of the Eucharist; but when the Eucharist is consumed together at the same time with the ablution, then that whole thing from the ablution and particles is consumed by one single consumption; whence it is well verified that the violation of the fast did not precede Communion."[16]

Q. 3. Whether one who dined before midnight can communicate A LITTLE AFTER, and while the food has not yet been digested?

Resp. This is not prohibited by reason of the fast, since this is truly observed; wherefore, a just cause being present, it can be done.[17]

Q. 4. How is the time of MIDNIGHT to be computed?

Resp. It is to be computed physically, not morally. Now, at the first stroke of the hour, midnight is completed; wherefore he cannot communicate who swallows food after the first stroke, but before the last.[18] But the time is rightly determined from public clocks; for, in designating time, the Church follows that rule which publicly directs all human business in individual places.[19] Yet it is licit, at one's choice, to follow true or mean time; indeed the time of another meridian, for example of the metropolis, if the public clocks of the place mark it.[20]

Q. 5. Whether IN DOUBT whether he has broken the fast, someone can communicate?

Resp. Affirmatively. For the law of fasting is prohibitive, namely forbidding that someone communicate after food has been consumed; wherefore the fact of the broken fast must be proved, that someone may be prohibited from communicating. And as long as the breaking is not established,

liberty of communicating possesses. This reason applies both for the case in which you doubt whether you consumed something of food or drink, and for the case in which, certain of the consumption, you doubt whether you consumed it after midnight (cf. n. 49, 2).

Hence the Doctors very commonly affirm that, among several discordant clocks, it is licit to follow the last, for receiving Communion; provided the error is not established, or the clock is not one of those which for the most part err, because these are presumed always to err.[21] The reason is that individual good clocks generate a probable opinion, and therefore a positive doubt.

Q. 6. Whether it is licit to eat or drink IMMEDIATELY after Communion?

Resp. Formerly fasting after Communion until Sext was prescribed; but this precept has now long since been abrogated. Nevertheless, to eat and drink without cause, while the sacred species still endure in the stomach, where they are judged to endure for a quarter of an hour in priests, is not excused from venial sin. Thus commonly. It was said without cause; because any just cause excuses, for example if the sign for table were given for a Religious.[22]

Q. 7. Whether it is licit to SPIT OUT immediately after Communion?

Resp. "All agree that it is indeed fitting that those communicating abstain from spitting out for some interval of time, and the Ritual agrees. - Yet authors say there is no sin in spitting out after Communion, if no fragment of the host has remained in the mouth."[23]

(14) Book VI, 279, doubt 1. (15) Ibid., doubt 2. (16) Book VI, 288, near the end. (17) Ibid., 289, end. (18) Ibid., 282. (19) Acta S. Sedis, VII, 390; S. R. Congr., August 7, 1875 (Gardellini, n. 5622, ad IX). (20) Acta S. Sedis, t. VII, p. 399; XV, p. 445. (21) Book I, 38, 39, from the sixth edition. (22) Book VI, 283; H. A., XV, 45. (23) Ibid., 283.

II. On the Causes Excusing from the Fast

1559. The law of the Eucharistic fast, since it is positive and ecclesiastical, sometimes admits an exception, but on account of most grave causes, which can stand either on the part of the Sacrament or on the part of man. The CASES in which the Eucharist can be received by one not fasting are numbered as FOUR:

I. When the Sacrifice must be completed. This can happen in many ways, namely: 1. If the priest notices that he took water for wine, etc.; in which case he ought again to consecrate either each species, or at least the wine, as was said above (n. 1528, II).

2. If it happens that the priest fails after consecration; in which case another priest, even one not fasting, is held to complete the Sacrifice. 3. If the priest, after the consecration even of one species, remembers that he is not fasting, he is held to finish the Mass. It was said after consecration; for if he remembers before it, he is held to desist, as often as this can be done without scandal or infamy. - 4. If the priest, after the ablution has been consumed, notices some relics of the same Sacrifice, he ought to consume them, as we have said (n. 1542, q. 4).[1]

II. When grave irreverence against the Sacrament is to be avoided; for example if there is danger that the sacred Host may perish, or be corrupted, or be badly handled by infidels or heretics; because the precept of preventing such irreverence prevails over the precept of fasting, as they commonly teach. -

Whence, if a priest is then absent, a layman can consume the sacred Host; indeed, in such a case, a priest can offer sacred particles to laymen who are not fasting.[2]

III. When danger of infamy or scandal is to be avoided, which would arise from the omission of Mass or Communion; for in this case the natural precept urges, which prevails over the ecclesiastical precept. Now, the case would be if a priest celebrating in public remembered before consecration that he was not fasting, and could not depart without scandal. - Similarly, if on a Sunday or feast day Mass had to be celebrated for the people, and the pastor, not fasting, had no other fasting priest to celebrate. Yet it is supposed in this last case that no one knows the pastor is not fasting; otherwise a greater scandal would arise, at least among the simple, from the celebration than from the omission of Mass.[3]

IV. When the article or danger of death is imminent, from whatever cause the danger proceeds, whether from natural illness, or from the sentence of a judge (cf. n. 1565). - It is also licit for one not fasting to celebrate in order to avoid danger of death, provided this is not demanded in contempt of the Church.[4]

And here a fifth case can be added, from a response given by the S. C. de Prop. Fide to the Vicar Apostolic of Eastern Tonkin (February 13, 1806), which has itself thus: "Salt having been tasted beforehand by catechumens in the conferral of Baptism, although the fast seems to be broken, still there is no doubt that, Baptism having been received, they can be admitted to Holy Communion, indeed must be."[5]

(1) Book VI, 287, 288; H. A., XV, 54. (2) H. A., XV, 52. (3) Ibid., 53; Book VI, 287; cf. Croix, book VI, n. 572, where there are other similar cases. (4) H. A., XV, 55. (5) Collect. S. Sedis, n. 282.

1560. Questions. Q. 1. Whether and HOW OFTEN in the same infirmity it is licit for a sick person not fasting to REPEAT Communion after the manner of Viaticum?

Resp. 1. "It is not doubted by the Doctors that Viaticum can be received several times, even during the same infirmity, since this Sacrament ought to be received not only for satisfaction of the precept, but also for strength against temptations, which in death are stronger and more dangerous. And this not only if a new danger supervenes, but also if the same danger endures. Thus commonly."[6] And Benedict XIV[7] exhorts Bishops that they even "decree a penalty against pastors who, when the sick devoutly ask, refuse to carry the Eucharist again and a third time on false pretexts."

Resp. 2. The common opinion is that an interval of eight days, or even six, must be interposed between Communions. Nevertheless, others not improbably teach that Viaticum can already be repeated on the following day, in the case in which the sick person had been accustomed to frequent Communion and danger of death was imminent. Indeed several authors universally admit that Communion can be offered on any day if circumstances suggest it.[8] Thus in monasteries, and where less apparatus is required, it can more easily be conceded. - Particular statutes in this matter are also to be attended to.

Q. 2. Whether a priest can CELEBRATE not fasting, in order to minister Viaticum?

Resp. 1. Affirmatively, if the priest himself, near death, ought to celebrate in order to give himself Viaticum; for then in the same person an ecclesiastical and a divine precept concur, but the latter is to be preferred. Thus commonly.

Resp. 2. If Viaticum is to be given to another, it is controverted. The first probable opinion affirms, because the divine precept of giving and receiving Viaticum is to be preferred to the ecclesiastical precept of observing the fast. - But the second opinion, common and perhaps more probable, denies; because the precept of not celebrating after the consumption of food is also divine as to its substance, namely by reason of the reverence which is due to the Sacrament. But the precept of ministering Viaticum ceases when it cannot be ministered rightly. - Yet otherwise, if the dying person could not be fortified by the Sacrament of Penance or Extreme Unction; for the Eucharist, in this case, will be able to be a Sacrament of necessity, so that he may become contrite from attrite.[9]

Q. 3. Whether sometimes, OUTSIDE DANGER OF DEATH, it is licit to give Communion to a sick person not fasting, who cannot observe the fast, if indeed the illness is going to be long-lasting?

Resp. The common opinion denies, which common practice also confirms, since the Pontiff alone has power to dispense in this most grave law.[10] - Hence, if such a case occurs, the Eucharist, with license of the Bishop, is to be carried at night, so that thus the sick person, immediately after midnight, can communicate fasting. But if this cannot be done, recourse must be had to the Supreme Pontiff for dispensation[11] (cf. n. 1881, end).

(6) H. A., XV, 46; Book VI, 285. (7) De Synodo, book 7, c. 12, n. 5, near the end. (8) H. A., XV, 47; Book VI, 285; Conf. dir., XIV, 9. (9) Book VI, 286; H. A., XV, 51. (10) Benedict XIV in the letter Quadam de more, March 24, 1756, § 4. (11) Cf. Lugo, De Euch., Disp. 15, n. 35, 64.

2. Cleanliness and Decent Habit

1561. Principles. I. "No stain of the body BY ITSELF impedes the reception of the Eucharist, since it does little toward moral goodness or malice; yet sometimes BY ACCIDENT it can impede, on account of the effects which follow."[12] - For before all else it is required that one about to receive the Eucharist be immune from every venereal filth. Concerning this matter the following things are to be noted:

1. On account of voluntary pollution which occurred on the same day, even if it has been expiated through the Sacrament of Penance, one must abstain from Communion under venial sin, just as also from celebration, unless a just cause excuses, "as will seem to the prudent confessor," as the Rubric of the Missal speaks.[13] But on account of involuntary pollution one is not to abstain, unless perhaps from the commotion of the body disturbance of the mind still endures; for to approach with disturbance of this kind is commonly not excused from venial sin, unless some just cause is present, or unless the person strives, as much as he can, to quiet the disturbed mind, and applies diligence that he may approach devoutly, as all reasonably teach.[14]

2. The conjugal act, by itself, does not impede worthy Communion, if the debt was asked or rendered from a good end, for example for obtaining offspring, or for avoiding incontinence. But if it was rendered or asked for the sake of pleasure alone, or if disturbance remains in the mind from it, etc., one must abstain on that day under venial sin, on account of decency. Yet any reasonable cause excuses.[15] - To a spouse asking whether he is held to render on the day of Communion, St. Alphonsus proposes this RULE: If he communicates frequently, he ought to render, lest by his devotion he burden his consort, and lest justice or charity be injured; but if he communicates only on the principal feasts, let him invite the spouse to continence, in honor

of the Sacrament; if the other resists, let him render, and nevertheless communicate, provided he is otherwise disposed.[16]

3. Those having notable external uncleanness, which can easily be removed, should deservedly abstain until they have been cleaned. Yet if it is hidden, or perpetual and involuntary, as leprosy, flow of blood, scabies, it does not impede Communion. - But to a priest who is leprous, or laboring under a horrible disease, it is permitted to celebrate privately, since in the Law it is prohibited only "on account of the scandal and abomination of the people."[17]

(12) Book VI, 271. (13) De defect., IX, 5. (14) H. A., XV, 56. (15) Book VI, 273. (16) Ibid., 274. (17) Book VI, 275; H. A., XV, 58.

1562. II. By natural law, an EXTERIOR HABIT and COMPOSITION of the body are required, which exhibit internal reverence and devotion of the soul. - The reason is evident; for to this most august Sacrament not only internal but also external veneration is due, since Christ Himself, by means of the species, exists and is handled in it in a certain sensible manner.[18]

Hence: 1. Women ought to approach Holy Communion in holy adornment, redolent of modesty. If any should present themselves very indecently at the sacred Table, for example with the breast uncovered, Communion would have to be denied to them, yet with due precautions, so far as can be done, to prevent scandals.[19] 2. It is fitting that armed persons approach with weapons laid aside. The soldiers of St. John are excepted, who bear arms as a sign of Religion to be defended.[20] 3. Priests communicating in the manner of laymen should communicate with a stole. Thus the Rubric, which seems to prescribe this under venial sin.[21]

(18) Gury, II, 336. (19) H. A., XV, 58. (20) Book VI, 275, end. (21) Ibid., 276; H. A., ibid., 58.

Article III: On the Obligation of Receiving the Eucharist

1563. Principles. I. The real reception of the Eucharist is not necessary for salvation by NECESSITY OF MEANS. - The proposition is of faith, if it concerns children; but if it concerns adults, it is common and certain. The reason is that the Eucharist by itself does not confer, but supposes first grace; but this gives a right to heavenly glory; whence one who dies with it, even without the Eucharist having been received, certainly obtains eternal salvation.

It is said real reception; because reception in desire, according to the more probable opinion, is necessary for salvation by necessity of means, both for adults and for little children. It is proved: 1. From the words of the Lord (John 6:54): "Unless you eat the flesh of the Son of Man, you will not have life in you." 2. From reason, "because the Sacraments of Baptism and Penance, which are certainly necessary by necessity of means, at least in desire, for obtaining first grace, do not confer grace except with regard to the Eucharist, as to the end of all the Sacraments.... But adults have such a desire when they receive the Sacraments of Baptism or Penance; for their will of fulfilling all precepts includes at least implicitly this precept also of the Eucharist. But little children have the desire, not from their own will, but from the implicit will of the Church, which is applied to children, just as the will of receiving Baptism is applied."[22]

It is asked: Whether the Eucharist, in reality or in desire, is a necessary means FOR ADULTS for preserving spiritual life?

Resp. Some deny, "saying that other means are present for this. But more commonly and more truly others affirm with St. Thomas.[23] The reason is that just as the life of the body cannot be preserved for long without material food, so neither can the life of the soul without this spiritual food, at least in desire, and indeed explicit desire, in one who notices the necessity of this Sacrament."[24]

(22) Ibid., 192. (23) 3, q. 80, a. 11, ad 2. (24) Book VI, 193.

1564. II. The consumption of the Eucharist is necessary for adult faithful by necessity of PRECEPT, both divine and ecclesiastical. The divine precept is proved from the words of Christ: "Unless you eat," etc.; but the ecclesiastical precept from the Fourth Lateran Council, whose words we shall relate below (n. 1568).

Moreover, from the DIVINE precept, we are held to receive the Eucharist not only in danger of death, but also several times in life. But how often we are held to this has not been declared by Christ the Lord, but He Himself left the matter to be determined by His Church; whence each one, speaking by itself, satisfies the divine precept by satisfying the ecclesiastical precept. - We say speaking by itself; for "sometimes, by accident, a man is held from the divine precept to communicate perhaps even several times in the year, if he judged this necessary for overcoming some grave temptation. Yet Suarez says this can happen very rarely, since other remedies can suffice for this, prayers, penances, etc. But in that case in which Communion were necessary, a man, by omitting it, would not sin against its precept, but against the virtue against which he suffers temptation"[25] (cf. n. 1579, Rule I, It is said 2).

These things having been said concerning the necessity of the Eucharist in general, it remains that we treat separately of the twofold Communion which each one is held to receive, that is, concerning Communion in the article of death or Viaticum, and concerning Paschal Communion.

(25) Ibid., 295.

§ 1. On Viaticum

1565. Principles. I. The DIVINE precept of receiving the Eucharist obliges especially in the ARTICLE or in the DANGER of death. It is clear from the Council of Nicaea, can. 13, in which it is established that with those who are thought to be departing from life the ancient law is to be observed, namely that they not be deprived of the last and necessary Viaticum.[26] The reason *a priori* can easily be given, because from the institution of this Sacrament as nourishment is gathered the obligation of consuming it when it is judged necessary; but never can the necessity of this food be greater than in that article upon which eternity ultimately depends, and in which the last struggle with the enemy is imminent, for deciding the whole matter.[27]

"It was said in danger; because for receiving Viaticum it is not necessary nor laudable to wait for the time when no further hope of life remains; but it suffices that probable danger of death be present."[1]

Hence: 1. "Each faithful person, in danger of life, which he foresees or deservedly fears, for example in a grave illness, before battle, or childbirth, especially a first one, before navigation, etc., is held under mortal sin to communicate."[2] Thus commonly.

2. One who did not communicate in danger of death is not afterwards held to supply. Similarly, one who after Viaticum has been consumed sinned mortally is not held to communicate again; confession alone then suffices.[3]

(26) Cf. Lugo, De Euch., Disp. 16, n. 34. (27) Lugo, Disp. 16, n. 35. (1) H. A., XV, 46. (2) Book VI, 291. (3) Ibid., 293.

1566. II. Sick persons who CANNOT receive it with due reverence are excepted from the law of Viaticum. The Ritual also admonishes: "It must diligently be cared for that Viaticum not be given to those from whom, whether on account of frenzy, or on account of continual cough, and another similar illness, some indecency with injury to so great a Sacrament can be feared." The reason is that it does not concern a Sacrament of every sort of necessity, and therefore provision must be made rather for reverence toward the Sacrament than for the utility of the sick person.[4]

Therefore: 1. In danger of vomiting, Viaticum is not to be given. Whence, if the sick person labors under continual vomiting, he cannot communicate unless he has been free from it at least for six hours. But if the vomiting proceeds from the food itself, an unconsecrated particle can be given to him for the sake of experiment; and then, if he retains this, a consecrated particle. In doubt, it is better to abstain.[5]

2. A cough, unless it is continual or so frequent that the sick person cannot pass down the particle, does not impede Communion; because there is one way, namely the throat, by which food is passed down, and another, namely the windpipe, from which phlegm and breaths are ejected.[6]

3. To the delirious who were duly prepared before the failing of the mind, Viaticum can and ought to be given, if they are able to communicate, danger of irreverence having been excluded. But the best practice is that also to sick persons of this kind there first be given an unconsecrated particle, for testing whether from this they can decently consume the Eucharist.[7] (See n. 1546.)

(4) H. A., XV, 20. (5) Ibid., 20, 21. (6) Book VI, 292. (7) Ibid.

1567. Questions. Q. 1. Whether one who A FEW DAYS BEFORE communicated from devotion is HELD, danger of death supervening, to receive Viaticum?

Resp. It is controverted. - "The more common opinion denies, even if he communicated eight days before, because he has already satisfied the end of the precept. This opinion is sufficiently probable, at least if the danger of death occurs naturally, because then, at the time of the Communion received, danger had already begun morally to be imminent. But the second and more probable opinion affirms, because this precept, which is divine, obliges precisely when the danger of death actually urges; and just as a debt cannot be satisfied before it is contracted, so neither can a precept be fulfilled before it begins to oblige. Nor is it valid to say that through that Communion the end of the precept has already been satisfied; because if this sufficed, it would also suffice for fulfilling the Paschal precept that someone communicate on the day preceding Palm Sunday; but this cannot be said."[8]

Q. 2. Whether one who communicated IN THE MORNING from devotion OUGHT or CAN receive Viaticum, danger of death supervening?

Resp. Three opinions are present. The first says that he is held, that he may satisfy the precept. - The second says he is not held, but can. - The third says he is neither held nor can, since the practice of the Church is that no one communicate twice on the same day. Benedict XIV says that the pastor can embrace whichever of these opinions he prefers; whence he holds all three as probable. For the rest, among these, the more probable seems to be the opinion which distinguishes thus: in a violent illness, for example if someone has been struck by a wound, or has fallen from a height, he can communicate, indeed he is held according to the things said in the preceding question; because here he truly did not receive Viaticum while constituted in the article of death. But otherwise, in a natural illness, when someone, already placed in sickness, has communicated in the morning; because then the danger of death was already present, although unknown. And the same must be said if the illness was sudden, say apoplexy, or something similar; for illnesses of this kind are judged already to have previously existed disposed in their causes, although they are unknown.[9]

Note. "To a sick person unto death, who has been judged worthy of absolution from sins, the Most Holy Viaticum also is to be conceded." Thus the S. C. DE PROP. FIDE to the Vicar Apostolic of Pondicherry, July 26, 1845.[10]

(8) H. A., XV, 48; Book VI, 285, doubt 2; cf. 1 El. qq. ref., n. 66. (9) H. A., XV, 49; Book VI, 285, doubt 3; 1 El. qq. ref., n. 66. (10) Collect. S. Sedis, n. 365.

§ 2. On Paschal Communion

1568. From the DIVINE precept, as we have said (n. 1564), we are held to receive the Eucharist several times in life. "The reason is that just as it is necessary to take earthly food several times for preserving bodily life, so heavenly food for preserving spiritual life."[11] But from the ECCLESIASTICAL precept the time and manner of this obligation are more closely determined, as is had in the Constitution of the Fourth Lateran Council, which sounds thus: "Every faithful of either sex, after he has arrived at the years of discretion, shall faithfully confess all his sins at least once in the year to his own priest... receiving reverently, at least at Easter, the Sacrament of the Eucharist; unless perhaps, by the counsel of his own priest, for some reasonable cause, he should judge that for a time one must abstain from reception of this kind; otherwise, living, let him be kept from entering the church, and dying, let him lack Christian burial." It is confirmed from Trent, sess. 13, can. 9.

In these words of the Council are contained three obligations, and these grave: the first regards the frequency of receiving the Sacrament; the second the time of reception, and the third the place of reception. Wherefore let there be the following:

(11) Book VI, 295.

1569. Principles. I. Each faithful person is held AT LEAST ONCE IN THE YEAR to receive the Sacrament of the Eucharist. - But he who communicates sacrilegiously does not satisfy the precept, as is clear from proposition 55 condemned by Innocent XI: "The precept of annual Communion is satisfied by sacrilegious eating of the Lord." Therefore one who communicated

unworthily is afterwards held to satisfy, no otherwise than one who omitted Communion altogether.[12]

It is asked: How is the year of the obligation of this annual Communion to be computed?

Resp. "Some judge that it is to be computed from January to December. But from the common opinion of the Doctors, and from custom received everywhere, the time is computed from Easter to Easter, because this is judged to be the ecclesiastical year. But the Paschal time begins from Palm Sunday, and ends on Low Sunday, from the declaration of Eugene IV in the Bull *Fidei digna*, in the year 1440. Yet from custom, necessity, or privilege, more time is conceded."[13]

(12) Book VI, 294. (13) Ibid., 296.

1570. II. The annual Communion prescribed to Christ's faithful is to be performed IN PASCHAL TIME. This time, according to the more common and more probable opinion, is assigned by the Church not for ending, but for urging on the obligation of the divine precept; wherefore one who omitted Communion at Easter is held to communicate as soon as possible, from both the ecclesiastical and the divine precept.[14]

But Paschal time is to be computed strictly, so that any delay, even of one day, by itself is judged grave.[15] Yet this obligation by no means urges the confessor to absolve the indisposed more quickly than is just. But the faithful are held to remove impediments. Hence "the excommunicated and those detained in prisons, when they can, are held to procure absolution or liberty, by which they can satisfy the Paschal precept"[16] (cf. n. 225).

It is asked: Whether one who cannot communicate in Paschal time is held to ANTICIPATE?

Resp. 1. "It is certain that, Paschal time having begun, if someone foresees himself about to be impeded from Communion, he is held to receive it immediately, as they commonly teach."[17] 2. Before Paschal time has begun, he is not held to anticipate, because, according to the common opinion, "before that time the obligation has not yet been contracted; and if someone anticipates, he does not satisfy the precept; and this is so much so that if someone, on account of a foreseen impediment, anticipated, and afterwards the impediment ceased, he would still be held to communicate at Easter."[18]

(14) Ibid., 297, first opinion. (15) Gury, I, 482, q. 4. (16) H. A., XII, 41; Book VI, 299. (17) Book VI, 298, end. (18) H. A., XII, 40.

1571. III. "Anyone is held to receive Paschal Communion IN HIS OWN PARISH from his pastor, or his delegate, unless he is exempted by his license, custom, or privilege." This is clear from various Constitutions of the Supreme Pontiffs and declarations of the Roman Congregations,[19] and from the practice of the universal Church. The reason of the law is that the pastor may know the sheep committed to his care.

It is said 1. in his own parish, that is, in the parish of his domicile or quasi-domicile (cf. n. 203). - Hence, he does not satisfy who communicates in the cathedral church, since this cannot despoil parochial churches of their rights. - But he satisfies who anywhere receives Communion from the hand of his own pastor, because the pastor is judged to know his sheep everywhere. Similarly, one

who has received Viaticum in Paschal time from the hand of his own pastor has satisfied each precept.

It is said 2. unless he is exempted by license of the pastor; "because, with the consent of the Supreme Pontiff, or of the Bishop or Ordinary, or his Vicar General, or the pastor, for all these are understood under the name of pastor, the Doctors concede that by communicating outside the parish, the precept is satisfied." Yet PRESUMED or interpretative license suffices, provided consent can morally certainly be supposed. And if the pastor is, or is presumed to be, unwilling unreasonably, the consent of the Bishop or Pontiff can licitly be presumed. But it is not licit for a pastor to concede to his parishioners a general license that they satisfy the Paschal precept in another church, since he cannot dispense universally in the law of the Church. Thus the S. C. Conc., September 7, 1615.

It is said 3. by custom: by this reason priests satisfy wherever they celebrate. Understand, if they celebrate; for otherwise they are held to communicate in the parish, as laymen. Likewise, pilgrims and vagi are exempted, who either do not have a parish, or are so absent from it that they cannot conveniently return to it. Therefore they can communicate in any church whatever, unless, as the Ritual bears, in some place a custom flourishes of remitting them to the cathedral church.[20] - And the same must be said of soldiers, if they are not at station, nor have domicile or quasi-domicile in the city.

It is said 4. or by privilege: for to Regulars privilege has been conceded, that their familiars can satisfy in their churches; provided they actually serve, reside within the enclosures of the monastery, and live under the obedience of the Prelates, as is had in Trent (cf. n. 2186).[21]

It was asked: "Whether male and female secular servants of Nuns, living in dwellings situated in the courts of monasteries surrounded by a wall, and which are contiguous to the monasteries and have a gate which is closed, are held to receive the Sacrament of the Eucharist in Paschal time from the pastors in whose parishes the monastery and dwellings are situated? - And the S. C. C., September 19, 1722, responded: Affirmatively and no more... by which word no more, it is declared that all the Cardinals were unanimous, and that no question about the same matter, clear enough, is to be had in the future." Thus Benedict XIV.[22]

(19) Cf. Benedict XIV, Encycl. Magno, § 21, and Instit. 18. (20) Book VI, 240. (21) Sess. 24, cap. 11. (22) Instit. 55, n. 8.

1572. It is asked: To what is he held who DID NOT SATISFY the Paschal precept in his own parish?

Resp. 1. One who communicated in his own parish, but, on account of unworthy reception, did not satisfy, is indeed held to communicate as soon as possible, but can do this in any church; because he is already sufficiently recognized by the pastor.[23] 2. One who in good faith communicated in another church does not seem to be obligated under grave sin to repeat Communion in his own parish church; because the pastor is reasonably presumed not to urge his right in this way, at least toward those who receive the Sacraments more rarely. 3. One who omitted Communion, or in bad faith communicated in another church, is held to communicate as soon as possible in his own church; because his own dishonesty excuses no one from the law. Yet, Paschal time having now elapsed, the consent of the pastor can more easily be presumed, so that satisfaction be made in another church.[24]

It must be noted that the penalty decreed against transgressors of the law is not incurred except after the sentence of a judge[25] (cf. n. 1387, 4).

(23) Croix, book VI, n. 630. (24) Suarez, De Euch., Disp. 72, sect. 2, n. 10, 11. (25) Book VI, 674; cf. Togni, p. 251.

1573. IV. Every faithful of either sex is held by the Paschal precept, after he has arrived AT THE YEARS OF DISCRETION. - But at what age children are judged to have this discretion must be weighed in this place. Hence the following:

Questions. Q. 1. Whether CHILDREN, as soon as they have the use of reason, are held to communicate?

Resp. Negatively, from the most common and more probable opinion. "The reason is that the common usage of the Church thus interprets the obligation of this precept, both that children may receive the Eucharist with greater reverence and fruit, and lest they themselves be easily exposed to danger of transgression. And although they are obligated to confession, nevertheless they are not for that reason held to receive the Eucharist, which is of greater excellence and not of so great necessity. Nor does the canon of the Lateran Council obstruct, where it is said that every faithful, after he has reached the years of discretion, is held not only to confession but also to Communion; for the years of discretion are to be understood respectively according to the reason of the matter, namely when someone has reached the years of discretion for confession, let him confess; when he has reached the years of discretion for Communion, let him communicate."[1]

But to children constituted in DANGER OF DEATH, provided they are able in some way to discern between profane and heavenly food, Communion not only can be given, but also ought to be, as authors very commonly teach.[2] "The reason is that, on the one hand, children constituted in such danger are held from the divine precept to communicate; on the other, the utility of the Eucharist then does not demand a greater disposition."[3]

Q. 2. When are children judged OBLIGATED to communicate?

Resp. "The Doctors commonly say that, REGULARLY speaking, children are not obligated to Communion before the ninth or tenth year"; the Council of Albi in the year 1850 thinks the same[4]; "nor is Communion to be deferred for them beyond the twelfth or at least beyond the fourteenth year.... It was said REGULARLY; for, as authors notice, children who before such an age are seen to be more perspicacious can be obligated sooner. Whence Roncaglia rightly reprehends pastors who indiscriminately do not admit to Communion except children constituted in a certain age. - But it must be noted that, although children in the tenth year can be admitted to Communion, nevertheless they themselves are not held to it, but only then when they have been warned by the pastor or parents."[5]

Q. 3. To WHOM does it pertain to institute an examination and bring judgment concerning the capacity of the child?

Resp. "1. With respect to AGE and DISPOSITION OF SOUL, it pertains to parents and the confessor to decide the matter. For thus the Roman Catechism:[6] 'At what age the sacred mysteries are to be given to children, no one will be able to determine better than the father and the priest to whom they confess their sins; for it pertains to them to explore and ask from the children whether they have received some knowledge of this admirable Sacrament and have a taste for it.'

"2. With respect to EXAMINATION concerning Christian doctrine, nothing particular is established by common law. Therefore it pertains to the confessor to attend whether the child has sufficient doctrine. But by particular law, established by Bishops in many places, children to be admitted to first Communion must be examined by the pastor himself, or his delegates, concerning doctrine and maturity of judgment."[7]

(1) Book VI, 301, second opinion. (2) Collect. S. Sed., n. 366. (3) Book VI, 301, doubt 2. (4) Tit. 5, decret. 5, apud Collect. Lucen., tom. IV, p. 433. (5) Book VI, 301, doubt 1. (6) P. 2, c. 4, n. 63. (7) Gury, Case XI, De Euch., where also the Constitution of Benedict XIV Etsi minime is rightly interpreted.

1574. Concerning the FIRST COMMUNION of children it is useful to add the following things from the Council of Bordeaux, celebrated in the year 1850:[8]

"Since on the first approach to the sacred Synaxis the course of the whole life, and therefore eternal salvation itself, often depends, we beseech in the Lord every rector of souls, that they expend the greatest possible diligence in disposing little ones for first Communion.... Let them demand, as far as can be done, that the children be present assiduously at catechism for two years; let them instruct them with particular diligence, question them frequently, and not admit them unless it is altogether clear concerning their sufficient knowledge.

Then: "Let them stir them up in every way to prepare a dwelling for God, which is a great work; and, for the sake of discerning who are preparing themselves with a great heart and willing soul, let them diligently inquire concerning the manner of acting of each one, and let them themselves watch over them attentively; at least once in the month, let them receive them at the sacred tribunal, or care that they be received, and the more frequently as the time of Communion becomes more imminent.

"Before Communion, let them receive a general confession of the whole life, taking care lest, through fear of repulsion, some sin be concealed. But three days before Communion, let them proximately prepare them by pious exercises, and on the day itself let them take care that the greatest solemnity be applied, and that the baptismal vows be renewed."

FROM THE SYNOD OF TURIN we add: "But if an adolescent, already having attained the thirteenth year, cannot approach his proper pastor, the confessor will perform an excellent work of charity if he teaches him in catechesis and promotes him to Communion; but let him exhort him that he make his pastor more certain concerning this matter."[9]

(8) Tit. 3, cap. 4, n. 2, apud Collect. Lacen., tom. IV, p. 569. (9) Apud cl. Del Vecchio, I, n. 497, note.

Article IV: On Frequent Communion

1575. The pious mother Church, by strict precept, obliges only to Paschal Communion. "And yet let not the faithful have it as enough that they, obeying the authority of this decree, receive the Body of the Lord only once each year; but let them judge that Communion of the Eucharist is to be repeated more often. But whether it is more expedient to do this each month, or each week, or each day, a certain rule cannot be prescribed for all";[10] but a varied NORM must be established according to the variety of persons. - But how one must proceed in this will be taught by the following:

(10) Catech. Rom., p. 2, c. 4, n. 60.

1576. Principles. I. The frequency of Communion is so to be defined that provision is made both for the REVERENCE due to so great a Sacrament and for the UTILITY of the one receiving. The reason of the FIRST is that, on account of the excellence of the Sacrament, "it is required that the one receiving approach with great devotion and reverence...; but because many impediments of this devotion often occur in many human beings, because of indisposition of body or of soul, it is not useful for all men to approach this Sacrament daily, but as often as a man has found himself prepared for it."[11] Whence proposition 5, which said: "Frequent confession and Communion, even in those who live like Gentiles, is a mark of predestination," was deservedly condemned by Innocent XI. They ought rather to have said, St. Alphonsus observes,[12] "it is a mark of reprobation." The reason of the SECOND is that the Sacrament of the Eucharist was instituted primarily by Our Lord for the spiritual refreshment of souls; nor is there doubt that the most loving Redeemer wishes this food to be offered to all His sheep: to the well, that they may have life more abundantly; and to the languid, that they may recover.

Wherefore the TRIDENTINE SYNOD desires that Christ's faithful so live[13] "that they can frequently receive that supersubstantial bread, and that it may truly be for them the life of the soul and the perpetual health of the mind." And this 23rd proposition of Baius was condemned by Alexander VIII: "Similarly, those are to be kept from Communion in whom the most pure love of God, free from every mixture, is not yet present."

(11) St. Thomas, 3, q. 80, a. 10. (12) Book VI, 254. (13) Sess. 13, cap. 8.

1577. II. The richer the fruit that comes from Communion for the one receiving, the MORE FREQUENTLY it is to be conceded; and, to whatever degree the fruit decreases, to that degree the frequency is to be LESSENED, not so that Communion is altogether omitted, but so that preparation and devotion may increase. Concerning this matter Innocent XI speaks thus:[14] "Frequent access to receiving the sacred nourishment is to be left to the judgment of confessors..., who, from purity of consciences, and from the fruit of frequency, and from progress toward piety, ought to prescribe to them, namely penitents, what they foresee will be profitable for their salvation." St. Thomas teaches the same,[15] writing: "If someone knew by experience that from daily consumption the fervor of love was increased, and reverence was not diminished, such a one ought to communicate daily."

But one must beware lest, under the pretext of reverence, the Sacrament be deserted; for "although to abstain from Communion on some day is also a virtue, nevertheless, says Fr. Granada in his Treatise on Communion, it is the common opinion of the Doctors that it is better to approach Communion daily on account of love, than to abstain on account of reverence."[16]

(14) Decree of the S. C. C. Etsi frequens, February 12, 1679. (15) In 4, dist. 12, q. 3, a. 1, ad 2. (16) Praxis, n. 151.

1578. But it must be noticed that that richer FRUIT which is attended to in Communion is of a twofold kind, so namely that it is found either in hope, or in act. 1. It is found in hope with respect to that communicating person who is held by a true and right desire of Communion, and who therefore receives it not that he may be seen by men, but that he may profit in the love of God and in union with Christ. 2. But it is found in act with respect to that one who shines with great purity of conscience, who advances continually in piety and in charity, who

strongly resists temptations, and who always has a will prompt to execute the divine commands.

Whence St. Alphonsus:[17] "It must be noted," he says, "that which St. Francis de Sales says in his *Philothea*: If they ask you why you communicate so frequently, answer them that two kinds of persons ought to communicate more often, namely the perfect and the imperfect: the perfect, that they may preserve themselves in perfection; the imperfect, that they may be able to arrive at perfection; the strong, lest they become weak; the weak, that they may become strong; the sick, that they may be cured; the well, lest they become sick. And as for you, as being imperfect, sick, weak, you need frequent Communion. - Tell them that those who are not entangled in worldly affairs ought to communicate more often, because they have opportunity; but those who are detained by such affairs, because they need Communion."

For the rest, as the Holy Doctor notices with St. Lawrence Justinian, it is not necessary that the soul feel, or openly discern in itself, an increase of fervor; since not rarely this Sacrament works without our noticing its operation. - Therefore it suffices for the confessor to detect in the depth of the will of his penitent a certain ALACRITY for executing whatever things have pleased God.[18]

(17) Ibid., n. 153. (18) Ibid., 155.

1579. According to the preceding principles, St. Alphonsus establishes certain SPECIAL RULES, which it is now useful to explain.

Preliminary note. A threefold degree of frequency is distinguished: 1. weekly Communion, which ordinarily is received once in the week; 2. frequent Communion, which is received several times in the week; 3. daily Communion, which is customarily received daily, perhaps with one day removed. - Wherefore the three following rules are given:

RULE I. WEEKLY Communion is regularly to be conceded and counseled to all who are accustomed to avoid mortal sins. It is said 1. to all who are accustomed to avoid mortal sins, that is, who are solicitous about avoiding them, even if they place no care in acquiring greater perfection.

But if they sometimes fall into mortal sin, Communion is not on that account to be denied to them, provided they detest their sins and propose amendment of life for themselves. It is said 2. to be conceded and counseled; for on the one hand, more cannot be conceded to souls of this kind, St. Alphonsus bearing witness, who writes thus:[19] "There is no doubt that it is an error, as Benedict XIV notices, to concede frequent Communion, that is, more than once in the week, to those who approach with an affection toward deliberate venial sins, without any desire of freeing themselves from them"; but neither, on the other hand, is less to be counseled to them, lest namely they fall into mortal sin. "There are many," says St. Alphonsus,[20] "who by communicating every eight days will remain free from mortal sin, but not by communicating every month." And elsewhere:[21] "For those who lead a tepid life, so that at least they can preserve themselves in the grace of God, it is good that they consume the Body of Christ every Sunday, or at least twice in the month." It is said 3. regularly; for sometimes these also will be able to communicate during the week: for example when some special feast occurs, or if they were in danger of falling into mortal sin, so that thus they may receive strength to resist; but sometimes it will be expedient for those who are not placed in such danger to

be interdicted from Communion for an entire week, that they may conceive a greater horror for their defects and greater reverence toward the Sacrament.[22]

(19) Ibid., n. 149. (20) Risposta apolog., ed. Turin, tom. IX, p. 890. (21) Inst. catech., p. 2, c. 4, n. 9, end. (22) Praxis, n. 149.

1580. RULE II. FREQUENT Communion can be permitted and advised to the faithful who are accustomed to avoid fully deliberate venial sins, and assume the means of attaining perfection. Behold, concerning this matter, the words of St. Alphonsus: "When a soul is now held by no affection toward a thing prohibited under venial sin, abstains from fully voluntary venial sins, and moreover applies itself to prayer and to mortification of the passions and senses, then the confessor can concede to it that it communicate three, four, indeed even five times in the week."[23] But the Holy Doctor notices:[24] "But if afterwards it is recognized that, notwithstanding frequency of Communion, the soul profits nothing in the way of perfection, nor amends itself from deliberate faults, although venial, as if it adhered even to pleasures of the senses in seeing, hearing, eating, dressing with some vanity: then certainly the use of Communion will by counsel have to be restricted, also so that it may begin seriously to think of its amendment, and to provide for its spiritual perfection."

And speaking of persons consecrated to God: "Indeed, I would permit frequent Communion only with difficulty," he says, "to that Nun who was not willing to amend herself concerning some defect, although not evidently sinful, yet certainly contrary to perfection, especially if it concerns a defect against humility or against obedience."[1]

(23) Vera Sposa, cap. 18, § 3, n. 7. (24) Praxis, n. 155. (1) Vera Sposa, loc. cit., n. 7.

1581. RULE III. DAILY Communion is to be conceded to souls which, immune from affection toward any venial sin whatever, apply themselves much to the exercise of prayer and mortification, and are held by a great desire of Communion. - For these fulfill the condition which St. Thomas requires, writing: "If someone knew by experience that from daily consumption the fervor of love was increased, and reverence was not diminished, such a one ought to communicate daily." "Except, ordinarily speaking, one day in any week, as some prudent directors are accustomed to do; and except that time in which they may wish to deprive penitents of Communion, for testing their obedience or humility, or on account of some other just cause."[2] - Nevertheless, in Novenas of the Holy Spirit, of the Nativity of the Lord, and of the Blessed Virgin Mary, and of one's holy Patrons, such a person can communicate daily.[3]

And these things are confirmed by the Decree of Innocent XI, where it is had thus: "Nuns asking daily for Holy Communion are to be admonished that they communicate on the days determined by the Institute of their Order: but if any shine with purity of mind and have grown warm with fervor of spirit, so that they can seem worthy of more frequent or daily reception of the most holy Sacrament, let this be permitted to them by the Superiors."

It was requested: "Whether, and with whose license, Nuns ought to receive the Holy Eucharist, who wish to receive it beyond the days established by the Constitutions or by the custom of the monastery, so that on those days all the Nuns communicate?

And the S. C. CONC., April 14, 1725, responded: "With the license of the ordinary confessor, and not of Directors, with previous communication to the ordinary Prelate."[4]

(2) Praxis, 152. (3) Ibid., 158. (4) Collect. S. Sedis, n. 368.

1582. Admonitions. 1. Let the confessor not immediately concede frequent Communion in perpetuity, but, each time, only a certain number of Communions, until he has taken experience concerning the progress and fervor of the penitent. For many begin with fervor, who little by little fall away, and nevertheless withdraw with difficulty from the rule fixed for themselves.

2. Frequent Communion would be imprudently advised or conceded to persons otherwise disposed, who cannot approach it without some detriment to family affairs, the education of children, the care of the sick, etc. Yet prudent persons generally know how to join each, namely devotion and the duties of their state, so that these by no means harm each other.[5]

3. The fruit of Communion depends not on the disposition of those communicating alone, but also, and indeed very much, on THANKSGIVING. Hence St. Alphonsus admonishes the confessor thus:[6] "Let him also take care to insinuate that each one remain after Communion in thanksgiving for that time for which he can. Very few are the directors who diligently do this...; and the reason is that very few are the priests who, after the Sacrifice of the Mass, remain with Jesus Christ in thanksgiving; and therefore they are ashamed to insinuate to others what they themselves do not do. - Thanksgiving ordinarily ought to last for a whole hour; let it be made at least for a half hour, in which the soul exercises itself in loving and asking" (cf. n. 1554, end, and n. 1555, q. 3).

4. Let the confessor also insinuate to penitents that they communicate SPIRITUALLY more often. For this is very useful to pious faithful and is commended by the holy Council of Trent, when it says that those communicate spiritually "who, eating in desire that heavenly bread set before them, by living faith which works through love, perceive its fruit and utility."[7] (cf. n. 1563, question.)

St. Alphonsus proposes the METHOD of communicating spiritually thus: "Therefore elicit an act of FAITH, by which you firmly believe that Jesus Christ is present in the Sacrament; an act of LOVE, to which is joined contrition for your sins; then an act of DESIRE, by which you invite Jesus Christ to come into your soul, and to render it His own; finally give thanks to Him, as if you had already truly received Him."[8]

(5) Cf. Risp. apolog., near the end, ed. Turin, vol. IX, p. 891. (6) Praxis, n. 155, near the end. (7) Sess. 13, cap. 8. (8) Vera Sposa, c. 18, § 3.

Chapter IV: On Reserving the Sacrament of the Most Holy Eucharist

1583. "The custom of reserving the holy Eucharist in the sacrarium is so ancient that even the age of the Nicene Council recognized it."[9] But lest so great a Sacrament be treated irreverently, many things have been prescribed by the Church concerning the manner of reserving it, all of which can be read among authors of liturgical Institutions. Here we shall hand down only a few things, and those which are of greater moment, excerpted from the Roman Ritual.[10]

1. "He," the pastor, "ought to care that perpetually some consecrated particles be preserved, in that number which can be sufficient for the use of the sick and of the Communion of other faithful." Yet the Most Holy Sacrament cannot be kept in any church whatever, but only in cathedrals, parochial or quasi-parochial churches, for example those which are had in hospitals and exempt colleges. From privilege it can also be kept in churches of Regulars, and of Nuns living under enclosure. But in other churches, even collegiate ones, it cannot be reserved without pontifical Indult, which regularly is not customarily conceded for private Oratories, nor for rural chapels, unless there is a concourse of the people and distance from the parish.[11]
2. The Most Holy Eucharist is to be reserved "in a pyx of solid and decent material, and clean, well closed with its own cover, covered with a white veil." The pyx, as far as can be done, should be of gold or silver; yet in very poor churches one of tin is permitted, provided it is gilded within. Under it, while it contains the Most Holy Sacrament, there should always be a clean corporal or at least a pall.
3. Let the pyx with the Most Holy Sacrament be placed, "as far as the matter allows, in an adorned tabernacle locked with a key. But this tabernacle should be covered with a conopaeum, and empty of every other thing"; within it should be covered with gold or silver, or at least with silk cloths of white color.[12]

It ought to serve only for reserving the Eucharist: whence neither Relics, nor Holy Chrism, nor Oil of the infirm can be placed in it.[13] The key is to be kept only by the pastor or another priest; among Religious by the Sacristan, and among Nuns by the Chaplain.[14] The conopaeum should be of white color, or suitable to the Office of the day.[15] It is not licit, for the sake of devotion or ornament, to place anything on top of the tabernacle besides the cross,[16] or to place anything before its little door.[17]

4. The tabernacle, where the Most Holy Eucharist is reserved, "should be placed on the high altar or on another which seems more convenient and decent for the veneration and worship of so great a Sacrament; so that no impediment is brought to other sacred functions or ecclesiastical offices." The Most Holy Eucharist can be reserved on only one altar,[18] and regularly ought to be on the high altar as being more worthy.[19] In cathedrals let an altar be designated which is not in view of the choir, on account of pontifical functions, which are performed with the back turned toward the altar.[20]
5. "Let several lamps before it, or at least one, shine continually day and night." Faculty of reserving the Most Holy Eucharist without a light can be had only from Apostolic Indult.[21] - Moreover, the S. R. C. on July 9, 1864,[22] declared: "that generally olive oil is to be used; but where it cannot be had, it is to be remitted to the prudence of Bishops that the lamps be nourished from other oils, as far as can be done, vegetable ones."[23] But if, because of gravely culpable negligence of the pastor, or of him to whom that care has been committed, for an entire day, or several entire nights, the light does not burn before the venerable Sacrament, it is a mortal sin, as authors commonly teach; otherwise if it does not burn for only one hour.[24]
6. The pastor "will also care that all things ordained for the worship of the Sacrament itself be whole and clean, and be preserved."

7. He will renew "the particles of the Most Holy Eucharist frequently," namely once a week, or at least every other week.[25]

"But the hosts or particles to be consecrated should be fresh" (cf. n. 1540); "and when he has consecrated them, let him first distribute or consume the old ones." Therefore let him beware lest particles recently consecrated be mixed with the old; but when all these have been distributed or consumed by himself, let him not omit to purify the pyx.[26] - If a larger host for the exposition of the Most Holy Sacrament is to be renewed, the priest himself must consume the old one; for it is not licit to break it and distribute it to the faithful.[27]

(9) Trent, sess. 13, cap. 6. (10) De Euchar., cap. 1, n. 5 seqq. (11) Book VI, 424, see Hic ultimo. (12) S. C. EP. and REG., October 26, 1575; cf. Collect. S. Sed., n. 329. (13) S. C. EP. and REG., May 3, 1693; cf. Crispino, Visita pastoral., p. II, § II, n. 9. (14) Cf. Collect. S. Sed., n. 334 and 335; cf. Lucidi, cap. 1, n. 100 and 101, where various decrees are had. (15) Ibid., n. 332, and apud Gardellini, n. 5221, ad 12; S. C. R., July 21, 1855, in Briocen. (16) Collect. S. Sed., n. 330; and Gardellini, n. 4578 and 4777. (17) Collect. S. Sed., n. 331; Gardellini, n. 5033, September 6, 1845. (18) Gardellini, n. 3392, ad 3, July 21, 1696. (19) Cf. Lucidi, cap. 1, n. 91. (20) Gardellini, n. 5023, June 14, 1845; and Lucidi, ibid., n. 91. (21) Cf. Konings, I, p. LXXII, n. 24. (22) Gardellini, n. 5331, July 14, 1864. (23) In Supplement to the Roman Ritual, p. 16. (24) Book VI, 248; cf. Analecta J. P., series 1, p. 1306, where there are more things. (25) Gardellini, n. 4623, December 16, 1826; cf. Schober, S. Alph. de Caerem. Missae, cap. 11, n. 6, note 10. (26) Gardellini, n. 2602, 3, September 3, 1672. (27) Schober, loc. cit., n. 6; Gardellini, n. 2602, 3, September 3, 1672.

1584. It is asked: What is to be noted concerning the EXPOSITION of the Most Holy Eucharist?

Resp. A twofold exposition is distinguished, namely private and public. It is private when the pyx, covered with its own veil, is left in the open tabernacle. But it is called public when the Most Holy Eucharist is drawn out of the tabernacle and exposed uncovered to public veneration.[28]

I. PRIVATE exposition is permitted on account of a private cause, nor is license of the Ordinary needed.[29] What things are to be observed in it will be evident from the following decree:

"Whenever, from a private cause, the Most Holy Eucharist seems to be exposed, let it never be drawn out from the tabernacle, but, with the pyx veiled, let it be placed in the open little door of the same tabernacle, with the assistance of some priest, clothed in stole and surplice, and with at least six wax lights. We command the same to be observed in churches of seculars."[30] Yet if an old custom flourishes of drawing out the sacred pyx for blessing the people, it can be preserved.[31] - In certain regions, exposition is sometimes made by drawing the pyx out of the tabernacle and placing it in the throne in place of the monstrance: this manner, says Gardellini,[32] is opposed to the customs of the Roman Church, and therefore is not to be permitted. - But if the usage has now prevailed, it can be permitted by the Bishop.[33] Such an exposition, however, is to be held not as private, but as public, even if less solemn.

II. PUBLIC exposition is not permitted, unless on account of a public cause (a)[vol2-0026-note-a] and with the license of the Ordinary, to whom it pertains to judge concerning the cause.[34] - Moreover, "if some private person procures this exposition to be made for promoting public devotion, then that seems to be a public rather than a private cause."[35]

That public exposition be made licitly, besides the consent of the Bishop, decency is required; wherefore we note these things:

1. The Most Holy Sacrament ought not to remain exposed unless at least six wax candles burn on the altar, from the Decree of the S. R. C., March 15, 1698,[36] and unless some adorers themselves stand by without interruption.

2. During exposition, according to the Clementine Instruction for the exposition of Forty Hours, there ought to be neither relics nor images of Saints on the altar, except of adoring Angels; but the cross can be left or removed, according to the custom of places, according to the S. R. C., September 2, 1741.[37] Moreover, it must be noted what the S. Rit. C. responded on June 4, 1874, in Lisbon, namely: "that the Clementine Instruction does not oblige outside the City, yet those who strive to conform themselves to it are to be praised, unless something else is established by the Ordinaries of places."[38]

3. At the altar on which the Sacrament is exposed, it is not licit, unless necessity urges or even custom, to celebrate Masses or sing them except for repositioning it. Thus from several decrees of the S. R. C.[39] Yet contrary custom ought not to be removed if the faithful would be affected with sadness from this, or if it concerns immemorial custom.[40]

4. To one asking whether the Most Holy Sacrament should frequently be exposed for public adoration, Gardellini responded:[41] "Provided every danger of irreverence is absent, and the Ordinaries of places diligently watch, and do not permit the Sacrament to be exposed to public veneration unless this is done with due homage and sign of reverence; the present discipline of the Church does not seem alien from granting frequent exposition." - Yet exposition "should not be too frequent; for excessive frequency could become a cause why something would be diminished from reverence toward so great a Sacrament."[42]

But that pastors and confessors may promote public worship of the Most Holy Eucharist as much as possible, the Council of Bordeaux[43] piously and gravely exhorts them thus: "Since that most loving Savior wished to be present in His tabernacle not only in use, but permanently, let them very much commend and confirm by example the pious practice of VISITS TO THE MOST HOLY SACRAMENT, by which those approaching with confidence to the throne of grace may obtain mercy, and find grace in opportune help."[44]

(vol2-0026-note-a) "Today, however, general practice in the City permits, on account of a private cause, as for obtaining health, that a triduan devotion with exposition of the Most Holy Sacrament be instituted." Thus Haringer in the second edition of the moral theology of St. Alphonsus, ad VI, n. 424, 16. (28) Cf. Gardellini, Proem. to the Clement XI Instruction for the Oration of Forty Hours, n. 13, and § XXXVI, n. 2. (29) Benedict XIV, Instit. 30, n. 16. (30) S. C. EP. and REG., December 6, 1602, apud Benedict XIV, loc. cit., n. 21. (31) Benedict XIV, loc. cit., n. 23. (32) Clementine Instruction, § 36, n. 26, 6m, and n. 4748, ad 4. (33) Cf. Gardellini, n. 4181, ad 9, May 7, 1746, and n. 4237, ad 13, December 22, 1753, and Clementine Instruction, § 12, n. 6. (34) Gardellini, ibid., § 36, n. 3. (35) St. Alphonsus, Book VI, 424, 16. (36) Gardellini, n. 3464. (37) Gardellini, n. 4119, ad 5; cf. Schober, c. 2, n. 18, note 32. (38) Gardellini, n. 5585. (39) Cf. Gardellini, n. 2508, August 9, 1670, and n. 2542, ad 6, June 13, 1671. (40) Cf. Gardellini in Clementine Instruction, § 12, n. 6. (41) Ibid., § 36, n. 6. (42) Book VI, 424, 16. (43) Year 1850, tit. II, c. 8, n. 2, apud Collect. Lacen., tom. IV, 564. (44) Cf. St. Alphonsus, pamphlet Visite al SS. Sacramento.

Dissertation II: On the Most Holy Eucharist insofar as It Is a Sacrifice

1585. Those things having been set forth which regard the Most Holy Eucharist insofar as it is a Sacrament ordained to our sanctification, it remains that we speak of this most august mystery

insofar as it is a SACRIFICE, by which we worthily exhibit to the divine Majesty that supreme worship which befits It. The oblation of this Sacrifice is called Mass, drawing its origin from the word Mission, either because through this Sacrifice Christ is sent to us, or because an oblation is sent by us to God; or because formerly, when the part which precedes the Offertory had been completed, the catechumens were dismissed; or finally, because, the Sacrifice now completed, the people are dismissed with these words: *Ite, Missa est*.[1]

Those things which come to be said concerning the Sacrifice of the Mass we divide into two chapters: in the first we shall speak concerning this holy Sacrifice considered in itself; in the second concerning those things which regard its celebration.

(1) Cf. Aversa, De Sacrif. Missae, at the beginning.

Chapter I: On the Sacrifice of the Most Holy Mass Considered in Itself

Three things are to be investigated here: 1. what the true notion of the Sacrifice of the Mass is; 2. what its value and fruit are; 3. how its application is made.

Article I: On the Notion of the Sacrifice of the Mass

1586. DEFINITION. Sacrifice, taken in the broad sense, is every action which redounds to the glory of God, as prayer, almsgiving, etc., according to that Ps. 6: "Offer to God the sacrifice of praise"; and Ps. 50: "A sacrifice to God is a troubled spirit." But strictly it is defined: An oblation made to God through the alteration of some thing as a sign of supreme dominion, from legitimate institution. Thus commonly with Suarez, etc.[2]

"It is said 1. Oblation for the genus, in which it agrees with other oblations. 2. Made to God, because sacrifice is offered to God alone, not to the Saints. 3. Through the alteration of some thing; for alteration distinguishes sacrifice from other oblations. 4. As a sign of supreme dominion; for by such a sign we signify that we and ours can be destroyed by God as by the supreme lord, just as the thing offered is altered. 5. From legitimate institution; but this institution requires three things: that the sacrifice be made by public authority, that it be made in the name of the whole people, and that it be made by a priest as legitimate minister."[3]

DIVISION. "On the part of the end, sacrifice is distinguished into latreutic, which is offered merely in homage to God; eucharistic, in thanksgiving; propitiatory or expiatory, unto remission of fault or punishment; impetratory, for obtaining goods from God."[4]

(2) P. 3, disp. 74. (3) Book VI, 304, note 1; cf. Lugo, De Euch., Disp. 19, sect. 1-8. (4) Book VI, 304, note 2.

1587. Principles. I. The Mass is a true and properly so-called SACRIFICE, by which the BODY AND BLOOD OF JESUS CHRIST is offered to the divine Majesty, under the species of bread and wine. - This is clear 1. from Trent, which, sess. 22, can. 1, defined thus: "If anyone has said that in the Mass there is not offered to God a true and proper Sacrifice, or that to be offered is nothing other than Christ being given to us to eat, let him be anathema." - It is clear 2. from reason; for all the conditions of a true sacrifice are verified; for the Mass is: 1. an oblation made to God, since Christ Himself is offered to God the Father; 2. this oblation is made through the alteration of some thing; for through consecration and through consumption, as will be said

below n. 1589, q. 1, 4th opinion, Christ is mystically slain, and thus there is had the alteration required for sacrifice;[5] 3. it is made besides as a sign of supreme dominion; for the Sacrifice of the altar is principally ordained to this end; 4. it is made from legitimate institution; for it was instituted by Christ with respect to that which pertains to the essence of the Sacrifice.[6]

"But the Sacrifice of the Eucharist, instituted in the law of grace, by which all ancient sacrifices ceased, perfectly contains the meanings of all of them: for it is latreutic in recognition of divine excellence; it is eucharistic in thanksgiving; it is impetratory of graces through the merits of Christ; it is expiatory of sins, because through it God is moved to mercy."[7] See a fuller proof and exposition of this doctrine among the Dogmaticians.

(5) Book VI, 304, note 3. (6) Ibid. (7) Ibid., note 2.

1588. II. The unbloody Sacrifice of the Mass is THE SAME IN SPECIES as the bloody Sacrifice OF THE CROSS, both because the same victim is offered by the same highest and eternal Priest, and "because the formal reason of sacrifice is the same, since it is offered in protestation of the supreme dominion which God has over life and death. Therefore the Sacrifice of the altar, as Trent says, does not indeed differ essentially from the Sacrifice of the cross, but only accidentally, with respect to the manner of offering, namely because: 1. In that of the cross real death intervened; in this mystical death intervenes. 2. That was offered by the Redeemer Himself on the altar of the cross; this is offered by the ministry of priests. 3. That was meritorious, because there the price of our redemption was paid; but this is not meritorious, since here only the merits of Christ are applied."[8]

(8) Ibid.

1589. Questions. Q. 1. In what does the ESSENCE of the Sacrifice of the Mass consist?

Resp. Several opinions are present. The FIRST says that it consists in consumption alone, because in that alone is found destruction or alteration of the victim. The SECOND says that it consists in the oblation which follows the consecration, with these words: "Whence also mindful," etc., since sacrifice is nothing other than oblation. These two opinions do not seem probable. - The THIRD teaches that it consists in consecration alone, because in consecration all things required for sacrifice are present, namely the oblation, which is already made in exercised act, and the destruction or alteration of the victim, while by force of the words the Body is now separated from the Blood of Christ. But the consumption pertains to the integrity of the sacrifice, and therefore is prescribed by divine law. "This opinion," says St. Alphonsus, "is indeed very probable and more common, but the FOURTH opinion seems to me more probable, although in Tome I I adhered to the third, which Bellarmine, Tournely, etc., hold. This opinion says that the essence of the Sacrifice consists partially in consecration and partially in consumption; for in the consecration the victim is placed, and in the consumption it is consumed." The principal reason is "because true and real sacrifice requires the true and real destruction of the thing offered, which is not had except through the consumption of the priest, by which the sacramental existence of Christ is destroyed."[9]

Q. 2. Whether for the essence of the Sacrifice the consecration OF EACH species is required?

Resp. It is controverted. - The first opinion denies, because through the consecration of one species whole Christ is placed and offered, and at the same time the death of Christ is already represented, and there is had the oblation and slaying of the victim. But the second opinion, more common and more probable, affirms; and the reason is that, from Trent, sess. 22, cap. 1, the Sacrifice of the Mass ought to be commemorative of the bloody Sacrifice of the cross, according to that saying of Christ the Lord: "Do this in commemoration of me." Now, if only one species were consecrated, although by force of the words the bloodless body would be placed, or although by consumption the slaying would be had, nevertheless the shedding of blood would not be expressed, which happens only through the consecration of each species, through which the separation of blood from body is properly signified, according to the saying of St. Cyril: "By the sword of the words the blood is separated from the body." - By this very reason, each species ought to coexist at the same time upon the altar: wherefore, from the Rubric, if each cannot be had, the Mass is to be interrupted, unless one species has now been consecrated.[10]

Q. 3. Who is the OFFERER of the Sacrifice of the Mass?

Resp. 1. The principal and primary minister is Christ, since, as Trent teaches in the cited place, cap. 2, it is the same one offering through the ministry of priests who offered Himself on the cross; nor otherwise could Christ be called a priest forever, according to the order of Melchisedech.

2. The secondary minister and one subject to Christ, who nevertheless truly and properly offers, is every and only validly ordained priest, although a heretic, excommunicated, degraded, etc.[11]

3. But the Church and the faithful concur in the Sacrifice either generally or specially; whence they can be said morally to offer it.

And indeed the Church offers generally through priests, as her delegates; whence in the Canon it is said: "This therefore the oblation of our service, and also of Thy whole family," that is, of the Christian people. - But the faithful concur specially in the Sacrifice when they promote it in a special manner, for example by ministering, or assisting, and most of all by giving a stipend.[12]

(9) Book VI, 305, from the second edition; whence it is to be corrected in Tome I, Book III, n. 310; Exam. Ord., n. 96; cf. Panzuti, Book VI, n. 184. (10) Book VI, 306; cf. Benedict XIV, De Sacrif. Missae, L. 3, c. 10, n. 18 and 19. (11) Cf. Trent, sess. 23, c. 1. (12) Book VI, 307; Op. in Trid., sess. 22, n. 18; cf. Lacroix, L. VI, p. 2, n. 23.

Article II: On the Value and Fruit of the Sacrifice of the Mass

1590. "VALUE is that efficacy which the Mass has from the dignity of the one offering and of the thing offered, for conferring goods on the one offering and on those for whom it is offered. But the FRUITS are the goods themselves which, in view of the Sacrifice, God confers. Whence value differs from fruit as cause from effect."[13]

The fruits or effects of the Mass are distinguished from a threefold head: 1. on the part of the thing; 2. on the part of the cause; 3. on the part of those participating.[14]

(13) Book VI, 312, note 1; cf. Lancicius, opusc. 13, L. 2, c. 9 and 10; Lugo, Disp. 19, sect. 9. (14) Book VI, 312, note 2.

1591. I. On the part of the THING, the EFFECT of the Mass is fourfold: namely adoration and thanksgiving in relation to God; remission both of sins and of punishments, and impetration of

goods in relation to men. It is clear from the definition of the Church in Trent, sess. 22, can. 3, where it is said thus: "If anyone has said that the Sacrifice of the Mass is only of praise and thanksgiving, or a bare commemoration of the Sacrifice accomplished on the cross, and not propitiatory; or that it profits only the one consuming, and that it ought not to be offered for the living and the dead, for sins, punishments, satisfactions, and other necessities: let him be anathema" (cf. n. 1599).

Moreover, concerning the effects of the Mass, or concerning the fruits in relation to men, let the following be noted: 1. Remission of sins, whether mortal or venial, is not made immediately through the Sacrifice of the Mass, but only mediately, insofar namely as "God is immediately placated in view of this Sacrifice, and then is moved to conceding the gift of penance, through which sins are immediately deleted."[15] 2. Remission of punishments is conceded immediately to just men for whom the Sacrifice is offered. For the Tridentine Synod teaches that "the souls detained in Purgatory are helped by the suffrages of the faithful, and especially by the acceptable Sacrifice of the altar." But the dead cannot be helped in another way than by immediate remission of punishments.[16] 3. The impetration of goods regards especially spiritual goods: actual graces are immediately obtained for performing acts by which habitual grace increases. Secondarily temporal goods are obtained, insofar as these profit the soul.[17]

It is asked: Whether the Sacrifice of the Mass produces its effects INFALLIBLY?

Resp. Affirmatively, unless there is an obstacle in the subject. But it works according to the measure of the good disposition which is in the man; or, if it concerns a Mass for the dead, according to an ordination of divine Wisdom unknown to us.

(15) Ibid., 311, 1. (16) Ibid., 2. (17) Book VI, 311, 3, 4.

1592. II. On the part of the CAUSE, a twofold FRUIT is distinguished: namely *ex opere operato*, and *ex opere operantis*. The fruit *ex opere OPERATO* is that which is conferred in view of the merits of Christ: it is the principal fruit, independent of the probity of the celebrant, and it is conceded equally whether the Mass is celebrated by a good or by a bad priest. And the same must be held concerning the prayers which are said in the Mass: they avail, although they are said by a priest who is a sinner; for he prays in the name of the Church, which is always pleasing to God. The fruit *ex opere OPERANTIS* is that which is conferred in view of the merit and devotion of the celebrant: it is an accidental fruit, and is greater or lesser according to the holiness of the celebrant. Hence Pope Alexander says: "The more worthy priests have been, the more easily they are heard for those for whom they cry out."[18]

(18) Ibid., 312, note 2, and near the end.

1593. III. On the part of those PARTICIPATING, a fourfold FRUIT is had, namely: most general, general, special, and most special.

1. The most general fruit, called general by others, is that of which all the faithful, both living and dead, somehow become participants. For since the minister, in any Sacrifice whatever, acts in the name of the Church, the Sacrifice profits the whole Church.

2. The general fruit, included by others under the special, is that which falls to the faithful who assist at the Sacrifice, or concur in it by ministering vestments, lights, hosts, etc. This fruit does not depend on the intention of the celebrant, but on the devotion of the faithful, who by their own peculiar work become, in a certain way, offerers.
3. The special or ministerial fruit is that which falls to those to whom the Mass is applied. This is ordinarily intended where speech is made simply of the fruit of the Mass.
4. The most special fruit is that which falls to the priest alone celebrating, and it is altogether proper to him.[19]

(19) Ibid., note 2; cf. Benedict XIV, De Missae Sacrif., L. 3, c. 21.

1594. It is asked: Whether the Sacrifice of the Mass has INFINITE value?

Preliminary note. It is certain that the Sacrifice of the Mass in itself, and with respect to sufficiency, is of infinite value, by reason of the infinite dignity of Christ, who in this Sacrifice is victim and principal offerer.

But the question is whether the Mass, even from the institution of Christ, has infinite efficacy or virtue of working?

Resp. A twofold opinion is present. - The first, probable, denies, and teaches that the Sacrifice was instituted by Christ in such a way that it produces a determined effect, namely so that, applied for several, it profits each less than if it were applied for only one. It is proved from the prohibition of the Church, which forbids that satisfaction be made by one Sacrifice for several asking for Mass. But the second opinion, more probable, affirms, and holds that the VIRTUE of the Sacrifice of the Mass is infinite both intensively and extensively. It is called intensively infinite insofar as it can cause a greater and lesser fruit according to the measure of the disposition of the man; but extensively insofar as it can produce infinite effects, and profit one alone and infinite men in this way. But with respect to EFFECT, the Sacrifice of the Mass is said to be finite, not now from its institution, but from the finite capacity of men for whom it is offered. The reason of this opinion is that the Sacrifice of the Mass is the same, although offered in a diverse manner, as the Sacrifice of the Cross, which was of infinite value. Whence, according to this opinion, the Mass profits equally when applied for several as if it is applied for one. But the prayers of the Mass instituted by the Church profit someone more if they are applied to him singly than if by the priest to several: as is evident from the Council of Constance, where this article of Wyclif was condemned: "Special prayers applied to one person by prelates or religious do not profit the same more than general prayers, other things being equal."[1]

(1) Book V, 312, Hic autem.

1595. Let it be noted for practice: 1. However much this second opinion seems true, nevertheless it is not licit by one Mass to satisfy several stipends; for the stipend is not given as the price of the fruit of the Mass, but for the support of the minister; whence, since he already has support from one stipend, the title fails why he should receive another. The same is evident from proposition 10 condemned by Alexander VII: "It is not against justice to accept a stipend for several Sacrifices, and to offer one Sacrifice."[2]

2. The probability of the first opinion standing, the priest cannot, for a certain stipend, apply an uncertain fruit of the Mass. Yet, the Mass having been applied for him who gave the stipend, he can apply it at the same time for himself, or from charity for others, not indeed absolutely, but under condition: namely with the right of him preserved for whom he is held to apply the Mass[3] (cf. n. 1601, q. 10).

(2) Ibid., Nec obstat, 1. (3) Ibid., n. 336, end.

Article III: On the Application of the Sacrifice of the Mass

1596. APPLICATION is the intention of the mind by which the priest designates the person whom he wishes to become participant in the fruit of the Sacrifice. Concerning this application THREE things are asked: 1. whether it is required, so that the Sacrifice may profit the faithful; 2. what sort it ought to be; 3. for whom it can be made. Hence the following:

1597. Principles. I. That the special fruit of the Mass fall to him for whom it is offered, the application of the celebrant is NECESSARY. - The reason is that this fruit, proceeding from the Sacrifice insofar as it is the action of Christ, is strictly owed to no one; therefore, unless it is specially applied, it comes to no one.[4]

It is said 1. that the special fruit of the Mass; for the most general and general fruit, as also the most special, does not require application, since the faithful and the priest, insofar as they are offerers, certainly always perceive it.[5]

It is said 2. the application of the celebrant is necessary. For application is altogether proper to the celebrant, because it is an act of the power of Order. "Whence, if a Religious applies a Mass against the will of the Superior, he indeed applies illicitly, but validly; because the subject, with respect to the power of Order which he then uses, does not lie under the Prelate."[6]

It is asked: Whether the priest can apply the MOST SPECIAL fruit to others?

Resp. It is controverted, but authors more commonly deny. Therefore, since the application of this fruit is very uncertain, the following proposition was deservedly condemned by Alexander VII: "A doubled stipend can licitly be accepted by a priest for the same Mass, by applying to the one asking a part even of the most special fruit corresponding to the celebrant himself, and this after the decree of Urban VIII."[7]

(4) Cf. Const. Auctorem Fidei, where proposition 30 of the Synod of Pistoia, which denies this doctrine, is condemned.
(5) Cf. Lugo, De Euch., Disp. 19, n. 230. (6) H. A., XV, 79; Book VI, 334. (7) Book VI, 318, Hic autem.

1598. II. That application of the Mass be valid, it ought to be made before consecration, through an INTENTION at least habitual, and in some way determined. Thus commonly. - Therefore THREE CONDITIONS are required, namely:

1. It ought to be made before consecration, at least of the second species, lest it be exposed to danger of nullity; because the Sacrifice produces its effect while it is being completed, nor is that effect suspended.[8] But it is probable that the Sacrifice is completed by consecration alone, as we said above (n. 1589, q. 1).

2. An intention at least habitual is required; for just as interpretative intention does not suffice, so neither is actual or virtual required, but habitual suffices, that is, had and not revoked. "The reason is that application of Mass has itself after the manner of a verbal donation, which, once made, is valid until it is expressly revoked."[9] Here it can be asked: what application is to be judged valid if the priest, unmindful of the prior intention, elicits a new one? Resp. That one which is recognized as predominant. Therefore if the prior application was more universal and revocatory of the later, it is valid. If each were equal, the later would prevail, as happens in a testament. In doubt, it suffices that the priest on another occasion apply the Sacrifice to him to whom it was not applied the first time. For it is certain that one or the other application was valid.[10]

3. A determined intention is required, at least implicitly; for otherwise there would not be a reason why the fruit would fall to one rather than to another. But implicit determination suffices, because this, by some general term, already reaches persons in particular.

(8) Book VI, 335. (9) Ibid., q. 1. (10) Lugo, De Sacram. i. g., disp. 8, n. 124.

1599. Hence: 1. The application is valid if you say: "I offer this Sacrifice for him who gave the stipend"; "for whom the Superior wishes the Mass to be made"; "for whom the foundation requires"; "for the greatest sinner"; "for the soul afflicted by the graver temptation"; "for the soul of Purgatory more deserted than the rest, 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 written or determined in the mind, at the beginning of the week," etc. - On the contrary, that application is not valid: "I offer that God, or the Blessed Virgin Mary, may apply, or may wish to apply, this Mass"; the reason is that, from the institution of Christ, it belongs to the priest, not to God or the Blessed Virgin Mary, to apply or determine the Sacrifice.[11]

2. If someone accepts a stipend from ten persons for as many Masses, he does not seem to satisfy by applying individual Sacrifices for individuals indeterminately. But if he intended to apply each Mass to all those ten persons, by applying to each one the tenth part of each Mass, he satisfies well; because the fruit is divisible.[12]

3. If stipends have been received confusedly from diverse persons, the application is sufficiently determined if it is made according to the order in which the stipends were accepted, according to the axiom: "he who is prior in time is stronger in right." Whence, if you have accepted twenty stipends in this way, no other care is incumbent upon you, except that you make Mass twenty times, to the intention of the giver. Yet interruption can intervene, provided the Masses are celebrated within the due time.

4. Application under a condition already fulfilled is valid, for example: if Peter is dead, I apply for his soul; but not under a future contingent condition, for example: I apply to him for whom Titius, when asked, shall have wished.[13]

It is asked: Whether application to the intention of him who is going to offer the first stipend is valid?

Resp. Such application is certainly illicit, from the prohibition of Clement VIII, which Paul V promulgated on November 15, 1605, forbidding this custom "as dangerous under several names, liable to scandals of the faithful, and excessively aberrant from the ancient custom of the Church." Indeed, not rarely it would be invalid, for example if afterwards a stipend were offered for liberation from an illness, etc., which did not yet exist while the Mass was being applied; for, that this application be valid, the fruit of the Sacrifice would have to remain suspended until the existence of the illness, which does not seem credible. Nevertheless, if the priest foresees that shortly Masses are going to be requested from him for a deceased person, he can apply them meanwhile, and afterwards receive the stipends; because in this case they are already offered for a determined person.[14]

(11) Cf. Sporer, pars 2, c. 4, n. 279. (12) Book VI, 335, q. 2. (13) Book VI, 337. (14) Ibid., 337.

1600. III. The Sacrifice of the Mass can be offered both for the faithful LIVING, whether just or sinners, and for the DEAD in Christ and not yet fully purged. Thus Trent.[15] - It is said: for the dead in Christ not yet fully purged; for it can be offered neither licitly nor validly for the damned, who are irrevocably separated from the Body of Christ. And the same must be said of children dead without Baptism, because these also have been constituted in an immutable state.[16] But neither can it be offered for the Blessed, since they have already attained the end to which the fruits of the Mass are ordained. Yet it is licit to celebrate Masses in their honor, namely to this end, that thanks may be paid for the benefits which have been conferred on them by God, and that their patronage may be implored, or in other words, that they may deign to intercede for us in heaven, whose memory we keep on earth.[17]

As regards the living, Mass, by reason of itself and with respect to valid application, can be offered for all human beings, no otherwise than the Sacrifice of the Cross was offered for all. But if it ought not to be applied for some, this must be referred solely to the prohibition of the Church. Wherefore let there be the following:

(15) Sess. 22, c. 2. (16) Cf. Collectan. S. Sed., n. 374. (17) Salmant., tract. 5, c. 2, n. 25; Trent, sess. 22, c. 3.

1601. Questions. Q. 1. Whether it is licit to offer the Sacrifice of the Mass for the EXCOMMUNICATED?

Resp. Distinguish. 1. It is not licit for excommunicated persons to be avoided. Yet licitly "a priest can offer the action of sacrificing, insofar as it depends on the private merit of the one operating, for such an excommunicated person, or remember him in particular in the Memento."[18]

2. It is licit for tolerated excommunicated persons, according to the more probable opinion. "The reason is that favorable laws are to be understood with every breadth. Therefore when it was conceded to the faithful to communicate with the tolerated, it was also conceded to offer public prayers for them; for to communicate imports this also, as is had from cap. 28 and cap. 38, *de sent. excomm.*"[19] - And these things are valid both for the living and for the dead.

Q. 2. Whether the Sacrifice of the Mass can be offered for INFIDELS, HERETICS, and SCHISMATICS?

Resp. 1. For these LIVING persons, especially for their conversion, it can be offered; for they are capable of at least impetratory fruits, and the certain prohibition of the Church extends itself only to excommunicated persons to be avoided, among whom the aforesaid are not to be numbered. It was requested: "Whether it is licit for priests to celebrate Mass for the intention of Turks and other Infidels, and to accept alms from them for the application of the Mass? - And the S. C. S. OFF. responded, July 12, 1865: "Affirmatively, provided scandal is not present, and nothing is specially added in the Mass, and, with respect to the intention, it is clear that nothing evil, or of error, or of superstition underlies in the Infidels bringing the alms."[20]

Resp. 2. But indeed it is not licit publicly or solemnly to celebrate Mass for these same DEAD persons, even if the condition were added: if perhaps they died in good faith in only material heresy. "For these more secret mysteries of divine grace by no means pertain to the external judgment of the Church."[21] And the general rule is that to those to whom ecclesiastical burial has had to be denied, other public suffrages of the Church are also denied. But it is licit privately to pray for them under the Memento of the dead in solemn Mass, or even secretly to apply the Mass of the day, not of Requiem, provided scandal is avoided. Thus, for example, a priest to whom a stipend for some heretic in particular is offered will be able to respond that he can apply the Mass of Requiem for all the faithful departed, with the intention of helping also the soul of that deceased person, if this is accepted before God.

Q. 3. Whether it is licit to offer the Sacrifice of the Mass for the FAITHFUL who died in the act of sin?

Resp. Affirmatively; nevertheless, if ecclesiastical burial is to be denied to someone, Mass ought not to be celebrated publicly, that is, with the people knowing, for him. - Recall the things said at n. 1387.

Q. 4. Whether the Mass profits the DEAD from the infallible promise of Christ?

Resp. Some deny; but others more truly and more commonly affirm. The reason is that, since it is of faith from Trent that Mass is usefully offered for the dead, this cannot happen except *ex opere operato*, that is, from the promise of Christ, which indeed is had in those words: "This is my Blood of the new Testament, which will be poured out for many unto remission of sins."[1]

Q. 5. Whether a Mass OF REQUIEM profits the dead more than a Mass of the Saints?

St. Thomas responds:[2] "On the part of the Sacrifice offered, it profits the deceased equally, of whatever Mass it is said; but on the part of the prayers, that one profits more in which there are prayers determined for this; yet this defect can be recompensed through the greater devotion either of him who says the Mass, or of him who orders it to be said, or again through the intercession of the Saint whose suffrage is implored in the Mass."

Q. 6. Whether, on the day of the Commemoration of all the faithful departed, Mass can be applied for SOME particular deceased person?

Resp. Affirmatively, from the decrees of the S. R. C. on August 4, 1663, and September 2, 1741,[3] where it was said that on that day "Sacrifices can be applied at will by priests celebrating, namely either for all the faithful departed, or for some only." Wherefore nothing prevents a stipend from being accepted for that Mass.[4]

Q. 7. Whether one celebrating satisfies by a Mass OF REQUIEM to the intention of the giver, if what this is is wholly unknown?

Resp. Affirmatively, according to the declaration of the S. R. C. on November 29, 1856.[5] Hence it is concluded that a Mass of Requiem is validly applied for a living person; which also will be done licitly if a sufficient reason accedes, for example if other vestments are not had.

Q. 8. Whether a priest satisfies if, thinking him for whom he ought to celebrate as dead to be now dead, he celebrates for him while still living?

Resp. Negatively; because the error is essential. For each person, while he lives, can provide for his soul in various ways, for example by gaining indulgences, etc.; not likewise after death.[6]

Q. 9. Whether the fruits of the Mass can be DIVIDED, so that the impetratory fruit is applied to one, the satisfactory fruit to another?

Resp. Affirmatively, according to the common opinion of the Doctors. Therefore in gratuitous Masses, the priest can divide the fruits at will. In Masses owed from obedience or fidelity, he can do this for that part of the fruit which he is not held to apply. Hence, for example, if a Mass is to be celebrated for thanksgiving, he can apply the satisfactory and impetratory fruit at will. But in Masses owed from stipend, this is not licit, since the whole applicable fruit is owed to the one giving the alms.[7]

Q. 10. What if the application is made TO NO ONE, or to one INCAPABLE?

Resp. The fruit, in this case, remains in the treasury of the Church. "But in practice, when it is doubted whether he for whom we offer is capable of the fruit or not, in gratuitous Masses it is advised to apply them either to ourselves, or to another under condition: if the person to whom they are applied is not capable. But in Masses owed from stipend, because probably the fruit falls to the benefit of the relatives of the one offering, from his implicit will, therefore then we cannot apply the fruit to whomever we wish, except under condition, lest prejudice be done to him to whom the obligation of applying is present."[8]

NB. Concerning Mass celebrated ON A PRIVILEGED ALTAR, see below, n. 1743.

(18) Book VII, 162; VI, 308. (19) Book VII, 164; VI, 309. (20) Collect. S. Sed., n. 371. (21) Gregory XVI, in Letter to the Abbot in Scheyern in Bavaria, February 16, 1842. (1) Book VI, 310, request 1. (2) Suppl., q. 71, a. 9, ad 5. (3) Gardellini, n. 2241, ad 9, and n. 4119, ad 4. (4) Book VI, 338. (5) Cf. Schober, p. 288, n. 6, where the text of the decree is had. (6) Book VI, 337, 5. (7) Sporer, p. 2, c. 4, n. 292 seqq. (8) Book VI, 336.

Chapter II: On the Celebration of the Sacrifice of the Mass

We shall deal, in a twofold article, with the celebration of Mass, and we shall treat: 1. concerning the obligation of celebrating; 2. concerning the things required for celebrating rightly.

Article I: On the Obligation of Celebrating

The obligation of celebrating can arise from various titles, of which three are commonly numbered, namely: 1. the priesthood itself; 2. the office committed to the priest; 3. the stipend accepted from the faithful. Now concerning each, several things.

§ 1. On the Obligation of Celebrating by Reason of the Priesthood

1602. Christ "commanded His Apostles and their successors in the priesthood that they should offer, by these words: Do this in commemoration of me, as the Catholic Church has always understood and taught."[9] Therefore it is of faith that a precept of sometimes celebrating was imposed by Christ on the universal priestly Order.[10] But whether this precept extends itself also to individual priests is disputed among the Doctors. Wherefore let there be the following:

(9) Trent, sess. 22, c. 1. (10) Ibid., can. 2.

1603. Questions. Q. 1. Whether individual priests, by reason of the Order received, and independently of any other title whatever, are held UNDER GRAVE obligation sometimes to celebrate?

Resp. 1. Some deny, scandal being excluded, which nevertheless they say is easily had if a priest abstains from celebrating for a long time, say for six or eight months. Wherefore, at least by reason of this danger, that opinion must scarcely be called practically probable.

Resp. 2. The far more common and more probable opinion affirms that individuals are held both by divine law and by ecclesiastical law. - The DIVINE precept is gathered from the words of Christ: Do this, etc., since no probable reason is present for restricting the precept to the priestly Order in general. Likewise from the words of the Apostle: "For every Pontiff... is appointed... that he may offer gifts and sacrifices for sins." But the ECCLESIASTICAL precept is proved from cap. *Dolentes* 9, *de celebr. Miss.*, where Innocent III vehemently reprehends priests "who scarcely celebrate the solemnities of Masses four times in the year."[11] St. Thomas gives the reason of this opinion, saying:[12] "Each one is held to use the grace given to him, when it has been opportune, according to that (2 Cor. 6): We exhort you that you not receive the grace of God in vain. But the opportunity of offering Sacrifice is attended not only by comparison to the faithful of Christ, to whom it is necessary to minister the Sacraments, but principally by comparison to God, to whom, by the consecration of this Sacrament, Sacrifice is offered. Whence to a priest, even if he does not have care of souls, it is not licit altogether to cease from celebration."

Q. 2. How often IN THE YEAR is each priest held to celebrate?

Resp. 1. Under grave obligation each one is held to celebrate only three or four times in the year, namely on the more solemn Feasts, as the far more common opinion affirms. - Indeed, many say that it suffices if the priest celebrates three or four times in the year, on any days whatever, provided due distance is observed, so that he does not abstain beyond six or eight months. And this opinion is conformable to the decree of the S. C. Conc., issued in the month of November 1696, where it is said: "One who, without a just cause, has not celebrated three or four times in the year, sins mortally, and can be punished by the Bishop."[13]

Yet others require more, and say that all priests are obligated to celebrating on individual Sundays and Feasts, especially the more solemn. But on account of the mere probability of this opinion, a strict precept cannot be asserted.

Resp. 2. Under light obligation priests are held to celebrate MORE OFTEN; as is gathered from these words of Trent: "Let Bishops care that these, that is, priests, celebrate Mass at least on Sundays and the more solemn feasts." Wherefore, says St. Alphonsus, "I would not know how to excuse from light fault that priest who could celebrate daily, with one day of the week excepted on account of

reverence, and without any just cause, but only on account of sloth, abstained from celebrating. For the priest celebrates not only for himself, but also for the good of the whole Church and of the Christian people, whose minister and intercessor he has been constituted, according to that of the Apostle: Every Pontiff, etc."[14]

Let the words of the Seraphic Doctor be carefully weighed by the priest, especially by the scrupulous one: "The priest who DOES NOT CELEBRATE," he says, "as much as is in him, deprives the Trinity of praise and glory, Angels of joy, sinners of pardon, the just of help and grace, those existing in Purgatory of refreshment, the Church of Christ of spiritual benefit, and himself of medicine and remedy against daily sins and infirmities."[15]

(11) Book VI, 313, doubt 1. (12) 3 p., q. 82, a. 10. (13) Book VI, 313, doubt 2. (14) Book VI, 359, Dub. deinde. (15) Opusc. De praeparat. ad Missam, cap. 5.

§ 2. On the Obligation of Celebrating by Reason of Office

By reason of the office which they have undertaken, all Pastors of souls are held not only to celebrate Mass, but also sometimes to apply it for the people. - That this twofold obligation may become better known, let there be the following:

1604. Principles. I. All pastors of souls are held, and indeed under grave obligation, to CELEBRATE Mass on individual Sundays and feasts of precept. - For the obligations of the people and of the pastor are correlative; whence on those days on which the people are held to hear Mass, on the same days the pastor also is held to celebrate it, as is had from Trent, saying: "But if they have care of souls, let them celebrate Masses as frequently as they may satisfy their office."[16] But if someone is legitimately impeded, he is held to supply through another, lest the people lack Mass.[17] By accident, the pastor is held to celebrate also on days other than the aforesaid, for example if the necessity of consecrating urges for ministering Viaticum; likewise if, on the occasion of the nuptial blessing or of funerals, the faithful reasonably ask. For the Ritual itself insinuates that these be performed with Mass accompanying. Nor, however, is he held to apply the fruit of the Sacrifice, unless he accepts a stipend. Thus the Holy Office, September 1, 1841.

(16) Sess. 23, cap. 14, de Ref. (17) Book VI, 326.

1605. II. All pastors of souls, similarly, under grave obligation, are held to APPLY Mass FOR the people on individual Sundays and feasts of precept. - This is clear from Trent,[18] saying: "Since by divine precept it has been commanded to all to whom care of souls has been committed, to know their sheep, to offer Sacrifice for them, etc." Therefore the obligation of celebrating for the people is OF DIVINE LAW, according to that John 21:17, Feed my sheep; but the Church has defined more accurately to whom this obligation extends itself, on what days it urges, and how it is to be fulfilled. These things must now be investigated singly.

(18) Sess. 23, cap. 1, de Ref.

1606. Questions. Q. 1. WHO are the PASTORS of souls upon whom the obligation of applying for the people is incumbent?

Resp. 1. They are: 1. Bishops, after possession of the See has been obtained,[19] administrators, or others marked by whatever title, who actually preside over a canonically erected diocese. Nor indeed are Capitular Vicars, the See being vacant,[20] or Vicars General held to this. - 2. Abbots having quasi-episcopal jurisdiction over clergy and over people with a separate territory.[21] - 3. Pastors, whether secular or regular; whether removable or irremovable; whether they have suitable support or do not have it; although immemorial custom to the contrary were present, as Benedict XIV declared.[22] 4. All those functioning in place of a pastor, such as both vicars-curate, to whom care of souls is so committed that habitual care remains with another, for example at Rome in St. Mary Major with the Chapter; and vice-pastors, or vicars, who, the parish being vacant, are deputed to preside over it.[23] But if someone has two distinct parishes,[24] or if a Bishop exercises the office of pastor, he is held to apply a twofold Mass.[25] Otherwise, however, if a Bishop rules two dioceses.

Resp. 2. Immune from this burden are priests who have only secondary or subsidiary care, as chaplains or cooperators of the pastor,[26] chaplains of Nuns,[27] chaplains of hospitals, colleges, and other places of this kind.[28] Likewise, titular Bishops are not bound by this law; nor Apostolic Vicars or missionaries, "provided it does not concern places in which episcopal Sees and parishes have already been canonically erected, and to which the Apostolic Vicar and missionaries have been sent to perform the functions of legitimate pastors." Thus the S. C. de Prop. Fide, March 23, 1863.[29]

Q. 2. Which are the FEAST DAYS on which pastors of souls are held to apply for the people?

Resp. They are all those which are numbered in the list of Urban VIII (cf. n. 654, q. 3),[1] as is clear from the Constitution *Amantissimi Redemptoris*,[2] in which Pius IX brings forward these things: "By these letters we declare, establish, and decree that pastors and all others actually exercising care of souls ought to celebrate and apply the sacrosanct Sacrifice of the Mass for the people committed to them, both on all Sundays and other days which are still observed from precept, and also on those which, from the indulgence of this Apostolic See, have been removed and transferred from the number of feast days of precept, just as the curators of souls themselves were bound when the mentioned Constitution of Urban VIII flourished in its full vigor, before feast days of precept were diminished and transferred.... This one thing we except, namely that when the divine Office has been transferred together with the solemnity to Sunday, only one Mass for the people is to be applied by the pastor."[3] Likewise, satisfaction is made by one Mass if the feast falls on a Sunday.

It is said Office together with the solemnity; for, if the solemnity alone is transferred, for example according to the privilege conceded to France and Belgium with respect to the feasts of Epiphany, Corpus Christi, Saints Peter and Paul, and the Patron of the place, and in several dioceses also with respect to the feasts of the Purification, Annunciation, Nativity, and Immaculate Conception of the Blessed Virgin Mary, Mass for the people ought to be applied on the very day on which the Offices of the aforesaid Feasts are commonly recited in the Church, as is clear from various decisions of the S. C. of the Council.[4]

Q. 3. HOW must the obligation of celebrating for the people be satisfied?

Resp. Pastors of souls are held to fulfill this obligation:

1. On the established days, unless legitimate dispensation has intervened. In the Bull *Cum semper*, Benedict XIV conceded to Bishops the faculty of dispensing with pastors laboring under grave

poverty, that on feast days they can apply for those giving a stipend to them, yet with the burden of celebrating on another day for the people. - But for a broader Indult, if grave reasons are present, recourse must be had to the S. Congregation OF THE COUNCIL.[5]

2. In the established place, namely in the parochial church, as is clear from various declarations of the S. C. of the Council.[6] Nevertheless it has been declared:[7] "A pastor legitimately absent on a feast day satisfies his obligation by applying Mass for his people in the place where he is staying; provided that another priest celebrates in the parochial church for the necessary convenience of the people, and explains the word of God." Nor indeed is it required that a solemn Mass be applied; a private Mass suffices.[8]

3. Through themselves; because it is a personal obligation, as the S. C. C. declared on September 25, 1847, in Mechlinien., doubt 4.[9] Therefore contrary custom cannot, but only a canonical cause can, furnish a sufficient reason that they may be able to celebrate through another. But a canonical cause is judged to be: 1. grave infirmity; 2. legitimate absence; 3. obligation of singing the conventual Mass;[10] 4. dispensation of the Superior. - But the celebration of a funeral Mass, although the corpse is present, is not a sufficient cause which can exempt from the personal burden.[11] Yet for suppressed feasts, of which no solemnity remains among the people, particular Indults are sometimes conceded, by force of which it is licit to remit the parochial Mass to the following day, if obsequies occur with the body present, or buried the day before, the blessing of spouses, etc.[12]

4. Those legitimately impeded are held to celebrate through others, because the obligation is not only personal, but at the same time real.[13] Wherefore the S. C. C. declared: "A pastor in any way legitimately impeded from celebrating Mass is held to have it celebrated on a feast day through another, and applied for the people, in the parochial church; but if this has not been done, as soon as he can, he ought to apply Mass for the people."[14]

(19) S. R. C., November 12, 1831, Marsorum; cf. Gardellini, n. 4669, ad 22. (20) Gardellini, ibid., ad 23. (21) S. C. de Prop. Fid., February 5, 1803, apud Lucidi, vol. I, p. 454, cap. 3, n. 367; cf. Leo XIII, Encycl. In suprema, June 10, 1882, Acta S. Sed., XIV, 529. (22) Bull Cum semper, August 19, 1744. (23) Cf. Schober, appendix 2, cap. 2. (24) Ibid., cap. 5; S. C. C., May 9, 1874; cf. Acta S. Sed., VIII, 33. (25) S. C. de Prop. Fide, March 23, 1863, apud Lucidi, vol. I, p. 453, cap. 3, n. 364, ad 8. (26) S. R. C., June 14, 1845, ad 3, 1; Gardellini, n. 5014. (27) S. R. C., December 7, 1844, ad 4, n. 4988. (28) S. C. C., June 2, 1860, apud Lucidi, vol. I, p. 450, cap. 3, n. 361. (29) Cf. Collect. S. Sed., n. 375, and Lucidi, vol. I, p. 451, cap. 3, n. 363. (1) Benedict XIV, Const. Cum semper. (2) May 3, 1858. (3) Thus in several dioceses of Germany the feasts of the Assumption and Nativity of the Blessed Virgin Mary are transferred. (4) Cf. Gury, II, n. 365-366. (5) Cf. Muller, III, § 21. (6) March 12, 1774, apud Lucidi, I, p. 449, n. 357. (7) December 14, 1872; Thesaur. Resol., tom. 131, Num. I; cf. Acta S. Sed., VII, 191. (8) S. R. C., February 27, 1847; Gardellini, n. 5079, ad 4. (9) Cf. Acta S. Sed., vol. XIV, 335; cf. Book VI, 326, Postquam. (10) Benedict XIV, Const. Cum semper, § 27. (11) S. C. C., January 26, 1771, in Fesulana; cf. Thesaur. Resolut., tom. 40, p. 1. (12) Cf. Schober, appendix 2, c. 3, n. 10. (13) Book VI, 326. (14) December 14, 1872.

§ 3. On the Obligation of Celebrating by Reason of Stipend

1607. The STIPEND of a Mass is called the alms which the faithful bestow on priests, that the Sacrifice may be offered to God for them or to their intention.

By reason of stipend, Masses are distinguished into adventitious and founded. ADVENTITIOUS or manual Masses are called those which, by reason of an offered stipend, are to be celebrated in a

determined number. FOUNDED Masses are called those which, in perpetuity or at least for a long time, daily or on certain days, are to be celebrated and applied, by reason of a foundation, that is, of a good left to some ecclesiastical Institute with the burden that Masses be celebrated. Therefore the fruit of the foundation has the nature of a stipend.

These things having been premised, we shall speak: 1. concerning the liceity of a stipend; 2. concerning the office of one accepting a stipend; 3. concerning reduction and condonation of Masses.

I. On the Liceity of a Stipend

1608. Principle. It is licit for any priest, even a rich one, to accept a JUST STIPEND for celebrating Mass. - St. Thomas brings forward the reason, saying: "The priest does not accept money as the price of consecration, but as the stipend of his support."[15] And because even the rich are worthy of reward when they place some work worthy of price, it follows also that rich priests licitly exact a stipend.[16]

Hence, more probably, a priest who intends to offer principally on account of the stipend is not infected with the stain of simony, although he is not easily excused from venial sin, because the temporal thing is then accepted not as the price of the thing, but for the stipend of support.[17]

(15) 2.2, q. 100, a. 2, ad 2. (16) H. A., XV, 59. (17) Book III, 55, end.

1609. Questions. Q. 1. What stipend is to be had as JUST?

Resp. "The just stipend of a Mass is not indeed the sustenance of one day, as some have said; for the priest, besides the action of sacrificing, can occupy himself in the rest of the day in preaching, teaching, and similar exercises, so that he may gain entire support; but it is that which has been fixed by the Bishop, or by custom, or at least by a prudent man, if a tax made by custom or by the Bishop is lacking."[18] And this opinion is common and to be held from the declaration of the S. C. of the Council.[19] - "Wherefore Roncaglia rightly says that if a testator left Masses to be celebrated, without the alms having been fixed, they are to be celebrated according to the common tax, or are to be taxed according to the custom of the place, as the S. C. C. also declared,[20] with account taken of a rich or small inheritance."[21]

Q. 2. Whether REGULARS are held under grave obligation to stand by the Bishop's tax?

Resp. Affirmatively, according to the common opinion and from the decree of the S. C. of the Council,[22] by which it was sanctioned thus: "The alms for any Mass whatever to be celebrated by Regulars in their churches is to be taxed by the judgment of the Ordinary, according to the custom of the region."[23]

Q. 3. Whether it is licit for a priest to accept a stipend BELOW or ABOVE the tax?

Resp. 1. If only the law is considered, it is licit for a priest to obligate himself to celebrating Mass for a smaller alms, or below the tax; for anyone can yield his own right, and also celebrate without any stipend. But because remission of the customary alms can become damaging to other priests and in some way detract from the dignity of the Sacrifice itself, more probably it is licit for the Bishop to prohibit that an alms less than just be accepted, from the declaration of the S. C. of the Council.[24] "Wherefore, in the case in which the Bishop prohibits it, priests are altogether held to obey him." -

Nevertheless, if someone knowingly has accepted smaller stipends, he ought to celebrate as many Masses as he promised, as the S. C. of the Council declared by order of Urban VIII in the year 1625;[25] nor can he licitly diminish their number, unless he acted ignorantly, as authors rightly concede.[26]

Resp. 2. It is not licit for a priest to exact a stipend above the tax; for the Council of Trent commands Bishops that they altogether prohibit "importunate and ungenerous exactions of alms, rather than requests, and other things of this kind, which are not far from the simoniacal stain, or certainly from base gain."[27] Yet he can receive more, both from the spontaneous liberality of the giver, and the Bishop has no power to prohibit this, as was decided by the S. C. of the Council;[28] and from justice for extraordinary labor, for example for Mass to be celebrated at such an hour, or in such an inconvenient place. Whence requests are not illicit, indeed neither are agreements, provided they are just and moderate, and provided they are made without scandal.[29]

Q. 4. Whether it is licit for one having faculty of celebrating twice in the day to accept a stipend for the second Mass?

Resp. Negatively, unless the Supreme Pontiff has indulged it.[30] It is clear from the Constitution *Quod expensis* of Benedict XIV, issued on August 26, 1748, and from various declarations of the S. C. of the Council.[31] But neither is it licit to accept anything for the celebration alone, with the application remaining free. But for peculiar labor, for example by reason of a journey to a distant church, it is permitted, from the prudent judgment of the Bishop, to perceive something.[32] - But under the aforesaid prohibition are not comprehended the three Masses which it is licit to celebrate on the solemnity of the Nativity of the Lord; for that repetition is conceded not from Indult, but from immemorial custom; whence it is licit to accept three stipends for three Masses.

But there are comprehended the two Masses which, from the concession of Benedict XIV, are permitted to be added in the kingdoms of Spain and Portugal on the day of the Commemoration of all the dead; unless somewhere another ancient privilege already existed.[33]

(18) Book VI, 319. (19) November 25, 1698, apud Benedict XIV, Notif. 56, n. 10. (20) November 23, 1697, ad 5, in Bull of Innocent XII Nuper. (21) H. A., XV, 61; Book VI, 320. (22) January 15, 1639, apud Benedict XIV, loc. cit., n. 10, end. (23) Book VI, 320. (24) January 16, 1649, apud Benedict XIV, loc. cit., n. 11, end. (25) June 21, 1625; cf. Bullar., tom. IX, p. 464. (26) Book VI, 320, doubt 3; 1 El. qq. ref., n. 67. (27) Sess. 22, decree de observandis... (28) January 16, 1649, apud Benedict XIV, loc. cit., n. 11. (29) Book VI, 320, doubt 2 and 4. (30) Cf. Collect. S. Sed., n. 382. (31) Cf. Bullar. Bened. XIV, tom. 2, n. LXI; and Thesaur. resol., t. 117, p. 408; t. 121, p. 71. (32) In Treviren., S. C. C., March 23, 1861, apud Acta S. Sed., vol. I, 13. (33) Cf. Benedict XIV, cited place, and De Sacrif. Missae, L. 3, c. 4, n. 11.

II. On the Office of One Accepting a Stipend

1610. Principles. I. From acceptance of a stipend there arises an obligation OF STRICT JUSTICE to celebrate as many Masses as, by reason of the alms accepted, have been promised. - For, says Suarez, "there intervenes the true nature of justice, founded on mutual consent burdensome on both sides, which is explained by these words: I give that you may do; but this is a title of justice."[34]

It is said to celebrate as many Masses, etc., since this 10th proposition was condemned by Alexander VII: "It is not against justice to accept a stipend for several Sacrifices, and to offer one Sacrifice." Moreover, the reason of the condemnation is both because the opinion which says that the Sacrifice is of finite value, both intensively and extensively, does not lack all probability; and because a stipend

can be accepted only by the title of support; whence, one stipend having been accepted, the title for accepting another fails.

It is asked: Whether a priest OMITTING to celebrate a Mass owed either from stipend or from gratuitous promise sins gravely?

Resp. 1. He certainly sins gravely if the alms given is grave matter; and this is the unanimous opinion of authors. But according to the more probable opinion, he sins gravely also if the alms is only light matter. "The reason is that gravity of matter here is more probably to be measured not in order to the stipend, but to the fruit of the Mass, of which the one handing over the alms is deprived, to whom from privation of this kind grave damage certainly is brought."[35]

Resp. 2. If he omits a Mass promised gratis, it is disputed. Others say that he sins gravely, on account of the reason just brought forward. "But others probably deny, because simple promise does not oblige under grave sin unless the one promising expressly obligates himself under grave sin.... But all agree that he sins gravely who omits a Mass owed from vow, or from the precept of a Prelate: because no one can doubt that this is grave matter in a vow or precept"[36] (cf. n. 628 and 1062).

(34) De Sacrif. Missae, disp. 86, sect. 1, n. 1. (35) Book VI, 317, q. 3; 1 Elench. qq. ref., n. 67. (36) Ibid., q. 4.

1611. II. The obligation of celebrating from the acceptance of a stipend can, a peculiar stipulation being excluded, be fulfilled THROUGH ANOTHER; yet under this law, that the WHOLE STIPEND be handed over to him. The reason of the first is that, such stipulation being excluded, the obligation is only real, whence it suffices that the thing owed be furnished. - The reason of the second is that the priest "although he acquires ownership of the alms, nevertheless acquires it according to the will of those who give the alms; and he who furnishes the alms asks not only for a Mass, but also wishes that it be celebrated for such an alms; for a greater stipend makes him perceive richer fruit from the Sacrifice; and therefore this intention enters into the substance of the contract; therefore if the priest retains part of the stipend, he unjustly retains it against the will of the giver."[1] - And hence it is why the Church strictly prohibits that a priest who has undertaken a Mass to be celebrated with a certain stipend commit the same Mass to another to be celebrated, with part of the stipend retained for himself. Thus from the Decree of the S. C. C. approved by Urban VIII and confirmed by Innocent XII. And this 9th proposition was condemned by Alexander VII: "After the decree of Urban, a priest to whom Masses to be celebrated are handed over can satisfy through another, with a smaller stipend conferred on him, another part of the stipend retained for himself."[2]

Hence: 1. A procurator or executor of a testament is to be condemned for shameful gain, who causes Masses committed to himself to be celebrated where there is a smaller tax, so that thus he may retain the excess for himself.[3] But an heir who, on account of an inheritance accepted, is held concerning Masses to be celebrated, can, if the place of celebration and the stipend have not been determined, commit them to any priests whatever to be celebrated.

2. He who, against the prohibition of the Church, retains part of a stipend for himself, not only sins, but is held to restitution. But this, according to the more common and more probable opinion, is to be made to the celebrant, "because, the burden having been transferred to him, the right also to the whole stipend is transferred according to the will of the lord."[4]

(1) H. A., XV, 65. (2) Book VI, 321. (3) Ibid., 322, doubt 2. (4) Ibid., 322, doubt 1.

1612. From the aforesaid prohibition, namely that nothing be subtracted from the stipend, a threefold CAUSE can excuse: namely the will of the one bestowing the alms, the spontaneous yielding of the one undertaking the burden of celebrating, and concession of the Holy See.

1. The will of the one bestowing the alms excuses: for he can at will exceed the customary tax, either with the intention that the whole stipend fall to the celebrant, or with the intention that the excess fall to the one receiving. Nor, however, is it required that the one giving the stipend expressly manifest this intention of his. It suffices that from circumstances his will be morally clear. Hence, if for adventitious Masses a greater stipend is given, not so much in view of the Mass as of friendship, poverty, gratitude, kinship, etc., the priest can retain the excess for himself and commit the celebration of the Mass to another.[5]

As regards founded Masses, one must distinguish: if the intention of the founders was only that Masses be celebrated, the whole stipend is to be handed over to the celebrant. Thus from a recent decree of the S. C. C., in the Cologne case, July 18, 1868.[6] But if by their mind they also intended to render better the incomes of the pastor or chaplain, the excess can be retained. And the same must be said, as is evident, if besides the celebration of Mass, other offices are to be fulfilled.

With respect to beneficiaries,[7] it has been declared in the Bull *Nuper* of Innocent XII: "it is enough that the rector of a benefice, who can celebrate Mass through another, give to the priest celebrating a suitable alms, according to the custom of the city or province, unless something else has been provided in the foundation of the benefice."[8] - The same must be said of a removable chaplain, "provided certain revenues for the chaplaincy have been established annually, and assigned perpetually to the chaplain; otherwise, however, if a certain alms is given to a chaplain of this kind for each Mass to be celebrated."[9]

2. The spontaneous and liberal yielding of the priest to whom the celebration is committed excuses; for just as he can remit the whole, so also a part. "Nevertheless, this is by no means to be admitted if you indicate the greater price accepted and ask the priest to remit it; or ask from him whether he consents that you retain a part; for then you cannot retain it, even if he agrees; for this in the Bull *Quanta cura* of Benedict XIV is asserted as an execrable abuse forbidden by several Pontiffs."[10]

3. Concession of the Holy See excuses. For the Roman Pontiff, by the supreme authority in which he has power in the Church, can concede that some part of the alms, the circumstances of things suggesting it, be retained. A concession of this kind in favor of poor churches was made through the Decree of the S. C. of the Council confirmed by Innocent XII. But in this Decree[11] it is read: "It is not to be permitted that churches and pious places, or their administrators, retain from the alms of Masses to be celebrated any portion, however minimal, by reason of the expenses which they undergo in the celebration of Masses, unless the churches and pious places have no other revenues which they can licitly expend for the use of the same expenses; and then what portion they will retain ought by no means to exceed the value of the expenses which necessarily must be undergone only for the very Sacrifice of the Mass; and nevertheless, even in that case, it must be cared for that from the monies which remain, expenses as above

having been deducted, absolutely as many Masses be celebrated as had been prescribed by those offering the alms."[12] See also the Decree of the S. C. C., April 24, 1875.[13]

It is asked: Whether it is licit to EXCHANGE Masses, without unequal stipends being exchanged?

Resp. Such an exchange, principally if it is made by reason of retaining the greater stipend, seems to involve shameful gain, and therefore seems also to be disapproved: yet not under grave sin, especially if poverty excuses.[14]

(5) Book VI, 321, see Ab hac tamen. (6) Apud Acta S. Sed., vol. IV, 39. (7) Book VI, 321, see Excip., 3. (8) The Bull Nuper can be seen apud Croix, L. VI, p. 2, n. 63; likewise apud Scavini, tom. IV, p. 348. (9) Book VI, 321, see Idem licet; S. C. C., March 15, 1745. (10) Book VI, 321, Excip., 2. (11) November 23, 1697, ad 7; Bullar., tom. IX, 468. (12) Book VI, 322, doubt 5. (13) Cf. Acta S. Sed., vol. VIII, 659. (14) Book VI, 322, doubt 4; cf. also Vindic. Alphons., p. 4, q. 2.

1613. III. To make gain from stipends of Masses which are transmitted to others is most severely prohibited. For such a manner of acting very greatly dishonors the dignity of the Holy Sacrifice, and is a cause why this most august Sacrifice is held as of less account among the faithful. Concerning this matter these things are to be noted:

1. They are subject to excommunication *latae sententiae* reserved to the Roman Pontiff who "collect alms of greater price for Masses, and seek profit from them by causing them to be celebrated in places where Mass stipends are customarily of lesser price."[15] These things have been more fully explained elsewhere (n. 1339).
2. The manner of acting of those booksellers or merchants savors of shameful trade, and therefore is to be disapproved and, if there is need, restrained even by ecclesiastical penalties by Bishops, who, public invitations and rewards being employed, or in any other way whatever, collect alms for Masses, and to priests to whom they commit them to be celebrated, pay not money, but books or other merchandise. Nor can this manner of acting be made honorable because the Masses are celebrated in the due number, or because in this way help is given to poor priests lacking alms of Masses, or because the gain which is drawn from the exchange of merchandise with alms is expended not for the proper advantage of those collecting, but for the use and increase of pious institutions and good works. - Wherefore it is not licit to cooperate in a manner of acting of this kind, whether by handing over alms for Masses to those collecting, or by accepting the burden of celebrating Masses.[16]
3. Priests do not act illicitly who for Masses celebrated receive books or other merchandise in place of a stipend, any species of negotiation or shameful profit being excluded.[17]

But whether the moderators or administrators of religious newspapers are to be disapproved, who commit Masses to be celebrated to priests, retaining from their alms the price corresponding in the case to those same newspapers? To this question the S. C. OF THE COUNCIL responded:[18] "Negatively, provided nothing is subtracted from the will of the founders concerning the quantity of the stipend, the place and time of the celebration of Masses, every studied collection of Masses being excluded, and the one to whom it belongs by law being informed concerning the completed celebration of the Masses, the matter having been mentioned to the Most Holy."

(15) Const. Apostolicae Sedis, sect. II, 12. (16) S. C. C., September 9, 1874; cf. Collect. S. Sed., n. 383. (17) Ibid., n. 383, ad 6. (18) April 24, 1875; cf. Acta S. Sed., vol. VIII, p. 650, 659, or more fully apud Thesaur. Resol., tom. 134, Num.

II, in Tarbien., etc.

1614. IV. All CIRCUMSTANCES of celebration which the one giving the alms stipulated are to be observed religiously. - The reason is that a true contract, I give that you may do, intervened, which induces obligation.

It remains that certain particular things, both concerning adventitious Masses and concerning founded Masses, be weighed in this place.

A. On Adventitious Masses

1615. I. TIME OF CELEBRATION. Adventitious Masses must, under grave obligation, be celebrated either at the established time, or within a moderate time, unless the one offering the stipend consents to delay.

It is said 1. at the established time, if indeed it has been expressly determined. Yet delay to the following day seems able to be excused, unless the one asking for the Mass fixed this day on account of a grave cause, or also offered a greater stipend to this end.[19]

It is said 2. or within a moderate time, if indeed none has been fixed beforehand. But the moderation of time must be taken altogether relatively.

And indeed: 1. any delay is to be judged grave by which the one asking for the Mass would be frustrated in the intended end. Wherefore a priest sins gravely "if he omits, within a time suitable for celebration, a Mass asked for the obtaining of some urgent grace, say for a happy childbirth, for escaping danger, for winning a lawsuit, etc. The reason is that the circumstance of time then pertains to the substance of the thing asked; whence, that time having passed, the priest is held to restore the stipend, and to warn the giver concerning the Masses omitted at the suitable time."[20] 2. "In Masses for the dead, many theologians deservedly regard a delay of one month as grave."[21] 3. In other Masses, a delay of two months is to be judged grave; wherefore satisfaction must be made within two months, with this exception: unless the Holy See has conceded a delay; cf. n. 1620.

It is said 3. unless the one offering consents to delay. For to one knowing and willing, no injury is done. Thus also the S. C. C. defined.[22] - Now, such consent is presumed by the fact itself if someone offers many Masses, for example 200, to a priest to be celebrated by the priest himself. Not likewise "when Masses are handed over to a community of several priests to be celebrated; because then he who gives the alms for many Masses is presumed to wish them to be celebrated sooner. Yet this is not to be understood as though all the priests of that community ought to occupy themselves in satisfying Masses of this kind, but that they ought not to defer as long as would be necessary if those Masses were committed to one person. Hence, I say then the whole number can be distributed among the individuals of the community, or at least among the greater part of it, if it is more numerous; and this distribution having been made, the whole community will be able to satisfy within only as much time as would be conceded to each member of the community for satisfying his own proportion. For Holzmann well says that those committing these numerous Masses can easily foresee that the community has other obligations."[23]

(19) Book VI, 317, Sed hic dubium. (20) Ibid. (21) Ibid. (22) November 23, 1697, ad 11; and April 24, 1875. (23) Book VI, 317, q. 2, near the end.

1616. II. PLACE OF CELEBRATION AND KIND OF MASS. The celebrant who does not observe the condition of PLACE sins more or less gravely, according to the greater or lesser repugnance of him who gave the alms. - Indeed, if the place was intended equally principally, for example the Holy House of Loreto, he is held to restore the stipend.

One obligated to celebrate at a privileged altar satisfies by using a personal privilege;[24] and he who celebrated without satisfying the obligation undertaken is not now held to restitution of the stipend, but only to gaining a plenary indulgence applicable for the dead.[25] Thus the S. IND. C., February 22, 1847. But before the fact, it is not licit so to establish with oneself. The same Congregation, July 24, 1885.[26]

Not to observe the KIND of Mass, for example if you celebrate the Mass of the occurring feast for a votive Mass or of Requiem, even when this is conceded by the Rubrics, does not exceed venial sin, since the substance of the Mass is equally had; wherefore the celebrant can also retain the stipend. - But if for a just cause the priest has acted thus, for example for observing the Rubrics, he has sinned in no way.[27]

(24) S. C. Indulg., March 15, 1852; Decr. auth. S. C. Indulg., n. 351, p. 301. (25) Book VI, 329. (26) Cf. Acta S. Sed., vol. XVIII, p. 94. (27) Book VI, 327.

B. On Founded Masses

1617. Masses can be founded either for a time, or in perpetuity. Wherefore we note from the sacred Canons the following:

1. Perpetual burdens of Masses cannot be undertaken by secular priests without the written license of the Bishop or Vicar General. - But among Regulars, license of the Superior General or Provincial is required, as is clear from the decree *Cum saepe* of the S. C. of the Council, issued by the authority of Urban VIII and confirmed by Innocent XII through the Bull *Nuper* in the year 1697.

2. A beneficiary who has a benefice or chaplaincy with the burden of Masses ought, notwithstanding any custom whatever, to apply those Masses for the founders, or to their intention. - But indeed "when, in the foundation of a benefice or chapel, it has been expressly provided that the celebrant is not held to application of the Sacrifice, in that case the celebrant will be able to accept a new stipend, and by one Mass satisfy the obligation of the benefice or chapel, and likewise the one giving the new stipend." Decree of the S. C. C., July 13, 1630.[1] - "But when it had been asked from the S. C. on March 18, 1668, whether Masses ought to be applied for the testator when in the testament nothing had been declared concerning application, the S. C. C. responded that they are to be applied for the testator. - And the same was declared, on February 6, 1627, concerning chaplains who celebrate so that confreres or Nuns may be present at the Mass; since it is said that they cannot receive a stipend."[2] Moreover, "unless it is expressed in the institution of the chaplaincy that the chaplain celebrate by himself, he can always celebrate through another."[3]

3. Chaplains, Beneficiaries, etc., who from the law of foundation are held to apply Mass only on feast days, are still bound to apply on reduced feasts, as pastors are; for reduced feasts are

always held in the Church as feasts of precept. Thus from the Letters *Paternae charitati* of Pius VII, April 10, 1818[4] (cf. also n. 891, 1).

4. Canons, in cathedral and collegiate Churches, ought to celebrate daily the conventual Mass for their benefactors; although these, in their donations, had made absolutely no agreement for themselves, but had only declared that they offered their goods to God for the remission of their sins; and although contrary custom, even immemorial, flourished somewhere. - Indeed, where the custom flourishes of applying a second or even third Mass for them, the Bishop ought to command that this custom be kept holily; but where it does not flourish, at least in the Memento of the second and third conventual Mass, let a commemoration of them be made. Thus Benedict XIV, Const. *Cum semper*.[5]

5. A priest who, on account of a benefice or chaplaincy, is held to celebrate daily can, from the common opinion, sometimes omit the celebration of Mass if a legitimate cause intervenes, for example devotion, reverence toward the Sacrifice, or infirmity not exceeding 15 days, indeed, Lugo says probably, even if the infirmity were prolonged for two months. He can also probably, provided he does not accept a stipend, celebrate four or six times in the year for himself or for a very dear friend; for this is reasonably presumed from the mind of the founder. Otherwise, however, if he had expressed the contrary; for example by saying: "I will that Mass be celebrated daily, by the chaplain or by another"; or also: "I will that, in such a church, Mass be celebrated daily," etc.[6]

6. It is not licit to celebrate founded Masses in another church, on another altar, or at another hour than those which were established by the founder. Nor is this obligation light if the founder stipulated circumstances of this kind on account of a grave cause, for example on account of the memory or convenience of his own family, or of the people. But if no special end gave occasion to the stipulation, or if the cause why it was made no longer exists, for example if the family is extinct, or if it dwells elsewhere: the aforesaid obligation will not be grave; indeed, it will be null if the priest compensates it by celebrating on a privileged altar.[7] Otherwise, the obligation is so grave that the priest would sin mortally if he often, or without cause, or without dispensation, omitted or changed those circumstances. "I said often; for he will sin only venially if he does it rarely, say once or twice in the month; and he is more easily excused if he changes only the altar, and not the church. Likewise, I said without cause; for he will by no means sin if he celebrates elsewhere from a just cause, say if the altar is execrated, or because, having come out of the sacristy, he saw that it was occupied by another. - Likewise, I said without dispensation; for the BISHOP can well dispense that celebration be made in another place, from a reasonable cause, say on account of the utility of one's own church, etc."[8] For this faculty belongs to Bishops, as Delegates of the Holy See, as is commonly drawn from Trent.[9] But where the transfer is opposed to the express will of the testator, or to divine worship, or to the convenience of the people, it is not customarily conceded by the S. Congregation of the Council, and in that case Bishops cannot dispense.[10]

(1) Benedict XIV, Instit. 56, n. 8. (2) Ibid., n. 8; H. A., XV, 88, 7; Book VI, 324. (3) Book VI, 330. (4) The cited Constitution in the Bullar., § 4. (5) Book VI, 326. (6) Book VI, 332-333; H. A., XV, 73. (7) Book I, Appendix II, n. 60. (8) Book VI, 329; cf. De Priv., n. 60, where there are more things. (9) Sess. 21, cap. 7, de Ref., and Sess. 25, c. 5, de Ref. (10) Book VI, 329; cf. Lucidi, cap. VII, n. 108 sqq.

1618. It is asked: Whether PRESCRIPTION can be made against burdens of Masses?

Resp. Some affirm; "but, according to the truer opinion, such prescription is not admitted, since in Trent[11] it is forbidden that derogation can be made from all burdens imposed, both in foundation and in any other pious disposition or conferral of benefices; and Pius IV in the Bull by which he confirmed the Council declared void whatever might be done in the future against it.... But an irritating clause binds even the ignorant, and in beneficial causes infects title and possession. At least we say, in practice the first opinion can be probable with difficulty, since good faith can with difficulty be presumed in beneficiaries, since it is rather presumed that they know the laws of the benefice."[12]

Note. - 1. Authors notice that it is most opportune that any priest note in a book the Masses accepted and the Masses celebrated by himself, so that thus, even in the case of unexpected death, all things become known to the heirs. 2. But this is altogether prescribed by Innocent XII to all rectors and ministers of churches, whether secular or regular, that each year they be able to render an account to their Superiors concerning Masses celebrated, whether they are perpetual, temporary, or even manual. - And moreover, the table of perpetual and temporary burdens must be exposed in a more visible and obvious place, to guard against burdens of Masses being undertaken beyond their strength, from the Bull *Nuper*.

(11) Sess. 25, cap. 5, de Ref. (12) H. A., XV, 74; cf. Decision of the S. C. C., December 20, 1879, apud Acta S. Sed., vol. 13, p. 220.

III. On the Reduction and Condonation of Masses

1619. REDUCTION of Masses is properly called that by which burdens of Masses are constrained to a lesser number for future time, whether this is done in perpetuity or for an established time. - When reduction is referred to past time and imports the omitted celebration of Masses, then it is properly called remission, absolution, and CONDONATION.[13]

(13) Lucidi, cap. VII, n. 80.

1620. Principles. I. Reduction of Masses, today, can be made only by the APOSTOLIC SEE, but not by the Bishop, nor by a regular prelate. - This is evident from the Constitution *Nuper* of Innocent XII, § 1, where it is said thus: "It is strictly prohibited that Bishops... in any way reduce any burdens of Masses to be celebrated, either imposed after the same Council or at the threshold of foundation; but for all these to be reduced, moderated, or commuted, recourse is to be had to the Apostolic See."[14] The same applies both concerning condonation and concerning concession of a longer time for fulfilling burdens of Masses.[15] Only in a twofold case does the right of reducing Masses belong to Bishops: 1. if the testator himself has granted this faculty to the Bishop; 2. if the Holy See has conceded such privilege to Bishops, as frequently obtains.

(14) Book VI, 331; 1 El. qq. ref., n. 68; cf. Collect. S. Sed., n. 376. (15) Cf. Benedict XIV, De Synodo, L. 5, c. 10, n. 2.

1621. II. Reduction or condonation of Masses can be made only when a JUST CAUSE intervenes. This is evident of itself. - "But the CAUSES from which the Apostolic See is accustomed to reduce Masses are scarcity of priests, smallness of stipend, or increase of the current stipend,

diminution of the revenues of a monastery, or greater expenses necessary for living, etc.; finally if necessity of the brethren, or of the fabric of the church or monastery, urges."[16]

Note. For obtaining reduction or condonation, recourse is made to the Holy See, through the S. C. of the Council, or through the Fabric of St. Peter. - But when the Holy See grants CONDONATION on account of just causes, it always imposes some salutary penance, and especially the penance of celebrating a certain number of Masses. - Moreover, it supplies from its spiritual treasury whatever has been sinned in fulfilling the burdens; and for the suffrage of souls for whom the omitted Sacrifices ought to have been offered, it commands that a suitable number of Masses be celebrated daily by the chaplains assigned to this office in the Vatican Basilica. But if someone, with the intention of obtaining a condonation of this kind, has presumed to omit the celebration of Masses, in this case, the grace in no way suffices, and hope of this kind, as irrational and illicit, is condemned and reprobated.[17]

If it concerns only the internal forum, that is, if someone omitted either founded or adventitious Masses without the omission being publicly established, and has become unable to satisfy: for condonation, recourse can be made to the S. Penitentiary, namely through the confessor, who ought to conceal the name of the penitent.

(16) Book VI, 331; cf. Acta S. Sed., vol. XVIII, p. 147, where there is an example. (17) Cf. Lucidi, cap. VII, n. 86 sqq., where several things are accurately defined.

1622. III. To Bishops belongs the faculty of INTERPRETING, in doubt, the will of founders, and of reducing burdens of Masses undertaken by contract to equity. For in these things Bishops use their judicial power, which is proper to ordinary jurisdiction; wherefore, if they pronounce concerning an obligation constituted or not constituted, concerning a burden resolved or not resolved, etc., they do not exceed the limits prescribed to them by common law. Nor then is there place for reduction at the Holy See (cf. n. 1083 and 1087, q. 2).

It is asked: Whether sometimes a chaplain, or beneficiary, can by himself diminish the number of Masses?

Resp. "If the revenues fail in whole, without his fault, it is certain he is not held to celebrate Masses," as is commonly taught and as the S. C. C. defined.[18] "But if the revenues fail in part, it also seems certain that the chaplain can diminish Masses, in the case in which the testator designated a suitable alms, for example three small coins for each Mass; because then, just as the number of Masses would have to be increased if the revenues were increased, so it is to be diminished if the revenues are diminished."[19]

NB. It is greatly to be desired that those who impose perpetual burdens of Masses, in the very act of foundation, grant to the beneficiary or Bishop the faculty of reducing their number, in the case in which the revenues are diminished.

(18) June 7, 1686, and August 8, 1705. (19) Book VI, 331, doubt 2.

Article II: On the Things to Be Observed in the Celebration of Mass

Those things which the celebration of Mass demands for itself comprise three things: 1. the circumstances of time and place; 2. things required for the celebration itself; 3. observance of the

rubrics.

§ 1. On the Time and Place of Celebration

I. On the Time of Celebration

1623. Principles. I. TO CELEBRATE DAILY is licit and laudable, unless a special prohibition of the Church obstructs. - For "in the celebration of this mystery there is attended the representation of the Lord's Passion and the participation of its fruit; and according to each it was fitting to determine a time suitable for the celebration of this Sacrament. For because we need the fruit of the Lord's Passion daily, on account of daily defects, the Sacrament is offered daily in the Church regularly."[20]

It was said unless a special prohibition of the Church obstructs. Now, a prohibition of this kind obstructs on the last three days of Greater Week, namely:

1. On THURSDAY in the Supper of the Lord, private Masses are prohibited.[21]

We say private Masses, for in individual churches, the solemn Mass to be celebrated by the rector of the church, or by one performing his functions, is admitted. - And here one must remember what the S. R. C. established, saying: "the rule prescribed in the Ceremonial Book is to be observed, which is conformable to the custom of the universal Church: namely that on Thursday in the Supper of the Lord, in memory that Our Lord Jesus Christ communicated the Apostles by His own hand, all presbyters, both Dignitaries and Canons, and any others from the body of the church,[22] receive Communion from the hand of the Bishop or of another celebrating."[23]

Let the following things be noted: 1. The prohibition of celebrating, on Thursday in the Supper of the Lord, other Masses besides the solemn one suffers the following exceptions: 1. In smaller churches where the sacred functions of Greater Week cannot be solemnly performed, let rectors of churches strive to perform them, with the form of the small Ritual issued by order of Benedict XIII observed; with respect to other parishes which are destitute of clerics, the Ordinaries of places are able to indulge, for the convenience of the people, that pastors, with permission sought yearly, can celebrate a read Mass.[24] 2. For the convenience of the sick, the Bishop can concede that in the church, not in the private chapel of the hospital, one private Mass, besides the solemn one, be celebrated.[25] 3. A regular Superior can celebrate Mass privately in a private Oratory, for ministering Communion to Religious, and if the oratory is lacking, let this be done in the church, with the doors closed.[26]

2. If on this day a Feast of precept occurs, for example of St. Joseph or the Annunciation of the Blessed Virgin Mary, provision is to be made by the Ordinaries of places that on that day, according to the number of Christ's faithful, several private Masses be celebrated before the solemn Mass.[27] But the Masses to be said are of the solemnity of the day with *Gloria* and *Credo*, not of the feast, concerning which nothing is made.[28]

3. But if the feast of the Annunciation of the Blessed Virgin Mary falls on Parasceve or on Holy Saturday, it ought, together with the precept of hearing Mass and abstaining from works, to be transferred in the universal Church to Monday after Low Sunday.[29]

2. On FRIDAY of Greater Week, namely the day of Parasceve, the prohibition of the Church is absolute. On this day all priests must abstain from celebrating, and indeed under grave obligation, even if celebration would have to be made for furnishing Viaticum to a dying person. It is clear from the Rubric of the Missal and from Can. *Sabbato* 13, Dist. 3, *de Consecr.* The reason is that on that day, the Passion of the Lord is recalled by the Church as really enacted,[1] and therefore it is not represented mystically through the consecration of the Eucharist.

3. As regards HOLY SATURDAY, only the solemn Mass is permitted, and in smaller churches a read Mass, with the form of the small Ritual of Benedict XIII observed. But private Masses are altogether prohibited, in whatever churches and private oratories, notwithstanding any contrary custom whatever.

(20) St. Thomas, III, q. 83, a. 2. (21) Book VI, 350; 1 El. qq. ref., n. 69. (22) Gardellini, n. 1734, September 19, 1654. (23) Ibid., n. 3597, ad 16, September 10, 1701; n. 4353, December 22, 1770; n. 4815, ad 1, September 23, 1837. (24) Gardellini, n. 4583, ad 1, July 28, 1821. (25) Ibid., n. 4361, ad 9, March 27, 1773. (26) Ibid., 4870, ad 2, August 31, 1839. (27) Ibid., n. 3893, September 12, 1716. (28) Ibid., n. 4526, ad 15, September 7, 1816. (29) Ibid., n. 3204, March 11, 1690. (1) St. Thomas, III, q. 83, a. 2, ad 2.

1624. II. Private Masses can be said at any HOUR, from dawn until noon. - Thus the Rubric of the Missal,[2] which also prescribes the time at which the conventual and solemn Mass is to be celebrated. But DAWN begins when the first brightness is spread over the earth, or from the beginning of light, which is various according to various places and times of the year. Let attention be given to the tables which are customarily appended to the directory of the divine Office. In regions where dawn is not had, the Rubric is understood "concerning the time which is equivalent and corresponds to dawn, that is, concerning the beginning of the civil, moral, and usual day, in which men are accustomed to rise at daybreak for works, according to the received and approved customs of the regions."[3] - Moreover, in every region, the time both of dawn and of noon must be taken not mathematically, but morally, and "Benedict XIII agreed that a breadth of a third part of an hour can be tolerated, both before dawn, for Masses to be begun, and after noon," for them to be completed.[4]

The prohibition of celebrating before dawn and after noon obliges under grave sin in grave matter. It is clear from Trent,[5] prescribing "that Ordinaries... by edict and proposed penalties should take care lest priests celebrate at hours other than the due hours." But grave matter would be to begin Mass an entire hour before dawn, that is, before the time at which, from the decree of Benedict XIII, it is licit to begin it, or an entire hour after noon. Short of an hour, the matter would be only light.

(2) Tit. 15, n. 1. (3) Apud Gardellini, n. 1007; Roman Missal, September 18, 1634. (4) Book VI, 341. (5) Sess. 22, Decr. de observ. in celebr. Miss.

1625. From the aforesaid law various CAUSES can excuse, namely:

1. Exception of law, by which the solemn Mass of the Nativity of the Lord can be celebrated at midnight. Nor indeed is it licit on this night to celebrate successively two other Masses, nor to offer Holy Communion to the Faithful. Thus the S. R. C., April 28, 1703, in Savonen.; in Pisauren., April 20, 1641, etc.[6] Indeed, as an abuse there was proscribed on September 18,

1781,[7] the custom by force of which any priest whatever, without Apostolic Indult, would celebrate Mass before dawn on the night of the Nativity. Yet this is conceded to Bishops, that in public oratories or chapels they can tolerate one Mass, even without chant, according to the custom of the region. Thus it is gathered from the response of the S. R. C., September 7, 1850.[8]

2. Apostolic privilege or Indult, conceded after the Council of Trent, by force of which it is licit for privileged persons to celebrate, for example, one hour before dawn or after noon; which ought to be understood of one hour before or after the time assigned for others not privileged; otherwise the privilege would profit little.[9]

3. Necessity, for example that Viaticum be furnished to one dying, in which case it would be licit to celebrate even at midnight.

4. A reasonable cause, for example that workmen and servants may be able to hear Mass very early in the morning. - Whence, if on a feast day the solemn Mass is prolonged rather far, a private Mass can be said one hour and more after noon; and probably also two hours, at least with the license of the Bishop, lest namely a great part of the people lack Mass. Likewise, from the cause of a journey, or of the funeral of some magnate, or of a sermon, or of Ordinations, it would be licit to celebrate Mass one hour after noon, or before dawn.[10]

5. Dispensation; for the Bishop can dispense in some particular case, from a reasonable cause. And all religious Superiors have power in this same faculty toward their subjects, since they are their Ordinaries.[11] - But Paul III admonishes: "Let them use sparingly any Indult whatever of celebrating, or causing to be celebrated, before day; because, since in the ministry of the altar Our Lord Jesus Christ, the Son of God, who is the brightness of eternal light, is immolated, it is fitting that this be done not in the darkness of night, but in the light."[12]

It is asked: Whether and what sort of sin it is to celebrate Mass before the recitation of Matins?

Resp. 1. If it concerns private celebration, several authors with St. Antoninus say it is mortal; others with Tamburini and Holzmann recognize no fault in this. But more commonly and more probably others with Benedict XIV[13] teach that it is by no means mortal, both because it is not a necessary disposition for celebrating, and because an obligation of this kind is neither expressed in the Rubric nor commonly received. But they think it is not excused from venial fault, because in the Rubric this is now numbered among defects, and therefore it cannot be said to be of mere counsel. But any moderate reasonable cause excuses, as study, a journey, the will of the Superior, the expectation of the people, etc.[14]

Resp. 2. If it concerns a conventual and solemn Mass, authors "commonly and more truly affirm that it is mortal, unless a just cause intervenes, and a grave and public one, and without scandal. The reason is that such is the custom received in all churches where public prayers are said; so that, by acting otherwise, the public worship of God, the common good, and the suitable governance of the Church would be gravely injured."[15]

(6) Gardellini, n. 3648, ad 3; n. 1319; n. 1391, May 31, 1642. (7) Ibid., n. 4404. (8) Cf. Corresp. de Rome, tom. I, p. 381; and Bouvry, pars 3, tit. 15, rub. 4, n. 5 and 6. (9) Book VI, 346; cf. Collect. S. Sed., n. 384-387; likewise Benedict XIV, Instit. 68, n. 11. (10) Book VI, 344. (11) Ibid., 343-344. (12) Apud Benedict XIV, Instit. 13, n. 2. (13) De Sacrif. Missae, L. 3, c. 13, n. 4. (14) Book VI, 347. (15) Ibid., 348; and Exam. Ord., n. 113.

1626. III. It is licit to celebrate only ONCE in a day. In antiquity it was indeed licit to perform the Mass several times on the same day, but for many centuries now this has been prohibited under grave obligation. "Except on the day of the Lord's Nativity," says Innocent III,[16] "unless a necessary cause suggests, it suffices for a priest, once in the day, to celebrate only one Mass."

There is excepted 1. The Day of the Nativity of the Lord. For on this Feast it is licit for any priest to celebrate three Masses, but the pastor is held to apply only one for the people (cf. n. 1609, q. 4). 2. A case of necessity: if indeed a great part of the people, on a Sunday or Feast of precept, would lack Mass, the priest can, with the license of the Bishop, celebrate twice. We say with the license of the Bishop, "to whose judgment it is left to determine whether a just and true reason of necessity intervenes in particular cases. Nor is it right for this faculty to be imparted indiscriminately to Bishops, but only on account of a true cause of necessity in a particular case."[17] But if there seems to be a grave cause of BINATING, concerning which nevertheless it is not clear whether it is canonical or not, the mind and practice of the Holy See is that Bishops have recourse to it; namely when it concerns license to be conceded not for an act, but to be valid for a longer span of time. But if a sudden case occurs, in which recourse to the Bishop is not easy, his license can be presumed.[18]

It is asked: When is NECESSITY judged to be present for celebrating twice?

Resp. From the common opinion of theologians, this necessity is present in a threefold case. - 1. If some presbyter has two parishes, and the people cannot come together into either parish. 2. If some presbyter, although he does not have two parishes, nevertheless rules two peoples so distant from each other that one of them cannot stand by while he celebrates, while it could easily come together in some chapel.[19] 3. If all parishioners cannot at the same time come together for one Mass, whether on account of the narrowness of the church, or on account of the distance of places, Mass can be repeated in the same church.[20]

Therefore, these and similar circumstances occurring, another priest who can offer another Sacrifice being altogether lacking, there will be present a legitimate necessity of repeating the Sacrifice. Otherwise, however, any other cause being removed, such as scarcity of the priest, or the convenience of those who would wish to satisfy the precept of hearing Mass in their private chapels, or even very ancient custom which sometimes could be adduced, etc., it is not licit for a priest to repeat the Sacrifice.[21]

NB. Concerning the rite to be observed in the repetition of Mass, see the Appendix to the Roman Ritual.

(16) L. 3, Decretal., Tit. 41, cap. 3. (17) Lucidi, I, cap. 3, n. 380. (18) Benedict XIV, Const. Declarasti Nobis; Book VI, 351; Exam. Ord., n. 127; cf. Bouix, De Parocho, pars IV, cap. 6. (19) Acta S. Sed., vol. I, p. 8. (20) Benedict XIV, ibid.; cf. Thesaurus, tom. I, p. 63. (21) Cf. Lucidi, vol. III, n. 43; likewise Collect. S. Sed., n. 389, Instruction of the S. C. DE PROP. FIDE.

II. On the Place of Celebration

1627. Principles. I. By common and ordinary law, it is not licit to celebrate Mass except in CHURCHES, or in ORATORIES deputed to divine worship by the Bishop. - This is clear from Trent,[22] prescribing: "Let Bishops not suffer that this holy Sacrifice be performed by any seculars or regulars whatever in private houses, and altogether outside the church and

oratories dedicated only to divine worship, to be designated and visited by the same Ordinaries." That this Tridentine precept obliges under grave obligation is clear both from the very words which the Council uses and from the end which it intends.

CHURCHES are dedicated to divine worship through Consecration, which is reserved to the Bishop, or through blessing, which, by mandate of the Bishop, can be imparted by a simple priest.[23]

But ORATORIES in which it is licit to celebrate are only PUBLIC Oratories. Under this name come both those which have access on a public road and are open to anyone from the people, and those which have been erected in palaces of Bishops, monasteries, seminaries, hospitals, prisons, etc. (cf. n. 678). - Oratories which are dedicated to divine worship in perpetuity can indeed be consecrated, but ordinarily they are customarily only blessed. - Indeed, if they were probably judged not going to remain for long in the same place, the blessing would more advisedly be omitted. Yet deputation of the Bishop, by himself or through another, is always required. - But in houses of Regulars, erection is made through regular Superiors.[24]

It is said 1. By common law; for, from Apostolic Indult, it is licit to celebrate in private oratories. - Nor indeed can Bishops concede this license, unless grave and urgent causes are present, and only by way of act.[25] But in private oratories, it is not licit to perform Mass except on the days expressed in the Indult, and with one of the persons present to whom the Indult has directly been conceded. Nor can several Masses be celebrated there if in the Indult it is said, as it usually is said: one Mass may be celebrated daily; except if celebration had to be made for ministering Viaticum to a sick person lying ill in the same or a neighboring house; in which case, even with the indultary absent, it would be licit to celebrate.[26] Indeed, it is licit to celebrate in the house of the sick person or in a nearer place, if the place is decent, lest the sick person be deprived of Viaticum, namely when it can be carried neither publicly nor secretly. Thus the S. C. de Propag. Fid., December 14, 1868.[27]

Note. 1. The privilege of a private Oratory is at the same time personal and local, and therefore adheres to the designated place and is extinguished with the person.[28] 2. Private Oratories are not to be blessed with the form prescribed in the Ritual, since they are not vowed to God in perpetuity.[29] The blessing of a house or place can be used. 3. Bishops, in certain circumstances, enjoy the privilege of a portable altar; namely when, in cases permitted by law or by special license of the Apostolic See, being absent from the house of their own habitation, they make delay in another's house; and similarly when, on the occasion of sacred Visitation or a journey, they are received somewhere as guests. Therefore in these cases, in the houses where they are staying, they can either perform Mass themselves, or command that another priest perform it before them. - But these cases removed, in no way is it licit for them, in houses of laymen, to celebrate or cause to be celebrated the Sacrifice of the Mass. Thus from the Decree of Clement XI, issued December 15, 1703, and from the Constitution *Apostolici ministerii* of Innocent XIII, May 5, 1723.[30]

It is said 2. By ordinary law; for, in a case of necessity, it is licit to celebrate Mass in any decent place whatever. "But CASES of necessity are: 1. if the church is destroyed; 2. if some priest is making a long pilgrimage through deserted places, or places of infidels; 3. if the church is not capable of the people, so that many would lack Mass; 4. if an army is found in camps, or a multitude of those sailing on the seashore. Thus commonly."[31] Therefore in these and similar circumstances, lest the people be deprived of Mass on a feast day, it is licit to celebrate outside the church. But it is fitting that license

be obtained from the Bishop if it can conveniently be sought. But if the case of necessity is doubtful, the Bishop can well dispense.[32]

It is asked: Whether it is licit to celebrate Mass at SEA?

Resp. That this be licit, an Apostolic Indult is required; which is customarily easily conceded under the following conditions: 1. if the distance from shore is long; 2. if the sea is calm, and another priest or deacon assists, who, if some movement is stirred up, may hold the chalice firmly.[33]

(22) Sess. 22, de observand. (23) Cf. Pontifical and Roman Ritual. (24) Gatticus, De Oratoriis, cap. 12, n. 18. (25) Benedict XIV, Const. Magno, June 2, 1751; Book VI, 359; De Priv., n. 64; likewise S. C. C., December 20, 1856, Thes. Res., tom. 115, p. 522. (26) S. R. C., August 27, 1836; Gardellini, n. 4782, ad 8. (27) Cf. Collect. S. Sed., n. 395. (28) Book III, 319, clause I. (29) S. R. C., March 11, 1820, ad 10; Gardellini, n. 4565; Collect. S. Sed., n. 397. (30) Book VI, 358; De Priv., n. 63; cf. Benedict XIV, De Sacr. Missae, sect. 2, n. 46. (31) Book VI, 359; cf. Gardellini, note to Decision of the S. R. C., August 27, 1836, n. 4783. (32) Book VI, 359. (33) Ibid., 356.

1628. II. It is prohibited under grave obligation, unless necessity is present, to perform sacred rites in a church POLLUTED, EXECRATED, or INTERDICTED. This is clear from Canon Law and from the Rubrics of the Missal, where it is had: "if, while a priest is celebrating, the church is violated before the Canon, let Mass be dismissed."[34]

The reason for the first and second case is that it is not fitting that the Immaculate Host be offered and divine Offices be celebrated in a place that has become base or notoriously contaminated; whence one knowingly celebrating in a notoriously violated church sins gravely, although he incurs no censure or irregularity. But in the third case, the prohibition is in punishment of the delinquent, and the priest illicitly celebrating in an interdicted place incurs irregularity (cf. n. 1309 and 1377).

We said: unless necessity is present; for, in a case of necessity, namely if the people do not have another church, it is licit, with the permission of the Bishop if he can be approached, otherwise without it, to celebrate in an execrated or polluted church, which nevertheless is not reconciled by that celebration.[1] Likewise, in an interdicted place, on the more solemn feasts, it is permitted to celebrate, as was said at n. 1308.

(34) Can. 11, dist. 1, de Consecratione; De defectibus, X, 2. (1) Book VI, 361; Exam. Ord., n. 115.

1629. Questions. Q. 1. When is a church judged POLLUTED?

Resp. A church, or public oratory, is polluted or violated in four ways, as follows:

1. Through voluntary and injurious homicide, or one consummated within the church, through an action physically killing and sacrilegious, whether with shedding of blood or in another way, for example by poison, strangling, and although death itself happens outside the sacred place. Whence a church is not polluted through accidental homicide, or one done by an insane person or by another in defense of himself, with moderation of inculpable defense, or proceeding from a wound inflicted outside the church. But it is polluted through homicide which otherwise would be just through the sentence of a judge. Except, if a disturber of the republic could not otherwise be captured[2] (cf. n. 582, 4).
2. Through copious shedding of human blood, arising from striking or a grave wound, and gravely injurious to the immunity of the Church, as they commonly hold. - Whence a church is

not polluted if the shedding of blood is accidental; if it proceeds from playful or light striking, as in a quarrel of boys; if a few drops flow; if the external action which is the cause of the shedding was not consummated in the sacred place, but outside. On the contrary, it is polluted whenever a physically and theologically grave striking happens in the church, although blood is shed outside the church itself; because the sacred place is violated not so much through the shedding of blood as through the injurious action from which it proceeds.[3]

3. Through voluntary and sacrilegious shedding of human seed performed in the church, whether it was through pollution, or fornication, or any other manner whatever. When a church is polluted through the conjugal act, see n. 783. To the question "whether a consecrated church which for two days served for military stations and watches is to be judged profaned, and therefore needs the reconciliation prescribed by the Pontifical," the S. R. C. on February 27, 1847, judged that one must respond: it is to be reconciled as a precaution.[4]

4. Through the burial of an excommunicated person to be avoided, a denounced heretic, or an infidel or non-baptized person. - Except, more probably, if he is a catechumen; because he is not judged an infidel, on account of baptism of desire: likewise, if he is an infant enclosed in the womb of a dead mother, and not baptized. But otherwise, if having been brought forth into the light, he died without baptism; for then the church or cemetery is polluted from his burial.[5] Thus from the decree of the S. C. of Immunity, August 18, 1821. And here it must be noted that, the church having been polluted, the cemetery also is polluted if it is contiguous, but not vice versa. Therefore, the church having been reconciled, the cemetery is similarly reconciled.[6]

It must further be noted that, for a church to be polluted through the aforesaid crimes, it is required: 1. that they be perpetrated within the church itself, that is, in those parts which properly pertain to the body of the church, which extends from the upper vault to the pavement, and from the interior door to the last wall; 2. that they be notorious by notoriety of law or fact; whether immediately from the beginning, or by succession of time; for in each case the reputation of the church is equally lost.[7] - As soon as the pollution has been made notorious, the sacred Eucharist ought to be removed, and, the altars having been stripped, all movable things are to be taken away.[8]

Q. 2. How is a polluted church to be reconciled?

Resp. If it was consecrated, it is to be reconciled according to the rite of the Roman Pontifical by the Bishop, or by a priest from delegation or Pontifical privilege, such as Superiors of Regulars have for their churches, provided water blessed by the Bishop is employed, or by the one reconciling himself, if the Bishop is distant by two days' journeys or 14 hours.

If the church was only blessed, it can be reconciled by a simple priest, the accustomed prayers and lustral water blessed by himself or another priest having been employed.[9] But whether the delegation of the Bishop is prerequisite for this is not certain. Several affirm from the Roman Ritual, but Benedict XIV denies,[10] and his opinion, at least when necessity urges, can be brought into practice. But a private Oratory, since it is not a sacred place, is not judged to be polluted, and therefore does not need reconciliation.

Q. 3. When is a church EXECRATED, and how is it rendered SUITABLE for worship?

Resp. 1. It is execrated when it loses its consecration or blessing: which happens "if the walls according to the greater part are destroyed, or all of their plaster or at least a greater part is removed at the same time." But it is not execrated if only the roof or upper vault is changed, or if destruction and repair are made successively through small parts, although the whole church would be renewed.[11] And the same must be said if it was converted to profane use; because then it needs only reconciliation.

Resp. 2. An execrated church is again to be consecrated or blessed, according to the rite and form prescribed for the consecration or blessing of churches.[12]

(2) Book VI, 364. (3) Ibid., 365. (4) Gardellini, n. 5077. (5) Book VI, 366; cf. Craisson, n. 4800. (6) Book VI, 367. (7) Ibid., 364 and Book III, 460. (8) Craisson, n. 4802. (9) Book VI, 363. (10) De Synodo, L. 13, cap. 15, n. 2, end. (11) Book VI, 368; cf. S. R. C. Response of January 16, 1836, Monitore ecclesiastico, vol. IV, p. II, p. 78. (12) Craisson, n. 4789.

§ 2. On the Things Required for the Celebration of Mass

For celebrating Mass rightly and legitimately, many things are required which can be referred: 1. to the altar and its furnishings; 2. to the sacred vessels and their accessories; 3. to the sacred vestments; and 4. to the minister of the priest.

I. On the Altar and Its Furnishings

1630. 1. The ALTAR, that is, the stone ordained and consecrated for sacrificing, is required under grave obligation for the celebration of Mass. This is clear from the perpetual discipline of the Church, and it is prescribed in the Rubric of the Missal.[13] - But a twofold altar is distinguished: the one fixed, which is consecrated as joined to a base; and the other portable, or altar-stone, which is consecrated as separated from a base. - Each must be consecrated by a Bishop, and in it, while it is consecrated, Relics of martyrs are to be placed, and indeed from a grave precept.[14] Yet sometimes, from Indult of the Supreme Pontiff, faculty is conceded of celebrating on a broken altar, or one lacking Relics, if otherwise celebration cannot be made.

The altar remains suited for celebration as long as it is not execrated. Now it is EXECRATED: 1. if, when it is fixed, the consecrated stone is removed from the lower structure, but not if the whole altar is transferred to another place;[15] 2. if it is enormously broken, say if the table has been divided into two or several notable parts, or also if the part divided by fracture is from those parts in which special anointings had been employed;[16] 3. if the sepulcher of the Relics is violated, through fracture or removal of the seal, namely of the cover by which the sepulcher is closed. But if only the seal of the Bishop impressed in wax has been erased, the altar is not execrated.[17]

2. "Let the altar be covered with THREE CLOTHS, or clean altar-cloths, blessed by the Bishop or by another having power, the upper one at least oblong, which reaches down to the ground, the other two shorter, or one doubled." Thus the Rubric of the Missal.[18] Wherefore let it be NOTED: 1. The cloths must be made from linen or hemp, but not from another material, although rivaling linen or hemp in cleanliness, whiteness, and tenacity.[19] 2. To celebrate with cloths not blessed does not exceed venial fault, from which any reasonable cause excuses. 3. To celebrate without any cloth is judged a mortal sin, from which grave necessity nevertheless

excuses; to celebrate with two cloths, or one doubled, will be venial; and the same seems to be said if celebration is made upon one single cloth and not doubled.[20]

3. On the altar, in the middle, let there be placed a CROSS WITH AN IMAGE OF THE CRUCIFIED, open, visible, and of such size that it comes at once into the sight of the celebrant and of the people. Thus the Rubric of the Missal.[21] It is not indeed mortal, as the very common opinion holds, to celebrate without a cross, but it cannot be excused from venial sin.[22] Yet a cross is not required if a sculpted or painted image of the crucified Savior holds the principal place in the larger picture of the altar.[23] On an altar where the Most Holy Sacrament is publicly exposed at the time of the Sacrifice, the cross can be placed or removed according to the custom of places.[24]
4. "Let CANDLESTICKS be placed on the altar, at least two, with candles lit, here and there on each side." Thus the Rubric of the Missal.[25] This precept obliges under grave obligation, nor can even the necessity of ministering Viaticum exempt from it. Whence, if the light fails before consecration, one must altogether desist from celebrating; otherwise, if after consecration: in which case it is better, although the candles can be relit, to continue the Mass without delay, because such continuation pertains to the unity of the Sacrifice. To celebrate with one wax candle, according to the more probable and more common opinion, is only venial, from which therefore any reasonable cause excuses. To celebrate with candles of tallow or oil is commonly held as mortal, from which only a grave cause excuses.[26] Nevertheless, if the prescribed wax candles are present, it is not prohibited to employ candles of another material, for example stearin, outside the table of the altar, for increasing solemnity. The third wax candle to be lit after the *Sanctus* can be omitted, since it is prescribed from a merely directive Rubric, and today common usage bears thus.[27] - More candles than are prescribed by the Rubric can also be lit in private Mass, on account of the solemnity of some feast, or even on account of devotion; but not on account of the dignity of the celebrant, unless he is a Cardinal, Bishop, or Abbot having the use of Pontificals.[28]
5. A MISSAL containing at least the Canon is required under grave obligation; but, without Pontifical Indult, it is not licit to use any Missal other than the Roman. - Yet a pilgrim priest, celebrating in a church to which a proper Missal has been conceded, can use it, in the case in which a Roman Missal cannot be had. It is similarly licit, according to the probable and very common opinion, sometimes to celebrate without a Missal, if none can be had, provided from past experience it is morally clear that every danger of erring is absent.[29]

Note. Some other things, yet of lesser necessity, are prescribed in the Rubric. Among other things these are read: Let the altar "also be adorned with a pallium, or frontal, of a color, as far as can be done, suitable to the feast or Office of the day," unless nevertheless a just cause excuses, for example poverty or contrary custom. "At the foot of the cross let the tablet called of the Secrets be placed. At the Epistle corner, a cushion, or another decent support, is to be placed under the Missal, and on the same Epistle side there is to be prepared... a small bell, glass cruets of wine and water, with a basin and a clean hand-towel in the little window or on a small table prepared for these things. - On the altar let nothing at all be placed which does not pertain to the Sacrifice of the Mass or to the ornament of the altar itself."[30]

(13) Rub. gen., tit. XX. (14) Roman Pontifical, de benedict. altaris; S. R. C., October 6, 1837, Gardellini, n. 4828. (15) S. R. C., May 15, 1819, Gardellini, n. 4562. (16) S. R. C., March 3, 1821, Gardellini, n. 4577, note. (17) Book VI, 369, ad 3, doubt 2; 1 El. qq. ref., n. 70; likewise S. R. C., December 5, 1851, and March 14, 1861, Gardellini, n. 5162 and 5313. (18) Rub. gen. Missal., tit. XX. (19) Decree, May 18, 1819, Gardellini, n. 4563. (20) Book VI, 375; 1 El. qq. ref., n. 71. (21) Rub. Miss., XX; Gardellini, n. 4590, ad 8, September 17, 1822. (22) Book VI, 393. (23) Benedict XIV, Decree Accepimus, July 16, 1746, Gardellini, n. 2231. (24) S. R. C., September 2, 1741, Gardellini, 4119, ad 5. (25) Rub. Miss., loc. cit. (26) S. R. C., September 7, 1850, Gardellini, n. 5150, likewise 4593 and 4378, ad 7. (27) Book VI, 394. (28) S. R. C., September 12 or 24, 1857, Gardellini, n. 5251, ad 9. (29) Book VI, 390. (30) Gardellini, n. 5367, April 28, 1866; Rubr. gen., tit. XX; Ritus, I, 1.

II. On the Sacred Vessels and Their Accessories

1631. The sacred vessels are these: chalice and paten, pyx and lunette of the monstrance, to which the monstrance itself can also be numbered; the accessories are: corporal, pall, purificator, burse, and veil. Wherefore let the following be noted:

There is required, under grave obligation, for the celebration of Mass: 1. A CHALICE, and say the same of the PATEN, made from due material, and consecrated by the Bishop. Thus from the Rubric of the Missal.[31] The use of a small spoon for pouring water into the chalice is prohibited by no law.[32]

The Chalice with Paten "ought to be either gold, or silver, or at least to have a silver cup, gilded within." On account of poverty, a chalice with a cup of tin is permitted,[1] but not of bronze, copper, or another material.[2] From a more recent concession, chalices of aluminum mixed with other metals, commonly *Bronzo di aluminio*, are permitted, provided they receive certain silvering and gilding within, according to the instruction of the S. Rit. C.[3]

The chalice and paten must necessarily be consecrated by the Bishop; nor do they receive consecration from the fact that someone, even in good faith, has celebrated in them while they were not yet consecrated.[4] Abbots having the use of Pontificals can consecrate sacred vessels, and similarly bells, for their churches, but not for others.[5]

Both chalice and paten are execrated if they are notably broken; for example if there is a hole in the bottom, even a very tiny one; if the cup is separated from a fixed foot, but not if from a turned one; because in the first case the chalice loses its form, not likewise in the second, since the parts of the chalice can be joined without new artifice. They are also execrated when they are gilded anew; wherefore they need a new consecration.[6]

To the question: "Whether a consecrated chalice remaining whole is to be judged to have lost its consecration from this alone, that it was employed by heretics for profane use, for example for drinking at table?" the Qualifiers of the Holy Office responded in the year 1674: "that it remains execrated."[7]

There are required: 2. A PYX or ciborium, and a Monstrance for preservation and public exposition of the Most Holy Eucharist. These ought to be of solid and decent material, just as the cup of the pyx and the lunette of the monstrance, namely from the same material as that which is prescribed for the chalice, or even from gilded copper.[8] The pyx indeed and the lunette ought, from the precept of the Church, to be blessed by the Bishop, or by a priest having faculty.[9] As regards the monstrance, it is not indeed required that it be blessed, yet it is laudably blessed.

There are required: 3. Corporal, pall, and purificator of linen or hemp. Yet for the Indies an Indult was conceded by Clement XIII of celebrating upon a corporal of cotton cloth.[10] These linens ought to be of the greatest cleanliness, first of all the corporal, so that it is held as mortal to celebrate on an enormously unclean corporal, unless necessity excuses, for example if the celebrant or others would otherwise have to omit Mass of precept. - It is necessary that the corporal and pall have been blessed by the Bishop or by another having faculty.[11] But for the purificator no blessing is prescribed.[12]

Yet the necessity of the aforesaid things is not the same in all. To celebrate without a corporal or with one not blessed cannot be excused from mortal sin, unless grave necessity urges. With respect to the pall, the matter is controverted; wherefore, if a pall is lacking, or if it must be waited for through a quarter of an hour, another corporal can be used in its place, or, this also lacking, the purificator or burse. But if a purificator cannot easily be had, it is probably licit to celebrate without it, and in its place to use a clean small towel, which afterwards is no longer employed for profane use.[13]

Note. The corporal can be adorned at the extremities with gold or silk, but not likewise in the middle. - It is similarly licit to cover the pall, on the upper part, with silk cloth or woven gold, provided the linen pall attached beneath covers the chalice, and the upper cloth is not of black color, or does not bear some insignia of death.[14]

There is required: 4. a veil, and this silk, and a burse, of the color of the vestments. - But these are not to be blessed separately, nor is it any sin to celebrate without them.

(31) Rubric de defect., X, 1. (32) S. R. C., February 6, 1858, Gardellini, n. 5256, ad 4. (1) Rubric de defect., X, 1. (2) S. R. C., August 31, 1867, Gardellini, 5386, ad 6. (3) Decree, December 6, 1866; cf. Acta S. Sed., vol. II, p. 232, and vol. VI, p. 590. (4) Book VI, 380; cf. S. R. C., August 31, 1867, ad 8, Gardellini, n. 5386. (5) Book VI, 381; 1 El. qq. ref., n. 73; likewise S. R. C., September 27, 1659, Gardellini, n. 2003, ad 19. (6) Book VI, 370, doubt 2, and 2 El. qq. ref., n. 26; likewise S. R. C., June 14, 1845, Gardellini, n. 5011. (7) Collect. S. Sed., n. 422. (8) Roman Ritual, de Euch.; S. R. C., August 31, 1867, Gardellini, n. 5386, ad 7. (9) Book VI, 385; 1 El. qq. ref., n. 74. (10) Collect. S. Sed., n. 433. (11) Ritus Miss., I, 1, end. (12) S. R. C., September 7, 1816, Gardellini, n. 4526, ad 26. (13) Book VI, 387-389. (14) Ibid., 388; S. R. C., January 10, 1852, ad 1; cf. Analecta J. P., series 1, p. 1429.

1632. It is asked: To whom is it licit TO TOUCH the sacred vessels and linens?

Resp. 1. If they actually contain the Most Holy Sacrament, outside a case of necessity or danger of profanation, it is licit for no one, short of grave fault, to touch them, even mediately, except a priest or deacon. Thus commonly.

Resp. 2. If they are empty, it is permitted to touch them: 1. to subdeacons, also in the ministry of the altar; 2. to acolytes, and from custom to other clerics, outside ministry; likewise to regulars and Nuns who are sacristans, from privilege; 3. to all laymen from a reasonable cause; which lacking, they sin, according to the very common and truer opinion, but not more than venially, scandal and contempt being excluded. "And today," says St. Alphonsus, "it can be said from custom that this is licit... to all who serve churches in clerical habit....; at least I say these are excused from fault, because while they exercise the office of sacristan, there is always some necessity of touching sacred vessels." And the same applies to the touching of corporals after use.[15] From the things said it is inferred that sacred vessels, if they are to be stripped, restored, or gilded, are licitly touched by the artisan, because a just cause is present.

Resp. 3. With respect to the WASHING of sacred linens, a threefold washing is required. - The first of these is to be performed by subdeacons, whose peculiar office it is.[16] Yet there are not lacking those who teach that it can also be made by any tonsured cleric. It would be more fitting if the second and third washing were also done by a consecrated person; nevertheless there is no sin if they are done by laymen. - If a layman performs the first washing, he sins, but only venially; but when a just cause intervenes, the washing lacks every fault. - Moreover it is required, from canon law, that the vessels in which sacred linens are washed serve no other use, and that the water of washing be poured into the sacrarium; nor can derogation be made from this precept by any contrary custom.[17]

(15) Book VI, 382. (16) Can. 40, dist. 1, de consecr.; S. R. C., September 12 or 26, 1857, Gardellini, n. 5251, ad 30. (17) Book VI, 387; 1 El. qq. ref., n. 72.

III. On the Sacred Vestments

1633. The SACRED VESTMENTS in which the priest ought to be clothed in the celebration of Mass are the following: amice, alb, cincture, maniple, stole, and chasuble or planeta: the latter three and the alb are called MAJOR by liturgical authors; the amice and cincture, MINOR. Wherefore it must be noted:

1. The priest, for performing the Sacrifice of the Mass, ought to be clothed with all the aforesaid vestments. Thus from the Rubric of the Missal.[18] The precept with respect to the aforesaid vestments, although it obliges the celebrant in conscience, nevertheless does not urge equally in all its parts. For: 1. To celebrate without any sacred vestment is never licit; nor can this ever be made honorable by any cause, not even by danger of death, unless by Pontifical dispensation alone, if perhaps sometimes it is conceded, say in time of persecution.[19] 2. To omit some one from the major vestments is a mortal sin; yet in a case of grave necessity, it is probably licit to celebrate without stole or maniple. - 3. To celebrate without cincture, or without amice, probably is not mortal; indeed, there is no sin if, these being lacking, a reasonable cause of celebrating is present, such as even the devotion of the celebrant alone.[20]

But vestments "ought not to be torn or rent, but whole, and decently clean and beautiful."[21] To celebrate with vestments enormously unclean or torn is mortal, unless necessity excuses, namely if the celebrant or others would otherwise have to omit Mass of precept. - If they are not very unclean or torn, it will be venial; indeed no sin, if others cannot be had.[22]

2. Vestments ought to be blessed by the Bishop, or by another having faculty. Thus the Rubric of the Missal.[23] This blessing is required by the same necessity as the vestments themselves, since vestments not blessed are esteemed in the same way as non-sacred vestments.[24] Moreover, regular Prelates cannot, without special privilege, bless sacred vestments. Such privilege is ordinarily conceded to them only for their own churches. If nevertheless they have blessed for other churches, the blessing, although illicit, is nevertheless valid.[25] - Bishops, without Pontifical Indult, cannot delegate to others the faculty of blessing sacred vestments;[26] *a fortiori*, regular Prelates cannot do this.

3. With respect to the material of vestments, these things are to be observed: 1. Amice and alb must be made from linen or hemp;[27] 2. the cincture can be woolen or silk, although it is more fitting that it be linen;[28] 3. vestments of suitable color can be made from silk or half-silk, or

from gold texture; but not from glassy texture, nor from linen cloth or cotton,[29] nor finally from wool; yet linen, just as cotton, can be mixed in the texture of the vestments.[30]

4. "The vestments of the altar, of the celebrant and of the ministers, ought to be of the color suitable to the Office and Mass of the day, according to the use of the Roman Church, which has been accustomed to use five colors: white, red, green, violet, and black."[31] - Hence, there are excluded vestments both of various colors and of yellow or blue color.[32] Nevertheless a certain mixture of other colors is not reprobated, by way of ornament, provided one color is truly predominant. Nor are vestments made from gold cloth reprobated; indeed, rather, the custom of places is to be tolerated by which, for any color whatever except violet and black, they are employed.[33] The aforesaid Rubric, since it treats of a thing which accompanies the Mass, more probably is not only directive, but also preceptive. Nevertheless, scandal excluded, it obliges only venially, and therefore any reasonable cause excuses from every sin, as if at a gathering of priests there were not enough vestments of the due color.[34]

5. Sacred vestments are execrated when they are notably and indecently torn, or have lost their form; or when, other parts having been added, they are so repaired that in the estimation of the prudent they can no longer be judged the same.[35] But torn vestments, or those consumed by age, must be consumed by fire, and not employed for profane uses.[36]

(18) Ritus, I, 1. (19) Cf. Collect. S. Sed., n. 419: concession of Gregory XVI for ten years, July 26, 1841. (20) Book VI, 377. (21) Ritus, I, 2. (22) Book VI, 376. (23) Ritus, I, 2. (24) Book VI, 377. (25) S. R. C., August 27, 1707, Gardellini, n. 3775. (26) Book VI, 378, doubt 4; S. R. C., May 16, 1744, Gardellini, n. 4159, ad 5. (27) S. R. C., May 15, 1819, Gardellini, n. 4563. (28) Ibid., January 22, 1701, Gardellini, n. 3575, ad 7, and December 23, 1862, n. 5326. (29) Ibid., September 22, 1837, n. 4814, ad VIII, 3, and September 11, 1847, n. 5099. (30) S. R. C., December 18, 1877, Gardellini, n. 5715. (31) Rub. gen. Miss., XVIII, 1. (32) S. R. C., September 22, 1837, n. 4814, ad VIII, 1, 2. (33) February 23, 1839, n. 1847; April 28, 1866, n. 5363. (34) Book VI, 378, doubt 5. (35) Ibid., 371. (36) Ibid.

1634. It must further be noted: 1. "Vestments ought not to be taken from the altar for the celebration of Masses, since this belongs only to Bishops, whether they celebrate solemnly or privately."[37] But, if the sacristy is lacking, or a table prepared for this, they can be placed upon the altar, not in the middle, as for Bishops, but at the Gospel corner. Yet this is licit to no one on an altar where the Most Holy Sacrament is exposed.[38]

2. The celebrant ought to be shod on the feet. Concerning which the S. R. C., August 31, 1872, in Gerunden., responded: "Clerics, especially in sacred functions, ought to employ stockings or shoes which approved Clerics of the place or Diocese are accustomed publicly to use."[39] To celebrate without cause, with bare feet, contempt excluded, does not exceed venial sin; if it happens from necessity or reasonable cause, there is no sin.[40]

3. The celebrant, approaching the vestments, ought to be "clothed in garments suitable to himself, of which at least the exterior reaches the heel of the foot."[41] This rubric, scandal and contempt excluded, seems to oblige only under venial sin. Yet various Councils have prescribed its observance under penalty of suspension incurred by the very fact by the delinquent, in the place of his own residence.[42]

4. "Let no one dare to use a small cap in the celebration of Mass, without express license of the Apostolic See, notwithstanding any contrary custom whatever."[43] Hence the Doctors say it is

mortal to celebrate the whole Mass with covered head; otherwise, if until the Canon, contempt and scandal excluded.[44] But in an extraordinary case, if the illness is not long-lasting, it will be licit from presumed license to celebrate with the small cap, provided it is removed from the Preface to the end of Communion.

Similarly, "Innocent XII... ordered the Ordinaries of places to be warned that they should not permit anyone, without privilege of the Apostolic See, to perform the sacrosanct Sacrifice of the Mass with false hair."[45] But several authors testify that this law has become obsolete in various places.

(37) Decree of Urban VIII, at the beginning of the Missal. (38) Bouvry, Rit. celebr. Miss., tit. 1, rub. 1, n. 4. (39) Gardellini, n. 5507. (40) Book VI, 402. (41) Rit. cel. Miss., I, 2. (42) For example, Council of Auch, n. CXXV; Council of Rouen, Decr. 16, n. 1; cf. Collect. Lacen., vol. IV, 1124 and 529. (43) Decree of Urban VIII, loc. cit. (44) Book VI, 398. (45) Benedict XIV, De Synodo, book 11, cap. 9, n. 5; cf. also Thesaur. Resol., tom. II, p. 206, in Melphiten.

IV. On the Serving Minister

1635. I. It is licit for no priest to celebrate without a SERVING MINISTER. Thus all from the formal prescription of law,[46] which obliges under grave obligation. - Yet necessity excuses from this law; whence the Doctors commonly say that it is licit to celebrate without a minister: 1. if the necessity of ministering Viaticum urges; 2. if the people, or the celebrant himself, ought to satisfy the precept of hearing Mass; 3. if, Mass having begun, especially after the oblation has been made, the minister departs, not going to return shortly.

II. The minister serving the celebrant ought to be MALE. For it has been guarded by law "that no woman presume to approach the altar, or minister to the presbyter, or stand or sit within the rails."[47]

This precept obliges under grave obligation, and therefore, when necessity urges, it would be better to celebrate without a minister than with a woman ministering. Yet in a case of necessity, a woman, especially if she is a nun, could respond from afar, provided she does not minister at the altar by offering the cruets, etc.[48]

Note. 1. Although the rubrics concerning the rite to be observed by the minister are preceptive, nevertheless "let the celebrant not make himself scrupulous if the minister pronounces badly, nor easily correct errors, lest he disturb himself or those standing around, or the order of the Mass"; it suffices if he supplies those things which are omitted by the minister. 2. A lesser necessity suffices for celebrating with a minister who does not know how to respond than without a minister.[49]

You will ask whether it is licit for a minister to serve a priest celebrating unworthily. Resp. No, unless he is excused by a grave cause. Thus St. Alphonsus[1] against Suarez and others, who deny that such cooperation is illicit whenever the priest could easily find another minister (cf. n. 1377).

(46) L. I, Decretal., tit. 17, cap. 6. (47) L. 3, tit. 2, c. 1. (48) Book VI, 392; S. R. C., August 27, 1836, Gardellini, n. 4782, ad 10. (49) Book VI, 391. (1) Book VI, 89.

§ 3. On The Observance Of The Rubrics

1636. "How great care must be employed, that the sacrosanct Sacrifice of the Mass be celebrated with every worship of religion and veneration, anyone will easily be able to judge, who has considered that in the sacred Scriptures he is called accursed who does the work of God negligently. But if we necessarily confess that no other work so holy and divine can be handled

by the Christian faithful as this tremendous mystery, it also sufficiently appears that every labor and diligence must be placed in this, that it be performed with the greatest possible interior cleanness and purity of heart, and with the exterior appearance of devotion and piety."[2]

Now, for the devout celebration of Mass, exact observance of the rubrics contributes much; and of this we must now treat.

(2) Trent, sess. 22, Decree.

1637. Principles. I. The rubrics which define the rite, manner, and norm of celebrating OBLIGE under precept grave in its kind.

This is proved, 1. from Trent, where it is said:[3] "If anyone shall say... that the approved rites of the Church customarily employed in the solemn administration of the Sacraments may either be contemned, or be omitted by the ministers at pleasure without sin, or be changed into new others... let him be anathema." These words certainly have the greatest force concerning the celebration of Mass, in which the most august of all the Sacraments is confected and administered.

2. From the Bull of St. Pius V, where it is said: "Commanding, and strictly enjoining upon each and all... in virtue of holy obedience, that they chant and read Mass according to the rite, manner, and norm which by this Missal is now handed down by Us."[4] And Sixtus V gives the reason for this precept, saying: "Sacred rites and ceremonies contain a great instruction of the Christian people, and a profession of the true faith; they commend the majesty of sacred things, lift up the minds of the faithful to the meditation of the highest things, and also inflame them with the fire of devotion."[5] On these things see the Ascetics.[6]

(3) Sess. 7, can. 13. (4) Book VI, 399. (5) Constitution Immensa aeterni Dei. (6) See especially St. Thomas, 3, q. 83; St. Bonaventure, Expositio Missae, cap. 2; and St. Alphonsus, opusculum Del Sacrif. di G. C.

1638. II. The SOURCES of the rubrics which must be observed in the celebration of Mass are the Missal, the Ceremonial of Bishops, and the Decrees of the S. R. C. Thus from various Constitutions of the Pontiffs.

1. The primary source of the rubrics is the MISSAL. Yet concerning these rubrics the question is raised: whether they are all preceptive, or whether some are only directive, or of counsel? "There are diverse opinions on this point. We follow the opinion of Quarti, Merati, and Tournely, who say that the Rubrics concerning things to be done WITHIN Mass are all preceptive, and oblige according to the gravity of the matter; for in the Bull of St. Pius V it is said thus: 'strictly enjoining that they chant and read Mass according to the rite, manner, and norm prescribed in the Missal.' Note the words *strictly enjoining*. But concerning the rubrics about things to be done OUTSIDE Mass, many Doctors probably say that some are only directive, as the washing of the hands after Mass, and the prayers before or after Mass."[7] (cf. 1639. A. 4).
2. The CEREMONIAL OF BISHOPS is the complement of the Missal in solemn Offices. It obliges everywhere, since in the three Bulls placed there it is said: "The aforesaid Ceremonial is to be observed in all churches, especially in cathedral and collegiate churches."[8]

3. The SACRED CONGREGATION OF RITES authentically interprets the Rubrics and promotes their observance. Concerning its Decrees or decisions see what was said about the decrees of the Roman Congregations in the Treatise on Laws (n. 169, q. 2).

What must be done, you will ask, if in some place a CUSTOM contrary to the Rubrics is in force? - Resp. 1. "The S. Congregation of Rites constantly tolerates a custom, at least immemorial, contrary to the rubrics. Therefore, with a safe conscience, it is licit to conform oneself to diocesan custom, especially in things of lighter moment, which do not yield to deformity of public worship."[9] - Resp. 2. An unreasonable custom, or one not yet prescribed, certainly must be abolished. But when that occurs, and how prudently one must then act, we have said above (n. 267 sqq. and 1422).

The S. RIT. C., at the petition of all the Churches in the kingdoms of Spain, on June 11, 1605, declared: "That the Book Ceremonial (of Bishops) does not take away immemorial and laudable customs." But the same Congregation, being again asked: "Whether ancient customs, namely those which are opposed to no statute of the Church, have been abrogated by these words of the Rescript: *Let the Ceremonial always and by whomever be observed*," on May 6, 1826, in Alexandrina, responded: "Recourse must be had to this Sacred Congregation in particular cases."[10]

(7) Exam. Ord., n. 112; cf. Schober, cap. I, n. 3, adnot. 4, where there is a conforming Response of the S. R. C. (August 18, 1854) concerning the washing of hands. (8) Ibid. (9) Book VI, 401 (from the 6th ed.). (10) Gardellini, n. 266, and n. 4620; cf. Rev. des sc. ecclés., t. IV, p. 78, and XXIX, p. 299, where several abusive and unreasonable customs are reviewed.

1639. III. The observance of the Rubrics must be so accurate that nothing from them is OMITTED, that nothing is ADDED to them, and that nothing in them is CHANGED. And indeed:

A) As to omission: 1. To omit the ordinary parts of the Mass, namely those which are always recited or done in Mass, is a GRAVE sin, if the matter is notable. Thus, for example, it will be mortal to omit in the Canon any prayer, or the *Pater noster*, or the breaking of the Host with its commingling in the chalice, or the purification of the paten and chalice after the consumption, or eight or ten words in the Canon. So likewise it will be mortal, outside the Canon, to omit the whole Introit, or two of the principal Collects, or the Epistle, Gospel, Offertory, or the infusion of water into the wine to be consecrated. But it will be venial to omit only the psalm *Judica*, the *Kyrie eleison*, one of the Collects, one or another cross over the Oblata, the striking of the breast, or the washing of the fingers; and Lugo and others probably say the same concerning the Gospel of St. John.[11] But defects of this sort, by coalescing, can become grave matter.

2. To omit the extraordinary parts, namely those which are not said in every Mass, is not a mortal sin, unless taken together they constitute notable matter. Thus it would be only venial to omit the *Gloria*, the *Credo*, the Sequence, the Tract, the proper Preface, the proper *Communicantes*, and the proper *Hanc igitur*.[12] The same seems to be said if someone does not recite the things which are sung by the choir, or omits the incensation in a solemn Mass.[13]

3. To mutilate words, or to insert syncopation, the sense being preserved and scandal being excluded, is only venial; indeed, there is no sin if it happens from natural defect.

4. To omit the washing of hands before Mass is a venial sin, indeed mortal if the hands are very unclean.[14] - Likewise, it is venial to omit the prayers while putting on the sacred vestments.[15] Likewise venial is it to use, without just cause, only water in the purification of the chalice and

washing of the fingers; we say without just cause, such as there would be if the celebrant were an abstainer, or if the wine were red, so that the purificators would be much stained from it.[16] By Apostolic Indult, January 13, 1665, this is also permitted on account of scarcity of wine in the Kingdoms of China.[17]

B) As to addition, it is certain among all that it is mortal to add something in Mass with the intention of introducing a new rite. Wherefore he would sin gravely who added new public prayers. But if from inopportune devotion several Collects from the same Missal are added, or the *Credo*, or *Gloria*, *Pater*, *Ave*, or something similar, this does not exceed venial fault. Yet it is reasonably judged to be mortal to add the *Gloria* and *Credo* in a Mass of Requiem, because such an addition seems to be a sufficiently grave disorder.[18]

C) As to change: 1. He cannot be excused from venial sin who recites in a clear voice those things which are to be said quietly, or conversely; or even who pronounces what is to be recited secretly so quietly that he cannot hear himself.[19] "Quarti rightly says, however, that he is not excused from mortal sin who should so pronounce the words of Consecration."[20]

2. Likewise it is venial to perform imperfectly the prescribed rites, for example genuflections, signs of the cross, elevations of the hands, and the like.[21]
3. To change one Epistle for another, one Gospel for another, one Preface for another, does not exceed venial fault.
4. To change the Mass, for example by celebrating a votive Mass on forbidden days, is not mortal, scandal and contempt being excluded. Nevertheless it is strictly, and therefore of itself under grave obligation, prohibited to celebrate a Mass of Requiem on the same days. "For the rest, all agree that votive Masses or Masses of Requiem can be celebrated for grave causes."[22] (cf. n. 1642, q. 4).

It is asked: If something in Mass has been inadvertently omitted or changed, and the celebrant, having progressed further, remembers the matter, is he bound to repair the defect?

Resp. No, regularly speaking, because he would disturb the order of the Mass. It is said regularly speaking; "because 1. if it is of the substance, for example something pertaining to the consecration, it is certain that it must be repeated; 2. if, while praying secretly, after a few words he certainly notices that he has omitted something notable, for example on Easter day the *Communicantes*, he must go back a little and repeat."[23]

(11) Exam. Ord., n. 125; Book VI, 403-406. (12) Ibid., n. 125, and Book VI, 409. (13) Book VI, 410, doubt 4. (14) Ibid., 407. (15) Ibid., 409. (16) Ibid., 410, doubt 3. (17) Collect. S. Sed., n. 450. (18) Book VI, 411. (19) Book VI, 414-416. (20) Ibid., 414. (21) Ibid., 400. (22) Ibid., 420; cf. also 421. (23) Ibid., 403.

1640. IV. Besides the external observance of the rubrics, INTERNAL ATTENTION and DEVOTION also are required. For "the Sacrifice, besides the character of prayer, has in addition the character of the most excellent worship of religion; and he seems to inflict grave irreverence upon it who, while by a religious act he professes to worship God, voluntarily distracts himself." Wherefore, if voluntary distraction is had in the Canon, and especially in the

consecration and consumption, it will be a mortal sin. But if it is had outside the Canon, the same must be said as concerning the canonical Hours.[24]

Preparation for Mass and thanksgiving also refer to devout celebration. He who approached to celebrate without any preparation, at least one made at home, could not be excused from some fault. - In thanksgiving one must remain at least through a quarter of an hour. Indeed, if nothing prevents it, it is to be desired that a half-hour be spent on it. Yet the prayers which in the Missal are assigned "to be said according to the convenience of the priest" can be omitted without fault, because in the Rubric there is not a precept about them, but only an intimation.[25] Nevertheless it seems otherwise must be said of the Canticle of the children, which is read as prescribed in the Missal, in the very Order of Mass.[26]

(24) Ibid., 410, doubt 5. (25) Ibid., 410, doubt 2; cf. Prax., n. 156. (26) Can. Miss., end.

1641. From these things you will infer: 1. That a fitting SPACE OF TIME be spent in reading Mass; generally, according to the rule which Benedict XIV hands down, it ought not be shorter than a third, nor longer than a half-hour; for a shorter time would not allow all things to be done with due decorum, and a longer time would bring tedium to those standing by.[27] 2. Nor can a priest be excused from mortal sin who completes Mass in less than a quarter-hour, even if the Mass is among the shorter ones, or of Blessed Mary on Saturday; because in so brief a space he necessarily commits two grave defects, one of grave irreverence toward the Sacrament, the other of scandal toward the people. And in fact it cannot be that Mass is completed within a quarter-hour without either words or ceremonies being passed over, or at least without the decency and gravity due to so great a Sacrifice being notably violated. But also such overhasty haste tends to the harm of the people; for it diminishes in those standing by the sense of piety and veneration which is due to the most august Sacrifice. And hence it is why Roncaglia gravely affirms that Bishops and Prelates of Regulars are bound, and indeed under grave obligation, to extirpate this shameful and scandalous haste.

The Venerable Cardinal Bellarmine complains of this lamentable abuse, and with him Benedict XIV and then St. Alphonsus, sorrowfully exclaiming: "This," he says, "is worthy of most abundant tears, that through the carelessness or impiety of some priests the sacrosanct mysteries are treated so indecorously that those who handle them seem not to believe that the majesty of the Lord is present. For thus some, without spirit, without affection, without fear and trembling, with incredible haste, finish the Sacrifice, as if by faith they did not see Christ the Lord, or did not believe themselves to be seen by Him."[28]

(27) Book VI, 400; H. A., XV, 84-86; Exam. Ord., n. 125. (28) Ibid.; cf. also the opusculum La Messa strapazzata.

1642. Questions. Q. 1. Whether an INFIRM priest can celebrate, if he cannot observe all the Rubrics?

Resp. Yes, if he omits only few and lighter ones, especially if he celebrates privately. "Indeed," says Croix, "one who could not celebrate without a cane can licitly use it. And Gobat adds that if someone could not celebrate unless leaning upon the altar with both arms, he would licitly celebrate thus privately, but not publicly unless he did this from necessity. Yet I think this does not exceed venial sin, from which he seems able to be excused who, on account of infirmity, could not stand upright, and from his devotion wished to celebrate, provided the wonder of the people be avoided. Croix and

others also say that if someone cannot elevate the host, but can do the rest, he can celebrate privately, and even publicly if necessity is present and the people is warned; but I think it enough to warn the people only, if someone celebrates from devotion." Thus St. Alphonsus.[29]

With respect to the BLIND or the DIM-SIGHTED, it must be noted: "Lugo, Vasquez, and others probably say that a priest licitly celebrates who, because of weakness of sight, recites the Mass from memory, provided he discerns the chalice and host sufficiently to avoid irreverence; and provided that, in order to avoid remark, he has a Missal on the altar."[1] But it is certain among all that it is illicit for a priest who is entirely blind to celebrate without a special Indult, which is not difficult to obtain. - A clause is generally added to the Indult, prescribing that he not celebrate without the assistance of another priest, who can warn him if he fails in certain things. But on the feast of the Nativity of the Lord, one having the Indult cannot celebrate three votive Masses of the B. V. M.[2]

Q. 2. Whether it is sometimes licit to INTERRUPT Mass?

Resp. 1. To interrupt the Sacrifice essentially and by design, so that only one species is consecrated, or so that, after the consecration of both species, the celebrant departs without consumption, is never licit, even to avoid death. "But to mutilate accidentally and indirectly is sometimes licit, for example when fire or an enemy rushing in to kill occurs; for then the priest could consume the consecrated host, or carry it with him, not consecrating the chalice; because then he does not mutilate the Sacrifice, but is excused from completing it. Thus commonly."[3]

2. To interrupt Mass accidentally, by interposing something, is licit in the following cases: 1. on account of a sermon after the Gospel, or also, with the consent of the Ordinary, on account of an address which the priest, after receiving Communion, gives from the altar to the people before distributing Communion to them.[4] 2. In favor of an arriving Prince, Cardinal, Bishop, or crowd of pilgrims, who otherwise could not hear Mass; or on account of a similar cause, from which, if the oblation has not been made, the Mass can be begun anew, so that those arriving may hear the whole Sacrifice; nevertheless there is no obligation of this, and therefore the custom of places must be followed. - 3. If before the Canon the priest remembers some impediment, for example that he is not fasting, or in the state of grace, or is irregular or excommunicated, provided the Mass can be left without scandal or grave note (cf. n. 1559). Likewise, if an excommunicated person to be avoided presumes to be present and cannot be expelled (n. 1292, 3). - 4. If a grave necessity urges, either his own, for example illness, or that of his neighbor, as if one about to die must be baptized or absolved. Yet in other Sacraments not so necessary it is not fitting to interrupt the Consecration and Consumption, unless the dying person were nearby and there were no need to remove the vestments; or unless he could not receive the Sacrament of Penance on account of frenzy, but only Extreme Unction.[5]

In these cases, however, whenever the altar is left, let the Most Holy Eucharist be locked in the tabernacle; and when the priest returns, let him begin where he ceased. But if he had interrupted the Consecration, and the delay had been more than one hour, he would have to begin from the beginning; because after so great an interruption it is not judged the same Sacrifice.[6]

Q. 3. Whether a Mass BROKEN OFF by one priest must be completed by another?

Resp. "If the priest, before consecration, becomes gravely ill, or falls into syncope, or dies, the Mass is omitted; if this happens after the consecration of the Body only, before the consecration of the Blood, or when both have been consecrated, the Mass is to be completed by another priest from that place where the former ceased, and in a case of necessity even by one not fasting, although he has already celebrated that day. But if he has not died, but is infirm, yet so that he can communicate, and there is no other consecrated Host present, the priest who completes the Mass should divide the Host, and give one part to the infirm one, and consume the other himself."[7] But if the priest fails after the consumption of only the Body of Christ, the chalice is to be consumed by another. Moreover a probable opinion holds that the priest who supplies is not to be sought beyond about one hour; otherwise it is not judged one Sacrifice.[8]

Q. 4. Whether the Mass must always agree with the OFFICE of the celebrant?

Resp. The general rule is that, as far as can be done, the Mass should agree with the Office; for Holy Church orders the Office and the Mass to the same end, namely to honoring the same Mystery or the same Saint. - Yet this rule admits its exceptions, namely:

1. VOTIVE Masses can be said at the discretion of priests, when the Office is not double, or of a Sunday, or of a feria or privileged Octave. But this should not be done except for a reasonable cause, for example on account of a special devotion either of the celebrant, or of one assisting, or of the one giving an alms. - The Mass for bridegroom and bride is permitted even on a double, both minor and major; and a solemn votive Mass for a grave matter, even on feasts of a superior rite, the things to be observed being observed, as the Rubricists explain. Masses of the DEAD can be said as votive Masses, and they also enjoy a more ample privilege if they are to be celebrated on the day of death, on the third, seventh, thirtieth, and anniversary day.
2. A Mass to be celebrated IN ANOTHER CHURCH must sometimes agree with the Office of that church, namely: 1. if a Feast is celebrated there which excludes votive and Requiem Masses, and if the color of the Office is different from the color of the celebrant's Office; - 2. if a Feast is celebrated with solemnity and gathering of the people; - 3. if the celebrant supplies the place of the pastor; - 4. if a foreign priest celebrates the conventual Mass in the church of monks or of nuns. These things apply equally to public oratories, even taken broadly (cf. n. 1627). - But in private oratories, and likewise in the chapels of nuns, the Mass must always agree with the Office of the celebrant, even if the Office is of a Blessed whose Mass he cannot say in another church without special privilege.[9]

Here moreover let the Decree of the Council of Trent be noted (sess. 23, cap. 16), saying: "Let no wandering cleric, without commendatory letters of his Ordinary, be admitted by any Bishop to celebrate Divine things and administer the Sacraments." A Bishop can require the observance of this decree, under threatened censures, even from exempt Regulars, as the S. C. of the Council judged.[10] - Priests who are known, and priests from neighboring dioceses, are commonly excepted, who are customarily admitted to celebrate the Sacrifice of the Mass without proofs or commendatory Letters of this sort being exhibited or required, as daily practice teaches. But in populous cities, and in those places to which foreigners commonly come frequently, as here at Rome, the rigor of the law is observed.[11]

Admonition. From the things said thus far it is easily gathered how great an obligation lies upon priests to know rightly all the Rubrics to be observed in the celebration of Mass, especially those which are found at the beginning of the Missal. There also are indicated the defects which can occur, and the celebrant is taught what he ought to do in any case.

(29) Ibid., 402. (1) Book VI, 390. (2) S. R. C., April 11, 1840 (Gardellini, n. 4878, ad 4). (3) Book VI, 352. (4) S. R. C., September 12, 1857 (Gardellini, n. 5251, ad 10). (5) Ibid., 353 and 354; H. A., XV, 54. (6) Cf. Benedict XIV, De Missae Sacrif., book 3, cap. 14. (7) Rubr. de defectibus, X, 3. (8) Book VI, 355. (9) Gardellini, n. 5183, ad 14 (April 16, 1853); cf. Schober, loc. cit., where he explains diverse cases fully and accurately. (10) Book 8 of Decrees, p. 78; cf. Benedict XIV, De Synodo, book IX, c. 15, n. 5. (11) De Angelis, Prael. jur. can., book I, tit. 22.

Treatise V: On Penance

1643. "Let us approach the work of expounding this Treatise ON THE SACRAMENT OF PENANCE, to which indeed one must diligently apply oneself with every study before other matters, since in it is contained the sum of all moral theology and the questions more pertaining to practice; and therefore I have spared no labor, that I might satisfy the desire of readers, and that they might find here all things necessary to be known."[12] Thus St. Alphonsus.

That we may touch the principal things which pertain to this Treatise of greatest moment, we shall treat in a threefold dissertation: 1. on the nature of the Sacrament of Penance; 2. on the Subject; 3. on the Minister.

(12) Book VI, 426.

Dissertation I: On The Nature Of The Sacrament Of Penance

In this first dissertation we shall treat: 1. on the notion of penance; 2. on the matter and form of the Sacrament.

Chapter I: On The Notion Of Penance

The Sacrament of Penance is the virtue itself of penance elevated by Christ the Lord to the dignity of a Sacrament. Wherefore, we must speak: 1. of Penance as it is a virtue; 2. of Penance as it is a Sacrament.[13]

(13) On this virtue see St. Thomas, 3, q. 85; Lugo, De Sacr. Poenit., disp. I-XI; Suarez, disp. I, sect. 1 and 2.

Article I: On Penance As It Is A Virtue

1644. DEFINITION. Penance is "a virtue tending to the destruction of sin, insofar as it is an offense of God, by means of sorrow and satisfaction."[14]

It is called a virtue, namely one which is referred to justice as a potential part, and is supernatural, as is clear from Trent, which teaches (sess. 6, can. 3) that without the grace of God man cannot repent as he ought; - tending to the destruction of sin, by which words the MATERIAL Object of penance is expressed, namely every sin, both mortal and venial, as to be destroyed or avoided; insofar as it is an offense of God, by which its FORMAL Object is shown, which is the reparation of the injured right of the divine Majesty; wherefore, he does not rightly repent who indeed sorrows for his sin, but without respect to the offense of God; by means of sorrow and satisfaction, which are the acts by which penance obtains its end, that is, peace with God. Moreover, sorrow for sin and detestation of it, with the desire of making satisfaction and the purpose of not sinning thereafter, pertains to the very essence of penance. - Nor therefore does a simple purpose of beginning a better life suffice; in this Luther erred, who affirmed that penance is contained in novelty of life alone, or reconsideration.[15]

DIVISION. Penance can tend to the destruction of sin in a twofold way: 1. through an act of perfect sorrow, which is also called contrition, and is detestation of sin from the motive of perfect charity, by which God is loved above all things; 2. through an act of imperfect sorrow, which is also called

attrition, and is detestation of sin from motives of an inferior order, for example from fear of eternal punishment.

(14) Book VI, 434; H. A., XVI, 1. (15) Cf. Laymann, book 5, tr. 6, cap. 1.

1645. Principles. I. Through true penance ALL SINS can be destroyed. - This is of faith from Trent, sess. VI, cap. 14, and sess. XIV, cap. 1. But true penance, through which sins, whether mortal or venial, ARE REMITTED, is either perfect contrition, even outside the Sacrament, yet with the desire, at least implicit, of receiving it; or attrition, with real reception of the Sacrament. These things will be expounded more fully below (n. 1673). - Concerning the other effects of penance it will be said more conveniently where the effects of the Sacrament are treated (n. 1653).[16]

(16) Cf. Inst. catech., p. 2, c. 5, n. 17.

1646. II. Penance is altogether NECESSARY for all men who have defiled themselves with some mortal sin, in order to obtain grace and justice. This is of faith, from Trent (loc. cit.). But it is necessary: 1. BY NECESSITY OF MEANS: for since the offense of mortal sin proceeds from this, that the will of man is turned away from God through a turning toward some changeable good, it cannot be that the offense be remitted unless the will, through a true change, turns itself again to God, with detestation of the turning it had toward a changeable good, and with the purpose of amendment; both of which pertain to the notion of penance. - 2. BY NECESSITY OF PRECEPT, both natural, by which each one is bound to make satisfaction for an injury inflicted and to seek again the divine friendship, and positive, often mentioned in the sacred writings. St. Thomas suitably says to the point:[17] "By natural reason man is moved to repent concerning the evils which he has done; but that man do penance in this or that way is from divine institution."

Nor yet is penance so necessary that it is always required explicitly; for accidentally implicit and virtual penance can suffice, such as is contained in an act of perfect love of God, for example if someone, forgetful of his sin, elicits an act of perfect charity.[1]

(17) 3, q. 84, a. 7. (1) Cf. Book VI, 437.

1647. Questions. Q. 1. WHEN does the aforesaid precept of penance oblige?

Resp. The precept of reconciling oneself with God through penance obliges: 1. of itself in the article, or in probable danger, of death or of perpetual insanity, because then no other time is available for doing penance; 2. accidentally, when one who has fallen into mortal sin must administer a Sacrament, or receive some Sacrament of the living; likewise, when he suffers grave temptations which he judges himself unable to resist unless he elicits an act of contrition; - finally, when he is bound to elicit an act of charity toward God; for then, if the memory of sin occurs, he is bound to detest it. - But the precept of sanctifying Feasts does not import an obligation of contrition.[2]

Q. 2. Whether the precept of penance, outside danger of death or insanity, ever obliges OF ITSELF, so that its delay involves a special sin?

Resp. Many authors indeed affirm; but the denying opinion is probable, because, apart from a positive precept, for example annual confession, the time of penance is not determined, although it ought to be determined of itself by reason of an affirmative precept. - Hence St. Thomas teaches[3] that final impenitence is not a special sin.

But accidentally, certainly he sins gravely who, existing in mortal sin, delays and procrastinates his conversion for a notable time; because he violates at least the precept of charity both toward God and toward himself, since St. Thomas teaches[4] that it cannot be that a man without justifying grace keeps himself immune from new sin for a long time. - Hence, a delay of one month seems grave to St. Alphonsus, who adds: "Yet it is true that the rude with difficulty notice that obligation."[5] (cf. 472, q. 2).

(2) Ibid., 437; H. A., XVI, 10. (3) 2.2, q. 14, a. 2. (4) 1.2, q. 109, a. 8. (5) H. A., XVI, 10; Conf. diretto, XV, 5.

Scholium

On The Remission Of Venial Sin

1648. Things to be noted beforehand. 1. Venial sin is never remitted in those contaminated by mortal sin; for the remission of any fault is founded in the friendship of God and in sanctifying grace. Hence the guilt of those venial sins will inhere in the damned eternally.

2. The remission of mortal sin can occur without the remission of venials; for venial sin does not conflict with sanctifying grace.

3. One venial sin can be remitted without other venials, namely if a man truly sorrows for one, and not for the rest. The contrary must be said of mortal sins, all of which conflict with habitual grace.

Questions. - Q. 1. Whether penance is required for the remission of venial sin?

Resp. Venial sin is never remitted without penance, whether formal, that is, express and explicit, or virtual and implicit, namely one which is contained in some supernatural act. - This is clear both from Sacred Scripture, which universally requires penance for the abolition of any sin; and from the Doctors expressly affirming this;[6] and finally from reason itself, which sanctions that he who sinned by his own will should not obtain pardon unless by his own will through penance he withdraws from sin.

Q. 2. What penance is required for the remission of venial sin EX OPERE OPERANTIS, or outside the Sacrament?

Resp. Several things must be distinguished: 1. If someone is guilty of mortal and venial sin at the same time, perfect contrition is required, which takes away both, as is gathered from the things noted beforehand. Yet not every act of contrition or charity takes away all venials, but only those to which it is opposed formally, or at least virtually. Hence the full remission of all venials is obtained only when the act of charity generally excludes affection for all venials, or when someone is so disposed that he wishes never to admit any venial sin, and sorrows, or would sorrow if it occurred to memory, for any one admitted. Thus commonly (cf. n. 471, 2).

2. If someone is guilty only of venials, an act of charity or of perfect contrition does not seem to be required; but more probably a motion of imperfect contrition suffices, for example prayer, by which pardon is humbly implored, or an act of some virtue which is repugnant to venial fault, or detestation of venials proceeding from consideration of their supernatural turpitude, for example because they are against the obedience owed to God, or elicited from the motive of hope. The reason is that, since venial sin conflicts neither with charity nor with habitual grace, it suffices that the disordered adhesion to a creature be removed from some supernatural motive and from a motion of actual grace.[7]

Q. 3. What penance is required for the remission of venial sin EX OPERE OPERATO, or through a Sacrament?

Resp. Distinguish. Remission can be obtained either in the Sacrament of Penance, or in other Sacraments. Now:

1. In the Sacrament of Penance, formal sorrow is required,[8] so that the matter of the Sacrament be present (cf. n. 1659). But through this Sacrament are also remitted, more probably, venials involuntarily omitted,[9] concerning which there is no formal or virtual complacency; for by the force of absolution, to which no obstacle is placed, there is conferred an increase of grace which of itself is remissive of sin; and besides, either in part or wholly, the punishment due to venials is remitted, if any remains.
2. In other Sacraments the matter proceeds otherwise. For: - 1. Baptism remits venials joined with original sin or with actual mortal sins, provided no obstacle is placed to this remission, that is, provided there is not a will actually or habitually adhering to venial sin. Thus commonly with St. Thomas.[10] - 2. Extreme Unction likewise remits, according to a probable opinion, all venials, if they have in some way been retracted; for this Sacrament also was instituted to take away sins, as we shall see below (n. 1873). - 3. The Eucharist gives, *ex opere operato*, actual grace for exciting fervor, by which the just man obtains remission of venials (cf. n. 1513, 1). And the Sacrifice of the Mass produces this same effect, but only by way of impetration (n. 1591, 1). - 4. Whether other Sacraments also have a special power for the remission of venials is indeed uncertain, but the affirming opinion is more probable.

How venial sins are remitted through SACRAMENTALS, see what was said at n. 1441.

(6) Cf. St. Thomas, 3 p., q. 87, a. 3; St. Bonaventure, In 4 sent., dist. 20, p. 1, a. 1, q. 2. (7) Cf. St. Thomas, 3 p., q. 87, a. 3, ad 3. (8) H. A., XVI, 23. (9) Suarez, disp. 12, sect. 2. (10) 3 p., q. 87, a. 1, ad 2.

Article II: On Penance As It Is A Sacrament

1649. DEFINITION. Penance is a Sacrament consisting in the acts of the penitent and in the absolution of the priest; - or, it is an external rite instituted by Christ, by which, through juridical absolution given by a priest, sins committed after Baptism are remitted to a contrite and confessed man, with competent satisfaction enjoined.

1650. Principles. I. There exists in the Church a SACRAMENT OF PENANCE, by which sins committed after Baptism are truly remitted. This is of faith from Trent (sess. 14, can. 1), defining thus: "If anyone shall say that in the Catholic Church Penance is not truly and properly

a Sacrament, instituted by Christ our Lord for reconciling the faithful themselves to God, as often as they fall into sins after Baptism: let him be anathema." But the reason for this definition is clear; for Penance bears before itself everything which is required for the notion of a true Sacrament, namely a sensible and sacred sign, divine institution, and annexed grace, as will be clear from the words of Christ to be cited immediately.

1651. II. The Sacrament of Penance was instituted IN THE MANNER OF A JUDGMENT, in which the penitent is at once the accused and the accuser of himself, while the judge is the absolving priest. - This is clear from the words of the Savior (John 20:22-23): "Receive the Holy Spirit: whose sins you shall forgive, they are forgiven them; and whose you shall retain, they are retained." By these words all the faithful of Christ who have fallen into fault are commanded to present themselves before this tribunal, so that through the sentence of priests, as often as they have sinned, they may be freed from the incurred guilt. Therefore it is clear that the Sacrament was instituted in the manner of a judgment. Hence Trent thus says (sess. 14, can. 9): "If anyone shall say that the sacramental absolution of the priest is not a judicial act: let him be anathema."

1652. III. The Sacrament of Penance, either in reality or in desire, is NECESSARY for all who have fallen into mortal sin after Baptism, by necessity of PRECEPT, indeed also of MEANS. - This is clear from Trent (sess. 14, cap. 2, end), where it is said: "But this Sacrament of Penance is necessary for those fallen after Baptism, as Baptism itself is necessary for those not yet regenerated." Namely, thus from the positive ordinance of Christ, who mercifully conceded to those fallen after Baptism, or having suffered shipwreck, this second plank, by which they may safely, although laboriously, escape again from the abyss of perdition. - But that it is conceded as a single remedy and one necessarily to be taken, is clear from the words of Christ: *I will give the keys... they are forgiven... they are retained*; for keys would be given in vain if entrance lay open without their help; nor would sins be retained through the Church if remission of them could be obtained by another way.

We said either in desire, namely explicit or implicit; for as for those not yet baptized the desire of Baptism suffices for justification and salvation, which is called baptism of the Spirit, or of the love of God above all things, so also for the baptized after a fall the desire of the Sacrament of Penance suffices, included in perfect contrition, yet in such a way that, if afterward the Sacrament can be received, it is altogether necessary.[11] (Recall what was said at n. 1645 and 1646.)

But when the reception of this Sacrament is obligatory will be said below, where Confession is treated (n. 1683 sqq.).

(11) Cf. St. Thomas, 3, q. 84 sqq.; Lugo, De Sacr. Poenit., disp. 12 sqq.

1653. Questions. Q. 1. What are the EFFECTS of the Sacrament of Penance?

Resp. They are principally the following: 1. Sins are remitted, as to fault and eternal punishment, so perfectly that they never revive through a subsequent sin; and this is through the infusion of sanctifying grace. 2. Temporal punishment is remitted both by reason of absolution, and by reason of the satisfaction imposed by the confessor; and indeed in a greater or lesser degree, according to the

disposition of the penitent. But never, Trent being witness, can we arrive at complete newness and integrity without great weepings and labors on our part, divine justice requiring this. 3. Good works previously done in charity, and mortified through sin, revive. 4. Sacramental grace is conferred, through which we pursue sin with always greater hatred and are more efficaciously preserved from it.

To these add many other SECONDARY EFFECTS which well-disposed penitents, indeed also the whole Christian society, obtain from this benefit of God.[12] On this matter see the Dogmaticians.

Q. 2. In what things does the SACRAMENT of Penance differ from the VIRTUE of penance?

Resp. Especially in these: 1. Penance, insofar as it is a virtue, is placed under the genus of habit; as it is a Sacrament, it is placed under sacred sign. 2. The virtue through its acts is a part of the Sacrament; but this is the whole itself, which, besides the acts of the virtue, also includes absolution. 3. The virtue requires, for causing justification, a perfect act or contrition; the Sacrament justifies even with attrition alone, as will be seen below. 4. The virtue is a cause of grace by way of disposition, and *ex opere operantis*; the Sacrament, by way of an instrumental efficient cause, and *ex opere operato*.[13] (cf. n. 1659, end.)

(12) Cf. Roman Catechism, De Sacr. Poenit., n. 36. (13) Cf. Salm., tr. 6, c. 2.

Chapter II: On The Matter And Form Of The Sacrament Of Penance

Article I: On The Matter Of This Sacrament

1654. As in the other Sacraments, so also in the Sacrament of Penance, there is a twofold matter, namely REMOTE and PROXIMATE.

§ 1. On The Remote Matter

The REMOTE matter, namely that about which the proximate matter is concerned in this Sacrament, is twofold: 1. necessary, which by precept must be subjected to the proximate matter; 2. sufficient only and free, which can indeed, but need not, be subjected to the proximate matter.

1655. Principles. I. The REMOTE matter of the Sacrament of Penance is sins committed after Baptism.[14] Thus all.

It is said, 1. sins, whether mortal or venial; but not mere imperfections, for example that you have not responded to divine inspirations, that you have not done the good which you could, etc. For since these are opposed only to counsels, they do not have of their own nature the notion of sin

to be destroyed through penance.[1] - Except if accidentally they reach venial faults, as was said at n. 341.

It is said, 2. committed after Baptism; the reason is both because original sin and actual sins committed before Baptism are destroyed through Baptism itself, and because the power of the keys extends only to those who through Baptism are subjected to the Church.

It is asked: Whether and how sins must be confessed if, on account of doubt, BAPTISM IS REPEATED under condition?

Resp. 1. If he whose Baptism is to be repeated has already accused his sins in good faith, and was absolved from them, he is not bound to confess again. The reason is that, if the prior Baptism was valid, they have already been remitted through penance; but if otherwise, they will be remitted through Baptism.

2. If he has not yet accused the sins committed after doubtful Baptism, as happens among Protestants, he is bound to confess them; for if the prior Baptism was valid, the sins committed afterward cannot be destroyed through the repeated Baptism, as it is null. - Hence, when the Bishops of England asked: "Whether sacramental confession ought to be required from new converts in England, and whether it ought to be integral?" the Congregation of the HOLY OFFICE, on December 17, 1868, responded affirmatively to both, and that the Decree issued July 14, 1715, was to be given, in which namely it is contained: "that he is to be rebaptized under condition; and, Baptism having been conferred, let him confess the sins of his past life, and be absolved from them under condition."[2] (cf. n. 1833).

(14) H. A., XVI, 1; Book VI, 425. (1) Cf. Lugo, De Poenit., disp. 3, n. 9-20. (2) Collect. S. Sed., n. 475; Acta S. Sed., IV, 320; cf. Konings, n. 1340, q. 4.

1656. II. The NECESSARY matter of Penance is all mortal sins not yet directly remitted through this Sacrament. - This is clear from Trent, which (sess. 14, cap. 5) declares "that all mortal sins of which penitents, after diligent examination of themselves, have consciousness, must be enumerated in confession." The reason is clear from what was said at n. 1646.

We said sins not yet directly remitted, or those which have not yet been expressly declared in confession, nor pardoned through valid absolution by force of jurisdiction extending itself to them. Hence, the necessary matter of confession is sins remitted through perfect contrition with only the desire of the Sacrament; likewise sins omitted either on account of inculpable forgetfulness, or on account of another just cause in a confession rightly made, and which were remitted together with others indirectly, or necessarily through the infusion of grace; likewise reserved sins, although distinctly declared, over which the absolving priest did not have jurisdiction, even though, from a grave cause, he had to impart absolution over the other sins.

1657. III. FREE and SUFFICIENT matter is both all venial sins not yet remitted by the power of the keys, and mortal or venial sins already directly remitted before, and confessed again. Thus all.[3]

We said, 1. venial sins not yet remitted by the power of the keys are matter: 1. free, because from Trent (sess. 14, cap. 5) "they can be kept silent without fault and expiated by many other remedies" (cf. n. 1648, q. 2); 2. sufficient, because the words of the Savior, *whatsoever you shall loose*, etc., do not distinguish between mortal and venial sins, and the Council, loc. cit., declares that venials are rightly and usefully said in confession. And truly, if confession had to be made concerning mortal sins alone, many, because of fear of publicly betraying themselves as gravely guilty, would be drawn back from that Sacrament; many, from false conscience, would judge themselves lightly guilty, etc.

We said, 2. sins already directly remitted are matter: 1. free, because what has once been remitted cannot any longer be called into fault; 2. sufficient, which is more than sufficiently clear from the Constitution of Benedict XI *Inter cunctas* and from the practice of the faithful. But the theological

reason is that sin, although already remitted, nevertheless remains committed; and therefore the sinner can again and again sorrow for it and ask pardon, and likewise the priest can more often in the name of God pardon and remit it, just as among men it is customary that the same injury be more often remitted from the heart. And because the form of absolution, on account of the proximate matter which truly exists, namely confession and contrition, is verified, sanctifying grace is conferred, not indeed first grace, but second grace, with a fuller remission of temporal punishment, and the other effects which the Sacrament produces in a man already justified.

(3) Book VI, 425.

1658. It is asked: Whether a DOUBTFUL sin is sufficient matter of the Sacrament?

Resp. Only a sin actually committed is sufficient matter. Therefore, if the penitent confesses only a sin doubtfully committed, the Sacrament is exposed to danger of nullity. Hence:

1. If someone declares no certain sin, he should first be questioned about the obligations of his own state, about pride, vain glory, evil thoughts, the manner of acting with parents and other neighbors, detraction, anger, envy, etc. For many, unless they are helped in this way, respond that they know nothing more.
2. Pious penitents are to be advised that, to doubtful sins, as also to their lighter daily faults, they always add some certain sin from those already confessed, concerning which namely they sorrow more vehemently and on account of which they can conceive a firmer purpose.[4] - But those who hold this salutary custom are to be forewarned not to append an accusation of this sort from mere use.
3. It does not seem to suffice if a penitent, whose conscience is not manifest to the confessor, simply says: "I accuse myself of all the sins of my past life." For the Sacrament of Penance was instituted by way of accusation and judgment; hence the accusation and judgment ought, ordinarily speaking, to be concerned with certain matter, and at least determined in species. - Therefore, except in a case of necessity, in which formal integrity of confession suffices, it is preferable to add: "Especially I accuse myself of sins committed formerly against such a precept or such a virtue," without the circumstances or number being expressed.[5]

(4) Ibid., 427, doubt 2. (5) Praxis, n. 71 and 188; cf. Ciolli, Direttorio pratico, n. 30, 2.

§ 2. On The Proximate Matter

1659. Scotus indeed and the Scotists contend that the whole essence of the Sacrament of Penance, namely matter and form, consists in the absolution of the priest alone; but that the acts of the penitent are only dispositions prerequired for obtaining the effect of the Sacrament. - But the other Theologians who lived after the Council of Trent commonly teach with St. Thomas that the acts of the penitent with the words of absolution are intrinsic parts of the Sacrament, and that they cooperate for the conferral of grace in Penance, just as washing cooperates in Baptism.[6] Hence we say:

I. The three acts of the penitent, namely CONTRITION, CONFESSION, and SATISFACTION, are the proximate matter of the Sacrament of Penance. From Trent, sess. 14, cap. 3 and can. 4; from the

Roman Catechism,[7] and from the Ritual, which says absolutely: "The remote matter is sins, but the proximate matter is the acts of the penitent." They are called by the Council quasi-matter, "not because they do not have the notion of true matter," says the Roman Catechism, "but because they are not matter of that kind which is applied extrinsically, as water in Baptism and chrism in Confirmation." "In those Sacraments," says St. Thomas,[8] "which have an effect corresponding to human acts, the human acts themselves are in place of matter, as occurs in Penance and in Matrimony." Nor is it an obstacle that contrition is not sensible of itself; for it is made sufficiently sensible through confession and other exterior signs of penance.[9] Hence it can be said that the proximate matter of this Sacrament is properly sorrowful confession, since the Sacrament of Penance is intrinsically composed from it.

Let these other words of St. Thomas also be noted:[10] "Every Sacrament," he says, "produces its effect not only by the power of the form, but also by the power of the matter; for from both there is one Sacrament. Hence, as the remission of fault in Baptism occurs not only by the power of the form, but also by the power of the matter, namely water, nevertheless more principally by the power of the form, from which the water itself also receives power; so also the remission of fault is an effect of penance, more principally indeed from the power of the keys, which the ministers have, on whose part is taken that which is formal in this Sacrament; but secondarily from the force of the acts of the penitent pertaining to the virtue of penance; yet insofar as these acts are ordered in some way to the keys of the Church."

(6) Cf. St. Alphonsus in Trent, sess. 14, n. 30-36. (7) De Poenit., n. 21 and n. 13. (8) 3, q. 84, a. 1, ad 1. (9) Book VI, 425, 482; H. A., XVI, 1. (10) 3, q. 86, a. 6.

1660. II. Contrition and confession are ESSENTIAL parts of the Sacrament, but satisfaction is only an INTEGRAL part. Thus commonly.[11] It is said, 1. Contrition and confession are ESSENTIAL parts, that is, so necessary that if one of them is lacking, the Sacrament cannot in any way stand; for without confession the information of the cause is impossible, and without contrition, in which the will of satisfying is necessarily included, reconciliation cannot be perfected.

It is said, 2. Satisfaction is an INTEGRAL part. By an integral part is understood that without which the Sacrament indeed exists essentially, but not altogether integrally; as he is essentially a man who lacks an arm or a leg, but nevertheless not whole and perfect. Hence sin can be remitted and reconciliation perfected before the satisfactory work imposed by the judge is fulfilled for obtaining remission of temporal punishment. - Yet this remission of punishment, insofar as it is obtained through satisfaction, is also an effect of the Sacrament, although secondary; and therefore it is required for the integrity of the Sacrament, or, as Trent says (loc. cit.), "for the full and perfect remission of sins."[12]

(11) Cf. Salm., tr. 6, c. 2. (12) Cf. Lugo, disp. 12, sect. 2, n. 40.

Article II: On The Form Of The Sacrament Of Penance

1661. I. The FORM of the Sacrament of Penance is the words of the priest: *I absolve you from your sins*. - This is clear from Trent (sess. 14, cap. 3), where it says: "The Holy Synod teaches that the form of the Sacrament of Penance, in which its force is chiefly placed, is set in those words of the

minister: *I absolve you*, etc." Therefore it is clear that the form must be indicative, not deprecative, whatever may formerly have been disputed about the validity of a deprecative form.

Let it be noted: 1. The words *I absolve you* are of the essence; otherwise the presence of the penitent would not be indicated, nor would the very force of absolution be expressed. Some deny that the pronoun *you* is required for the value of the form, since this is sufficiently expressed in the word *your*. Although, speculatively speaking, this opinion seems more probable, nevertheless it cannot be held in practice, because the value of the Sacraments must be provided for most safely.[13]

2. The words *from your sins*, more probably, are not of the essence if it is said: *I absolve you*; because by the word *you* the matter is already sufficiently determined through the presence of the penitent who has confessed. But because the opposite opinion is also probable, those words could not be omitted without grave sin; and if they had been omitted, absolution would have to be repeated under condition.
3. The words *In the name of the Father*, etc., are not of the essence, because Christ did not here, as in Baptism, make mention of the Most Holy Trinity. Hence their omission would not exceed venial fault. Likewise, the pronoun *I* is not essential, as is clear.[14]
4. A form expressed by equivalent words would be valid, for example: *I pardon, I remit your sins to you*; or even if, for the sake of honor, it were said: *I absolve Your Lordship, Your Excellency...* But it would be illicit because unusual and contrary to the practice of the Church.
5. Several also would be validly absolved by this one form: *I absolve you* [plural], etc., because all things required for validity are found in it. But this can also be done licitly in a case of necessity, for example in shipwreck, before battle, or in battle itself.[15]

(13) Book VI, 430, doubt 1; H. A., XVI, 5. (14) Ibid., doubts 2 and 3; H. A., ibid. (15) Book VI, 486; cf. Croix, book 6, p. 2, n. 645.

I ABSOLVE YOU FROM YOUR SINS, IN THE NAME OF THE FATHER +, AND OF THE SON, AND OF THE HOLY SPIRIT. AMEN. (If the penitent is a layman, the word of suspension is omitted.) - The Passion of our Lord Jesus Christ, the merits of the Blessed Virgin Mary and of all the Saints, whatever good you have done and whatever evil you have endured, may they be for you unto the remission of sins, the increase of grace, and the reward of eternal life. Amen.

"But in more frequent and shorter confessions, *May Almighty God have mercy*, etc., can be omitted, and it will suffice to say: *Our Lord Jesus Christ*, etc., as above up to this: *The Passion of our Lord*, etc."[1]

"But when some grave necessity urges in danger of death, he will be able to say briefly: *I absolve you from all censures and sins, in the name of the Father +, and of the Son, and of the Holy Spirit. Amen.*"

Concerning these things it must be noted: 1. The words *May Almighty God have mercy... Indulgence*, etc., can be omitted without any sin, according to the common opinion. - 2. The words *Our Lord*, outside necessity, according to many, cannot be passed over without venial fault; and their reason is that the Ritual seems to prescribe them even in more frequent confessions, as was noted above; yet others, with the common opinion, contradict this. - 3. The words *The Passion of the Lord*, etc., can always be omitted without fault; nevertheless, since through them, according to the opinion of St. Thomas, the

good works of the penitent are raised to the dignity and merit of sacramental satisfaction, it is greatly to be advised that they never, or at least very rarely, be left unspoken.[2] - 4. The elevation of the hand and the formation of the cross are not necessarily required while absolving, although it is better to observe the custom. - 5. A pious custom has similarly prevailed that the confessor bless the penitent before confession with these words: *May the Lord be in your heart and on your lips, that you may rightly confess all your sins*; but neither is this formula of blessing prescribed by any law. - 6. The confessor gives absolution sitting, in the manner of a judge pronouncing sentence. - 7. "It is advisable," says St. Alphonsus,[3] "that in the presence of other penitents the words of absolution be said quietly, lest, if someone is dismissed without absolution, others perceive it."

(1) To be understood: exclusively, S. R. C., February 28, 1847 (Gardellini, n. 5029, in Viglevanen.). (2) Book VI, 430, doubts 3 and 4. (3) Book VI, 429; H. A., XVI, 5.

1663. Questions. Q. 1. Whether absolution can be sent to an ABSENT person?

Resp. No, since the form of the Sacrament cannot be expressed otherwise than by the voice. And this is certain among all; for in the year 1602 Clement VIII proscribed as false and rash this proposition: "It is licit through letters, or through a messenger, to confess sacramentally to an absent confessor, and to obtain absolution from him while he is absent."[4] Therefore, since the Pontiff declared absolution of this sort illicit, he also declared it invalid, because in cases of necessity he could not have prohibited it. Now, such is the prohibition that absolution cannot even be sent to a penitent who has made confession while present, as Pope Paul V expressly declared on July 17 in the year 1605.[5]

Q. 2. What PRESENCE of the penitent is required, that he can be absolved?

Resp. Moral presence suffices, namely that within which men, with an ordinary voice, although somewhat raised, can and are accustomed to speak. Many extend this to twenty paces, especially if the penitent has not yet gone out from the sight of the confessor. But in a case of necessity, absolution is to be given whenever the one to be absolved is perceived by some sense. Hence, a penitent can be absolved who has already withdrawn from the confessional and is not much distant, and indeed licitly if he cannot conveniently be called back; likewise one who falls from a roof, who falls into a river, who, affected by plague, cannot be approached, etc. Yet, if the one to be absolved should be more than twenty paces away, absolution would have to be given under condition.

Q. 3. Whether by the words *I ABSOLVE YOU* the priest can validly absolve the penitent both from sins and from censures?

Resp. Yes, according to the common opinion of authors. "The reason is that nothing prevents those words, from the intention of the priest, from being directed to absolution both from censures and from sins."[6] Yet this, unless there were altogether absent any suspicion that the penitent had incurred some censure, is not excused from venial fault, since it is against the use of the Church. Indeed, a Priest who, against the prohibition of the Church, wished to absolve the penitent first from sins and then from censures would sin gravely; but if the penitent were in good faith, he would be validly absolved from sins, although absolution from censures had not been premised; because the prohibition of the Church cannot invalidate a Sacrament whose value depends on divine law, when all essential requisites concur for it (cf. n. 1405).

Q. 4. Whether absolution can validly and licitly be given UNDER CONDITION?

Resp. 1. It is given VALIDLY if it is given under a condition concerning the past or the present; for when the condition is verified, the form of the Sacrament passes before God into an absolute form; but when the condition is not verified, the Sacrament is not confected, nor does the priest intend to confect it. (Recall what was said at n. 1414.)

Resp. 2. It is also given LICITLY "provided a just cause is present; namely if, absolution being denied, notable detriment would threaten the soul of the penitent." Thus St. Alphonsus[7] with the common body of Doctors, against some.

Moreover: 1. The reason why it is licitly given is this: the Sacraments are for men, and the reverence owed to the Sacrament is preserved intact by the reasonable condition which is added. More probably, a condition retained in the mind suffices; although it is safer to express it in words, for example, "if you are contrite..., if you are disposed..., if you are capable, I absolve you."

2. The reason why it is not licitly given except when notable detriment is feared is that a condition is not rashly to be added to the form, and in a divine rite something is not easily to be changed. Besides, the priest ought to be a prudent dispenser, which he certainly would not be if from a slight cause, or in every doubt, he imparted conditional absolution. Yet extreme necessity, or danger of life, is not required, as Collet contends with certain others. For rigor of this sort would equally be harmful to penitents, especially to those who are to be judged unlikely to return to the confessor, and who, dismissed without absolution, would incur the danger of eternal damnation.

Q. 5. What are JUST CAUSES for giving absolution under condition?

Resp. These just causes can be either on the part of the confessor or on the part of the penitent. - The principal ones are the following:[8]

I. ON THE PART OF THE CONFESSOR: 1. If he positively or prudently doubts whether he absolved or not; for then he is bound to say: "if you are not absolved, I absolve you." - 2. If he doubts whether he has jurisdiction over the penitent, that is, in a doubt of fact, for example when there is doubt whether he received jurisdiction from the Ordinary, or whether he lost it on account of revocation; for then, with sufficient cause, he can absolve conditionally, saying: "if I can, I absolve you," etc. But in this case, says St. Alphonsus,[9] the penitent must be warned "that he has been absolved only under condition, so that if afterward perhaps it becomes known that the confessor truly lacked jurisdiction, that penitent should confess his mortal sins again, as he ought." But in a positive doubt of law, that is, if because of the authority of Doctors the jurisdiction of the priest is probable, as, for example, in common error, he can give absolution in an absolute manner; because, a grave cause standing, the Church certainly supplies, as will be explained below (n. 1755 and 1756).

II. ON THE PART OF THE PENITENT there is a twofold species of cases, and therefore a twofold rule must be established:

Rule 1. A penitent who, placed in EXTREME necessity of soul, presents doubtful matter or disposition, is to be absolved under condition, lest perhaps he suffer grave detriment. - Hence the following are to be absolved under condition: 1. All the DYING, unless their incapacity or

unworthiness is known, or can be positively presumed. - 2. Penitents DOUBTFULLY DISPOSED, if they are in grave danger of death, although not proximate, for example a woman in difficult childbirth, a sailor or another about to undertake a long voyage, a soldier about to fight with the enemy, a sick person before a very difficult surgical operation; or if it is prudently feared that, dismissed without absolution, they will thereafter altogether recoil from the sacred tribunal and languish in their sins, lest they pass over to heretics, lest they be alienated from the Church or from good works, lest they draw others to evil, etc.; or even if the necessity of communicating presses, for avoiding scandal or infamy, as easily happens in the first Communion of children and in general Communions, especially if the number of communicants is small.

Rule 2. A penitent who, placed in ORDINARY necessity, presents only doubtful matter or capacity, is SOMETIMES to be absolved, even under condition, lest he be deprived of a notable spiritual good. Hence the following are to be absolved under condition: 1. CHILDREN or the HALF-WITTED, whose use of reason is doubtful, or whose instruction concerning truths necessary to be known is doubtful, or whose sins are doubtful, especially if they are mortal of themselves. Therefore these are to be absolved both in danger of death, and when the precept of annual confession or of paschal Communion presses, and sometimes during the year, although they declare only venials and doubtful sins, lest perhaps they remain in a lethal state and be forced to live for a long time destitute of the help of sacramental grace. Yet great and accurate diligence must be premised, so that, as far as can be done, they are well instructed and rightly disposed.[10] - 2. PIOUS PENITENTS who bring only imperfections, and can declare nothing certain from their past life; to these absolution under condition can be given once a month.

Let it be noted: 1. Penitents guilty of mortal sin who, on account of doubtful disposition or doubtful jurisdiction, have been absolved under condition, do not thereby have a right to the Holy Eucharist. For the precept of the Apostle stands in the way, saying: "But let a man prove himself..." Nor does doubtful, or merely probable, proof suffice when the sin was certain, but it must be certain morally (cf. n. 1756). - Hence, not only should the confessor not invite them to Holy Communion, but he should, if he can, prudently turn them away from receiving it.

2. Yet if they are already determined of themselves, or if from the denial of Communion a great evil is feared, let them be left in good faith, and let them be warned to excite themselves again to contrition.[11]

Addendum printed at the end of Volume II: Page 192 at end: Similarly invalid would be absolution given by telephone, because, although by expressed voice, nevertheless it would be directed to an absent person. - (Cf. what Dr. A. Eschbach excellently wrote on this matter, Nouvelle revue theologique, tom. XIX, p. 393). (4) H. A., XVI, 5. (5) Book VI, 428. (6) Book VI, 430, doubt 4. (7) Ibid., 431. (8) Book VI, 432; H. A., XVI, 6. (9) Ibid. (10) Book VI, 432; cf. Prax., n. 91. (11) Ibid.; H. A., XV, 34; Konings, n. 1344.

Dissertation II: On The Subject Of The Sacrament Of Penance

1664. That every and only baptized man, fallen into at least venial fault, is the SUBJECT of the Sacrament of Penance, is already sufficiently known from the things disputed above. But this is proper and peculiar to this Sacrament, that its subject must contribute something, not only to its licit and fruitful reception, but to its very confection, namely by placing the proximate matter, which consists in the acts of the penitent himself, namely in CONTRITION,

CONFESSION, and SATISFACTION. Therefore we must treat accurately of these acts, which are at once the proximate matter of the Sacrament and dispositions of the subject for receiving it.

Chapter I: On Contrition

1665. DEFINITION. Contrition is defined: "Sorrow of soul and detestation concerning sin committed, with the purpose of not sinning thereafter." Thus Trent, sess. 14, cap. 4.

It is an act of the virtue of penance, by which man assumes hatred toward sin committed by himself, and detests it so that by no pact whatever would he ever have wished himself to have sinned. But sadness of will necessarily accompanies such an act of detestation. But because contrition is defined as sorrow of soul and detestation concerning sin committed, Theologians dispute whether its essence consists in sorrow, or rather in detestation. The latter opinion seems truer to St. Alphonsus, because sorrow indeed is not the cause of detestation, but detestation is the cause of sorrow. - For the rest, as both are required, so one is contained in the other; for he who detests his sin necessarily sorrows for it, and conversely. Besides, detestation perseveres in the Blessed, but sorrow no longer does.[12] (Recall what was said at n. 1644.)

These things having been premised, we shall treat, according to the Tridentine definition, 1. of the sorrow of the penitent; 2. of his purpose.

(12) Book VI, 435; H. A., XVI, 8; Op. in Trid., sess. 14, c. 2.

Article I: On The Sorrow Of The Penitent

We shall treat: 1. Of sorrow or contrition of the penitent, insofar as it is required in the Sacrament of Penance, abstracting from the perfection or imperfection of that sorrow; 2. Of perfect and imperfect contrition.

§ 1. On The Contrition Required In The Sacrament

1666. Principles. I. Contrition is absolutely NECESSARY, both for the VALIDITY and for the LICEITY of the Sacrament of Penance, as often as it is received. The reason is that contrition is the proximate matter and an essential part of the Sacrament; therefore a Sacrament received without contrition is null, and consequently illicit. - Hence, although diligent labor is to be placed in the examination of conscience, more diligent labor must nevertheless be placed in exciting sorrow of soul. And although a brief space of time can suffice for conceiving this sorrow, it is nevertheless safer to prolong a little, or to repeat, the act of contrition, lest by too much haste it be extinguished in its very beginning.

We said: As often as it is received, namely lest the confession of venial sin be excluded. "For it is certain that, although outside the Sacrament some motion of grace or charity suffices for its remission, as St. Thomas teaches, nevertheless in the Sacrament FORMAL sorrow is altogether required, nor does virtual sorrow suffice, as the Doctors commonly teach with Roncaglia, Concina, and Croix, against a few."[1] - But:

It is doubted, 1. Whether he sins mortally who confesses venials without sorrow? "Genettus, Juveninus, and Natalis Alexander deny it; they say that as often as the mind of profaning the Sacrament is absent, to frustrate it in light matter does not exceed a light irreverence. But other Doctors commonly and rightly affirm it, and Lugo calls the former opinion altogether false, saying that the gravity of the injury does not consist in the matter, but in the frustration of the Sacrament, by not placing suitable and essential matter, as sorrow is. Hence, whether it is frustrated on account of grave matter or on account of light matter, the irreverence is always grave."[2]

It is doubted, 2. Whether in the confession of venials it suffices to sorrow for one without another? - "Some deny this; but Suarez, Lugo, and others commonly and rightly affirm it. And the reason is clear, because venials are not necessary matter, but sufficient matter. But Castropalaus, Lugo, Sporer, Tamburini, etc., say that it suffices to repent of a multitude of venials, without repenting of any one in particular; but Arriaga and Dicastillo contradict them, saying that sorrow concerning at least one of them is necessary. But these opinions are easily reconciled, because it is impossible that he who repents of a multitude should not sorrow for the last things which constitute the multitude."[3] Likewise, it suffices to sorrow for a certain species of venials, or for deliberate ones alone.

(1) Book VI, 449. (2) H. A., XVI, 23. (3) H. A., 23; Book VI, 449, doubt 2.

1667. II. Contrition, in order to obtain pardon, must be TRUE, SUPERNATURAL, APPRETIATIVELY SUPREME, UNIVERSAL at least with respect to mortal sins, EFFICACIOUS, and finally must have joined to itself CONFIDENCE of pardon. We say in order to obtain pardon, and this both in the Sacrament and outside the Sacrament; because the aforesaid qualities or CONDITIONS also pertain to the virtue of penance (cf. n. 1644 and 1645).

1. It must be TRUE. "It is necessary," says St. Alphonsus,[4] "that the soul conceive true sorrow, true displeasure, true bitterness concerning sin committed, and that it detest and abhor it." For contrition is called sorrow of soul or of heart, that is, of the will. Therefore contrition, or attrition, which is only thought to exist, even inculpably, does not suffice; nor does the desire of absolution without affection concerning sins, as some wish against the common opinion. And the reason is that true sorrow of the will is an essential part of the Sacrament.[5] - Nor does it suffice to sorrow that you do not sorrow, nor a mere wish of not sinning. Yet Bonacina rightly notes that with the act by which someone sorrows that he does not sorrow for sins, there is usually joined sorrow for the sins, even if the penitent does not discern it.[6]
2. It must be SUPERNATURAL, both by reason of the motive from which it is elicited, which must be proposed to the mind by faith, and also by reason of the principle from which it proceeds, which is divine grace, without which no one can repent as he ought. - Hence, if someone sorrowed even most intensely, or in good faith, because his sin is repugnant to reason, or because it deprives him of reputation, health, or some temporal good, he would have merely natural sorrow, of itself plainly inept for obtaining justification, which is of the supernatural order. Hence this 57th proposition was condemned by Innocent XI: "It is probable that natural contrition, provided it is honorable, suffices." Yet the occasion of penance can be natural, as is clear from the example of the Ninevites.

3. It must be APPRETIATIVELY SUPREME, namely so that the offense of God displeases more than any other evil which could have happened to us. The reason is that "as God is the supreme good among all things which are to be loved, so also sin is the supreme evil among all things which men ought to hate."[7] And the same reason runs concerning VENIAL sin; wherefore one must also sorrow supremely for it, that pardon may be obtained from God. We say appretiatively supreme, not intensively; because although it is fitting and to be desired that no end or measure be placed in the detestation of sin, this nevertheless is not required, nor is it in the common power of men.[8]

4. It must be UNIVERSAL, at least with respect to mortal sins. For the Lord says (Ezek. 18:21-22): "If the wicked man shall do penance for all his sins... I will not remember all his iniquities." The reason is clear: for it cannot be that he who truly sorrows for his sins detests one and takes complacency in another, since he knows that divine friendship is altogether extinguished by every mortal sin. - Yet there are not required, as is more commonly held, individual acts of sorrow for individual sins, which would often be impossible; but it suffices to sorrow for all universally, from a motive common to all, because universal sorrow virtually extends itself to all sins.[9] (cf. n. 1397, 3.)

5. It must be EFFICACIOUS, namely so that it turns the will away from sin and disposes it to doing all things by which relapse is avoided. And to this pertain the words of Ezekiel (18:31): "Cast away from you all your transgressions... and make for yourselves a new heart and a new spirit." (cf. n. 1680, on formal purpose.)

6. It must have joined to itself CONFIDENCE OF PARDON; otherwise it would be similar to the sorrow of the damned in hell, who also repent of their sins, but without hope of remission. But the sorrow of the truly penitent is filled with hope and consolation; because the more a man repents of having displeased God, the more he trusts in divine mercy, and the more his consolation is increased. Hence St. Bernard thus addressed the Lord: "Lord, if it is so sweet to weep concerning Thee, what will it be to rejoice concerning Thee?"[10]

But are EXPLICIT acts of faith and hope required for obtaining grace in the Sacrament of Penance? Some indeed affirm, because sinners are said by Trent to prepare themselves for justification by these acts. But others more commonly deny it, because the necessity of those acts cannot be demonstrated by any sufficient reason. - Yet these opinions can be reconciled very well; for the penitent, by eliciting an act of sorrow, also explicitly elicits, not now reflexively but exercitively, acts of faith and hope; because then without doubt he exercitively believes that his sins will be remitted to him by the power of the Sacrament, and explicitly hopes that pardon will be granted to him through the Sacrament and on account of the merits of Christ.[11]

(4) Instit. catech., p. 2, c. 5, n. 13. (5) Book VI, 433, 2. (6) Ibid., 6. (7) Roman Catechism, De Poenit., n. 27. (8) Note. The appretiation of one object is the work both of reason judging one thing to be greater than another, and of the will freely pursuing it as a greater good. (9) Book VI, 438; H. A., XVI, 12. (10) Instit. catech., p. 2, c. 5, n. 18. (11) Book VI, 439; H. A., XVI, 13.

1668. III. Contrition, which is a part of the Sacrament of Penance, must be SENSIBLE in some way, and must be MORALLY UNITED to the other essential parts of the Sacrament. - This is clear from what was said concerning the Sacraments in general (n. 1402 and 1434).

1. It must be SENSIBLE, not indeed so that it redounds into sense or the sensitive appetite; for such sorrow, although it often arises from sadness of the will, is not necessary; but so that it is manifested by some sign, for example through sorrowful confession, through petition for pardon, etc.; otherwise the confessor could not rightly judge concerning the disposition of the penitent (cf. n. 1817, q. 1).
2. It must be MORALLY UNITED to confession and absolution, so that from the diverse parts there may be one Sacrament. Wherefore the following things come to be discussed.

1669. Questions. Q. 1. Whether contrition must PRECEDE absolution?

Resp. Yes; otherwise absolution, which is the form of the Sacrament, would not be applied to its matter and would be invalid. Indeed, neither is contrition altogether safe when it is put off to the point of absolution; because it can easily happen, especially in the confession of the rude, that the form of absolution ends before the act of contrition has been elicited.

Q. 2. Whether contrition must also PRECEDE the ACCUSATION of sins?

Resp. The first opinion affirms it, both because sorrow, as the matter of this Sacrament, must be sensible and is not made sensible except through confession, and because confession ought not to be a simple narration, but a sorrowful accusation. The second and more common opinion denies it, and the Ritual greatly favors this, saying: "The confession having been heard, he will try to lead him to sorrow by efficacious words," namely the confessor. To the first contrary reason it is answered that sorrow is made sensible not only through confession, but also by other signs and words; but to the second it is answered that only this is required: "that confession not be a mere narration of sins, but have the character of a sacramental accusation; and for this it suffices that the confession be made with the mind of obtaining absolution, and that afterward sorrow be manifested at least through petition for, or expectation of, absolution; for thus the confession becomes well sacramental." And the very defenders of the first opinion concede this; whence it is clear that the two opinions differ more in words than in reality, and that the second, understood in the way we have said, is altogether safe.[12] "To calm scruples, confessors are accustomed, if they doubt concerning the internal disposition of the penitent, to excite him to sorrow concerning the sins just explained. This is done if it is said: *I sorrow for and accuse myself of the sins narrated*."[13]

Q. 3. Whether the act of contrition must be elicited IN ORDER TO THE SACRAMENT?

Resp. No, from the more probable opinion; "both because from Trent attrition, however had, suffices, and because sorrow is ordered at least to absolution when it is manifested through confession."[14] - Yet the opposite opinion, which says that an act of contrition, when it was not elicited in order to the Sacrament, must be renewed in confession, is also probable, and therefore is to be held in practice.[15] (cf. n. 1659, end.)

Q. 4. For how much time does an act of sorrow morally ENDURE for receiving the Sacrament validly?

Resp. According to the various circumstances, a longer or shorter space of time must be assigned: 1. If confession is made solely from sorrow for sins, sorrow endures virtually at least for one, or even another, day. - 2. But if it is made from mere devotion, or from precept, from vow, or from the

mandate of a rule, a shorter space, for example from morning to evening, ought to intervene. For the rest, in practice it is counseled that the act of contrition always be renewed before absolution.[16]

Q. 5. Whether he is bound again to elicit an act of sorrow who immediately after ABSOLUTION confesses a sin omitted through forgetfulness?

Resp. According to the more common opinion, he is not bound; because the prior sorrow, since it is universal, extends itself also to the forgotten sins and perseveres up to the second absolution. - But according to another opinion, still probable and therefore to be followed as safer, a new Sacrament must be confected; because through the first absolution the judgment has already been completed, and therefore a new act of sorrow must be elicited, a new penance imposed, and a new absolution imparted.[17]

(12) Book VI, 445. (13) Ibid., 445 (from the 6th ed.); H. A., XVI, 19; Conf. dir., XV, 7. (14) H. A., XVI, 21. (15) Book VI, 447; Conf. dir., loc. cit.; cf. Vindic. Alph., p. 5, q. 2. (16) Book VI, 446; cf. Konings, n. 1348, q. 5. (17) Book VI, 448; H. A., XVI, 22; Conf. dir., XV, 7; cf. Vind. Alph., p. 5, q. 3.

§ 2. On Perfect And Imperfect Contrition

1670. Every act of contrition, as is already clear from what has been said, requires this for itself, that it be elicited from a truly supernatural motive; and in this respect, indeed, all and each of the acts of contrition generically agree. But because the motives from which they are elicited are of unequal order, and because on account of this inequality some are more perfect and efficacious than others, Theologians, relying on this foundation, distinguish two principal SPECIES OR DEGREES of contrition, one of which they call perfect contrition, and the other imperfect contrition. - Of each, separately, we must now treat.

I. On Perfect Contrition

1671. DEFINITION. PERFECT contrition, or contrition simply so called, is that which is elicited from the motive of divine charity, that is, insofar as sin

is an offense of God, the Supreme Good and to be loved above all things. For divine Goodness, just as on account of its supreme lovableness it draws our will to love of itself, so likewise it moves it to detestation of the evil which is opposed to it. - Hence an act of perfect contrition will be, for example, the following: *My God, with my whole heart I sorrow for all my sins, and they displease me because I have offended Thee, infinite goodness.*

Two things worthy of note must be premised here: 1. Several Theologians probably teach that an act of perfect contrition can be elicited from the motive of any offended divine attribute. For he, they say, who loves divine justice, wisdom, mercy, beneficence, already loves God Himself, since these attributes are God Himself. But others commonly and more probably hold that perfect contrition must proceed altogether from the sole motive of charity, namely from divine goodness contemned through sin, insofar as this is the root and aggregate of all perfections. For, from Trent, contrition must be perfected or informed by charity; but the object of charity is God insofar as He is Infinite Goodness itself, or the infinite Good.[1]

2. Perfect contrition admits several DEGREES, among which are distinguished: 1. Contrition in a remiss or lowest degree, by which at least mortal sin is excluded from the motive of predominant charity. - 2. Contrition in a perfect degree, or intense degree of reason, by which in addition any venial sin and any affection for it are excluded. - 3. Contrition in the supreme and most intense degree of reason and sense, such as by special grace was granted to some sinners, who died from the vehemence of sorrow. - Yet these diverse degrees are of the same nature, because more and less do not vary the species.[2] (cf. n. 465 seq.)

(1) Book VI, 436; H. A., XVI, 9; cf. Vindic. Alph., p. 5, q. 1. (2) Cf. St. Alphonsus in Trent, sess. 14, n. 42.

1672. Principles. I. PERFECT contrition, even in the lowest degree, always JUSTIFIES a man before the Sacrament is actually received. This is proved, 1. from Scripture (Prov. 8:17): "I love those who love me." "Charity covers a multitude of sins" (1 Pet. 4:8). - 2. From Trent, which (sess. 14, cap. 4) teaches "that contrition perfected by charity... reconciles man to God before this Sacrament is actually received."[3] 3. From the Fathers and Doctors, among whom St. Chrysostom:[4] "Where charity is, all evils have been taken away"; and St. Thomas:[5] "Charity cannot be with mortal sin." 4. From the 32nd proposition of Baius, condemned by Gregory XIII: "That charity which is the fullness of the law is not always joined with the remission of sins." But the theological reason is that an act of perfect contrition is a formal act of charity toward God, or an act intrinsically joined with charity, as is clear from the very definition of contrition.

We said, 1. even in the lowest degree. For it suffices that the love of God attain to the notion of charity, which consists in the love of God for His own sake, above all things. "And the reason is evident," says St. Alphonsus,[6] "because as any aversion from God as from the ultimate end, even in a remiss degree, suffices for losing God's friendship, so any true conversion suffices for recovering it." Hence St. Thomas:[7] "Any contrition is informed by grace making one pleasing; therefore however small it is, it destroys every fault." And this opinion seems so certain to our Blessed Doctor that he rejects the opposite altogether as improbable and false.[8]

We said, 2. always justifies, that is, even outside the case of necessity. This is likewise certain against Adrian and Cajetan, although the Council of Trent abstained from condemning those authors. It is clear from the condemned 71st proposition of Baius: "Through contrition even joined with perfect charity and with the desire of receiving the Sacrament, guilt is not remitted, outside the case of necessity or martyrdom, without the actual reception of the Sacrament."[9]

(3) Cf. Book VI, 422. (4) In Ep. 2 to Timothy, homil. 7, n. 3. (5) 2.2, q. 45, a. 4. (6) Book VI, 442, Posito igitur. (7) Suppl., q. 5, a. 3, Sed contra. (8) Book VI, 442, Ex his. (9) Cf. H. A., XVI, 16.

1673. II. Perfect contrition of itself does not justify a man except WITH THE DESIRE OF THE SACRAMENT, at least implicit. - 1. This is clear from the very nature of contrition; for, in order that it be true and perfect, there is required the will to fulfill all the precepts of God; but confession is a divine precept; therefore. - To the point Cardinal de Lugo says aptly:[10] "Contrition is said to justify in order to the keys, not because it receives the power of justifying from the Sacrament, but because, when it justifies outside the Sacrament, it has in itself the implicit desire of subjecting mortal sins to the keys; to this a man remains bound even after he

has been justified through contrition." - 2. This is further clear from Trent (sess. 14, cap. 4), where it is declared that the desire of the Sacrament is included in perfect contrition.

We said with a desire at least implicit; for it can happen that a sinner elicits an act of perfect contrition without actually thinking about confession, either from inadvertence or from invincible ignorance; but that ignorance or inadvertence detracts nothing from the merit of charity and contrition. Therefore. - Besides, from Trent the desire which is included in contrition suffices; but what is included in another thing is implicit, not explicit. - Yet if the sinner actually thinks about the precept of confession, he certainly must either confess, or elicit the purpose of confessing; otherwise contrition would not be true, as is evident.[11]

(10) De Euch., disp. 3, n. 3. (11) Book VI, 437, doubt 4; cf. Lugo, disp. 5, sect. 8, and disp. 8.

1674. Several things must be noted here: - 1. Perfect contrition is not the very form which justifies the sinner, but is, in the present providence, the final disposition or final preparation for justification. For, when from actual grace there has been placed in the sinner an act of charity or of perfect contrition, habitual grace is immediately infused into him, by which the man loving God and loved by God is rendered just and a friend of God. This is drawn from Trent, sess. 14, cap. 4, and sess. 6, cap. 7.

2. Contrition, whether considered on the part of charity or on the part of sensible sorrow, can increase to such a degree that it suffices for the FULL DESTRUCTION of fault and punishment; as is clear from the example of the good Thief. For charity, which begets displeasure, can be so greatly intensified in act that the contrition following from it merits not only the removal of fault, but also absolution from every punishment. - Likewise, sensible sorrow, which the will excites in contrition, can be so greatly intensified that it suffices for the destruction of the whole punishment, by way of satisfaction.[12]

3. Most vehement contrition can further bring this about, that it removes the very REMAINS OF SIN. "For St. Thomas teaches[13] that God sometimes removes the remains of sin successively through His cooperating grace, but sometimes immediately through a great commotion, by which man obtains perfect spiritual health... as is clear concerning St. Magdalene."[14]

Concerning the NECESSITY of contrition, recall what was said at n. 1647.

(12) St. Thomas, Suppl., q. 5, a. 2. (13) 3, q. 86, a. 5, ad 1. (14) Book VI, 70.

II. On Imperfect Contrition

1675. DEFINITION. IMPERFECT contrition, or attrition, is detestation of sin which is commonly conceived either from consideration of the turpitude of sin, or from fear of hell and punishments, and which has joined to itself an initial, but not predominant, love of God. - It is elicited, for example, by these words: *My God, because on account of my sins I have lost paradise and have deserved eternal hell, I sorrow above every evil that I have displeased Thee.*

We said, 1. commonly conceived, so that it may be intimated with Trent (sess. 14, cap. 4) that there are also other motives of attrition, as are sadness over the loss of grace and divine friendship, hope of

pardon, hope of eternal beatitude, non-predominant love of God, for example on account of His beneficence and mercy; yet all these motives are inferior to charity.

We said, 2. from consideration of the turpitude of sin: namely one made not only according to the dictate of reason, but according to the light of faith; for example if the sinner considers within himself that through sin he has been despoiled of the beauty of grace, has departed from the rectitude of virtue, and leads a life unworthy of a Christian. For unless a supernatural consideration moves sorrow, attrition is not supernatural.

We said, 3. or from fear of hell and punishments; understand fear: 1. honorable, that is, not formally but only materially servile, by which the will of sinning is excluded, as we noted (n. 457, 2); - 2. supernatural, by which punishment is feared insofar as it is inflicted by God, the supreme judge and avenger of sins. For he who sorrowed from fear of disease or infamy coming to himself from sin would not sorrow as he ought (cf. n. 1667, 2).

Whether attrition conceived from fear of temporal punishments insofar as they are inflicted by God suffices? - "Some deny with Cano, Concina, etc., saying that sorrow must arise from fear of eternal punishments, because, since the punishment of mortal sin is eternal, the penitent must conceive sorrow for sins from fear of an eternal evil. - Others with Lugo, Suarez, etc., more commonly and more probably affirm it, from these words of the Council of Trent: 'Attrition is conceived from fear of hell and punishments.' For here the Council distinguishes other punishments from the punishments of hell, in which assuredly all other punishments are included. But because the first opinion cannot be said improbable, in practice we cannot embrace the second."[15]

We said, 4. and some initial love of God. For Trent teaches (sess. 6, cap. 6) that sinners, while they are disposed to justification, "begin to love God as the font of all justice, and therefore are moved against sins," etc. But this beginning of love is already had in attrition, both through fear of divine vengeance, according to that saying (Ecclus. 25:16): "The fear of God is the beginning of His love"; and through hope of pardon and eternal beatitude. Hence St. Thomas:[16] "From this," he says, "that we hope goods can come to us through someone, we are moved toward him as toward our good, and thus we begin to love him." Therefore he who approaches the Sacrament with attrition and hope of pardon already begins to love God as his liberator, justifier, and glorifier.[17]

(15) H. A., XVI, 17; Book VI, 443; cf. Vindic. Alphons., p. 5, q. 4. (16) 1.2, q. 40, a. 7. (17) Book VI, 442, Objic. 3.

1676. Principles. I. Attrition, OUTSIDE THE SACRAMENT, cannot of itself justify a man. - This is clear from Trent (sess. 14, cap. 4), where it is read: "And although without the Sacrament of Penance it cannot of itself bring the sinner to justification, nevertheless," etc. - The reason is that justification consists in perfect conjunction 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 joined by charity.[18]

(18) Ibid., 440, Objic.

1677. II. Attrition SUFFICES, as the prerequired disposition, for obtaining pardon of sins, even lethal sins, IN THE SACRAMENT of Penance. - This opinion today is morally certain, and the opposite, which requires predominant love, is no longer probable. - It is proved: 1. From Trent (sess. 14, cap. 4), where it is said that attrition disposes to justification in the Sacrament of

Penance. These words cannot be understood as though attrition disposes only remotely to justification, as the acts of the other virtues do; for thus it disposes even outside the Sacrament. Therefore it disposes proximately, namely so that grace can be infused through absolution. - 2. From reason: the Sacraments actually work what they signify. Therefore of itself this ought to happen: that when the priest imparts absolution, at that very point of time sins are remitted and the life of grace is conferred on the spiritually dead soul. Now if predominant charity had to be present in sorrow, the Sacrament of itself would never cause grace, because all would approach it already justified, since, according to St. Thomas,[19] every sorrow, however small, proceeding from predominant charity is true contrition justifying of itself; therefore the Sacrament of Penance could no longer be called a Sacrament of the dead, but of the living. The reason of the end for which the Sacrament was instituted is added. "It was necessary," says the Roman Catechism,[20] "that the most merciful Lord should provide for the common salvation of men by an easier way." Now, if attrition did not suffice with the Sacrament, the matter would certainly no longer be so.[21] Therefore. - A penitent who is actually attrite is said to become habitually contrite under absolution, because grace, and therefore charity, are conferred on him through absolution, and thus he is made habitually converted to God.

(19) Suppl., q. 5, a. 3. (20) De Poenit., n. 36, end. (21) H. A., XVI, 14-16.

1678. It is asked: Whether one who, IN THE ARTICLE OF DEATH, has confessed with attrition alone, is also bound to elicit contrition?

Resp. "The first opinion affirms with Suarez, Bonacina, etc. But the second opinion, much more common with Lugo, Laymann, etc., denies it; and Suarez calls it very probable, because, granted that the opinion is certain, as has been shown, that attrition alone suffices for confession, he who has confessed with it is already morally certain of divine grace. - This second opinion is very probable; but it cannot be denied that the first is altogether to be advised to the dying; especially because at the end of life we are bound to an act of love, which cannot be satisfied unless we detest sin when it occurs to memory, as is commonly taught."[22]

(22) H. A., XVI, 11; Book VI, 437, doubt 2; cf. Sporer, Theol. Sacram., p. 3, c. 2, sect. 2, n. 192.

Article II: On Purpose

1679. DEFINITION. Purpose, which is the other part of contrition, is the fixed and ratified counsel or decree of the will, not to sin any more

in the future. - It is an act of the virtue of prudence. "Penance," says St. Thomas,[1] "also regards future sin, according as it has something of the act of prudence joined to it... And because of this, he who is contrite sorrows for past sin and guards against future sin."

DIVISION. A TWO-FOLD purpose is distinguished: one explicit or formal, the other implicit or virtual. - The former is had when someone, thinking of future time, expressly enters upon the counsel of not sinning any more; the latter, when someone actually sorrows for his sins without extending his thought to future time; for in such sorrow the will of not sinning any more is already included.

(1) Suppl., q. 2, a. 4.

1680. Principles. I. A FORMAL or VIRTUAL purpose of not sinning thereafter is of the essence of the Sacrament of Penance. - This is clear from what was said concerning contrition; for this, in order that it be appretiatively supreme, must exclude every affection for sin and every will of sinning; but this is nothing other than the purpose of not sinning any more in the future; therefore.

It is asked: Whether in the Sacrament of Penance a VIRTUAL or IMPLICIT purpose in sorrow suffices?

Resp. There are three opinions. - The first denies it with Scotus, Cano, Cajetan, etc., because although sorrow necessarily includes purpose, nevertheless Trent seems in fact to require a formal purpose, saying: "with the purpose of not sinning thereafter." - The second, with Lugo, etc., affirms it, namely if sorrow is elicited from a universal motive. This rests likewise on the authority of Trent, saying "that attrition, if it excludes the will of sinning, with hope of pardon, already disposes man to obtain grace in the Sacrament." Finally, the third opinion, which Holzmann holds, distinguishes and says: If the penitent thinks nothing of the future, as is accustomed to happen with the sick near death, an implicit purpose suffices. But otherwise, if he thinks of the future, in which case he must formally propose amendment, because according to Trent each one ought through penance to begin a new life. Thus St. Alphonsus.

"These two last opinions are indeed more probable; but because the first does not lack its probability, in practice before the fact the SAFER is to be followed"; indeed even after the fact, if it is certain that explicit purpose was lacking; for he who certainly committed grave fault is bound to fulfill confession of it, not only probably, but also certainly validly.[2] (cf. n. 427, Hence 2.) - Yet, says Scavini,[3] "in practice no one ought to be disturbed about this; since it scarcely, and not even scarcely, happens that a truly contrite penitent omits even an explicit purpose, although he does not reflect on this, which is not necessary."[4]

(2) Note that here there is a doubt of law, and indeed of divine law. (3) Book III, n. 292. (4) Cf. Vindic. Alph., p. 5, q. 6.

1681. II. There are three conditions of a true purpose, namely that it be FIRM, UNIVERSAL, and EFFICACIOUS. - Thus all.

1. The purpose must be FIRM. This imports that the penitent has a will altogether deliberate not to relapse into fault, and is disposed in soul so that he would not wish to admit sin in the future from fear of any evil, or from desire of any good. - Such a disposition is required for true conversion, as is clear; because the will of sinning must be abolished absolutely and for any case whatever.[5]

It is asked: Whether purpose can be firm with FORESEEING of relapse?

Resp. 1. He who fears relapse because of experienced mutability of his will is not therefore to be judged to lack firm purpose; for theologians commonly say that a serious will of not relapsing can stand with fear of a fall from human frailty. - Hence, a confessor would certainly err who refused absolution to a truly disposed penitent because he foresees that he will relapse. But on the contrary:

Resp. 2. He who certainly believes that he will relapse cannot prudently be held as disposed. "I do not deny," says St. Alphonsus[6] against many, "that, speculatively speaking, firm purpose of the will could well consist with knowledge of relapse; but when someone certainly believes that he will relapse, practically he gives a certain suspicion that the purpose of his will is not sufficiently firm; for it is impossible that someone firmly propose to amend himself, knowing that God does not deny His helping grace to one doing what is in him, and nevertheless, these things notwithstanding, believe certainly that he will return to his sins. Hence Croix rightly says that such a penitent, before he is absolved, must be disposed so that he hopes he will be freed from sins, not through his own powers, but through the help of God." (cf. n. 539.) But to prove the firmness of purpose, "it is not necessary, indeed it is NOT EXPEDIENT, to make particular comparisons, for example: I would rather suffer this or that evil than sin mortally; because they are dangerous. And much less is it expedient to choose hell rather; because according to the present providence of God, since hell is destined for those who are confirmed in sin through eternal hatred toward God, man would incongruously choose hell in order to avoid sin, in which he could not remain without sinning."[7]

2. The purpose must be UNIVERSAL, at least concerning mortal sins. Thus all with St. Thomas.[8] "Nor are certain authors to be heard who think that, just as particular sorrow is valid, so also particular purpose is valid; for it is answered that particular sorrow is admitted because sorrow regards only sins committed; but particular purpose cannot be admitted, because anyone must be prepared to avoid all mortal sins which he can commit; and therefore Trent, speaking of sorrow, says: 'Sorrow is detestation concerning sin committed'; but speaking of purpose, it says, 'with the purpose of not sinning thereafter.'"

"It was said concerning mortal sins; because with respect to venials, it is certain with St. Thomas that it suffices if the penitent proposes to abstain from some one, saying, for example, I propose not to lie any more, without proposing to abstain from the rest. For the rest, a man can propose to avoid all deliberate venial sins; and as regards indeliberate sins, it suffices to propose to avoid them insofar as human frailty permits, as the same Angelic Doctor says."[9] (cf. n. 1667, 4.)

3. The purpose must be EFFICACIOUS, that is, have force for doing what is proposed. "Therefore it is necessary that the penitent propose not only to avoid sin, but also to apply the means for avoiding sin, and notably the proximate occasions of sinning, as is commonly taught."[10] But concerning these there will be a longer discourse where the office of the confessor is treated (cf. n. 1821).

Meanwhile let it be noted: 1. "It is not always true that only then is purpose efficacious when that which is proposed is carried out; otherwise, as often as the penitent relapsed, so often would he be bound to repeat confessions; for relapse is not always a sign of an infirm purpose, but often only a sign of a changed will. Thus Peter truly proposed rather to die than deny Christ, and nevertheless at the first voice of the maidservant he denied." Thus St. Alphonsus against the Rigorists.[11]

2. A defect of true purpose is discerned more from neglect of the means than from multiple relapse; because it is easier to apply remedies than to abstain from sin, on account of the vehement propensity into it from custom.[12] But when relapse into sins is to be held as a

morally certain argument of a vicious purpose will be explained below, where Recidivists are treated (n. 1828).

(5) Book VI, 451. (6) Ibid., 451. (7) Ibid., 433, 7. (8) 3, q. 87, a. 1, ad 1. (9) H. A., XVI, 25; Book VI, 451, 2. (10) Ibid., 451, 3. (11) Ibid., 3. (12) Cf. Billuart, De Poenit., diss. 6, art. 10, § 6, Obj. 7.

Chapter II: On Confession

1682. SACRAMENTAL CONFESSION is the accusation of one's own sins, made to a priest legitimately approved, for receiving their pardon by the power of the keys. - By the power of the keys, that is, by force of the power which the priest received from Christ the Lord of remitting sins, by opening heaven and closing hell.[13] (cf. n. 1651.)

That all things pertaining to this matter may be treated suitably, we shall speak: 1. of the necessity of confession; 2. of its conditions; 3. of invalid confessions and those to be repeated.

(13) Cf. St. Thomas, Suppl., q. 17 sqq.

Article I: On The Necessity Of Confession

Confession is prescribed both by divine law and by ecclesiastical law. Wherefore the following things are established:

1683. Principles. I. Sacramental confession, by DIVINE law, is NECESSARY for salvation for all who have fallen into mortal sin after Baptism. For it is of faith that confession is of divine institution (n. 1650).

Hence: 1. No baptized person can be saved after a grave fall unless he has at least the implicit desire of confessing; for no one can be saved unless he wishes to fulfill all the commands of God (cf. n. 1652).

2. Only the baptized who are guilty of mortal sin are bound, of themselves, to confession; for only mortal sins committed after Baptism are the necessary matter of the Sacrament of Penance. We say of themselves, because accidentally it can happen that those guilty only of venials are bound to confession, for example by reason of scandal which could arise in the time of precept; or by reason of danger of falling into presumption or into graver sins, especially as the danger of death approaches.

1684. This precept: 1. Obligates of itself in danger, and so much more in the article, of death; likewise, in foresight of some probable case which can afterwards take away the faculty of confessing, lest it happen that this precept is never fulfilled, and lest those things which by divine precept are necessary for salvation be neglected, among which sacramental confession is numbered. Thus he is bound to confess who is "entering a dangerous voyage or conflict; a delicate woman about to give birth for the first time, or one who is accustomed to have difficult births; one condemned to death; a sick person who has signs of natural death"; likewise a sinner, if he probably believes that he will no longer have the availability of a confessor through his whole life. But otherwise, if he fears only forgetfulness of sin.[14]

It is doubtful whether it obligates, of itself, more often in life. - St. Thomas, Scotus, and others deny it, because the sinner can be reconciled to God through contrition. - But the Salmanticenses, Croix, and others more commonly affirm it. And this seems more probable, because according to what was said concerning the similar precept, namely of Communion, since the precept is divine, Christ left it to be determined by the Church, which determined that it obliges at least once a year.[15]

2. It obligates accidentally: 1. if one about to receive the Eucharist is in mortal sin (cf. n. 1548); - 2. if it is necessary for overcoming a grave temptation, or for extirpating an evil habit; 3. if someone must be in the state of grace, for example for receiving or administering some Sacrament, and cannot elicit perfect contrition, or is not morally certain concerning it; - 4. if within a year one defiled by mortal sin does not become contrite; for he is bound to confess by reason of charity toward himself, lest he remain long in mortal sin; yet it is common that he is not bound immediately after sin.[16] (cf. n. 1647.)

(14) Cf. Panzuti, book 6, n. 269. (15) Book VI, 663. (16) Ibid., 437, doubt 1, and 663.

1685. II. The ECCLESIASTICAL precept, issued by the Fourth Lateran Council, sounds thus: "Every faithful person of either sex, after he has come to the years of discretion, shall faithfully confess all his sins at least once a year to his own priest, and shall strive according to his own strength to fulfill the penance enjoined on him." This precept was afterward confirmed by Trent in sess. 14, cap. 5.

It is said, 1. Every faithful person; it is understood, every baptized person, even a heretic or apostate, unless inability excuses them.[17]

It is said, 2. after he has come to the years, etc.; it is understood, one who has come to the knowledge of God, at least in a crude way, and has deserved eternal punishment for himself through mortal sin. Wherefore: 1. Children are bound by this precept, even before the seventh year, if, having already attained the use of reason, they have sinned gravely. In doubt, let them be absolved under condition, lest perhaps they remain in mortal sin and be deprived of sacramental grace. 2. Confessors err gravely who never absolve children committed to them before the age of first Communion; for one discretion suffices for sin and for confession, and another is required for Communion.[18] Pope Pius IX openly reprobated this dangerous use prevailing in some places.[19] (cf. n. 1663, q. 5, Rule II.)

It is said, 3. all his sins. Here the question is raised whether those who have not sinned mortally in that year are bound to confess within the year. Sylvester and others with St. Bonaventure affirm; but the common and truer opinion

denies it with St. Antoninus, Suarez, etc., because the Church, in prescribing confession, prescribes that confession which is to be made according to the institution of Jesus Christ. But the Lord prescribes only the confession of mortals, as Trent declared (sess. 14, cap. 5). And this very thing is deduced from the cited text *Omnis utriusque*; for by prescribing confession of all sins, it certainly understands the confession of mortals only, because it is certain among all that there is no obligation of confessing all venials.[1]

It is said, 4. once a year. "This year properly ought to begin from January and end in December; but, according to common custom, it is taken from Easter to Easter."[2] Hence: 1. He who, when the time of

Easter has already begun, foresees that he will not in the future have the convenience of confessing through the whole year, must anticipate confession, if he has sinned mortally, because he has already contracted the obligation. - 2. But he who has not satisfied the precept within the year, even involuntarily, is bound, from the more probable and more common opinion, to satisfy it as soon as possible in the following year; because the term is not set to end the obligation, but to urge it; and therefore, as often as he neglects an offered occasion, so often does he sin mortally, as Suarez, Lugo, etc., probably say; and the reason is that "that sin does not persevere in some effect, but only in an evil purpose, because of which sins are now multiplied when it endures for a long time."[3] Yet the opposite opinion, which says there is one sin, is not to be contemned (cf. n. 328, Rule 2).

It is said, 5. shall faithfully confess; and therefore satisfaction is not made through an invalid confession, and much less through a sacrilegious one. For this reason, the 14th proposition, which said: "He who makes a voluntarily null confession satisfies the precept of the Church," was deservedly condemned by Alexander VII.[4] Nor is satisfaction made, as Gousset rightly notes, by a confession in which absolution is not given; because reconciliation with God is prescribed, not a new accusation of sins.[5]

It is said, 6. to his own priest, namely to any approved priest.[6] "One's own priest," says the Angelic Doctor,[7] "is not only the parochial priest, but also the Bishop or Pope; hence he who has confessed to his Bishop, or to someone holding his place, has confessed to his own priest." And the S. C. of Bishops declared in the year 1584 that if a Bishop ordered that no Confessor at Easter hear the confessions of penitents without license of the Curate, no account was to be taken of such a decree.[8]

(17) H. A., XII, 35. (18) Book VI, 432 and 666. (19) Cf. Analecta J. P., series 92, p. 1008. (1) H. A., XII, 35, and Book VI, 667. (2) H. A., ibid.; Book VI, 662. (3) Book VI, 668; H. A., XII, 36. (4) H. A., XII, 35; Book VI, 672. (5) Gousset, Theol. mor., II, n. 414. (6) Book VI, 564 and 574. (7) Opusc. XIX, contra impugnantes Relig., cap. 4, vers. fin. (8) Benedict XIV, De Syn., book 11, cap. 14.

1686. Questions. Q. 1. Who are EXCUSED from the precept of confession?

Resp. The following are excused: 1. those who are in physical inability; for example, those who do not have the availability of a confessor, or those who are absolutely ignorant of the confessor's language; 2. those who are in moral inability, for example those who prudently fear revelation of the seal, or who cannot confess without notable inconvenience of life, fortune, etc. But once the cause has been removed, they are bound as soon as possible to fulfill the precept. - The sick, to whom a confessor can be called, are not excused.[9]

Q. 2. Whether a penitent who in the following year confesses the sins of the past year satisfies the precept of both years?

Resp. Some affirm, but others deny. Yet the truer opinion thus distinguishes: 1. If he confesses the mortal sins both of the past and of the present year, he satisfies both obligations; because he fulfills the whole end of the precept, which is reconciliation with God. 2. If he confesses only the grave sins of the past year, for example because in the current year he has only venials, he satisfies only for the past year. - Hence, if after the confession has been made he falls into mortal sins, he is bound to confess again, so that he may satisfy the precept of the present year.[10]

Q. 3. What are the PENALTIES imposed upon transgressors?

Resp. In the chapter *Omnis utriusque* it is thus sanctioned: "Otherwise, while living, let him be barred from entrance into the church, and, dying, let him lack Christian burial." But those penalties are not incurred except after the sentence of the judge. The prepubescent are universally excused, from the common interpretation of the Doctors.[11]

Note. Several Doctors say that Religious and Nuns are bound under grave obligation to make confession EVERY MONTH, even if they are not subject to grave sins, from the Clementine *Ne in agro, § Sane. De statu monach.* - But more commonly it is taught that this is not grave, unless it is clear that the constitutions of the Religion oblige under grave obligation. Indeed Suarez says that the aforesaid decree does not import a precept, but only counsel. And Trent, sess. 25, cap. 10, intimates the same thing both for confession and also for Communion.[12]

(9) Book VI, 673. (10) Ibid., 669; H. A., XII, 37. (11) Book VI, 674; H. A., XII, 38. (12) H. A., XVI, 2.

Article II: On The Conditions Of Confession

1687. There are four conditions of confession, namely: it must be VOCAL, SECRET, TRUE, and INTEGRAL.[13] A few things must be said about the first three conditions; but more about the fourth.

I. Confession must be VOCAL, that is, it must not be made in writing or by sign, but by the voice of the penitent himself, as is clear both from the common use of the Church and from the Bull of Benedict XI *Inter cunctas*, in which (§ 1) it is said: "Unless an article of necessity occurs, confession of the mouth must be made to the priest." - Except if there is a grave cause, for example excessive and extraordinary shame, or an impeded tongue, and things of this sort; because in such a case it suffices, after the confessor has read the confession, that the penitent say: "I accuse myself of all these sins." Thus commonly.[14]

Let it be noted: 1. He who cannot confess by voice, for example a mute, is bound at least to confess by signs or writing as often as he can do so conveniently and without danger. The reason is that he who is bound to an end is also bound to means that are not difficult.[15] And thus teaches the more probable and common opinion with St. Thomas.[16] - 2. He who without grave cause makes the whole confession by nod or in writing sins mortally, and consequently is not absolved, unless good faith excuses him.[17]

(13) Cf. St. Thomas, Suppl., q. 9, a. 4, where 16 conditions are required for perfect confession. (14) H. A., XVI, 27; Book VI, 429, 493. (15) Book VI, 479; cf. 1 Elench. qq. ref., n. 78. (16) In 4, dist. 17, qu. 3, a. 4, solut. 3, ad 2m. (17) Book VI, 429, 493.

1688. II. Confession must be SECRET, or auricular, that is, made to the priest alone; not indeed from necessity of the Sacrament, but from the use of the Church. - Public confession through an interpreter is indeed licit if it is done from a reasonable cause and abuse is guarded against; but it does not seem ever to oblige of itself, by force of divine or ecclesiastical precept; hence it must never be imposed.[18] - Except if a sinner placed in the article of death and not able to confess secretly doubted whether he was perfectly contrite; in this case he would be bound, from charity owed to himself, to choose what is safer; but with universal attrition it would suffice to confess one or another less infamous sin, or even only venial fault.[19]

Let it be noted: 1. Public confession, which once flourished in the Church, was not sacramental except insofar as it was imposed as satisfaction and reparation for sins previously confessed to a priest. 2. If someone wishes to confess integrally through an interpreter, care must be taken that responses be given by signs rather than by words, namely so that the interpreter does not understand them. The interpreter must also be warned of the obligation of observing secrecy.

(18) Cf. Collect. S. Sedis, n. 476-479. (19) H. A., XVI, 27, 35; Book VI, 494.

1689. III. Confession must be TRUE, or faithful, that is, stained by no hypocrisy or falsity, so that the penitent does not fall short in rightly declaring sins committed, nor exceed in exaggerating them or in adding fictitious faults. This sincerity is required absolutely in grave and necessary matter; otherwise in free matter, or matter not necessarily pertaining to the present judgment of the confessor.

Hence: 1. It is a GRAVE sin containing the malice of pernicious lying and sacrilege to deny in confession a mortal sin not yet confessed, or to cover it in such a way that it cannot be understood by the confessor; or to confess what is certainly mortal as doubtful; or to increase the number of mortal sins, unless perhaps this is done from scruple, from disturbance of soul, or from simplicity, as often happens.

2. It is of itself VENIAL falsely to accuse oneself of a light sin which was not committed, or to deny a venial sin which was committed; likewise, to deny a mortal sin which has already been accused; or to narrate a false story which is extraneous to confession. But accidentally such lies would be mortal sins and would render the Sacrament void, if the penitent denied things which he is bound to confess for the confessor's judgment to be rightly formed, for example with respect to an evil habit, proximate occasion, if he brought fictitious matter of absolution, etc.[20]

3. There is no sin, nor is sincerity harmed, speaking of itself, "if someone, after having fallen more gravely, first confesses this to another, and then only venials to his ordinary confessor; unless, however, on that occasion he remains in a moral occasion of sinning, or goes around for this reason, that he may sin more freely; for then he will sin gravely, and on account of the defect of attrition, the confession will be null."[21]

It is asked: Whether sins ALREADY CONFESSED must necessarily be distinguished from sins NOT CONFESSED?

Resp. No, of itself. But otherwise, if this were necessary "on account of a proximate occasion to be removed, or on account of a reserved case, or on account of another circumstance," for example so that the confessor can render a just judgment and impose a congruous penance (cf. n. 1716). "Yet it is safer to separate new sins from old ones."[22]

(20) Book VI, 495-497; H. A., XVI, 28. (21) Book VI, 471, 5. (22) H. A., XVI, 4; Book VI, 425; cf. Lugo, disp. XVI, n. 46.

1690. IV. Confession must be INTEGRAL, that is, it must comprehend all things which, from the will of Christ, are to be declared in sacramental confession (cf. n. 1656).

A twofold integrity is distinguished, namely material and formal. Confession is materially integral when in it are set forth all and each of the mortal sins committed after Baptism and not yet directly remitted by the power of the keys. It is formally integral when the penitent sincerely declares all things which, here and now, in view of the circumstances, he can and is bound to accuse, although some sins are omitted from forgetfulness, or invincible ignorance, or on account of another just cause.

But since this question is of great moment, it must be carefully weighed. And therefore we must treat: 1. of material integrity; 2. of formal integrity; 3. of the manner of procuring integrity.

§ 1. On The Material Integrity Of Confession

1691. Principles. I. MATERIAL integrity in confession is NECESSARY from divine precept, but not from the necessity of the Sacrament.

Thus all. The FIRST is clear: 1. From Trent, sess. 14, can. 7: "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 with 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 sin: let him be anathema." 2. From reason; for without such integrity, neither can sacramental judgment rightly be exercised, nor equity be preserved in establishing punishments.[23] The SECOND is proved from these words of the same Council (sess. 14, cap. 5): "The other sins which do not occur to one thinking diligently are understood to be included in the same confession in general." From this declaration it is clear that formal integrity sometimes suffices, and material integrity is not always required (cf. n. 1697).

From these things you will deduce: 1. Since the precept of material integrity is positive, it sometimes admits excusing causes, and to it, as to other positive precepts, that general rule can be applied: "A doubtful law does not oblige." 2. Nevertheless accidentally, or indirectly, material integrity is also required for the value of the Sacrament, as often namely as it can be had physically and morally. The reason is that transgression of the precept, when it becomes voluntary and culpable, also takes away formal integrity, and thus redounds into an essential defect and renders the confession invalid and sacrilegious.

(23) Book VI, 465.

1692. II. In order that confession be materially integral, there MUST BE EXPRESSED the species and number of all mortal sins, the circumstances changing the species, the external act of sin, and the morally evil effect of sin. This is clear from the praised words of Trent and from other arguments to be expounded below.[24]

We said, 1. species, namely the lowest species, such as is set forth in the Treatise on Sins (n. 324); otherwise mortal sins would not be declared as they are, since not all agree in one genus of malice. Hence the 25th proposition was condemned by Alexander VII: "He who has had intercourse with an unmarried woman satisfies the precept of confession by saying: I committed with an unmarried woman a grave sin against chastity, without explaining intercourse."

But he who cannot reveal the lowest species

is bound to reveal the superior, or generic, species; for example if someone knows that he sinned against chastity, but does not remember the specific sin, he is bound to say that he gravely offended against chastity. Likewise, he who knows that he sinned mortally, but is ignorant even of the generic species of the sin, ought to say that he sinned gravely, but does not remember of what sin he is guilty.

We said, 2. number; for the Council says that individual sins are to be confessed. Therefore, if a certain number can be had, it must be indicated so that it is neither increased nor diminished. - If a certain number cannot be had, the more likely number must be indicated, with this word added: *about*. If the more likely cannot be had, it suffices to say about how often the sin was committed in a day, in a week, in a month, or even in a year. - But if even this cannot be indicated, at least it must be said whether consent was always given, and whether the temptation or occasion of such sin often occurred.[1] (cf. n. 1705.)

But it must be noted: 1. He who, after a confession made in good faith, discovers that the true number is greater than the approximate one which he denoted with the particle *about*, is not bound to confess the true number again as often as it was contained in the approximate one. But this is to be judged from the arbitration of the prudent. Behold the NORM which St. Alphonsus hands down:[2] "About three, understand two or four; about 10, understand 8 or 12; about thirty, 27 or 33; about one hundred, 95 or 105; about one thousand, 950 or 1050." From this general norm you will conclude that the included number increases the more, the greater the number denoted by the particle *about* has been. 2. He who discovers that the number is less is not bound to retract himself, both because by exaggerating the number in good faith he did not sin, and because thus he harmed no one except himself alone. 3. He who expressed a certain number without the particle *about*, saying for example, *I blasphemed three times*, and afterward remembers that he blasphemed four times, is bound to declare this omitted time, because it was not included in the accusation.

We said, 3. circumstances changing the species; for it is of faith that these also must be declared with the number and species of sins, as is clear from Trent (loc. cit.); and the reason is that they constitute a special malice. Understand this if the malice of a diverse species which the circumstance induces is grave; for if it is light, for example the light irreverence of one who in church steals another's book, it is not necessary to express it in confession, as is established concerning venials.

And this same thing must be said of those circumstances which are called general, such as ingratitude toward God, disobedience, sloth, etc.; for from the very fact that they are general and common to any mortal sin, they are already understood of themselves. It is otherwise, however, if they were formally and reflexively intended.[3] (cf. n. 180, q. 2, and n. 302.)

We said, 4. the external act of sin; because it perfects the internal act and differs from it morally; hence, without declaration of the external act, for example fornication, the confession of sin would not be integral.[4] - Besides, without declaration of the external act the confessor could not, for the most part, discharge his office as is fitting concerning absolution to be granted or deferred, admonitions to be given, etc. This is also clear from the universal custom of the faithful, which explains the law in this sense (cf. n. 328).

We said, 5. and the morally evil effect, namely one which followed from a cause advertently placed and not retracted. Thus, for example, he who inflicted a lethal wound from which death followed must say: *I committed homicide*. Likewise, he who made himself drunk, foreseeing that because of

drunkenness he would omit Mass, is bound to confess both the drunkenness and the omission of the Sacrifice. The reason is that such an effect, as being evil and indirectly willed, is a sin in itself according to the truer opinion, and therefore the same reason stands for its accusation as for the accusation of the external act of sin (cf. n. 314). Exception is made if before the effect the perverse will had been retracted; because in this case the effect follows merely materially and is not morally evil; hence it is probable that the penitent is not bound to confess it.[5] (cf. n. 322, q. 2; n. 760, q. 5; n. 796.)

These things having been explained, it remains that we weigh two questions of great moment: namely, 1. whether notably aggravating circumstances within the same species must be declared; 2. whether doubtful sins must be declared.

(24) Ibid., 465-470; H. A., XVI, 29. (1) H. A., XVI, 103, IV. (2) Book VI, 466. (3) Suarez, disp. 22, sect. 4, n. 15. (4) Cf. Book V, 42; St. Thomas, 1.2, q. 72, a. 7, and Lugo, disp. 16, n. 437. (5) Cf. Book IV, 149, and V, 10; cf. Salm., tr. 20, cap. 10, n. 28; Lugo, disp. 16, n. 439.

I. On Aggravating Circumstances

1693. Circumstances are called notably aggravating when they increase not lightly the malice of the sinful act within the same species, for example by reason of duration, intensity, degree, manner, time, person, place, etc.

Now, it is certain that aggravating circumstances must sometimes be declared: 1. by reason of censure or reservation, for example if theft is reserved when it reaches such a quantity, if the striking of a cleric was grave or enormous, etc.; - 2. by reason of the number of sins, and thus the circumstance of length of time through which hatred or concupiscence toward a woman endured must be declared; because, from the nature of passion, a longer space becomes a circumstance multiplying sins, as was seen in the Treatise on Sins (n. 328); - 3. by reason of necessary direction, namely when the confessor asks about custom, occasion, or even the obligation of restitution. Thus all (cf. 1689).

But, apart from a reason of this sort, which is accidental, Theologians dispute gravely on both sides whether circumstances NOTABLY AGGRAVATING must be opened necessarily and of themselves. - There are three probable opinions. - The FIRST, which Suarez, Soto, Gonet, Sanchez, Concina, etc., hold, and which the Roman Catechism with the Ritual seems to favor, affirms, saying that the same reason which obliges one to open circumstances changing the species also obliges one to open aggravating circumstances, because both notably change the judgment of the confessor. The SECOND, which Laymann, Sporer, Busenbaum, etc., hold, similarly affirms, but restricts the obligation only to those circumstances which regard the substantial integrity of the sin in the individual, as is the quantity of theft and the degree of conjunction in incest; otherwise, they say, the confessor cannot form for himself a due judgment concerning the substance of the sin. Finally the THIRD opinion, more common and more probable, absolutely denies with St. Thomas, St. Antoninus, St. Bernardine of Siena, Scotus, Navarrus, Lugo, the Salmanticenses, and not a few others. The reason is: 1. because the Council of Trent mentions no other circumstances to be opened except those which change the species of sin; therefore it seems not obscurely to intimate that their manifestation suffices for this, that the Confessor form for himself a right judgment concerning the gravity of crimes and the punishment to be imposed. For here not every equality, but only a certain

equality, is required; 2. because otherwise penitents would always fluctuate among anxieties, since they could always doubt about the integrity of their confessions in determining which circumstances are, and which are not, notably aggravating; - 3. especially because no one must be obligated to observing a doubtful law, as we have often said; but the law of confessing notably aggravating circumstances is at least doubtful, since very grave Doctors dispute on both sides; therefore.[6]

Nor is it an obstacle here to say that in the matter of the Sacraments we cannot follow only probable opinions; because this proceeds when the value of the Sacrament is at issue, but otherwise concerning integrity; and as regards value, it is certain that formal integrity suffices.[7]

(6) Book VI, 467-468, v. Nec obstat, and n. 585, doubt 3. (7) H. A., XVI, 29, end.

1694. We note: 1. Ordinarily it is expedient to open the more notable circumstances in confession; for this contributes not only to greater peace and humility of soul, but also to obtaining more abundant grace. Therefore the Christian faithful are usefully exhorted to open such circumstances generally, although they are not obligated to this. - Yet except shameful matter, in which this is very rarely expedient. Indeed the confessor would be a scandal to the penitent and would create danger for himself if, without just cause, he inquired about circumstances of this sort.

2. "Of diminishing circumstances, only those must be explained which either altogether remove malice, or make mortal into venial, as smallness of matter, indeliberation, etc., for example if on Friday, in ignorance, you had eaten meat, or which otherwise notably change the judgment of the confessor, at least as to species."[8]

It is asked: Whether the penitent must declare the number of PERSONS with whom he sinned?

Resp. No, of itself. The reason is that it suffices to declare the number of sins with their various species; but a sin does not change species from the fact that it was perpetrated with several persons. Hence, he who has fornicated with three different women, or three times with the same woman, satisfies by saying that he fornicated three times; nor is he bound to say whether they were prostitutes or others. Yet if he is in a proximate occasion of sin, for example because he sinned several times with the same person, he is bound to open such a circumstance. Thus commonly with Bonacina,[9] Croix,[10] etc.

Note. Whether the circumstance of sacred time in which a sin was committed must be manifested, see n. 580, end. - Whether the degree in incest must be manifested, see n. 786.

(8) Book VI, 471, 6. (9) De Poenit., qu. 5, diffic. 3, n. 14. (10) Ibid., n. 1040.

II. On Doubtful Sins

1695. The penitent can doubt: 1. Whether he has confessed a sin certainly committed; 2. Whether he has committed a grave sin certainly to be confessed, namely being uncertain either about the fact itself or about the gravity of the fact. Wherefore the following rules must be established:[11]

Rule 1. If it is doubted whether a sin certainly committed has been declared in confession, it must be declared. The reason is that the certain obligation of confession possesses in this case, and therefore satisfaction is not made to it by doubtful confession. And all agree in this opinion if a negative doubt

is at issue. - But if the doubt is positive, namely so that the confession of the sin is equally probable with its omission, although several deny the obligation of confession, St. Alphonsus nevertheless affirms it, relying on this reason, that satisfaction is not made to a certain obligation except by fulfillment at least morally certain.[12] (cf. n. 96 and 97.) "Nor yet do I reprove," the Blessed Doctor adds,[13] "what those authors hand down, namely that he who was diligent in confessing his sins, if afterward, after much time has elapsed from when he perpetrated it, he doubts whether he omitted some sin, is not bound to confess, since he can believe, in that case, morally certainly that he has already confessed it. And Concina adds: 'Those who have led a right life for a longer time, although before they had been habituated in vices, if afterwards they doubt that they omitted some sin or circumstance in a general or particular confession, due diligence having preceded, the confessor ought to impose that they no more confess concerning those things, and that they never apply the mind to them.'" If scruples are at issue, see n. 1838.

Rule 2. If it is doubted whether a sin was committed, or whether it reaches mortal sin, and after due inquiry the doubt cannot be overcome: from the more probable opinion, whether the doubt is negative or even positive, from nearly equiprobable conjectures, there is not, I say, an obligation of itself of confessing such a sin. The reason is: 1. because the Council of Trent does not impose, as the adversaries suppose, the confession of sins as they are in conscience, but of sins of which penitents have consciousness, that is, certain knowledge or memory; - 2. because a certain burden is not to be imposed for a doubtful offense, nor, in doubt whether a law exists, is the obligation of the law present, as Benedict XIV wisely says.[14] And this runs even if someone wished to communicate, as we have already said (n. 1548, dic. 2).[15]

It was said of itself, for: 1. in the article or danger of death, if someone positively doubts whether he is guilty of grave sin, "he must either elicit contrition, or receive absolution, by confessing at least other certain matter."[16] - 2. In a practical doubt whether something is licit or not, the penitent must seek counsel, lest afterward he act in bad faith and sin gravely (cf. n. 42).

(11) Cf. Book VI, 473-478; but cf. Istruz., XVI, 30-34, where there are later corrections; likewise Conf. diretto, XIV, 12, and XV, 17. (12) 2 Elench. qq. ref., n. 16 and 18. (13) H. A., XVI, 33; Book VI, 477 (from the 5th ed.). (14) Instit. or Notif., 80, n. 19. (15) H. A., XVI, 30 (Istruz., where more accurately); Book VI, 473. (16) Ibid.

1696. St. Alphonsus admonishes,[17] writing: 1. In practice, ordinarily speaking, it is more advisable to persuade penitents, for greater quiet of their conscience, to confess all doubtful sins, provided they are not scrupulous. 2. Those who are of a timid conscience, and for a long time have never, or only very rarely, sinned mortally, when they doubt whether they consented to a temptation, especially if they remember that, when the temptation rushed in, they resisted; or when they doubt whether they were in perfect wakefulness: these can hold as certain that they did not sin mortally, since it is morally impossible that the will, confirmed in a good purpose,

is changed without such a change becoming clearly known.

3. If sinners who from an evil habit consent to temptations doubt whether they consented, they are presumed to have consented and are bound to confess; because, if they had resisted, they would certainly remember the effort in repelling the temptation. Therefore a mere doubt about consent given or denied scarcely ever subsists (cf. n. 337, q. 3).

It is asked: Whether he who has confessed some mortal sin as DOUBTFUL is bound afterward to repeat it when he recognizes it as CERTAIN?

Resp. Distinguish. 1. If the doubt was about the existence of the fact, he is bound to repeat it, according to the very common and true opinion. And the reason is that the whole substance of the sin was not explained; for it was declared only as doubtful, although it was certainly committed. Hence Dominicus Viva writes:[1] "The negative opinion, which Father Pellizzarius followed, although it has not been condemned, nevertheless was expurgated from that codex (tr. 5, c. 3, n. 56) by the S. Congregation of the INDEX, which does not wish to tolerate it; wherefore in practice one must abstain from it."

2. If the doubt was about the quality of the sin, that is, if the penitent confessed a sin whose gravity either he himself, or the confessor, or both did not know, but afterward, having read or heard Theologians, recognized it to be mortal, he is not bound to repeat it; because no circumstance occurs which was not expressed, nor is it necessary that the confessor determinately know whether the sin which he hears is mortal or not. Thus very commonly.[2]

(17) H. A., XVI, 32; Book VI, 476. (1) De Sacr. Poenit., q. 2, a. 3, III. (2) Book VI, 478; H. A., XVI, 34.

§ 2. On Formal Integrity

1697. FORMAL integrity, as was said (n. 1660), consists in this: that the penitent confess all sins which, in view of the circumstances, he can morally confess. This, as is evident, does not fulfill the whole law, but the part of the law possible here and now, with the burden of supplying the defect once the impediment has been removed.[3] The following things will make the matter clear.

Principles. I. Formal integrity suffices whenever the penitent is in PHYSICAL inability of furnishing material integrity. The reason is that no one is bound to the impossible (recall what was said at n. 221 sqq.). - Moreover, ON ACCOUNT OF PHYSICAL INABILITY, besides those who are ignorant of sins or have forgotten them, the following are excused:

1. The dying, or others placed in danger of death, on account of defect of time or failure of mind.[4] We shall treat of these in particular below (n. 1720, 2, and n. 1854, 5).
2. Mutes, on account of defect of speech. Therefore these, having signified by nods one or another sin, can be absolved both at the time of death and at the time of the paschal precept. Yet if by writing or signs they are able to reveal all sins, they are bound to this, provided danger of manifestation or another grave inconvenience is absent, as was already said (n. 1687).
3. The deaf, who cannot respond to the confessor, nor know how to declare all their sins. - But otherwise the hard of hearing; for these must be led into some remote place, yet with due cautions used as to time and place, if women are at issue.
4. Those ignorant of the language of the region in which they are, and who do not have the availability of a confessor by whom they can be understood. These, if they manifest sorrow for their sins by signs, can, like mutes, be absolved in the time of precept or of another necessity. Nor are they bound to use an interpreter, as was shown above[5] (n. 1688).

(3) H. A., XVI, 35. (4) Book VI, 487; H. A., ibid., 39. (5) Book VI, 479; H. A., XVI, 35.

1698. II. Formal integrity likewise suffices if the penitent is in MORAL inability of making a materially integral confession. The reason is that the precept of confession, since it is positive, does not oblige with grave inconvenience extrinsic to confession (cf. n. 223). - We say extrinsic; for no difficulty intrinsic to confession itself, however grave, ever excuses, because confession is by its own nature laborious. Hence, if intrinsic difficulty excused, its precept would vanish.

Moreover, MORAL INABILITY is then judged to be had when two conditions are verified. The first is when the necessity of confessing presses: for example because the paschal precept must be satisfied, or because the reception of the Eucharist or the celebration of Mass cannot be omitted without note of infamy or scandal; or even because otherwise the penitent would have to remain in mortal sin, even if only through one day. The other is if, from the declaration of all mortal sins to this priest, grave spiritual or temporal damage would threaten the penitent, or the confessor, or some third person.[6] Therefore, in the aforesaid necessity, the following EXCUSES:

1. Danger to the life of the penitent, confessor, or third person; for example if in time of plague the priest himself prudently fears infection, and therefore does not allow the penitent to confess integrally; if enemies arrive, for example immediately before battle, in which case all, after exhibiting some general sign of contrition and confession, could be absolved by this single form of absolution: *I absolve you* [plural], etc.[7]
2. Danger of scandal or fall, both on the part of the penitent and on the part of the confessor; for example if a woman certainly knew the very great frailty of the confessor, etc.
3. Danger of revelation, or violation of the seal; for example if the confessor cannot confess integrally without manifesting the sins of some person heard in confession; - likewise if one who is hard of hearing confesses while others stand by; or if a gravely wounded man or a woman giving birth confesses, who cannot be left by those serving them; or if the penitent from grave cause fears that the confessor may break the law of the seal. But this case, if it must ever be said to happen, is very rare.
4. Danger to reputation; for example 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 of a sick person who has confessed before the carrying of the Most Holy Sacrament, and is now just about to be refreshed through Holy Communion, if he then, because the past confessions were invalid, had to make a more lengthy confession. In this case, the confessor, having heard some sin, should absolve the sick person, give him Communion, and afterward return to receive the integral confession.[8]
5. Danger for the scrupulous person of grave detriment, both in spiritual progress and in health of body and mind (cf. n. 28 and 1835).
6. Reservation of sin or censure, according to those things which are found at n. 1551 and n. 1775, note 2. But:

The multitude of affairs does not excuse. For the 59th proposition, which sounds thus, was condemned by Innocent XI: "It is licit sacramentally to absolve those who have confessed only by halves, by reason of a great concourse of penitents, such as, for example, can happen on the day of some great festivity or indulgence."[9] Nor can an exception be admitted if, on account of the prolixity of confession, others would easily suspect that the penitent is burdened by many faults.[10] But whether danger of manifesting an accomplice excuses will be weighed below (n. 1702).

(6) Book VI, 487; H. A., XVI, 39. (7) Book VI, 485, 486. (8) Book VI, 484, 485. (9) Ibid., 595. (10) Ibid., 485, end.

1699. III. When the excusing cause ceases, the penitent is bound to SUPPLY the defect of confession, not immediately, but when he will again be obliged or will wish to confess.[11] The reason is that an actual impediment does not simply remove the obligation of integral confession, but only suspends it. Hence, when the impediment has been removed, the divine precept revives in whole. It is otherwise clear from the 11th proposition condemned by Alexander VII, which said: "Sins omitted or forgotten in confession, on account of imminent danger of life or on account of another cause, we are not bound to express in the following confession."

It was said, 1. not immediately; for the obligation must be accepted morally, especially because sins inculpably omitted have already been destroyed, and because delay brings the soul into no danger. Thus commonly.

It was said, 2. but when he will be obliged or will wish. For: - 1. The obligation of supplying is not affixed of itself to a time or circumstances, and therefore does not of itself press, except when the precept of confessing again presses, for example at the time of annual confession (cf. n. 1548). - 2. When the impediment ceases, it is not licit to keep silent sins forgotten or omitted in the confession which first follows. For the Doctors more commonly interpret thus the sense of the proposition condemned by Alexander VII;[12] and the reason is that it pertains to the integrity of the subsequent confession to declare all mortal sins of which consciousness is had, as Trent speaks.[13]

(11) Ibid., 479. (12) Cf. Viva, Thes. damn., proposition 11 condemned by Alexander VII. (13) Sess. 14, cap. 5.

1700. It is asked: To what are those bound who in GOOD FAITH have made confessions lacking integrity?

Resp. They are not indeed bound to repeat them integrally, "because for such confessions all things essentially required were already present. - Yet they are bound to explain the species and number omitted, so that they may at least make the present confession integral." Thus commonly.[14]

But let it be noted: 1. He who held a uniform manner of living and inculpably omitted declaring the number of sins satisfies the law of integrity if "at the beginning of confession he has revealed to the present confessor that in past years he has always confessed badly by omitting number, and the confessor, by receiving the confession of that year from the beginning, at the same time forms a judgment concerning past years." Likewise, if, after the confession has been received, the confessor has distinct knowledge of the sins of the present year, "he will indeed be able, without the prior confessions being repeated, at the same time to form for himself a distinct judgment concerning past years." 2. Otherwise it must be said "if from the present confession he has only confused knowledge of the faults confessed, as often happens in longer and involved confessions; in that case, as Lugo

well says,[15] he is bound to take distinct knowledge of the species and number omitted in past confessions."[16]

(14) Book VI, 504. (15) De Poenit., d. 16, n. 640. (16) Book VI, 504, dic. 3.

Scholium

On The Manifestation Of An Accomplice

1701. It is certain, 1. That an accomplice must be concealed as often as confession can be materially integral without his manifestation. Therefore it is not licit, for declaring a venial sin or a mortal sin already confessed, to reveal the grave sin of another.[17]

It is certain, 2. That a penitent guilty of mortal sin not yet confessed is bound to go to a confessor to whom the accomplice is unknown, if he can go to him

without temporal or spiritual inconvenience. - For then the precept of guarding the reputation of the neighbor presses, especially if a more infamous crime is at issue.

It is certain, 3. That, generally, it is not licit for the confessor to inquire for the name of the accomplice, even for a good end, for example for correction; for this is opposed to charity and renders the Sacrament of Penance odious. - This is clear from the Bull of Benedict XIV *Ubi primum*, in which the Pontiff, speaking of confessors who under penalty of denying absolution require the name of the accomplice, declares: 1. that they sin gravely and incur suspension from hearing confessions, but only of ferendae sententiae; 2. that they are to be denounced within a month, not indeed by the penitent himself, but by another who knows them, if nevertheless on account of this they denied absolution and did not act from simplicity; 3. that those teaching this detestable practice to be licit incur by the fact itself excommunication reserved to the Supreme Pontiff,[1] which same thing Pius IX sanctioned in the Constitution *Apostolicae Sedis* (cf. n. 1328). These things having been premised, let the following be:

(17) Ibid., 489. (1) Book VI, 491; H. A., XVI, 40-41.

1702. Questions. Q. 1. Whether there is an obligation of confessing a mortal sin which CANNOT be explained without manifestation of the accomplice?

Resp. Yes, when another confessor to whom the accomplice is unknown cannot conveniently be had. Thus the common opinion against some who say that the natural precept of preserving the reputation of the neighbor must be preferred to the positive precept of preserving the integrity of confession. But the reason for the affirmative opinion is "because the divine precept of confessing integrally must be observed whenever it can licitly be observed; and it can be observed sufficiently licitly in our case, since the manifestation of another's crime is not illicit when it is done from a reasonable cause"; and therefore the natural precept then ceases (cf. n. 1198). - Add that "the accomplice, by consenting to the sin, has already lost the right to his reputation in order to the confession of that sin."[2]

Q. 2. What are the CAUSES EXCUSING from seeking another confessor to whom the accomplice is unknown?

Resp. According to the opinion of very many, they are the following: - 1. If danger of death or the precept of annual confession presses. - 2. If it is grave for the penitent to omit confession or Communion. - 3. If he would open his conscience with difficulty to another than his accustomed confessor. - 4. If otherwise he would be deprived of the benefits of some extraordinary indulgence. - 5. If otherwise he would have to remain in sin even for one day. - 6. If, by going to a confessor to whom the accomplice is known, he will have better direction or will receive notably greater consolation. - 7. If it is believed that the accomplice has yielded the right to his reputation, as if a brother sinned with a sister whom he knows cannot be separated from the company of the mother in order to go to another confessor. Hence, mothers and wives are often excused who manifest the sins of husbands and sons to a confessor who knows them, by reason of seeking counsel, alleviating sorrow, etc.; for it would be too hard for them if they were bound to seek another confessor.[3] - Yet the advantage of direction must be compared with the infamy.[4]

Q. 3. Whether it is EVER licit for the confessor to INQUIRE for the name or knowledge of the accomplice?

Resp. 1. The confessor can, indeed must, although from this he comes into knowledge of the accomplice, inquire about circumstances which change the species of sins, or which are necessary for better consulting the conscience of the penitent; for example, whether the accomplice in a shameful sin is in the first or second degree of consanguinity or affinity, whether he is bound by a vow of chastity, whether he lives in the same house, etc.

Resp. 2. A penitent who would not wish to reveal the accomplice cannot be absolved when this is necessary for averting or repairing public damage. Therefore in a case of this sort, the confessor will be able to impose on the penitent in general that he reveal the accomplice to him who can avert the damage or scandal. But while the prohibition of Benedict XIV stands, that is, as often as revelation can usefully be made to another,[5] it will never be licit for the confessor to say: *Reveal him to me*. But if the penitent of himself and by his own will asks the confessor that he himself take these parts upon himself and reveal the accomplice voluntarily, the confessor does not sin, and can certainly use that knowledge for applying a remedy; but for the most part this is not expedient on account of the danger of scandal and offense of the sacred ministry.[6]

(2) Book VI, 489. (3) Book VI, 490. (4) Ibid., 488, 6. (5) Cf. De Synodo, book 6, cap. 11, n. 1. (6) Book VI, 491-492.

§ 3. On The Manner Of Procuring The Integrity Of Confession

The obligation of procuring the integrity of confession pertains both to the penitent and to the confessor. - Wherefore the following things are established:

1703. Principles. I. The PENITENT is bound, and indeed, speaking of itself, under grave obligation, to premise before confession a diligent EXAMINATION of all mortal sins which he has committed. The reason is that without such an examination he could not, to use the words of Trent, search out all the recesses of his soul.[7]

The diligence of this examination is to be estimated according to the capacity of the penitent, the delay of time, and the other circumstances. "For this a middling diligence suffices, such as a prudent man employs in arduous affairs; or such as, morally speaking, learned and timorous persons are accustomed to employ, even if someone thinks that by greater diligence he would find more."[8] The

penitent can satisfy this obligation without excessive labor if, after imploring God's help, he recalls to mind the precepts of the Decalogue and the precepts of the Church, the capital sins, the obligations of his own state, and at the same time inquires whether and how often he offended regarding all these things, by thought, word, and deed. - And he will more easily attain this if he turns over in his mind the places to which he went, the persons with whom he conversed, the business which he transacted, and the affections of soul to which he was accustomed to yield.[9]

Let it be noted FOR PRACTICE: 1. Danger of publication being removed, it is useful to write sins, lest they slip from memory; but excessive anxiety is to be avoided; and therefore this should be prohibited to the scrupulous.[10]

2. Those who are morally certain that they are immune from mortal sins are not bound to spend much time in searching their conscience, provided they can supply matter which truly suffices for the Sacrament. - Nevertheless they are to be exhorted not to hurry too much through the examination of conscience, and to spend at least five minutes on it, by which they may be better able to recognize their defects and to extirpate those recognized.[11]

3. Those who are scrupulous ought not to search their conscience much; indeed, diligent investigation must sometimes be interdicted to them; for if they had sinned gravely, they would always have the sin before their eyes.

4. The sick are not bound to an accurate examination as the healthy are, as is clear. Therefore one must watch carefully lest they defer their confession under the pretext that they have not yet sufficiently searched their conscience; let the confessor himself examine them. For it is better to restore them to the state of grace through absolution, even if they have confessed imperfectly, than, the Sacraments of the Church being delayed, to expose them to certain danger of damnation.[12] (cf. n. 1854.)

(7) Sess. 14, cap. 5. (8) Book VI, 471, 1. (9) Cf. Inst. catech., p. 2, c. 5, n. 3 sqq. (10) Book VI, 471, 3. (11) Cf. Gury, II, n. 508. (12) Elbel, De Poenit., n. 153.

1704. II. The CONFESSOR can, indeed sometimes MUST, supply the examination of conscience, and himself procure the integrity of confession. To the point the Holy Doctor says thus: "Although the duty of examining conscience is principally the penitent's, nevertheless, whatever other Doctors may have said, it must not be doubted that if the confessor has recognized that the penitent has not discussed his conscience diligently enough, he himself is bound to question him, first about sins into which he could likely have fallen, and afterward about their species and number, as is proved from chapter *Omnis utriusque* on Penance and from the Roman Ritual."[13]

But he is bound to this as judge, that he may know the cause, and as minister of the Sacrament, that he may procure its integrity (cf. n. 1834).

(13) H. A., XVI, 102; Book VI, 607.

1705. It is asked: What must the confessor do if penitents approach without sufficiently discussing their conscience?

Resp. 1. If they are sufficiently instructed, they are to be sent away to another time: "With most humane words," says the Roman Catechism,[14] "he will send them away from himself, and will exhort them to take some space of time for thinking over their sins, and then to return." The reason is that it can scarcely happen that someone, at least if a longer confession is at issue, being suddenly asked, remembers all things.[15] Except if circumstances suggest otherwise.

Resp. 2. If they are rude, they are not easily to be sent away. "They act wrongly," says St. Alphonsus,[16] "who dismiss the rude, that they may examine themselves better." And he gravely adds: "Fr. Segneri calls this an intolerable error, and by the best right, because men of this sort, however much they labor, will with difficulty examine themselves as is fitting, and as exactly as the confessor himself can examine them; and on the contrary, when they have been dismissed, there will be danger lest, terrified by the difficulty of examining themselves, they be drawn back from confessing and harden in sins. - Nevertheless let the confessor notice that he is not bound to question these so minutely; let him ask only about sins into which they can easily fall, in view of their condition and capacity. Indeed, when the penitent, although rude, seems to be sufficiently instructed and diligent in confessing his sins with circumstances..., then the confessor is bound to ask nothing else."

Resp. 3. If they are customary sinners, the confessor should not spend too much time by anxiously inquiring about the number of sins; because often it is impossible to find such a number. Many, because of the importunity of the confessor, respond only by guessing: one hundred times, one thousand times; but what prudent man will give faith to them? - The confessor does better if he diligently inquires into the state of the penitent, "namely the manner of living, the application which he expends on other affairs, the time of the custom with the accomplice, the place where he especially stayed; and then he should inquire about the number by asking the penitent about how often he sinned in a day, in a week, or month, proposing to him several numbers, for example 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, it will be best done if he is again asked about a greater number." But in this the confessor should take care not to form a certain judgment about the number; let him note the frequency in general, and make judgment confusedly, apprehending the sins, whatever number they are before God.[17] (cf. n. 1805.)

(14) De Poenit., n. 60. (15) Book VI, 471, 2. (16) H. A., XVI, 103. (17) Ibid., IV.

Article III: On The Repetition Of Confession

In this article we shall treat: 1. in general, of confession to be repeated; 2. in particular, of general confession.

§ 1. On Invalid Confession To Be Repeated

1706. Principles. I. Confession is INVALID as often as something essential is lacking to it, whether on the part of the CONFESSOR or on the part of the PENITENT.

This follows from what was said concerning matter and form, and concerning the minister. - Therefore:

1. On the part of the CONFESSOR, confession is invalid: 1. If he lacks the power of jurisdiction; for example because he has received it in no way; or because it has been taken from him by

law, for example toward an accomplice in a shameful sin; or because he is impeded by censure, namely if he himself is an excommunicated person to be avoided, or a denounced suspended person; or because, restricted by reservation of the case, it does not extend to that case which the penitent alone confesses, etc. - 2. If he substantially vitiated the form, or if he did not have the will of absolving. - 3. If he understood no sin. We say no sin, because if he understood some sin, the absolution is valid, if the penitent received it in good faith; for him there remains only the obligation of confessing the sins which the confessor did not hear.[18] - 4. If he remembers nothing when he absolves, that is, neither the sins, nor the state of the penitent, nor the penance enjoined; for then he is not a judge, since he absolutely does not know the cause; hence he absolves neither validly nor licitly. But after a confession made by the penitent in common, he would already absolve validly, although not yet licitly.[19]

2. On the part of the PENITENT, confession is invalid: - 1. If he was incapable, for example invalidly baptized, or ignorant of things necessary by necessity of means. - 2. If he was indisposed: that is, if he approached as one excommunicated, knowingly violating the prohibition of the Church; if he kept silent a mortal sin from malice or grave negligence, or falsely accused himself of it; if he voluntarily omitted the number of sins, or the species, or a specifying circumstance; if he told a grave lie; if he was gravely negligent in examining conscience; if he was not attrite, which is usually clear from this, that he sought a deaf or unlearned confessor, etc.; if he did not have true purpose; if he did not wish to remove the occasion, to forgive an enemy, to make restitution; if he was a recidivist in the same evil habit, etc.[20]

(18) H. A., XVI, 42; Book VI, 498, 499, 626. (19) Book VI, 502, doubt 3. (20) H. A., XVI, 43; Book VI, 501.

1707. Let it be noted: 1. Confession can be invalid without being sacrilegious. It is simply invalid or null if sorrow or purpose is lacking without the penitent noticing such a defect. - It is null and sacrilegious if he notices the defect and acts in bad faith.

2. Some confession can be invalid, indeed sacrilegious, without all subsequent confessions therefore being invalid. For perfect forgetfulness of the defect committed in the preceding confession, and good faith which accompanies later confessions, bring it about that these are valid of themselves, and they remove indirectly the defect of invalidity included in the antecedent confession. In this case, only the invalid confession must be repeated, but not the later confessions.[21]

(21) Cf. Prax. Conf., n. 22, Si autem.

1708. II. Every confession of mortal sins about whose invalidity it is MORALLY CERTAIN must be REPEATED. The reason is clear from what was said at n. 1706; for through a confession of this sort the sins were not remitted; therefore their confession must be repeated.

We said morally certain; for in morals absolute certainty is not required in order that an obligation be imposed or removed, but moral certainty suffices (cf. n. 33 and 34). "If someone, for example, immediately after confession, without any effort, falls, he exhibits a morally certain sign that his past

confessions were null, because sorrow and purpose were lacking."[22] Therefore such a one must repeat confessions of this sort.

But in doubt about the validity of confession, this TWO-FOLD RULE must be established and held: - 1. If it is prudently doubted about the existence of an act essential for the validity of confession, for example if it is positively doubted whether the confessor placed the form, whether he had jurisdiction, etc., whether the penitent elicited an act of contrition: confession must be repeated from that principle: "Satisfaction is not made to a certain precept by doubtful satisfaction." - 2. If it is doubted about the manner of the act, that is, if it is doubted whether an act was rightly placed, as it was to be placed by law, for example whether a purpose certainly elicited was sufficiently efficacious, whether sins certainly confessed as to substance were sufficiently declared: in such a case, confession must not be repeated, because the rule of law is valid: "In doubt, one must stand for the value of the act." Hence St. Alphonsus[23] with Fr. Segneri says: "Penitents are not bound to repeat confessions as often as presumption, and consequently possession, stands for their value, unless nullity is clear." Thus, for example, a penitent who after confession avoided occasions and for some time resisted temptations can well judge that his confessions were valid, nor is he bound to repeat them (cf. n. 50 and 51).

(22) H. A., XVI, 46, end. (23) Ibid., 46; Book VI, 505.

1709. Questions. Q. 1. HOW is an invalid confession to be repeated?

Resp. 1. If it is made before another confessor, it is a new confession, and therefore all and each sins must be accused.

Resp. 2. If it is made before the same confessor, from the more probable and more common opinion, it suffices if the penitent accuses himself in general of sins already revealed, provided the confessor remembers them at least confusedly. - But if he has preserved the memory of no sin, it suffices if he remembers the state of the penitent, or reassumes confused knowledge of his conscience. The reason is: 1. because such a confession, although invalid or even sacrilegious, was nevertheless made in order to receive absolution, and can well be called sacra-

mental, since it already obliges to the sacramental seal; 2. because, although it had not been sacramental on the part of the penitent, nevertheless its ratification or general repetition joined with the knowledge which the confessor previously had concerning the individual sins is reckoned sufficient for sacramental judgment, and for making it valid and integral.[1] - And this holds *a fortiori* if, absolution having been delayed for some time, the penitent again presents himself to the confessor.

Q. 2. What if the confessor remembers only the PENANCE enjoined?

Resp. 1. If he remembers the penance itself, he can absolve, even if he no longer knows the state of the penitent. For many grave Doctors concede this, and the reason seems to be that from the very knowledge of the penance he can form for himself a judgment concerning the state of the penitent.

Resp. 2. If he recalls that he did impose a penance, but does not know what it was, nor can this be taught him by the penitent, it is controverted whether he can licitly absolve. - Several with St. Antoninus affirm; but St. Alphonsus denies. For such an opinion seems to him too extended, because the priest must form for himself a judgment, at least confusedly, concerning the state of the penitent,

both for giving absolution and for enjoining a penance, which indeed must be imposed in order to make the Sacrament integral (cf. n. 1715).[2]

Q. 3. Whether and how confession made to a confessor NOT ATTENTIVE or inept must be repeated?

Resp. 1. If it was made in bad faith, for example if the penitent noticed that the confessor either was not hearing, or was sleeping, or was ignorant, or did not understand the gravity of the sin, the confession certainly must be repeated; because the penitent sinned by the act by which he confessed.[3]

Resp. 2. If it was made in good faith, a distinction must be made: 1. If it is clear that the confessor heard nothing, the whole confession must be repeated, as is clear from what was said (n. 1706). - 2. If it is clear that the sins were not declared as to number or species, or that some certain sin was not understood, the integrity of confession must be supplied. - 3. "Finally, if when the confession is finished you understand that the confessor did not perceive some sins, whether because of sleep or distraction, but you do not know which those are, you are bound, according to the very common opinion, to repeat it if the confession was brief, because you can prudently doubt concerning the individual sins. But if it was long, you are not bound, on account of the contrary reason," and because, in that case, God is presumed not to oblige to the integrity of confession with such great inconvenience.[4] Hence it will be enough to confess those things concerning which you doubt whether they were understood by the confessor.

Q. 4. Whether sins narrated HISTORICALLY outside confession must be repeated?

Resp. 1. If the confessor has preserved distinct knowledge of all of them, they are not to be repeated, but it suffices if the penitent says: "I accuse myself of all these things which I have already narrated to you." 2. If the confessor remembers them confusedly or only in part, they must be repeated in full; otherwise neither the first nor the second confession would be sacramental: not the first, because it was not made in order to absolution and without the burden of the sacramental seal; not the second, because the sins were not declared individually, as is required by the Council of Trent.[5]

(1) Book VI, 502. (2) H. A., XVI, 44; Book VI, 502, doubts 2 and 3. (3) Book VI, 499. (4) Ibid., 499; H. A., XVI, 42. (5) Book VI, 502, doubt 1, end; cf. Vindic. Alph., p. 5, q. 8.

§ 2. On General Confession

1710. DEFINITION. General confession is the repetition of several confessions. It embraces either the whole life or a notable part of it, for example one or several years.

DIVISION. One general confession is NECESSARY, namely one which must be made on account of the invalidity of past confessions; another is SPONTANEOUS or free, which is made from the counsel of the confessor or from the devotion of the penitent. This latter, moreover, can be, according to the character of the persons and circumstances, either useful, useless, or even harmful.

PRACTICAL RULES. - I. General confession, UNDER GRAVE OBLIGATION, regularly, must be enjoined upon all who have confessed sacrilegiously or invalidly. This is clear from what was said in the preceding section.

We said regularly, because the penitent must not always be warned about the invalidity of past confessions, namely when he is in good faith and it is foreseen that he will not consent to repeating

them. For in this case, absolution indirectly extends itself to confessions made invalidly. Yet sometimes a prudent confessor will be able so to examine the penitent that he, even not knowing it, makes a general confession. Once this has been made, nothing now seems to stand in the way of manifesting to him the invalidity of past confessions, so that he may depart with perfect serenity of soul.

But if the penitent shows himself DISPOSED, it must be gathered from the circumstances whether confession is to be begun immediately, or deferred to another time. - In this matter it must be considered: whether the penitent himself desires delay in order to consult a more perfect preparation; whether he is truly suited to making a good examination of conscience; whether some obstacle, either on the part of the penitent or on the part of the confessor, could arise by which confession would be impeded.

These things considered, if confession truly seems TO BE PROCRASTINATED, let the penitent be taught the manner of rightly preparing himself and the method of making an examination of conscience, with an admonition added that in this affair he proceed accurately indeed and diligently, but not scrupulously; let him be admonished about applying diligence, which consists in this, that through prayer and frequent repetition of acts of contrition he procure true contrition for himself; and finally, for raising his soul, let there be shown the ease with which a general confession, which grants great peace to the mind, is usually made, especially because the opportune and paternal help of the confessor will not be lacking to him.

But if the penitent is altogether unable to return, or not except after a long time, or if the necessity of communicating presses, general confession must be received IMMEDIATELY. - If there were a great concourse of penitents, or a brief space of free time, the confessor will be able to restrict himself to things altogether necessary, by contracting instructions and exhortations; yet with the admonition added that the penitent either return to him later, even after a longer time, in order to hear the other instructions which are necessary; or at least that, as soon as he can, he meet another zealous confessor by whom he may be instructed.[6]

(6) Cf. St. Alphonsus, Monita ad conf., n. 15.

1711. II. General confession, although not necessary, is ordinarily TO BE CONCEDED to those asking it; and to very many, even not asking, prudently TO BE ADVISED. Hence the following admonition of St. Alphonsus to the people:[7] "I exhort each one, unless he has already done it, to confess all the sins which he has ever committed in his life: and I speak not only for those who have confessed sacrilegiously... or invalidly... but also concerning anyone who wishes to betake himself to a good life."

We said, 1. ordinarily to be conceded: for if you except the scrupulous and certain others concerning whom it will be said below, general confession, or at least a partial repetition of confessions, profits much for conceiving greater sorrow for sins, for peace and tranquility of soul, and for a persevering change of life.[8] Indeed, it not rarely happens that what at first was judged only useful is afterward recognized as truly necessary.

We said, 2. prudently to be advised: for it is licit neither to thrust it upon all indiscriminately, nor upon anyone by importunate exhortations, when it is not necessary.[9] But it is to be advised

opportunely, whether total or partial, as will seem expedient: - 1. to those whose prior confessions are judged doubtfully valid; - 2. to those who need more accurate instruction for a Christian manner of life, especially if they are men of good will who are foreseen to receive counsel with a ready soul; - 3. to those whom the desire of a more perfect life holds; - 4. to those who are in danger of life, or are forced to commit themselves to such danger; - 5. to spouses, and to all ending or beginning a part of life of graver moment; - 6. to all the faithful, universally, on extraordinary occasions which, according to the mind of the Church, are offered to them for expiating consciences and producing worthy fruits of penance, such as Jubilee and Missions; - 7. to pious persons who make a sacred retreat, in which they do a useful thing by repeating the confessions of the whole year.[10]

(7) Inst. catech., p. 2, c. 5, n. 11. (8) Cf. Monita ad conf., loc. cit. (9) Prax. Conf., n. 20, 5. (10) Cf. St. Francis de Sales, Philotée, p. I, ch. 6.

1712. III. General confession is not to be conceded, but is TO BE PROHIBITED to all those to whom it is judged notably harmful. - Such are: 1. The scrupulous, to whom one general confession indeed may be of profit, but repeated confession will harm; hence they are not to be heard in this, but are earnestly exhorted to blind obedience. - 2. Penitents who have sinned much against the sixth precept and cannot, without danger of again defiling themselves, repeat a confession already validly made; hence it suffices if they sorrow for the sins and renew the accusation summarily. 3. Certain occasionaries and recidivists, who are not truly disposed and sometimes ask for general confession so that they may more easily catch at absolution. These betray themselves by the manner in which they accuse themselves of sins committed from the last confession; and therefore they are to be warned and kindly instructed to leave the occasion and to fight strenuously against the evil habit, and afterward to make general confession with fruit (cf. n. 1822 and 1823).

1713. It is asked: What is the MANNER of receiving a general confession?

Resp. 1. BEFORE CONFESSION, the confessor must take care to know the explicit state of the penitent and the various circumstances from which he can be directed toward questioning prudently and fruitfully. Hence: 1. let him examine whether a necessary confession is at issue or not, according to what was said at n. 1710; for if it is necessary, the penitent must be heard, questioned, and helped with much greater diligence and care; but if it is not necessary, he must certainly be warned that so great a diligence is not required, indeed that he is free to keep some things silent. 2. Let him prudently inquire concerning the condition of the penitent, whether he is celibate or not, about his age, occupations or offices, about his manner of living, etc.; if he is married, from what time, whether he has children, etc. 3. Let him ask about the state of conscience, whether here and now he is entangled in some evil custom or by some evil affection of soul; whether perhaps he has been enrolled in some condemned society; whether he has frequently approached the Sacraments, and with what dispositions; whether he concealed sins; at what time; for how long; whether he confessed them afterward, and repeated sacrilegious confessions; and how often? - But to obtain these notions, ordinarily, it is expedient first to receive the particular confession.[11]

2. IN THE CONFESSION ITSELF, let the confessor help the penitent, not disturb him. If the penitent is prepared, let him confess in his own way. - If he is scarcely prepared or rude, first let him ask from him the sins which weigh most upon him, that he may proceed more

securely; then let him himself immediately supply the necessary things, according to a uniform order, for example of the Decalogue, the precepts of the Church, and particular obligations, unless a special reason suggests otherwise.

3. AT THE END OF CONFESSION, let the general question not be omitted: whether the penitent still has something in mind. Wherefore we notice that, for greater peace and purity of soul, especially if a confession only useful is at issue, even matter not necessary can rightly be declared and asked about, that is, doubtful mortal sins, graver venials, aggravating circumstances, except in shameful matter, and generally all things which apprehensively, or from the mind of the penitent, can be grave. Otherwise a little-instructed penitent, who does not know how to distinguish light things from grave in the manner of theologians, and necessary circumstances from non-necessary, always thinks that many things were lacking to his confessions which had necessarily to be declared.[12] - See the rest at n. 1804 sqq.

(11) Cf. Gury, II, 519. (12) Konings, n. 1380; cf. Scavini, vol. IV, append. 65 and 66.

Chapter III: On Satisfaction

1714. Things to be noted beforehand. Satisfaction in general, according to the force of the name (*I do enough*), signifies the payment of any debt whatever, but especially compensation for an injury inflicted on another.[1]

Taken in the stricter sense, as here, it is defined: "Voluntary toleration of punishment for compensating the injury inflicted on God through sin, and for redeeming the graver temporal punishment deserved."

We say redeeming; for when fault and eternal punishment have been remitted through the Sacrament of Penance, the whole temporal punishment, to be paid either in this life or in the other, is not always remitted. This, through the merits of Christ, must be redeemed by our laborious works, as Trent teaches (sess. 14, cap. 8).

Satisfaction is one thing sacramental, and this is now treated; another extrasacramental, which consists in pious and laborious works spontaneously undertaken, and also in the evils and hardships of this life sent by God and patiently tolerated (cf. Trent, sess. 14, cap. 9).

SACRAMENTAL satisfaction is customarily defined: Penance, or a good work, imposed on the penitent by the confessor through the power of the keys, both for the vindication of past sins, which is called vindicative satisfaction, and for the custody of new life, which is called medicinal satisfaction.

In order that our treatment may extend to all things which pertain to satisfaction, we shall treat: 1. of the imposition of penance; 2. of its fulfillment; 3. of Indulgences, which can supply for the defects of our satisfactions.

(1) Roman Catechism, De Poenit., n. 62; cf. Lugo, disp. 24 and following.

Article I: On The Imposition Of Penance

1715. Principles. I. The confessor, in giving absolution, is bound TO IMPOSE a penance, or satisfaction. - This is clear from Trent, sess. 14, cap. 8, where it is said: "Therefore the priests of the Lord ought, insofar as the spirit and prudence shall suggest, according to the quality of the crimes and the faculty of the penitents, to enjoin salutary and fitting satisfactions; lest, if perhaps they wink at sins and act more indulgently with penitents by enjoining certain very light works for very grave offenses, they be made participants in the sins of others."

Therefore the confessor sins if he does not impose penance; and indeed he sins GRAVELY if the confession has been made concerning mortal sins. For by force of his threefold office he must do this: as minister, consult the integrity of the Sacrament; as judge, take vengeance upon sins; and as physician, provide medicine by which the spiritual infirmity of the penitent may be driven away. But if the confession was about venials or about mortal sins already confessed, it is probable that the confessor does not sin gravely if he imposes no penance. Thus Lugo, the Salmanticenses, and others, against Suarez and others, who also probably teach the contrary. But finally, if fulfillment of the penance is impossible, for example in the article of death, there will be no sin.[1] (cf. n. 1854, 5.)

Let it be noted: 1. Penance is regularly to be imposed before absolution. The reason is that thus the order of judgment is preserved, which requires that the accused first promise satisfaction before he is absolved. Yet if it has been omitted through forgetfulness, it can be imposed immediately after absolution, both because thus it is still morally united to it, and because the aforesaid order is not essential.[2]

2. If the penitent, when absolution has already been given, accuses a new sin, a new penance, at least a light one, must be imposed on him. For the prior one is not judged to be valid; because, although a work already due from another precept can be imposed, nevertheless a work due from the same title of sacramental satisfaction cannot be imposed.[3]

3. If absolution is deferred, satisfaction can already be imposed the first time, both so that relapse may be guarded against, and so that afterward a lesser penance may be imposed.

(1) Book VI, 506-508. (2) Ibid., 514, 8; and H. A., XVI, 47. (3) Book VI, 513, doubt 2, and ibid., XVI, 47.

1716. II. The QUANTITY of penance must be PROPORTIONED both to the sins and to the faculty of the penitent, according to the prudent estimation of the confessor. This is clear from Trent, loc. cit., and from the Roman Ritual, where it is read: "Finally, let the confessor enjoin a salutary and fitting satisfaction, insofar as the spirit and prudence shall suggest, account having been taken of the state, condition, sex, and age, and likewise the disposition of the penitents."

We said, 1. proportioned to the sins; hence of itself grave penance is to be imposed for mortal sins, light penance for venials or mortal sins already confessed. Moreover, that is to be judged a GRAVE PENANCE, at least according to the present custom of the Church, which corresponds to a work which is enjoined by the Church under grave obligation, or which would of itself oblige under grave obligation if it were prescribed. - Hence a grave penance, and one ordinarily sufficient for grave sin, is to hear one Mass, to fast on one day, to recite the Rosary, even only the third part, the Little Office of the B. V. M., the Litanies of the Saints, the Penitential Psalms, to perform the Way of the Cross, to

meditate for a third part of an hour, and similar things. But to recite the Psalm *Miserere*, or five *Pater* and *Ave* only once, would not be grave.[4]

We said, 2. proportioned to the faculty of the penitent, according to the prudent estimation of the confessor. But the prudence of the confessor consists chiefly in this: that he first have before his eyes the spiritual good of the penitent, then the vindication of divine justice; for, from the nature of the Sacrament, one must intend the amendment and salvation of the penitent more than satisfaction and punishment.[5]

And hence it is why penance can be DIMINISHED for many reasons, namely: 1. If the penitent approaches very contrite, or after he has done many penal actions, because he has already made satisfaction fittingly. - 2. If he approaches in the time of Jubilee or of plenary Indulgence, because by fulfilling the required conditions he already undergoes punishment and makes satisfaction. Yet some penance must always be imposed, as Benedict XIV declared,[6] both because no one can be secure about gaining the whole Indulgence, and because the Sacrament must always be made integral.[7] - 3. If the penitent is infirm in body, since the Ritual says: "Let the priest remember that grave penance is not to be enjoined on the sick, but only that penance which, if they recover, they may perform at an opportune time." - 4. If he is infirm in spirit, so that it is prudently feared that he will omit a penance proportioned to the faults. For thus they commonly teach, and deservedly; because, as our Holy Doctor says:[8] "Although, according to the reason of divine justice, satisfaction adequate to sins is required, nevertheless, from divine clemency, account must be had of the powers of penitents, both of body and of soul."

(4) Book VI, 515. (5) H. A., XVI, 50; cf. Book VI, 508-510. (6) Encyclical Inter praeteritos. (7) Book VI, 519. (8) Ibid., 509.

1717. You will ask whether the confessor can, for grave faults, impose a grave penance under a LIGHT obligation? The affirming opinion is more common and more probable, because the legislator, such as the priest is whom Christ established as judge, can prescribe grave matter under light obligation. - In practice, indeed, such a manner of acting ought not to be held, at least ordinarily, because from Trent a condign penance according to the quality of the crime is to be imposed. - Yet the confessor will be able to hold it thus licitly, indeed usefully, so that after first imposing a grave penance, and indeed under grave obligation, he adds another graver one under light obligation; if the penitent fulfills it, he indeed satisfies sacramentally, but if he neglects it, he is not burdened with grave fault. "But I by no means approve," says St. Alphonsus,[9] "what Medina and others say, namely that a confessor can sometimes enjoin a penance without any obligation. This, I say, is altogether improbable; for a legislator can make and not make a law; but if he makes it, he certainly cannot make it without obligation, since law must necessarily oblige at least under light obligation."

From what has been said you will gather: 1. How imprudently confessors act who impose great penances which they foresee penitents will not fulfill. - "O how many unlearned confessors are found," St. Alphonsus exclaims,[10] "who do not hesitate to absolve those who are either in a proximate occasion of sinning or indisposed recidivists, and foolishly think that they are curing them by imposing grave penances on them! From this it happens that those persons, although they accept the penance so that they may seize absolution, nevertheless, after absolution has been obtained, because

no remedy is prescribed to them by which they may be preserved, shortly relapse miserably, do not fulfill the penance, and, deterred by its gravity, afterward abhor confession, and thus languish longer in sins."

2. "Outside the case of very grave infirmity or most vehement contrition, the confessor would not act well if for mortal faults he enjoined a penance light in itself, which brings a light obligation." Hence St. Thomas of Villanova wisely notes: "In my judgment you will accomplish this if you enjoin one easy penance and counsel a sharper one."[11]

(9) Book VI, 518; H. A., XVI, 48. (10) Book VI, 510, Ex his. (11) Ibid., 510; H. A., XVI, 51.

1718. III. The QUALITY of the penance must be so determined that the satisfaction is at once VINDICATIVE and MEDICINAL. - This is clear from Trent, sess. 14, cap. 8, where it is said: "But let them have before their eyes that the satisfaction which they impose is not only for the custody of new life and the medicine of infirmity, but also for the vengeance and chastisement of past sins."

Moreover: 1. VINDICATIVE OR PENAL works are reduced chiefly to these THREE: prayer, alms, and fasting, which are opposed to sins committed against God, against neighbor, and against oneself. By PRAYER is understood whatever regards the worship of God, as confession, communion, visitation of a church, etc.; by ALMS, any work of mercy; and by FASTING, any affliction of the body. - For the rest, every good work is valid for penal satisfaction, as is commonly taught; for, in the state of fallen nature, every virtuous action has the character of punishment from this, that, original justice having been lost, we are all inclined to earthly things and our own advantages.[12]

2. MEDICINAL satisfactions are those which heal the remains of sins, that is, which remove evil habits, restrain depraved desires, remove occasions of sinning, and cut away the roots or causes of sins. Such are acts of virtues, internal and external, opposed to the vices of the penitent. Wherefore the RITUAL admonishes: "Let the confessor take care, as much as can be done, to enjoin penances contrary to the sins, as alms to the avaricious, fasts or other afflictions of the flesh to the lustful, offices of humility to the proud, and exercises of devotion to the slothful." For making these things clear, the following will help.

(12) Book VI, 514.

1719. Questions. Q. 1. What works generally CAN or CANNOT be imposed?

Resp. 1. Not only external and supererogatory works can be imposed, but also: 1. Internal works, as acts of charity, contrition, mental prayer, etc., because they are of themselves meritorious and are made external or sensible through imposition and acceptance. - 2. Works already due from elsewhere, for example hearing Mass on a feast day, fasting on a vigil, because, since they are of themselves satisfactory, they can be elevated through the power of the keys to the merit of sacramental satisfaction. Yet other works are to be joined to these, unless the frailty of the penitent suggests otherwise; for it is equitable that the sinner feel the weight of sin. - But neither can a work already due under the title of sacramental satisfaction be imposed. - 3. Works to be applied to others, whether deceased or even living; for satisfaction, in this case, stands on the part of the good will by

which the penitent applies his work to others. - 4. Cessation from a good work, for example from Communion, because it can be an act of virtue, for example for preserving the obedience of the Confessor. Except if the omission of the customary work provides others an opportunity for judging that such omission was enjoined by the confessor in penance for hidden sin.[13] Some penance can also be imposed, as St. Alphonsus notes,[14] under condition of relapse, for example: "if you again blaspheme, you will recite such a prayer." But it is expedient that it be imposed for a short time, or until another confession, and that another proportioned penance be added for the sins confessed.

Resp. 2. The following CANNOT be imposed: 1. Entrance into Religion, because it seems too hard. - 2. Marriage, because it requires complete liberty. Yet a penitent who needs this remedy is earnestly to be exhorted to the conjugal state. - 3. Public penance for hidden sins, because the seal of confession would be violated indirectly, and because the Roman Ritual expressly forbids this. But it can be imposed for public sins, as is drawn from these words of Trent: "It is necessary that a condign penance according to the manner of the fault be publicly enjoined upon this public sinner"; understand, if scandal cannot be repaired otherwise.[15]

Q. 2. What penances, for the sake of PRUDENCE, are not to be imposed?

Resp. The following are not to be imposed: 1. Perpetual penances, or those lasting for a long time; both because they would induce danger of forgetfulness or excessive anxiety, and because, since such penances perhaps would be imposed on the same penitent by various confessors, he would be bound by innumerable chains and for his whole life. 2. Unusual penances moving the wonder of the people, for example if it were imposed on someone to recite five *Pater noster* in the middle of the church with arms extended, etc. - 3. Afflictions of the flesh, vigils, fasts, if the penitents are youths, peasants, workers occupied in continual labor, sons in the family whose parents would be displeased by such austerities. - 4. Pilgrimages, prolonged prayers, alms, if the penitents are placed under the power of others, or are so poor that they are bound to procure a living for themselves by continual labor. - 5. Penances involved in many works, because they are easily given to forgetfulness. - 6. Also imprudently, generally, it is imposed on children that they ask pardon from parents or from others on account of disobedience, irreverence, or petty thefts; because these often render confession hateful and for the most part are omitted, etc.[16] - 7. St. Charles Borromeo admonishes that Masses to be celebrated not be imposed; or at least, that the confessor not accept those which he himself has imposed; nor alms to be distributed by himself, lest he fall into suspicion of avarice.[17]

Q. 3. What penances OUGHT RATHER to be imposed?

St. Alphonsus responds:[18] "1. As regards practice, this is the rule: that for sins of sensuality, bodily mortifications be imposed; for sins of avarice, alms; for blasphemies, prayers, etc. - Yet it must always be considered what is more expedient or will be more profitable to the penitent. For although in itself it is most useful to impose frequentation of the Sacraments, mental prayer, and alms, yet it is accustomed to happen that such works turn to harm for those who are not at all, or little, accustomed to them.

"2. The penances which are usefully imposed on all, generally, are the following: - To join oneself to some Congregation; - to elicit every evening, at least for some time, an act of sorrow; to renew every morning the good purpose, and to say with St. Philip Neri: 'Lord, do not remove Thy hand from me today, lest I be made a traitor to Thee'; - to visit daily the Most Holy Sacrament of the Altar and some

Image of the Virgin Mother of God, and during this visitation to ask earnestly for holy perseverance; - to recite the Rosary; - and both morning and evening to say three *Ave Maria* to the Blessed Virgin, with this little prayer: *My Mother, help me today, lest I sin against God*; this slight penance, namely to recite the Angelic Salutation three times with the aforesaid little prayer, I am accustomed to impose on all those who do not yet do it; - when going to bed, to say: 'At present I ought to be in the fire of hell'; or these other words: 'The day will come when I must die in this very bed'; - to read daily, especially if they are ecclesiastics, some spiritual book."

(13) Cf. Book VI, 513, 514; H. A., XVI, 52, 53. (14) Prax. Conf., r. 13, III, and Book VI, 524. (15) Book VI, 511-512; H. A., XVI, 52. (16) Cf. Gury, II, 526. (17) Cf. H. A., XVI, 52; Book VI, 512; Prax. Conf., n. 34. (18) Istruz., XVI, 54.

1720. Admonitions. 1. It will not be beside the point to add here the things which St. Charles Borromeo wisely admonishes thus: "Let the confessor impose such a penance as he judges can be fulfilled by the penitent. Hence sometimes, if he sees it expedient, let him ask whether he can, or whether he doubts that he can, perform the penance imposed on him; otherwise he will change or diminish it."[19]

2. As regards the dying, if someone is destitute of the senses, he can be absolved without any penance; but excepting this case, some penance, at least light,

is to be imposed, such as to kiss the crucifix, to invoke the names of Jesus and Mary, at least in the heart, etc. - But it is not expedient to impose on the sick person as penance that he patiently suffer the inconveniences of infirmity; for this could become for him the occasion of many scruples. "On the contrary, the Salmanticenses rightly notice that if the sick person can satisfy through alms, these are certainly to be enjoined by the confessor, since everyone is bound to do that penance which he can."[1] (Cf. n. 1716, and hence 3.)

3. It is also useful to know the rigor of the penances which were once prescribed in the PENITENTIAL CANONS. Moreover this knowledge is useful both because from them the confessor learns to estimate the gravity of sins which the Church once was accustomed to punish so rigidly, and especially because from this rigor of the canons he will be able to instill in penitents greater horror of sins, so that they may receive a milder penance with a readier soul.[2]

(19) Book VI, 510; cf. Reuter, De Poenit., n. 392-395. (1) H. A., XVI, 49; Book VI, 507. (2) Cf. Book VI, 530, where the penitential canons are reported.

Article II: On The Acceptance And Fulfillment Of Penance

1721. Principles. I. The penitent is bound TO ACCEPT penance sacramentally enjoined. The reason is: 1. because, just as the confessor, as judge, has the right and obligation of imposing penance, so the penitent, as the accused, must revere and execute the sentence of the judge; 2. because the penitent is bound, no less than the confessor, to procure the integrity of the Sacrament.[3] Yet if the penance seems to him more grave than is just, and too onerous with respect to his sin or his strength, he can, if the confessor does not wish to moderate it, depart without absolution and go to another confessor. But understand this if the penance is truly unreasonable. But if he refused to accept it from sloth, and wished to be absolved from sins

with a light penance, he does not seem able to be excused from grave sin, nor is he to be absolved.[4]

(3) Book VI, 516. (4) Ibid. and H. A., XVI, 55.

1722. II. The penitent is bound, under grave obligation, TO FULFILL a grave penance imposed for grave sins. - The reason is that grave matter of itself obliges under grave obligation. Hence, if he omits it wholly or in notable part, he sins gravely. - But he is bound under light obligation to fulfill a light penance imposed for light faults. Thus commonly.

But if a grave penance has been imposed for light faults, it is sufficiently probable, against Bonacina, Roncaglia, and others, that it obliges only under light obligation; because "as the confessor was not bound, indeed could not impose it under grave obligation, so neither is the penitent bound under grave obligation to fulfill it." - Except if it was imposed as medicinal for venials which greatly dispose to mortal sin; or if mortal sins already formerly confessed are at issue, concerning which the penitent has not yet done a condign penance, for example because he was absolved in some danger of death.[5]

And here it must be noted that the penitent is not bound to fulfill the penance when the confession was invalid; because the sacramental sentence of the judge was null, and therefore the Sacrament to be made integral is not present. - The same must be said of a penance imposed without absolution, unless it is medicinal, or unless it is ordered to absolution through a subsequent confession in which the confessor intends to impose a lesser penance.[6]

(5) Book VI, n. 517, and H. A., ibid., 56. (6) Cf. Gury, II, 534.

1723. III. The penitent must fulfill the penance at the TIME assigned by the confessor, or AS SOON AS he conveniently can. Namely, he sins gravely if from grave negligence he defers for a long time a penance gravely obliging; because of itself it is grave to prolong for a long time a notable debt. But as often as the penance has not been fulfilled at the established time, there always remains the burden of performing it; because the time is intended only accessorily, that is, not for ending the obligation, but for urging it.[7]

Hence St. Alphonsus notes:[8] 1. Although there is not an obligation of fulfilling the penance before Communion, as the 22nd proposition condemned by Alexander VIII required, nevertheless he sins gravely who defers it for a long time, for example for a year, or even for six months; but not for only one month, provided the penance is not medicinal and provided he can fulfill it in the future. 2. He does not sin gravely who transfers the fast of Friday to Saturday, or who procrastinates the Communion of individual months to six or eight other days, unless, as we have already said, the penance is medicinal, and its delay induces danger of relapse.

(7) H. A., XVI, 57; Book VI, 525. (8) H. A., ibid., 57; Book VI, 521.

1724. IV. The MANNER or CIRCUMSTANCE of fulfilling penance, for example that it be done with knees bent, arms extended, OBLIGES at least under venial sin. But when the obligation is to be judged light or grave "depends on the light or grave annoyance which the circumstance brings, either of itself or respectively to the penitent, according as the confessor imposing the penance signified. Thus commonly."[9]

Let it be noted: 1. Prayers imposed as penance can be recited while Mass of precept is heard, unless something else was established by the confessor. - Prayers also can be recited alternately with companions, if from the use of the Church or the practice of the faithful they are customarily recited as in choir, for example the Rosary, etc. If the confessor has imposed as penance two Masses to be heard on the same day, they must be heard successively, not at the same time; because it must reasonably be presumed that the confessor intended this.[10]

2. One existing in mortal sin fulfills the penance validly, nor is he bound to repeat it. For thus teaches the common and more probable opinion; and the reason is that to fulfill the precept it suffices to place the prescribed work, although the end of the precept is not obtained. - Yet it is probable that he sins venially, because one who places an obstacle to the partial effect of the Sacrament cannot be excused from some fault.[11]
3. No other intention of satisfying is required except that which the penitent had by accepting the penance; for it perseveres at least habitually, unless it has been retracted. Thus Lugo and others more probably. "For this reason," says St. Alphonsus,[12] "each one in any satisfactory work which he places always intends by a general will to satisfy first for the work due rather than for other works of supererogation."

(9) Book VI, 517, An autem. (10) H. A., XVI, 57. (11) H. A., XVI, 60; and Book VI, 522 and 523. (12) H. A., ibid., 58, end.

1725. Questions. Q. 1. Whether satisfaction can be fulfilled THROUGH ANOTHER?

Resp. 1. Extrasacramental vindicative satisfaction can well be fulfilled through another; for another can pay a debt for another, especially a friend, as St. Thomas proves.[13] 2. Sacramental satisfaction cannot be fulfilled through another, because the acts of the penitent are the matter of the Sacrament, and therefore, just as I cannot be contrite or confess for another, so neither can I satisfy. This is also clear from the 15th proposition condemned by Alexander VII: "A penitent by his own authority can substitute another for himself, who fulfills the penance in his place."

Except the case in which the confessor grants this to the penitent, as Suarez says with St. Thomas; for then not now the work, but the very act of the penitent by which he asks satisfaction from another for himself, holds the place of formal satisfaction.[14]

Q. 2. To what is a penitent bound who HAS FORGOTTEN the penance?

Resp. Some, as Bonacina, St. Antoninus, etc., wish that he is bound to repeat the confession, so that the Sacrament may be made integral. - But Suarez, Vasquez, etc., more commonly, and perhaps more probably, deny such an obligation, even if the penitent had culpably forgotten the penance. The reason is that, on the one hand, the fulfillment of the penance has become impossible, and on the other hand the law is very doubtful whether sins already directly remitted must be confessed again, so that the Sacrament may be made integral. Yet, if the penitent thought that the confessor was still mindful of the penance enjoined, he would be bound, if he conveniently can, to go to him; because in this case fulfillment of the penance would still be morally possible.[15]

Q. 3. Who can COMMUTE a penance?

Resp. 1. It is certain and common among the Doctors, whatever Diana says with fewer others, that it cannot be commuted by the penitent himself, not even into a work evidently better; for just as it can be imposed by the confessor alone, so it can be changed by him alone.[16]

Resp. 2. He who imposed it can commute it, 1. because a legislator can change his own law. And this indeed he can do: 1. without the sins declared to him being repeated, provided he still knows the penance enjoined, or at least remembers confusedly the state of the penitent's conscience; 2. even outside confession, if it is done immediately after absolution and before the penitent departs; because the same judgment is judged still to persevere morally. Thus the more common and truer opinion.[17] 2. Any other confessor can do the same, provided: 1. he does this within confession; 2. he commutes from a just cause, for example because he notices that the penitent has not fulfilled the penance and will not easily fulfill it: in this case he can probably change it even of his own accord; 3. the penance was not imposed by a Superior on account of reserved cases, as Suarez, Lugo, and others rightly say against Sanchez and others; because an inferior does not have the faculty of changing the sentence of a Superior in a judgment previously formed. This alone could be admitted if the penitent's return to the Superior would be difficult and otherwise a grave cause suggested commutation, because the connivance of the Superior is deservedly presumed in such a case.[18]

Q. 4. Whether a penance can be changed by another confessor, without the sins being accused AGAIN?

Resp. Castropalaus, Lugo, and others probably deny it, saying that the penitent must repeat the confession at least summarily, so that thus the new confessor may acquire confused knowledge of the state of his conscience. - But many others, also probably, affirm with Toletus, Navarrus, etc.; and the reason is that in this later confession it is not a question of making judgment concerning the sins brought forward in the prior confession, since that has already been completed, but only concerning the weakness of the penitent in satisfying the prior penance. It is objected: But penance must be medicinal, and how will one prescribe remedies who is ignorant of the wound of the sick person? - It is answered that the confessor can gather the matter of sins from the penance imposed, and therefore can also direct himself in the commutation or diminution of penance.[19]

Note. - 1. The penitent is by no means freed from the first penance if, by repeating confession before another confessor, he makes no mention of the prior confession and penance; both because he is bound to render the first Sacrament integral, and because for commuting a penance there is required on the part of the confessor a positive act of the will by which the prior obligation is revoked.

2. Once the commutation has been made, the penitent can always return to the first penance, as is commonly taught.[20]

(13) Suppl., q. 13, a. 2. (14) Book VI, 526. (15) Ibid., 520; H. A. (Istruz. more rightly), XVI, 59. (16) Book VI, 528, Resp. 3. (17) H. A., XVI, 61; Book VI, 529, doubt 3. (18) H. A., ibid., 61. (19) Ibid., 61; Book VI, 529, doubt 1. (20) H. A., ibid., 61, end. - On sacramental Satisfaction cf. Croix, book 6, p. 2, n. 1230 sqq., where there are many useful things to know.

Article III: On Satisfaction Through Indulgences

Among the various ways of satisfying God for sins already remitted as to fault, INDULGENCES hold no lowest place, especially the Indulgences of the JUBILEE. - Hence we shall discuss here: 1.

Indulgences in general; 2. Indulgences of the Jubilee; 3. Indulgences to be gained in the article of death; 4. the privileged altar for the dead.

§ 1. On Indulgences

1726. DEFINITION. An Indulgence is the remission of temporal punishment owed to God for sins pardoned as to fault, which the Church, outside the Sacrament, from a just cause, grants to the faithful through the application of the satisfactions of Christ and the Saints.[21]

DIVISION. An Indulgence is distinguished in many ways:

1. One is PLENARY, or total, which according to the intention of the one granting frees from all punishment; another PARTIAL, as are septenaries and quarantines, by which is understood that punishment to be taken away which would be taken away by a fast of 7 years or 40 days on bread and water, according to the Canons once customarily imposed.
2. One is PERSONAL, which is immediately granted to persons, for example to a Confraternity; another LOCAL, which is affixed to some place, for example a church, oratory, etc.; another REAL, which is attached to some portable thing, for example a Cross, Rosary, medal, etc. But a real indulgence is almost always also personal, since for the most part only the owner of the thing to which the Indulgence is annexed can gain it.
3. One is TEMPORAL, which is granted for a determined time; another PERPETUAL, which is granted in perpetuity or without any prefixed term.

(21) Book VI, 531; cf. St. Alphonsus in Trent, sess. 25, n. 50-67; Lugo, De Poenit., disp. 27, etc.

1727. Principles. I. The Church has POWER of granting Indulgences, and has used this power from ancient times. - This is of faith, against Protestants, and is clear from Trent, sess. 25, Decree on Indulgences, where the Council condemns with excommunication him who should say that Indulgences are useless, or who should deny that this power exists in the Church. See the dogmatic authors.

Let the following be noted: 1. Only the Pope can grant plenary Indulgences, or Indulgences to the whole Catholic world. But he grants them either by himself or through delegates,

with this condition, however, that they then only obtain their effect when they have been recognized by the S. C. of Indulgences.[1]

2. Bishops, but not Titular Bishops, can, from Lateran IV, grant to their diocesans Indulgences of 40 days; and an Indulgence of one year on the day of the dedication of a church. - These Indulgences are indeed perpetual, but they are valid for the living only, nor are they applicable to the dead.[2] Moreover it is forbidden that another new Indulgence of 40 days be attached to the same object or to the same act of piety by the successor of the Bishop.[3]
3. Cardinals can grant Indulgences of 100 days in the churches of their titles.[4] What the faculties of Nuncios are in this matter must be recognized from Apostolic Letters.

4. Prelates, titular Bishops, and others inferior to a Bishop cannot grant any Indulgences unless from the express delegation of the Pontiff or Bishop.[5] - The communication of merits of an Order, which Regular Superiors sometimes concede to distinguished benefactors, is not the bestowal of Indulgences, but is only, as Suarez says, an offering or donation of suffrages.[6]

5. Although Indulgences of a very excessive number of years, for example indulgences of a thousand, ten thousand years, are to be held as suspect, nevertheless some of this sort have been granted, nor can their authenticity be called into doubt. Cf., for example, the Bull of Innocent XI *Nuper pro parte*, of July 31, 1679, in which is contained the summary of Indulgences which were granted to the Confraternity of the Most Holy Rosary. There, among others (cap. III, n. 3), an Indulgence of sixty thousand years is approved.[7]

(1) Cf. Collectan. S. Sed., n. 535; cf. also Decreta authentica S. C. Indulg., n. 371 (Pustet ed., 1883). (2) Ferraris, verb. Indulgentia, art. 2, n. 7-10. (3) Maurel, De Indulg., p. 1, § 3. (4) Cf. Croix, book 6, p. 2, n. 1321. (5) Ibid., n. 1323. (6) Maurel, loc. cit. (7) Cf. also Decreta auth. S. C. Indulg., n. 374 (April 14, 1856).

1728. II. Indulgences, since they are graces, are TO BE INTERPRETED BROADLY, yet the propriety of the words being preserved (cf. n. 253). Therefore they are to be judged perpetual if they have been given without restriction of time; nor do those perpetually conceded cease through cessation of the cause. Yet good faith and error, even common error, do not supply for the defect of a prescribed condition.[8]

Let it be noted: 1. Unless this is expressed in the concession itself, whether explicitly or implicitly, for example by the clause *until our good pleasure*, Indulgences do not expire by the death of the one granting, nor before knowledge of revocation.[9] (cf. n. 254.)

2. Indulgences annexed to some church do not cease when a new church is built in almost the same place and under the same title. But they cease if the building is made in another place, although nearby, for example in a cemetery and not in the place of the old church.[10]

And this same thing must be said of an Indulgence granted to those visiting the churches of Regulars. If it was granted with regard to the regular Family by which the churches were governed, the Indulgence, when the regular Family ceases, likewise ceases.[11]

(8) H. A., XVI, 62; Book VI, 534. (9) H. A., ibid.; Book VI, ibid. (10) Decreta auth. Indulg., n. 323 (August 9, 1843). (11) Ibid., n. 424 (August 18, 1868).

1729. III. To gain Indulgences, all the CONDITIONS which are prescribed must be fulfilled. - Moreover, the conditions to be fulfilled on the part of the SUBJECT are usually numbered as five.[12]

1. That he be a subject of the one granting; because the concession of an Indulgence is an act of jurisdiction, which affects subjects alone. - Yet strangers are not excluded from local Indulgences which are annexed, for example, to an altar, cross, church, as the common opinion holds.

2. That he not be bound by major excommunication, because this deprives one of communion in spiritual goods (cf. n. 1292, 4).

3. That he be in the state of grace, at least when the prescribed work is completed; because punishment cannot be remitted before fault. But it is greatly to be desired that all works be done in grace, especially if the Indulgence has been granted for placating God. - Wherefore let it be noted: The clause *with at least a contrite heart*, or *with contrite hearts*, which is customarily inserted in concessions of partial Indulgences, does not indicate the work enjoined, but the necessity of the state of grace for gaining the Indulgence. Hence it is not required that those who are already found in the state of grace elicit an act of contrition (S. C. Indulg., December 17, 1870).[13]

4. That he have the due intention. But an intention at least virtual is required as often as an Indulgence is granted with a certain intention to be proposed to oneself, for example of praying for the happy state of the Church, of gaining a Jubilee with the privileges annexed to it, or if the day of the Indulgence is left to the determination of our will, for example within the month, within the year. Otherwise, an interpretative intention seems sufficient, or certainly the intention elicited in the morning of gaining all Indulgences occurring through the day suffices. Thus commonly.[14]

5. That he perform INTEGRALLY the works enjoined, in the PLACE, TIME, and MANNER prescribed, because Indulgences are granted under that condition. - Nor does it suffice, unless this is expressly conceded, to furnish works already due under another title, for example the Lenten fast, recitation of the Breviary, etc.[15]

(12) Book VI, 533, 534, 9. (13) Decreta auth., n. 427. (14) Book VI, 534, under 14, 5. (15) Decr. auth., n. 291 (May 29, 1841); cf. also Collect. S. Sed., n. 555.

1730. Now indeed:

I. As to PLACE, this is often a condition: that a parochial church or public oratory be visited. - Wherefore it must be carefully noted, from the S. C. of Indulgences, August 22, 1842, in Verdunen.,[16] that "an oratory, whether in monasteries, seminaries, or other convents, canonically dedicated, to which the Christian people is not accustomed publicly to have access, is not to be judged public." Yet sometimes it is granted to Religious or others that these oratories can be visited (cf. n. 1733, q. 7). - But if a certain church is prescribed, the parochial or another church cannot be chosen in its place, unless this is granted by special privilege.

For the rest, "several grave authors teach that for the prescribed visitation of a church, in order to gain an Indulgence, it suffices to pray before the door or cemetery if because of the multitude of men you cannot enter it: thus Suarez, Bonacina... Indeed Mazzotta and Croix with Lugo add: if you pray before the door of the church when it is closed."[17]

II. As to TIME: 1. It was decided by S. C. Ind., August 29, 1864: "That an Indulgence is acquired by the Christian faithful on the fixed and rightly constituted day in their diocese; by regular Orders on the day rightly constituted in their Calendar; by men who have enrolled in a Sodality which belongs to a Regular Order, that an Indulgence is acquired on the day rightly constituted in the Calendar of the diocese, or in the Calendar of the Order, if they enjoy a privilege of this sort, but not on both days."[18]

2. When the solemnity of a Feast is transferred, whether in perpetuity or for a time, in a legitimate manner, the Indulgence is understood to be transferred. - "But when only the Office with the Mass is transferred, and not the solemnity and exterior celebration of the Feast, the S. Congregation of Indulgences, by mandate of Pius IX, August 9, 1852, decreed that no translation of Indulgences occurs."[19]

3. When an indulgence to be gained once in a month or in a year is granted to those who previously have performed certain works or certain prayers through a month or through a year, the month is not necessarily to be computed from the first day to the last, nor the year from January 1 to December 31; but 30 days can be computed from any day, and 12 months from any month.[20]

4. If an indulgence is granted in view of the mystery or Saint to be honored on that day, the works can validly be performed from first Vespers, namely from the time at which Vespers are customarily recited in choir, that is, about the second hour after noon of the preceding day, up to sunset, that is, the evening twilight of the feast day itself.[21] - Otherwise, from midnight to midnight, as often as something else is not expressed in the Indult (S. C. Ind., January 12, 1878).[22]

III. As to MANNER: 1. It is not necessary to recite prayers with knees bent, unless this is prescribed, as, for example, it is prescribed for the prayer *Sacrosanctae* outside the case of infirmity. - 2. The works must be done by the one who intends to gain the indulgence, except alms, which is validly given through another. 3. A merely material act does not suffice, but a human act is required.[23]

IV. As to the INTEGRITY of the works to be performed, these two things are commonly asserted: 1. He who from inability or ignorance omits either the whole work or a notable part of it, for example if a child or old man does not fast, does not gain the indulgence, unless this work, on account of grave difficulty, by legitimate concession of the Pontiff, has been commuted for him into another. - 2. It does not harm if a small part of the enjoined work is omitted, because the work is still judged to be performed as to substance. But a small part is to be taken respectively to the whole work: thus in the Rosary the omission of one *Pater* and *Ave* seems small; but otherwise, if five *Pater* and *Ave* are required for an indulgence, and one *Pater* and *Ave* is omitted.[24]

(16) Decr. auth., n. 310. (17) Book VI, 538, q. 10, end. (18) Decr. auth., n. 407. (19) Ibid., n. 360. (20) M. Ulrich, C.SS.R., Trésor spirituel, p. 1, chap. 4, art. 3, § 2, n. II. (21) Raccolta (ed. 1886), p. XXII. (22) Decr. auth., n. 434; cf. also Acta S. Sed., vol. X, p. 563. (23) Cf. Konings, n. 1778, III, 5 and 7. (24) Book VI, 534, 13, 14, 16.

1731. IV. The special conditions which ORDINARILY are required for a plenary indulgence are CONFESSION, COMMUNION, and VOCAL PRAYERS. Wherefore we note:

1. CONFESSION, although it is not required for certain plenary indulgences, for example for the Indulgences of the Way of the Cross, is nevertheless for the most part required by this or a similar clause which is customarily appended to various Rescripts: "to the contrite and confessed." - Therefore confession is necessary even if someone has only venials; because it is required as a condition and prescribed work, as is clear from the Decree of the S. C. of Indulgences, approved by Clement XIII, May 19, 1759.[25] Nor indeed is absolution required except for mortal sins.

From the Indult of December 9, 1763,[26] and from the Decree of the S. C. of Indulgences, December 15, 1841,[27] it was established that those who are accustomed to confess each week, that is, in any passing space of seven days, as the S. C. declared on November 23, 1878,[28] can gain all Indulgences occurring through the week, for gaining which sacramental confession would otherwise be required, provided they are conscious to themselves of no lethal fault, as is clear, and provided it is not a question of Jubilee. This privilege, in several places, was extended from particular Indults to two weeks, or even to an entire month, for example in the Eastern Missions.[29] Besides, from the decree of the S. C. of Indulgences approved by Pius VII on June 12, 1822,[30] those who are not accustomed to confess each week can make the confession necessary for gaining an indulgence on a feast day within eight days before the feast, if they live in places in which, in view of the scarcity of confessors, the Ordinary obtained a special Indult.

2. COMMUNION, as also confession, can be anticipated on the day before that day for which some Indulgence is granted, not only by reason of an occurring festivity, but also from any other cause whatever, for example reception into some Confraternity, the prayer of the Forty Hours, a pious exercise, etc.; "yet, in fulfilling the other works enjoined, the general rule concerning the manner and time prescribed in the concessions being observed" (S. C. Indulg., October 6, 1870).[31]

Paschal Communion is valid for gaining a plenary Indulgence occurring on the same day; except, however, the Indulgence of the Jubilee, for which a special Confession and Communion are required, unless the contrary is expressed in the Pontifical Letters. Thus from the Decree of May 10, 1844.[32] - Likewise, one holy Communion, made at the time of Pastoral Visitation or spiritual Exercises in parishes, suffices for satisfying the paschal precept and for gaining the plenary Indulgence (cf. n. 1738).[33] - Likewise, Communion on the day of Easter can suffice for gaining the indulgence of the Papal blessing and for satisfying the precept (Declaration of Gregory XVI, March 19, 1841).[34]

3. VOCAL PRAYERS, to be recited according to the intention of the one granting, are at the discretion of each faithful person, unless they are particularly assigned; but ordinarily they are to be poured forth in some church (cf. 1733, q. 4).

Yet Benedict XIV admonishes:[35] "Although a brief prayer employed with a sense of fervent piety... can satisfy, nevertheless for the most part brevity of prayer is accustomed to proceed from a small study of piety or a soul little inclined to spiritual things, or from tedium and negligence." But according to the common opinion, five *Pater* and *Ave*, or an equivalent prayer, suffice. - These prayers can also be recited alternately with a companion.[36] Posture while praying is generally not prescribed.[37] - As regards the sick, deaf-mutes, etc., for whom a commutation of works must be made, see n. 1733, q. 6 and 7.

(25) Decr. auth., n. 214, 295. (26) Ibid., n. 231. (27) Ibid., n. 295. (28) Ibid., n. 439. (29) Cf. Collect. S. Sed., n. 546 and 517. (30) Decr. auth., n. 252 and n. 264. (31) Ibid., n. 426; cf. also Collect. S. Sed., n. 549. (32) Decr. auth., n. 327. (33) Ibid., n. 296. (34) Ibid., n. 288. (35) Constitution Inter praeteritos, December 3, 1749, § 83. (36) Konings, n. 1778, end. (37) Decr. auth., n. 398.

1732. V. Indulgences, whether plenary or partial, can, from concession of the Pontiff, BE APPLIED to the dead. - This is clear from the use of the Church and from propositions condemned by

Sixtus IV, Leo X, and Pius VI. But for this it is NECESSARY:

1. That they have been granted as applicable to the dead.[38] But this concession is given by the Roman Pontiff alone.
2. That the one gaining them have an intention, at least interpretative, of applying them to the dead; for the Superior only gives the power, but does not apply them to this or that deceased person. Yet a general application suffices, for example to all the dead, because suffrages are divisible.
3. That he who intends to gain them be in the state of grace, at least when he fulfills the last prescribed work, as seems truer to St. Alphonsus against some; for no one can apply an Indulgence to another unless he has first gained it himself.[39] The S. C. of Indulgences was asked about this matter, and on August 20, 1822, responded: *Deferred*;[40] and being asked again, responded on February 22, 1847: Let the petitioner consult approved authors.[41]

(38) All Indulgences published in the work whose title is La Raccolta have been declared applicable to the dead. (39) Book VI, 533 and 534, 10; H. A., XVI, 62. (40) Decr. auth., n. 253. (41) Ibid., n. 341.

1733. Questions. Q. 1. Whether an indulgence granted as plenary is valid as PARTIAL, if it cannot be obtained entire; for example, because of affection toward some venial sin?

Resp. Affirmative. The reason is: 1. "because just as it is not repugnant that the fault of one venial sin be remitted without the fault of others being remitted, so also the punishment"; 2. because the S. Pontiff, "by granting a plenary Indulgence, is not presumed to wish to restrict it only to those to whom all venials are remitted (who certainly are very few), but rather to grant it according to the capacity of the subject, so that at least the punishment of those venials whose fault has been remitted may be remitted."[1]

Q. 2. Whether someone can gain DIVERSE Indulgences, or the same Indulgences several times, ON THE SAME DAY?

Resp. 1. As regards diverse Indulgences, the faithful generally can gain them, at least if they are partial (concerning plenary ones, see question 4) and attached to diverse works, or to the same works which can be repeated several times in a day. Thus commonly the Theologians. 2. As regards the same Indulgences, attention must be paid to the letters of concession, whether namely they say *as often as*. If these determine nothing, one must stand by the interpretation and common practice of the Church.[2]

Q. 3. Whether someone can gain several Indulgences BY THE SAME ACT, or by the same work?

Resp. Affirmative, if the prescribed work either cannot be repeated, or is not accustomed to be repeated on the same day, as fasting, Communion, etc.; negative, if the work can be repeated, as prayers according to the intention of the S. Pontiff, visitation of a church, etc. - For to the question: "Whether, if Indulgences under various titles are annexed to the same pious work, which cannot be repeated by the faithful, all can be gained?" the S. C. of Indulgences responded on January 12, 1878:[3] "Affirmative, provided the works enjoined truly cannot, or are not accustomed to, be repeated, as confession, unless it is necessary from another source."

Q. 4. In what way can SEVERAL PLENARY Indulgences be gained on the same day?

Resp. It was asked: "1. Since from diverse decrees of the S. C. of Indulgences it is now permitted to gain several plenary Indulgences ON THE SAME DAY, the conditions having of course been fulfilled, it is asked whether the said decree concerns only Indulgences occurring on one day because of a festivity, or rather also those which each person, on account of his devotion, has affixed to such a day through the week or month? 2. He who wishes to use the decree itself, whether he is bound to visit a church or public oratory (when namely such a visitation is required) as many times as there are indulgences to be gained? - And insofar as Affirmative, 3. Whether it suffices that in one and the same church so many prayers, or visitations, be repeated as there are Indulgences to be gained, without anyone going out of the church after each visitation and entering it again?" - And the S. C. of Indulgences, February 29, 1864, responded: "To the 1st: Affirmative. To the 2nd: Affirmative. To the 3rd: Negative."[4]

Q. 5. Whether, if the faculty of commuting works enjoined for gaining indulgences is granted, the commutation must necessarily be made IN CONFESSION?

Resp. It is disputed. Busenbaum, not corrected by St. Alphonsus,[5] denies it from the declaration of Gregory XIII. - Yet it must be affirmed when it is a question of a Jubilee, from the Constitution *Inter praeteritos* of Benedict XIV, § 63,[6] unless another faculty is expressly granted.

Q. 6. In what way can DEAF-MUTES gain Indulgences to which VOCAL prayers are annexed?

Resp. The S. C. of Indulgences established, and Pius IX approved on March 15, 1852,[7] the following: 1. "But if among the works prescribed for gaining an Indulgence there is the visitation of some church, deaf-mutes are bound devoutly to visit the church itself, although they only raise the mind to God, and pious affections. - 2. But if among the works there are public prayers, deaf-mutes can gain the Indulgences annexed to them, indeed joined in body to the other faithful praying in the same place, but likewise with the mind only raised to God, and with pious affections of the heart. 3. But if finally it is a question of private prayers, the proper confessors of the mute and deaf can commute the same prayers into other pious works manifested in some way, according as they shall judge expedient in the Lord."

Q. 7. In what way can the SICK gain Indulgences for acquiring which holy Communion and visitation of some church are prescribed?

Resp. From the benign concession of Pius IX, on September 18, 1862,[8] the sick who, "on account of chronic illness, or some permanent physical impediment, are unable to go out of the house (except, however, those who dwell in community), can acquire all and individual plenary Indulgences, provided that, truly penitent, confessed, and all other conditions having been fulfilled, if any have been enjoined, in place of holy Communion and visitation, they faithfully complete other pious works to be enjoined by the respective confessor."

Moreover, our Most Holy Lord Pope Leo XIII, on January 16, 1886, approved a decree of the S. Congregation of Indulgences by which it is granted "that the infirm or those worn out by old age, living in community and under rule, who cannot execute the churches or oratories or other things prescribed for indulgences, nevertheless can gain indulgences by fulfilling other pious works to be prescribed at the judgment of the confessor."[9]

Q. 8. Whether the faithful enrolled in CONFRATERNITIES are deprived of indulgences if they do not observe the STATUTES of the Confraternity?

Resp. Negative. For thus the S. C. of Indulgences responded to the question on January 25, 1842, in Cameracen.:[10] "Provided that the Sodalities have been canonically erected, and the members fulfill the works enjoined by the Supreme Pontiffs for gaining the Indulgences annexed to their respective Confraternity, and the members themselves have been legitimately enrolled in the Confraternity: partial or general non-observance of the statutes does not hinder the acquisition of indulgences, from the fact that the statutes have been given rather for the government and right administration of the Sodality, but by no means as works enjoined for acquiring Indulgences."

For the rest, see the Canonists concerning things pertaining to CONFRATERNITIES and SODALITIES.[11]

(1) Book VI, 534, 19, v. Certum est; H. A., XVI, 63. (2) Gury, II, 1053, q. 12; cf. Acta S. Sedis, vol. I, p. 116 and vol. X, p. 563. (3) Decr. auth., n. 434. (4) Ibid., n. 399; cf. Collect. S. Sed., n. 558. (5) Book VI, 534, 15. (6) Ibid., 536, 14. (7) Decr. auth., n. 355; cf. also Collect. S. Sed., n. 557. (8) Decr. auth., n. 393; cf. Collect. S. Sed., n. 553. (9) Acta S. Sedis, vol. XVIII, p. 462. (10) Decr. auth., n. 298; Collect. S. Sed., n. 563. (11) Cf. Ferraris, verb. Confraternitates; Craisson, Man. j. can., n. 4654-4680; Lucidi, de Vis. SS. Limin., vol. 2, p. 474 seqq.; Decr. auth. S. C. Indulg. (Append., nn. I, XII, XIII and Index of things); likewise the authentic Rescripts of the same Congregation published at Regensburg in the year 1885.

1734. Note. It is useful here, for the reader's convenience, to transcribe some other RESPONSES of the S. C. OF INDULGENCES which pertain to the present matter.[12]

1. Indulgences can be applied to solid things, iron, wood, lead, etc., also to a rosary made of solid glass. Only those things which can easily be broken or torn, as paper, blown glass, etc., are excepted (S. C. Indulg., February 29, 1820).[13] - But medals must display the image of some Saint either solemnly canonized, or at least entered in the Roman Martyrology; nor does the image of some Blessed suffice, unless at the same time the image of a Saint is present (S. C. Indulg., December 22, 1710).[14]

2. For blessing crosses, rosaries, etc., for Indulgences, it suffices if the sign of the cross is made by the priest who has received this faculty, although in the Indult there exists the clause "in the form customary in the Church." But for rosaries of the Rosary and of the Seven Sorrows of the B. V., the prescribed formula and the sprinkling of blessed water are required (S. C. Indulg., April 11, 1840; January 7, 1843; and February 29, 1864).[15]

3. It was asked: "1. Whether rosaries lose Indulgences if they are given to someone? - 2. Whether after the death of the owner another acquires ownership of them, namely of the Indulgences? 3. If the string of rosaries is broken, whether voluntarily so that they may be connected by chains, or involuntarily and by chance this has happened? - 4. If four or five beads are lost? - 5. If they are lent to a friend, either for simply reciting the rosary, or for gaining Indulgences?" - And the S. C. of Indulgences on January 10, 1839,[16] responded: To the 1st, affirmative, as often as they are not given immediately or mediately by a person having the faculty of distributing them. - To the 2nd, negative, because Indulgences do not pass beyond the person of the former owner. - To the 3rd, negative, because the same rosaries persevere as to moral form. - To the 4th, negative, from the reason brought forward in the preceding response. - To the 5th, negative in the first case, affirmative in the second. For in order that Indulgences affixed to

rosaries and other movable things perish, the end of giving or lending for the communication of Indulgences is required."

4. When the S. Pontiff grants any Indulgence to the City and the World, so that the faithful can gain such an Indulgence in various dioceses: is it required that this Indulgence be promulgated by the Ordinaries of places, or on the contrary does it suffice that they be certain that the aforesaid Indulgence was granted by the S. Pontiff? The S. C. of Indulgences responded on July 1, 1839:[17] Negative, as to the first part; Affirmative as to the second.

5. Whether someone can use obtained indulgences, or graces, without the license and recognition of his Ordinary? Resp. Affirmative, as to use and enjoyment; but he can use the same graces only privately, provided they yield to the burden of no one, or offer an occasion of scandal, and provided the petitioner does not presume to send these faculties to print without license (December 12, 1840).[18]

6. Whether he who obtains diverse faculties from the Apostolic See, namely of a personal privileged altar, of erecting the stations of the Way of the Cross, of blessing crosses, medals..., must exhibit the said faculties to the Ordinary, even if no mention has been made in the Rescripts of the concessions? - Resp. Affirmative, as to the erection of the Way of the Cross; negative, relative to the other faculties, unless it has been otherwise disposed in the obtained concessions (February 6, 1844).[19]

7. When in Briefs of Indulgences it is said, "these presents to last for seven years," the seven years are to be computed not from the day of publication, but from the day of the date of the Brief (S. C. Indulg., May 20, 1711).[20]

8. It is permitted to turn prayers with Indulgences into another language without the Indulgences being lost, if the translation is faithful (S. C. Indulg., September 30, 1852).[21] But so that the fidelity of a version of prayers to which indulgences are annexed may be established, the declaration of the S. C. of Indulgences through the Most Eminent Prefect, or of one of the Ordinaries of the place where the language into which the prayer is turned is common, suffices. Thus the S. C. of Indulgences on December 29, 1864.[22]

9. Whether those visiting the churches of the Order of St. Francis, on August 2, gain a plenary indulgence as often as they enter them and pray there for a little while? And whether it is required that Communion be made in the same church? - The S. C. I. responded on July 12, 1847:[23] Affirmative to the first part; Negative to the second.

NB. As regards Indulgences of the Way of the Cross and of various Scapulars, see the authentic Acts of the S. C. OF INDULGENCES, Appendix, §§ V, VI, etc.[24]

(12) Cf. Del Vecchio, Compend., tom. II, n. 666. (13) Decr. auth., n. 249. (14) Decr. auth., n. 32. (15) Decr. auth., n. 281, n. 313, 401. (16) Collect. S. Sed., n. 587. (17) Decr. auth., n. 273. (18) Del Vecchio, vol. II, n. 666, VIII. (19) Ibid., n. 666, IX. (20) Decr. auth., n. 37. (21) Decr. auth., n. 361. (22) Decr. auth., n. 415. (23) Decr. auth., n. 344. (24) See also Konings, n. 1787 seqq.; Craisson, Man. jur. can., n. 4602 seqq.; and especially for Scapulars, M. Ulrich, C.SS.R., Trésor spirituel.

§ 2. On The Jubilee

1735. DEFINITION. A Jubilee is a solemn plenary Indulgence with annexed privileges, granted by the S. Pontiff to those performing certain works.

It differs only accidentally from another plenary indulgence, namely by reason of solemnity and of the privileges and graces which are annexed to it. - Yet the primary motive of the concession is not that the faithful gain the Indulgence, but rather in general that they be provoked to true penance, and so obtain God's mercy or liberation from public calamities. It is also sometimes proclaimed to foster reverence and obedience toward the Holy See: for the solemn Indulgence of a Jubilee greatly profits toward the attainment of this end.

DIVISION. A multiple Jubilee is distinguished.

1. The GREATER or ordinary Jubilee, which regularly occurs every twenty-fifth year, which is called the HOLY YEAR; and the LESSER or extraordinary Jubilee, which is granted by individual Supreme Pontiffs after the exaltation of each one, or in other particular circumstances. - The greater Jubilee is customarily granted to the City, or to Rome alone, for an entire year, which having elapsed, it is extended to the whole World for a shorter time: otherwise with the lesser Jubilee.
2. The GENERAL Jubilee, which is granted to the whole World (as the greater Jubilee, and often also the lesser Jubilee); and the PARTICULAR Jubilee, which is granted to some province, city, or community.

Note. In interpreting Bulls of Jubilee, the RULES handed down by Benedict XIV are to be observed, to which not even the Bull of Jubilee itself is opposed, according as, with regard to both an ordinary and an extraordinary Jubilee, Pius IX declared on March 15, 1852.[25]

(25) Decr. auth., n. 353, and Append. § XVIII, where all these rules are reported.

I. Privileges Of The Jubilee

1736. As to these, the BULL by which the Jubilee is granted must primarily be consulted. - But those things which hitherto, according to the statutes of Benedict XIV[26] and the mind of approved authors, in the time of the extension of the greater Jubilee to the whole Catholic World, have been accustomed to be granted, are summarily the following:

A) Directly for the PENITENT: Faculty of choosing a confessor from among those approved by the Bishop of the place where the confession is made. - Hence, any Regulars, Oblates, Tertiaries, etc., for the confession required for gaining the Jubilee, without the license of Superiors, can choose any priest from among the said approved ones, even a secular priest; but Nuns strictly so called, and their novices, can choose someone from among those approved by the Ordinary of the place for hearing the confessions of Nuns, whether approved for this end generally, or for other monasteries.[27] - But one once approved for Nuns, whether as ordinary or as extraordinary, but whose approbation, for example because of the lapse of the prefixed term, has ceased, can also be chosen by the aforesaid Nuns for the Jubilee, "unless it is established that the same confessor was afterward positively reproved by the same Ordinary on account of demerits which concern the confessions themselves." Thus the S. Penitentiary.[28]

B) Directly for the CONFESSOR and indirectly for the penitent.

I. Faculty of absolving, for the forum of conscience only, "from excommunication, suspension, and other ecclesiastical sentences and censures, imposed or inflicted by law or by man for any cause whatever, reserved even to the Ordinaries of places" and to the Pontiff and S. See, "although in a special form, and which otherwise in a concession, however broad, would not be understood as granted, as well as from all sins and excesses, however grave and enormous, reserved even to the same Ordinaries and Pontiff...."[29] - Nor does it hinder (as is taught more probably and more commonly) if someone sinned in confidence of the Jubilee.[30]

Yet from this broad faculty there are EXCEPTED: 1. Formal heresy externalized, although occult, unless the power of absolving from it is expressly indicated[31] (This power, with those things preserved which must be preserved by law, was granted in the last Jubilees, celebrated at the time of the Vatican Council and thereafter). 2. Cases and censures reserved in the Constitution *Sacramentum Poenitentiae* of Benedict XIV (see nn. 1772 and 1780). 3. Absolution of those who have been excommunicated, suspended, interdicted by name, or declared or publicly denounced to have fallen into other sentences and censures by the Holy See or by some Prelate or apostolic judge; unless within the time of the Jubilee they have made satisfaction, and have come to agreement with the parties where there was need.[32]

II. Faculty of dispensing from irregularity, yet occult, incurred because of violation of censures, through the exercise of Order.

III. Faculty of commuting simple vows (not excepting a vow not to seek commutation),[33] even sworn and reserved to the Apostolic See[34] (cf. n. 2191, 2).

But from this faculty are excepted: 1. Vows of perpetual chastity and of entering Religion (cf. n. 645, q. 2); 2. Vows in favor of a third party, if they have already been accepted, unless the third party renounces his right (cf. n. 647). Therefore vows emitted in some religious Community are also excepted.[35] 3. Penal vows preservative from sin, unless the commutation is made into another work which equally or more conduces to preservation.[36]

Let it be noted: 1. These absolutions, commutations, dispensations cannot be made, without a special concession, outside the act of sacramental confession.[37] - See the Response of the S. Penitentiary, March 16, 1865.[38]

2. Each faithful person can enjoy these things only one time during the Jubilee; but it is not necessary that all things be applied to him at the same time, or by the same confessor; yet they can be applied only to those "who have sincerely and seriously determined to obtain the Jubilee, and with this intention of gaining it and of fulfilling the remaining works necessary for gaining it, approach confession."[39]

(26) Cf. Constitutions Benedictus (December 25, 1750); Celebrationem (January 1, 1751); Convocatis (November 25, 1749); Inter praeteritos (December 3, 1749). (27) Constitution Celebrationem, § 9-11. (28) Cf. Nouv. Revue Théol., tom. I, p. 430 sq. (29) Benedict XIV, Constitution Benedictus, § 4; and Pius IX, Encyclical Gravibus Ecclesiae, 1874. (30) Book VI, 537, q. 6; H. A., XVI, 69. (31) Benedict XIV, Constitution Inter praeteritos, § 85. (32) Benedict XIV, Constitution Benedictus, § 5; cf. H. A., XVI, 70, 71; Book VI, 537, q. 7 and 8. (33) Ferraris, verb. Jubilaeum, art. 2, n. 39. (34) Benedict XIV, Constitution Benedictus, § 4; cf. Loiseaux, Du Jubilé, p. 460-554. (35) Constitution Benedictus, §

4. (36) Ibid., § 4. (37) Benedict XIV, Constitution Convocatis, n. 25. (38) Acta S. Sed., vol. I, p. 176. (39) Cf. Konings, n. 1784.

II. Conditions Required For The Jubilee

(1) Ibid., 1785 sq.

1737. I. For the GREATER or ORDINARY Jubilee, three conditions are usually required, namely:

1. DEVOUT VISITATION OF CHURCHES, namely of those which in the City are designated by the S. Pontiff, and outside the City by the Ordinaries of places, by praying piously in them according to the intention of the Pontiff, for example by reciting five *Pater* and *Ave*, or equivalent prayers. - It does not hinder if, while you cannot enter the church to be visited because of the multitude of men, you pray in the vestibule, or before the doors, or in the cemetery, or before the locked door of the church. But if several altars are prescribed to be visited, they must be visited in such a way that by some movement at least of the body you turn yourself to each one, with the intention of visiting it, then reciting the prayers due.[2] If in some place only one church exists, from the general decree of the S. C. of Indulgences issued on March 15, 1852,[3] the faculty is given to Ordinaries of granting that all the prescribed visitations be performed in this church. But these visitations in the same church must be distinguished from one another, so that each time it is necessary to enter it and to go out from it. Thus from the declaration of the S. Penitentiary, January 26, 1875.[4]
2. VALID CONFESSION, even if only formally integral (cf. n. 1731).
3. COMMUNION, made in the state of grace, or in which at least first sanctifying grace is conferred per accidens,[5] namely if someone indisposed, but in good faith and attrite, approaches the Sacred Table (cf. n. 1395).

II. For the EXTRAORDINARY Jubilee, besides the three enumerated conditions, there are usually prescribed:

1. A FAST of three days, Wednesday, Friday, and Saturday. But a strict fast is prescribed, in which only fasting foods may be eaten, unless commutation is obtained (cf. Decision of the S. Penitentiary, March 16, 1865).[6] - 2. ALMS, either indeterminate, that is, some alms; or determinate, according to the ability of each one. But it is not necessary to expend money; it suffices to give another thing estimable by price, for example clothing, etc.

Note. For a PARTICULAR Jubilee, attention must be paid to the tenor of the Indult granted. - Ordinarily only three things are required, namely Confession, Communion, and visitation of some church.

(2) Book VI, 534, 14; cf. Ferraris, verb. Jubil., art. 3, n. 7 seqq. (3) Decr. auth., n. 353. (4) Cf. Catech. dell'Anno Santo, 1875, p. 257. (5) Cf. Loiseaux, du Jubilé, ch. 5, art. 2, § 3, n. 5 (p. 202). (6) Acta S. Sed., vol. I, p. 174 sq.

1738. Three things here come TO BE NOTED: 1. To gain the Indulgence of a Jubilee, works already due from another title do not suffice. Hence: 1) a fast already prescribed, for example by reason of Ember Days, does not suffice, unless the S. Pontiff has granted this, for example by determining, or permitting to be determined, the Lenten time for gaining the Jubilee. 2)

Annual confession does not suffice, unless this is expressly granted. 3) Paschal Communion does not suffice, even if the Jubilee is celebrated at Eastertide. Thus the S. Penitentiary, January 26, 1875. Yet sometimes the S. Pontiff has benignly granted that it suffice.[7] 4) Finally, the visitation of a church while someone assists at Mass on Sunday does not suffice.

2. To confessors is granted the FACULTY OF COMMUTING the works prescribed into other works, otherwise not due and of almost the same nature; not indeed to all indiscriminately, but only to those who are in physical or moral impossibility of fulfilling the common conditions. And when it is granted that the faithful can gain the indulgence of the Jubilee several times, the works enjoined can also be commuted several times (S. Penitentiary, March 18, 1886).[8] Yet it must be adverted that this faculty can be exercised only within the act of confession (as was said above, n. 1737, note 1), and is not extended to all the works prescribed. For Confession is never commuted; Communion, however, is commuted only for children, and also, as it seems, for those laboring under chronic illness (from the general concession of Pius IX reported in n. 1733, q. 7, which does not except the Jubilee); finally prayers cannot be commuted, even if the visitations of churches are commuted. Thus Benedict XIV, Constitution *Inter praeteritos*, § 53.

3. The Jubilee, at least from more recent Indults, can be PROROGUED into another but proximate time, in favor of travelers, navigators, and generally of those who are impeded by some transitory obstacle from completing all the prescribed works within the very time of the Jubilee. - Hence, if on the last day someone, for example because of a broken fast or the postponement of absolution, were prohibited from communicating, he would rightly obtain a prorogation of the Jubilee from the confessor.

(7) Cf. Scavini, tom. IV, n. 348, I. (8) Acta S. Sed., vol. XVIII, p. 512.

1739. Questions. Q. 1. What QUANTITY of alms must be expended?

Resp. "In this, the words of the Indult are especially to be attended to; for if it is said: *As much as to each one according to his ability shall have seemed good*, then the quantity must be proportioned to the abilities of each one; hence it will suffice for a poor man to give an obol, not for a rich man. - But if it is said simply: *Whoever shall have given alms*, one must distinguish: if the Pope asks it only for exercising mercy toward the poor, then it suffices to give any sum whatever; otherwise, if alms is demanded as a subsidy for some pious work."[9]

Q. 2. Whether the POOR are bound, in order to gain the Jubilee, to give alms?

Resp. Affirmative. Because no one is so poor that he cannot at least give an obol. - But for Religious, children in the household, wives, and servants it suffices if alms is expended by their Superiors with their knowledge. - But if the Superior refuses to expend it, a commutation must be sought.[10]

Q. 3. Whether a certain ORDER is required in executing the conditions of the Jubilee?

Resp. Negative, for this is not expressed in the Bulls. - But the last work must be placed in the state of grace. But if someone after confession falls into mortal sin, although he is not bound to repeat the visitations, etc., he is nevertheless bound to confess again, nor does it suffice to be contrite, if he wishes to gain the Jubilee.[11]

Q. 4. Whether all works must be performed in ONE AND THE SAME place?

Resp. Negative, for the S. Penitentiary (in the year 1875) declared: "works begun in one place can be fulfilled and completed in another, where someone must spend his life by reason of office, service, or marriage." - Likewise, to the question: "whether he gains the Jubilee who fulfills the prescribed conditions in another diocese, where he does not have domicile, if he observes the ordinances of the Ordinary of the place where he is staying?" it was answered: Affirmative.[12]

Q. 5. Whether confession made on the VIGIL of the first day of the Jubilee suffices?

Resp. Negative, and the reason is that all works must be done within the interval of time established for gaining the Jubilee. - Yet confession can be begun either on the vigil or before, provided it is finished during the time of the Jubilee. And the whole confession can be performed in that part of the vigil which follows first Vespers; because the first day, according to ecclesiastical custom, is usually computed 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.[13]

Q. 6. Whether all the enjoined works must be completed in ONE week?

Resp. 1. Affirmative, as regards FASTS. This is clear from the formula usually appended, which sounds thus: "Those who have taken part in the procession, or have visited the churches, and have fasted on Wednesday, Friday, and Saturday of one of the two weeks, and likewise have confessed their sins and been refreshed with holy Communion, and have bestowed alms, etc." Therefore the three fasts must be done in the same week.[14] - 2. As regards OTHER WORKS, in more recent Indults it has been expressly declared that they do not have to be completed necessarily within the same week. Thus Pius IX, November 20, 1846, and Leo XIII, March 12, 1881. - Indeed, sometimes the whole year is granted for fulfilling any conditions whatever (Encyclical, December 22, 1885).

Q. 7. Whether the Jubilee can be gained SEVERAL TIMES?

Resp. The Jubilee of the HOLY YEAR in the City, but not outside, can be gained by someone several times; and the same faculty is usually granted as to extraordinary Jubilees. But each one can enjoy the favors annexed to the Jubilee only once. Thus all,[15] and the S. Penitentiary has expressly declared it concerning several particular Jubilees.

Q. 8. Whether he sins gravely who, after he has been absolved from reserved cases, afterward DOES NOT FULFILL the works enjoined?

Resp. Negative, with the common opinion. "The reason is because an obligation of this sort is not considered imposed either from the nature of the Jubilee, or from the precept of the Pontiff or confessor." But he who, with the true intention of gaining the Jubilee, has been absolved from censures, or dispensed in a vow or irregularity, does not relapse if afterward, his will having changed, he does not gain the Jubilee, even culpably.[16]

Q. 9. Whether he who confessed in the time of Jubilee, and FORGOT or WITH CAUSE OMITTED to confess his RESERVED sins, can then be absolved by any confessor?

Resp. 1. Affirmative, if the confessor had the express intention of absolving also from reserved sins. Thus all. - 2. The same is more commonly and more probably admitted, although the confessor did not think about this; because the penitent, by force of the Jubilee, acquired the right to the favor of the Pontiff, so that from that time he can be absolved by any confessor.[17] - 3. But if someone began a

confession within the Jubilee, which materially imperfect confession must be deferred longer, he will be able to be absolved from all reserved sins either then or afterward.[18]

Q. 10. Whether by an INVALID confession in the Jubilee reserved censures are absolved, and the reservation of sins is removed?

Resp. Negative, according to St. Alphonsus.[19] The reason is that the Pontiff grants such a faculty for this end, that the faithful may gain the indulgence of the Jubilee. Therefore he is not presumed to grant it in favor of those who, because of an invalid confession, cannot gain the indulgence.

(9) Book VI, 538, q. 11. (10) Ibid., q. 11, doubt 1. (11) Benedict XIV, Constitution Convocatis, n. 47. (12) Cf. Acta S. Sed., VII, p. 486. (13) Gury, II, n. 1069. (14) Book VI, 537. (15) Ibid., 536, 25. (16) Book VI, 537, q. 3; H. A., XVI, 67. (17) Book VI, 537, q. 4; H. A., XVI, 68. (18) Book VI, 535, 3. (19) Ibid., 537, q. 2; H. A., 66; cf. first list of reformed questions, n. 80.

1740. Note. During the time in which the Jubilee of the HOLY YEAR is celebrated at Rome (but not during the time in which it is extended to the World): 1. Outside the City are SUSPENDED faculties or privileges both of absolving from cases reserved to the Apostolic See and of commuting vows, dispensing from irregularities, etc.; whether these faculties were conceded in view of indulgences, or for other causes. Thus Benedict XIV.[1] There are excepted (unless something else is clear from the Bull): 1) the faculties of the S. Inquisition and its ministers; 2) faculties conceded to Bishops by the Council of Trent; 3) faculties of Regular Superiors to be exercised with their subjects; 4) faculties of Missionaries whom the Holy See sends, or the S. Congregation de Propaganda Fide; 5) faculties which the S. Penitentiary gives to Missionaries for places of missions; 6) faculties which perhaps the confessor has either obtained from the S. Penitentiary, or has as subdelegated by his own Ordinary after the manner of a habit for the internal forum and only in the act of sacramental confession (S. Penitentiary, year 1875).[2]

2. Similarly, in the holy year there are suspended (unless otherwise established, as in the Jubilee of the year 1875) all indulgences both plenary and particular which have been conceded for the living, and which are neither real nor local; but those conceded for the dead are not suspended. Indeed, from the concession of Benedict XIV, through the whole year of Jubilee, all Indulgences can be applied to the dead, not even those excepted which otherwise were not applicable to them.

Yet among indulgences for the living, some are EXCEPTED from suspension, namely: 1. Indulgences for the dying; 2. Indulgences for the prayer *Angelus Domini*; 3. Indulgences for visitation of the Most Holy Sacrament solemnly exposed; 4. Indulgences for those who accompany the Most Holy Sacrament carried to the sick; 5. all Indulgences which are conceded by someone other than the Pope. These things are deduced from the Constitutions of Benedict XIV and Leo XII.[3]

(1) Bull Inter praeteritos, § 29. (2) Benedict XIV, Cum nos nuper, May 7, 1749; cf. Loiseaux, Du Jubilé, last section; Acta S. Sed., vol. VIII, p. 486. (3) Cf. H. A., XVI, 72; Book VI, 535, Resp. 2.

§ 3. On Indulgences To Be Gained In The Article Of Death

1741. I. The dying can, by various titles, gain SEVERAL INDULGENCES, which they call *latae*, that is, to be obtained without the ministry of a priest, namely: 1. If they possess sacred things, for example crosses, medals, rosaries, enriched with apostolic Indulgences; - 2. if they are

members of some Confraternity, for example of the Most Holy Rosary, of the Third Order of St. Francis, etc.; or if they wear some approved Scapular; 3. if they have frequently in life elicited acts of the theological virtues, etc.[4]

The conditions required for gaining these indulgences are the same as for the indulgence of the Apostolic Blessing (see below, q. 2). But if they are annexed, for example, to a cross, rosary, etc., it is required that the sick person have these things with him, or near the bed, although he does not see them, and that he invoke the Most Holy Name of Jesus as many times as there are indulgences to be gained.

II. Among the indulgences which they call *ferendae* (or to be granted through the ministry of a priest), which can be gained in the article of death, there especially stands forth the APOSTOLIC BLESSING for the article of death, or GENERAL ABSOLUTION, which the Roman Ritual reports.

(4) Book VI, 534, where there are many things; cf. Raccolta delle pregh., etc.

1742. Questions. Q. 1. When can GENERAL ABSOLUTION be imparted?

Resp. In grave infirmity, namely in the imminent article of death, under which is understood not indeed the agony, but an evident and proximate danger of death, as is gathered from the Bull of Benedict XIV. The rubric of this blessing says: "It is customarily imparted after the Sacraments of Penance, Eucharist, and Extreme Unction." In which case the *Confiteor* must be said three times (S. C. Indulg., February 5, 1841, to the 6th).[5]

Q. 2. What is required ON THE PART OF THE PRIEST for VALIDLY imparting this Indulgence?

Resp. 1. That he be delegated. This delegation is made by the Roman Pontiff to all Bishops requesting it, together with the power of subdelegating priests, both secular and regular; and indeed in such a way that neither the Indult granted to Bishops expires by the death of the S. Pontiff, nor the subdelegation by the departure or death of the subdelegating Bishop (Thus Benedict XIV, Constitution *Pia Mater*, April 5, 1747).[6]

2. That he use the formula prescribed by Benedict XIV: if this is omitted, even because of the lack of a book, the indulgence is not conferred, because it is not only directive, but preceptive. S. C. Indulg., February 5, 1841, in Valentinen., to the 8th.[7]

NB. This formula, according to the Brief of our Most Holy Lord LEO XIII, *Quo universi* (July 7, 1882), must be used by all, even if by another title, for example from a privilege conceded to some Order or Confraternity, General Absolution is given. Wherefore, in the typical edition of the Roman Ritual (Regensburg, 1884), all other formulas which were formerly read in the appendix have been expunged.

Q. 3. What is required ON THE PART OF THE INFIRM?

Resp. 1. The intention of gaining the indulgence, at least interpretative, as is clear from the words of the Rubric. For it is said that it is to be imparted to those "who either have even requested it... or probably would have requested it, or have given signs of contrition." 2. That the sick person be "confessed and refreshed with holy Communion, or insofar as he has been unable to do this, at least contrite, and has devoutly invoked the NAME OF JESUS by mouth, if he could, but if not, in the

heart." 3. An act of contrition and charity; and 4. An act by which the sick person receives death from the hand of the Lord with a calm and willing soul, as is clear from the Bull. - And these conditions indeed, as long as the sick person is in possession of his mind, are required as conditions *sine qua non* for gaining the indulgence, as the Authors commonly teach, and concerning the invocation of the Most Holy Name of Jesus the S. C. OF INDULGENCES expressly declared on September 23, 1775.[8]

Wherefore the RITUAL admonishes: "But if the sick person wishes to confess, let him (the Confessor) 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 power of this Blessing, if time allows, let him admonish him briefly; then let him instruct and exhort him, that he willingly bear the inconveniences and pains of illness in expiation of his past life, and offer himself ready to God for freely accepting whatever shall please Him, and patiently undergoing death itself in satisfaction for the punishments which he has merited by sinning." - It is a matter of prudence to moderate this exhortation (which can already be made in confession) in such a way that disturbance of the sick person, or indignation of the bystanders, is avoided.

Q. 4. Whether this Apostolic Blessing can be REPEATED?

Resp. 1. Affirmative, in a different danger of death; 2. negative, in the same article of death. - For, from the Decree of the S. C. of Indulgences, March 12, 1855,[9] it is prohibited "to impart several times to a sick person, remaining in the same danger of death, by the same or by several priests having this faculty, the plenary Indulgence in the article of death which is commonly called the papal blessing." - Likewise, there it is prohibited "to impart several times to a sick person, in the same circumstances, a plenary Indulgence from another reason, for example aggregation to the Confraternity of the Most Holy Rosary, of the Holy Scapular, etc." Nor is it permitted to repeat it because the sick person received it in the state of mortal sin, or relapsed into sin, or received Extreme Unction or absolution again. The reason is because the sick person gains the indulgence in the true article of death, if then he is in the state of grace and has already fulfilled the other conditions.

(5) Decr. auth., n. 286. (6) Cf. Decr. auth., append. § XV. (7) Decr. auth., n. 286. (8) Decr. auth., n. 237; cf. de Herdt, tom. 3, p. 6, n. 25. (9) Decr. auth., n. 362.

§ 4. On The Privileged Altar For The Dead

In these words the S. C. OF INDULGENCES, July 28, 1840,[10] declares the efficacy of this privilege:

(10) Ibid., n. 283; Collect. S. Sed., n. 659.

1743. "By the Indulgence annexed to a PRIVILEGED ALTAR, if the mind of the one granting and the use of the power of the keys are considered, there is to be understood a plenary indulgence, which immediately frees the soul from all punishments of Purgatory; but if the effect of the application is considered, there is to be understood an indulgence whose measure corresponds to the good pleasure and acceptance of the divine mercy." - But if celebration is made for several deceased persons, the indulgence of the altar is limited to one of them, except on the day of the Commemoration of All the Dead, from the decision of the S. C. of Indulgences, June 19, 1880, in Romana, to the 2nd,[11] and February 29, 1864, in Andegaven.[12]

The Privilege can be LOCAL or real, when namely it is attached to the altar itself; or PERSONAL, when it is granted to the priest himself, wherever he is going to celebrate.

I. The LOCAL Privilege is generally subject to these rules:

1. The altar must be fixed, unless a portable one is permitted in the Indult. But fixed is here understood not in the liturgical sense, but as that which is stable and immovable, although not consecrated, and in the middle of which a consecrated stone, even removable, has been placed. Thus the S. C. of Indulgences, March 20, 1846, in Mechlinien.[13]
2. The privilege inheres in the altar erected in honor of some Saint or Mystery, but not in the stone. - Hence, the privilege remains: if, in a fixed altar, another likewise consecrated stone is substituted for the consecrated stone (S. C. Indulg., December 15, 1841, in Mechlinien., to the 3rd);[14] likewise, if the privileged altar under the same title is built again in another place of the church, or in a destroyed church, but rebuilt in the same place (S. C. Indulg., September 16, 1723, in Murana).[15]
3. Perpetual burdens and foundations cannot be received for privileged altars. S. C. Indulg., November 16, 1711, in Panormitana.[16]

Note. On the day of the Commemoration of all the dead, all altars are privileged (S. C. Indulg., May 19, 1761).[17] The same must be said of the day of exposition of the Most Holy Sacrament for the Forty Hours (Thus Pius VII, through a special Rescript given on May 12, 1807).[18] Yet this must be understood of the prayer of the Forty Hours properly so called, and instituted in all things according to the Instruction of Clement XI, January 21, 1705, and according to the Constitution *Accepimus* of Benedict XIV, April 16, 1746.

II. The PERSONAL Privilege is granted for a time, or in perpetuity; for all days, or for some days in the week. - Such an Indult does not necessarily have to be exhibited to the Ordinary, unless otherwise disposed in the concession (S. C. Ind., February 5, 1851).[19]

But the time of the Privilege begins to run, not from the day of publication or use, but from the day of concession (May 18, 1711).[20] "The time (however) set for confirmation of the privilege, in remote regions, is to be computed not from the day of the Date, but from the day of presentation of the Brief to the Ordinary" (February 4, 1736).[21] - A priest who enjoys the personal privilege of an altar, if he has been aggregated to some Congregation which also enjoys the said privilege, can use this other privilege, provided that in the Indult it is not expressly disposed otherwise.[22] It must also be noted that a priest who has made the heroic act, that is, the cession of all satisfactions for the dead, daily enjoys a personal privilege (Pius IX, September 3, 1852).[23]

IT IS ASKED. What things must be OBSERVED in the celebration of Mass, so that someone may enjoy the privilege, whether LOCAL or PERSONAL?

Resp. 1. The Mass of Requiem must be said (and indeed in black vestments, or for a reasonable cause violet), as often as it is permitted by the Rubrics; otherwise, the indulgence is not conceded. - Except if another Mass, for example of the Feria, of a semidouble Feast, or even a votive Mass, is celebrated by reason of the exposition of the Most Holy Sacrament, the Station of the church, or some solemnity. Thus the S. C. of Indulgences, April 11, 1864.[24] But on impeded days, it suffices to celebrate the Mass of the current Feast.

2. He who has a PERSONAL privilege for three or four Masses in individual weeks must celebrate on non-impeded days, or defer to non-impeded days, insofar as they occur in the same week (S. C. Indulg., April 11, 1840, and February 22, 1847).[25]

3. A Mass celebrated at a PRIVILEGED ALTAR is privileged, even if neither the one offering the alms nor the priest celebrating intended to apply the privilege. S. C. Indulg., March 12, 1855, in Veronen.[26] Nor does the state of grace seem to be required in the celebrant, because the efficacy of the privilege does not rest on the personal dispositions of the priest, but arises from the suffrage of the Church.[27]

4. He who, on permitted days, did not celebrate in vestments of black color, at a privileged altar, for acquiring the plenary Indulgence, and did this in good faith, to what is he bound? - Resp. "If he was bound by agreement to celebrate Mass at a privileged altar, he must gain the plenary indulgence for those deceased persons to whom he applied the fruit of the Mass, as often as on non-impeded days he did not use vestments of black color."[28] S. C. OF INDULGENCES, February 22, 1847 (cf. n. 1616).

Note. The Sacrifice and the indulgence of the privileged altar cannot be DIVIDED, but each must be applied for the same deceased person: 1. when in the Indult it is read: "he who shall have said Mass for a deceased person at such an altar, frees his soul" (or for deceased persons); 2. when the founder, or one expending the stipend, imposes the burden of celebrating at a privileged altar. - Otherwise, in other cases.[29]

(11) Decr. auth., n. 451. (12) Ibid., n. 402. (13) Ibid., n. 334. (14) Ibid., n. 295. (15) Ibid., n. 84. (16) Ibid., n. 41. (17) Ibid., n. 228. (18) Cf. Gardellini, Instr. Clementina, § 33, n. 9. (19) Decr. auth., n. 286. (20) Decr. auth., n. 37. (21) Ibid., n. 116. (22) Ibid., n. 272. (23) Raccolta (ed. 1878), p. 390, I. (24) Decr. auth., n. 404. (25) Ibid., n. 281 and 339. (26) Ibid., n. 362. (27) Ibid., n. 257. (28) Decr. auth., n. 339. (29) Cf. Konings, n. 1863.

Dissertation III: On The Minister Of The Sacrament Of Penance

In this dissertation we shall treat: 1. of the power of the minister for validly ministering; - 2. of his qualities for ministering licitly and fruitfully; - 3. of his office or obligation during confession itself; - 4. of his obligations after confession has been received.

Chapter I: On The Power Of The Minister

1744. The minister of the Sacrament of Penance is only a PRIEST having JURISDICTION over the penitent. - Hence a twofold power is required in him:

1. The power of ORDER, or that which is conferred in the very Ordination, and which essentially inheres in the sacerdotal character. But the reason why this power is required is that it was said to priests alone: "Receive the Holy Spirit: whose sins you shall forgive, they are forgiven them" (John 20:22, 23). - You will see more among the Dogmatic authors.

2. The power of JURISDICTION, or that which, superadded to the power of Order and completing it, renders the priest expedient, so that, as judge, he can pronounce a legitimate sentence upon the penitent as a subject. - Moreover, to obtain or freely exercise jurisdiction, according to the present discipline of the Church, approbation is prerequired. But jurisdiction

itself, just as it does not belong to all by the same title, so neither does it belong to all in the same fullness, since it can be circumscribed by diverse limitations.

Therefore, so that all things which pertain to the present matter may be treated, we shall discuss: 1. approbation and jurisdiction; 2. the acquisition and loss of jurisdiction; 3. the limitation of jurisdiction as regards persons; and 4. the limitation of jurisdiction as regards sins.

Article I: On Approbation And Jurisdiction

1745. APPROBATION and JURISDICTION are customarily used promiscuously, because Bishops in modern times grant each by one and the same act. Yet approbation is not the conferral of jurisdiction, and one can exist without the other, and in fact sometimes does exist, as will be clear from what is to be said. - Hence, the nature and necessity of each must be taught separately.

§ 1. On The Nature And Necessity Of Approbation

1746. I. APPROBATION is the juridical judgment of the Bishop concerning the fitness of some priest for hearing confessions.

It is called 1. a juridical judgment; for it is an act of the intellect, and not only of the will, as is the conferral of jurisdiction. Hence, ordinarily it is not made except after an EXAMEN has previously been instituted. Yet this is not essentially required, because a prudent judgment can be had even without examination, as often as the fitness of the priest is established from another source. 2. Of the Bishop, even if not yet consecrated; or of the Vicar general, or Vicar capitular, or Abbot having episcopal jurisdiction. - 3. Concerning fitness, that is, concerning the complete aptitude of the priest, both as regards necessary knowledge and prudence, and as regards holiness of morals suitable to the vicar of Christ in this ministry.[1] Yet the judgment is accompanied by an act of the will, by which the one approving wills that he who has been judged fit can freely use his jurisdiction, whether already had or to be had.

II. For the liceity of absolution, indeed for its validity, approbation IS REQUIRED. This is established from Trent, saying in sess. 23, *de reform.*, cap. 14: "Although priests in their Ordination receive the power of absolving from sins, nevertheless the holy Synod decrees: that no one, even a Regular, can hear confessions of seculars, even priests, nor be reputed fit for this, unless either he has a parochial benefice, or is judged fit by the Bishops through examination, if this shall seem necessary to them, or otherwise, and obtains approbation, which is to be given gratis." Certain cases are excepted, in which the Church supplies jurisdiction (cf. n. 1753 seqq.).

This approbation is necessary even for hearing confessions of venials, as is established from the decree of Innocent XI, February 12, 1679, on daily Communion, and from the common interpretation and practice of more recent Authors.[2]

(1) Cf. Book VI, 542; H. A., XVI, 74; Lugo, Disp. 21, sect. 1. (2) Book VI, 543.

1747. Questions. Q. 1. In what way is approbation given?

Resp. 1. Implicitly, through the conferral of a parochial Benefice. For he to whom care of souls is committed is by that very fact declared fit for receiving the confessions of those committed to him, so long as he retains his office. - But if he resigns it, approbation ceases, unless perhaps (which is customarily done) the Ordinary wished him to be approved even independently of the parochial benefice.

2. Explicitly, through an express judgment. This mode of approbation, pertaining to delegated jurisdiction alone, was introduced by the Council of Trent. For before that time it belonged to pastors to delegate their jurisdiction to other priests not approved by the Bishop, yet entangled in no censure. - But mendicant Regulars did not need the approbation of Bishops, since they freely used jurisdiction directly conferred upon them by the Holy See.[3]

Q. 2. From WHICH Bishop or ORDINARY must approbation be obtained?

Resp. According to the opinion today altogether to be held, it must be obtained from the Bishop or Ordinary of the place where confessions are to be received; nor does the approbation either of the Bishop of the penitent or of the Bishop of the confessor suffice. This is established from the Bull *Cum sicut* of Innocent XII (April 19, 1700), and from the Bull *Apostolica Indulta* of Benedict XIV (August 5, 1744).[4]

Hence: 1. A priest approved in one diocese cannot absolve even his own penitents in another, unless he has previously obtained the approbation also of this Bishop. Yet domicile or quasi-domicile in the diocese is not required for obtaining it.

2. A pastor in his own diocese, but outside his own parish, must, like other priests, be approved for receiving the confessions of those who are not of his parish.[5] Thus it is gathered from the S. C. of the Council in Leodien., August 1600.[6]

Q. 3. Whether approbation SOUGHT and unjustly denied suffices?

Resp. Negative, for the Council of Trent (loc. cit.) requires that the priest obtain approbation; but unjust denial is not concession. The same is established 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 rejected by him." But "although the Bishop internally disapproves, external approbation is valid for conferring jurisdiction."[7]

Q. 4. Whether PRESUMED approbation suffices?

Resp. 1. Presumed approbation concerning the future does not suffice, that is, which is judged would be conceded if it were sought. But approbation actually existing and declared by some sign is necessary. Hence it is not permitted to begin confessions before that consent, sought by letters, has truly been given, although it may seem certain to be obtained. Thus commonly. 2. Presumed approbation concerning the present, or tacit approbation, suffices (cf. n. 239, Req. 2). Hence he validly absolves who hears confessions in the presence, or with the knowledge and non-contradiction, of the Ordinary, to whom it is established that he does not otherwise have approbation; because then the Ordinary is presumed to give it in the present. But such a presumption, since it is founded on evident signs, certainly suffices.[8]

Q. 5. Whether the Bishop can subject priests already approved AGAIN to examination, and LIMIT or REVOKE their approbation?

Resp. 1. The Bishop can, from a just cause, recall to examination all confessors approved by himself or by a predecessor, even pastors and Regulars, provided there is a vehement suspicion of their inexperience. This is established from the decree of the S. C. of the Council, January 15, 1667,[9] and from the Constitution *Romani Pontificis* of St. Pius V. - He can similarly, at his will, revoke approbation already given, or restrict it to place, to time, to persons, without being bound to give a reason for such revocation or restriction. This is expressly deduced from the Bull *Apostolici ministerii* of Innocent XIII, by force of which the whole matter was committed to the Bishop.[10]

Resp. 2. If revocation or restriction is made without a just cause, it is indeed illicit, but nevertheless valid. This is established from the 13th proposition condemned by Alexander VII (as above, question 3). - There are indeed Authors who deny that approbation once absolutely conceded can be validly revoked without reasonable cause; "but," says St. Alphonsus,[11] "I judge this opinion scarcely probable in practice, because the injustice of the revocation would have to be clearer than light, and every danger of hallucination absent; but this can scarcely occur, since there can be innumerable just causes with the Bishop for revoking approbation, which are unknown to the confessor." But in doubt whether the revocation was made from a just cause, the presumption is for the Superior.

(3) Cf. Book VI, 541, 544. (4) Ibid., 548; H. A., XVI, 79; first list of reformed questions, n. 76. (5) Book VI, 514, doubt 2. (6) In Thomas de Villanova, Collect. manuscr., p. 2, fol. 274. (7) Book VI, 545. (8) Book VI, 570. (9) Cf. Benedict XIV, Institution 9, n. 16. (10) Book VI, 549-552; H. A., XVI, 75. (11) Book VI, 551.

§ 2. On The Nature And Necessity Of Jurisdiction

1748. I. JURISDICTION, in general, is the power of ruling subjects (cf. n. 138). - Sacramental jurisdiction, of which we are here treating, is the power of absolving or binding subjects in the Tribunal of penance.

Jurisdiction is one thing ordinary, another delegated. - ORDINARY is that which comes to someone by reason of the office itself, to which it is annexed by ordinary law; DELEGATED, that which is legitimately granted to someone by him in whom the ordinary jurisdiction resides.

II. For VALIDLY receiving confessions, the power of Order does not suffice, but the power of JURISDICTION is REQUIRED, whether ordinary or delegated. - This is established from Trent, sess. 14, cap. 7: "Since therefore the nature and character of judgment demands that sentence be pronounced only upon subjects, it was always held as persuaded in the Church of God, and this Synod confirms it to be most true, that the absolution which a priest pronounces upon him over whom he does not have ordinary or subdelegated jurisdiction ought to be of no moment."

Article II: On The Acquisition And Loss Of Jurisdiction

Three things must be investigated in this article: 1. to whom ordinary jurisdiction belongs; 2. how delegated jurisdiction is acquired; 3. whether and when the Church supplies the defect of jurisdiction.

§ 1. On Ordinary Jurisdiction

1749. I. Ordinary jurisdiction belongs to all those who have an OFFICE to which it is annexed BY ORDINARY LAW. This is established from the very definition of ordinary jurisdiction.

Hence ORDINARY jurisdiction belongs: 1. to the Supreme Pontiff, for the whole earth and in each forum; likewise to the Major Penitentiary, but only in the internal forum. - 2. To Bishops, for their respective dioceses, likewise in each forum; likewise to Archbishops visiting the subjects of Suffragans; to Vicars capitular; to Vicars general, and these, according to the very common and truer opinion, also for each forum; as also to the Canon Penitentiary of the cathedral Church for the internal forum, where the Penitentiary is erected into an Office. - 3. To pastors, likewise to perpetual vicars or vice-rectors, for their subjects, but in the internal forum alone. - 4. To Abbots, for their whole proper Convent or territory. - 5. To general Provosts, Provincials, and local Superiors, for their subjects. - See the Canonists.[12]

Let it be noted: 1. Those who possess ordinary jurisdiction can exercise it, since it is personal, EVERYWHERE, over their subjects. - Hence Bishops and pastors validly absolve the faithful committed to them outside the diocese, even from cases reserved in the place of confession. Thus the S. C. of the Council, December 3, 1707, in Posnanien.[13]

2. They can DELEGATE their jurisdiction, or exercise it through another, even if a Superior of an inferior order, in whom ordinary jurisdiction resides, contradicts. Thus the Pope can appoint confessors against the will of the Bishop, and the Bishop against the will of the pastor. - But if the one delegating does not have the right of approving in the place of confession, he is bound to choose those approved by the Ordinary of the place. Hence the faculty of delegating which pastors enjoy has become almost useless, since Bishops customarily confer jurisdiction together with approbation, as was said in n. 1745.

(12) Craisson, Man. jur. can., n. 1515 seqq. (13) Cf. Resolutiones S. C. C., year 1704-1707, p. 548.

1750. II. Penitents can BECOME SUBJECTS of one having ordinary jurisdiction by a threefold reason: by reason of DOMICILE, by reason of PRIVILEGE OF STATUS, and by reason of CUSTOM (cf. n. 138, Div. 3).

1. By reason of DOMICILE or QUASI-DOMICILE; namely, if they intend to dwell in the territory of one having ordinary jurisdiction in perpetuity, or for a notable part of the year (cf. n. 203). - Hence merchants, students in academies, courtiers in courts, are subject to the ordinary jurisdiction of the pastors of those places where they are staying.
2. By reason of PRIVILEGE OF STATUS, or enrollment into certain families. Thus Cardinals dwelling at Rome, who otherwise lack jurisdiction, have it, and as it were ordinary, over their own household, for the forum of Penance. Hence "they are able to choose as confessor, both for themselves and for their household, any priest," whom also, if he has been approved in the City, they can take with them outside the City.[14] - Thus also Novices are subject to Superiors of Religion, and all those who are truly of the household of the house, or domestics, and continual table-companions. Thus from the Constitution *Superna* of Clement X, and from the decision of the S. C. of Bishops and Regulars, July 21, 1848, in a Parmen.[15] (cf. n. 2186).

3. By reason of LEGITIMATE CUSTOM, insofar as this is an indication of consent furnished by the Superior. Hence, from universal custom, the Bishop of the place whence ships set sail has the ordinary faculty of approving and delegating priests who are about to sail, for the whole time of navigation; that is, "until they arrive at a place where another ecclesiastical Superior possessing jurisdiction has been constituted."[16]

Likewise, chaplains of armies validly absolve soldiers who are on the road and in camps everywhere, even without jurisdiction obtained from the Bishop of the place. But they cannot absolve soldiers dwelling in garrisons without a special faculty of the Apostolic See, or the license of the Ordinary. This is established from various declarations of the S. C. of the Council.[17]

IT IS ASKED. In what way is ordinary jurisdiction LOST?

Resp. It is lost 1. by cessation of the Office, for example by death, resignation, removal, translation. But a pastor translated from one parish to another does not lose jurisdiction over the prior parish unless he has assumed possession of the new parish. Thus from common law.[18] It is lost 2. by public excommunication and one denounced by name; likewise by suspension from jurisdiction, or from every office; otherwise, if the suspension is from Order only (cf. n. 1303).

(14) H. A., XX, 65, on Privileges; Book VI, 565, doubt 2; cf. Ferraris, verb. Cardinales, art. 4, n. 3. (15) Cf. Bizzarri, Collectanea S. C. Ep. et Reg., p. 616. (16) Cf. Collect. S. Sed., n. 465; and Craisson, n. 1549. (17) Cf. Zacharia, Theol. mor., book 6, p. 2, n. 1518; and Acta S. Sed., vol. I, p. 681. (18) Cf. Schmalzgrueber, Jus eccl., book 3, tit. 5, n. 122.

§ 2. On Delegated Jurisdiction

1751. DELEGATED jurisdiction, as was already said above, comes to priests from the legitimate commission of a Superior having ordinary jurisdiction. - For delegation of this sort there is REQUIRED, on the part of the one delegating, that he not extend it outside the territory or limits of his own jurisdiction; but on the part of the one to be delegated, that he not be an excommunicated *vitandus*, and moreover, if it is a question of receiving the confessions of seculars, that he have been previously approved (cf. n. 1746).

Jurisdiction is DELEGATED directly or indirectly.[1]

I. It is delegated DIRECTLY when power is committed to someone so that he himself by himself may absolve penitents. This happens in a threefold way, namely by man, by law, and by custom.

1. Jurisdiction is said to be delegated BY MAN when someone able to delegate expressly, by word or writing, or at least tacitly, through signs which declare present consent, commits jurisdiction to someone capable (see what was said in n. 1747, q. 4).

2. Jurisdiction is delegated BY LAW when through a law, through a Bull, through a papal Constitution, the faculty of absolving is conceded to certain persons. Thus it has been conceded to Regulars, provided they have been approved by the Bishop of the place, that they validly and licitly absolve all coming to them. Thus from the Constitution *Superna* of Clement X.

3. Delegated jurisdiction is had BY CUSTOM when the custom of absolving is a certain indication of consent furnished by the Bishop, if namely he knows it and does not protest: as when

neighboring pastors of diverse dioceses help one another with mutual assistance in hearing confessions.[2]

II. Jurisdiction is delegated INDIRECTLY when the faculty is conceded to the penitent of choosing for himself one of the approved priests as confessor. This election having been made, jurisdiction is judged to have been conferred upon the confessor by the Church.[3]

Moreover, the PRIVILEGE OF CHOOSING a confessor for oneself belongs: 1. by common law,[4] to confirmed Bishops, although not yet consecrated; likewise to inferior exempt Prelates, Auditors of the Rota, and other Prelates of the Roman Curia, and to Superiors of Regulars, even local ones, with the privileges and statutes of Orders preserved; 2. by custom, to kings and princes enjoying supreme dominion; likewise to domestics of the Roman Pontiff; - 3. by special concession of the S. Pontiff, for example in the time of Jubilee, to all seculars and Regulars, as was said above (n. 1736).[5]

Note. Bishops and Prelates formerly could make their confessions before any priest whatever; but today they are bound to confess either before a subject whom they themselves approve, or before an external priest whom his own Bishop has approved. - But they can take this approved or elected priest with them, and use his ministry even in another diocese. Thus it was declared by the S. C. of the Council, and Gregory XIII confirmed this on December 1, 1582.[6]

(1) Book VI, 558, 559. (2) Benedict XIV, Institution 86, n. 3. (3) Book VI, 565. (4) Final chapter, De poenit. et remiss. (5) H. A., XVI, 85 and XX, 65; Book VI, 565. (6) Ibid.

1752. Questions. Q. 1. Whether a priest legitimately delegated can receive confessions of the faithful WITHOUT LEAVE of the pastor?

Resp. 1. Negative as regards LICEITY, if he receives them in a church subject to the pastor. For due order requires that license be sought from the rector of the church in which the sacred ministry is to be exercised. But if he receives them in a church of Regulars or of Nuns, the leave of the Superior or Superioress certainly suffices.

Resp. 2. Affirmative as regards VALIDITY; for the pastor can obstruct nothing when the Bishop has generally approved or delegated the confessor. But if in the approbation there were these clauses: *With the consent of the pastor..., except at paschal time*, or similar ones, they are to be understood of liceity alone. For thus universal custom bears, to which the delegating Superior is deservedly presumed to have conformed himself.[7]

Q. 2. Whether a priest furnished with legitimate jurisdiction in some place is able to receive confessions of TRAVELERS coming there?

Resp. St. Alphonsus affirms it, writing:[8] "It is certain and common today among the Doctors that travelers, by reason of the connivance of Bishops, or better from universal custom, can confess to any confessor approved for the place where they are found; and such custom runs even if the traveler departs from his country for the end of confessing elsewhere"; provided he does not do this in fraud of reservation, as will be explained in its place (n. 1771, qq. 3 and 4). - Besides, as regards regular confessors Clement X expressly declared this in the Constitution *Superna*.[9]

Q. 3. In what way does delegated jurisdiction cease?

Resp. It ceases: 1. by revocation of the Superior, and this notified; - 2. by expiration of the prefixed time; - 3. by the death of the one delegating, or by his removal from office, if jurisdiction had been given for some particular person and the confession had not yet been begun; or also if it had been given generally, but with this or a similar clause: "at the decision of our will; until our good pleasure."[10]

(7) Book VI, 564. (8) H. A., XVI, 87; Book VI, 569. (9) H. A., XVI, 135; Book VI, 589; see the text of the Constitution in Croix. (10) Book VI, 558, 559.

§ 3. On Jurisdiction Supplied By The Church

1753. Three principal cases are enumerated in which the Church SUPPLIES jurisdiction, and imparts it, for individual acts, to a priest who otherwise lacks it. The first is the case of danger of death; the second is the case of common error; the third is the case of probable jurisdiction. Wherefore the following principles must be established.

Principles. I. If DANGER OF DEATH is imminent and an approved confessor is lacking, EVERY PRIEST can absolve a dying person from ANY censures and sins WHATEVER. Thus expressly the Roman Ritual, on the Sacrament of Penance. Trent is consonant, sess. 14, cap. 7, in these words: "Most piously, lest on this occasion itself anyone should perish, it has always been guarded in the same Church of God, that there be no reservation in the article of death: and therefore all priests can absolve any penitents whatever from any sins and censures."

It is said 1. If danger of death is imminent; because the article of death and danger are equated in law. But such danger is judged to be present in battle, in a long voyage, in difficult childbirth, and in every grave and mortal disease. - And the Doctors say this same thing of him who would be in probable danger of falling into madness, or would be a captive among Turks and feared that he would have no priest any more to whom he could afterward confess.[11]

It is said 2. and an approved confessor is lacking. For the Church does not concede the faculty except by reason of extreme necessity, namely lest someone perish. But this reason ceases, or is judged to cease, when an approved one is present. Thus the very common opinion and one to be held in practice, against another which nevertheless Lugo calls probable.[12] Except with the common opinion: 1. If the approved one would not wish or would not be able to hear the confession, because then it would be the same as if he were lacking. 2. If the dying person so dreaded manifesting his crimes to the approved one, because for example he is his enemy, or blood-relative, or the object of the sin to be manifested, that he would be in danger of confessing sacrilegiously. 3. If the infirm person could not confess to the approved one without great difficulty or inconvenience (thus Sporer, cited by St. Alphonsus and not rejected). 4. If the approved one comes after the confession has already been begun with a simple priest (cf. n. 1780). - Except a fortiori: 1. If the approved one has been excommunicated by name, suspended, interdicted, irregular, degraded, schismatic, notoriously heretical, apostate: because such a one has lost jurisdiction, and a simple priest is to be preferred to him; 2. if he were of another diocese, because in this case he could by no means be called approved with respect to the sick person; 3. if he were the accomplice of the infirm person in a base sin[13] (cf. n. 1780).

It is said 3. every priest; therefore even a priest who was never approved; even an irregular or suspended one; even an excommunicated or degraded one; indeed even a *vitandus*, schismatic, heretic, apostate.[14] - Indeed all these validly absolve the one in danger when an approved one is lacking; yet not licitly unless order is preserved: that is, a priest immune from every censure and punishment should absolve rather than an irregular or suspended one; this one rather than an excommunicated one, etc.[15]

It is said 4. from any censures and sins whatever; because in the article or danger of death there is no reservation. Yet see what was said in n. 1282 and other things to be said in n. 1777.

(11) Ibid., 561. (12) Ibid., 562; H. A., XVI, 93. (13) Book VI, 563; H. A., ibid., 94. (14) Cf. second list of reformed questions, n. 19. (15) Book VI, 560; cf. first list of reformed questions, n. 82.

1754. II. If COMMON ERROR with a COLORABLE TITLE is present, it is certain that the Church supplies the jurisdiction which is lacking to the confessor. Thus all, and it is proved from the law *Barbarius*, ff. *de Officio Praetorum*, and from can. *Infamis*, Cause 3, q. 7. - The reason is because otherwise many souls would perish, and therefore the Church is reasonably presumed to supply.[16]

It was said 1. If common error is present, that is, if all or almost all the faithful of that place think that the confessor is in fact furnished with jurisdiction, whether ordinary or delegated. But otherwise if the error is private, namely of one or a few. The reason is because the Church is not judged to supply except by reason of the common good, after the manner of a provider or general governor, who attends to the common good alone, and leaves the good of private persons to the care of particular providers. Thus very commonly the Theologians, against a few.

It was said 2. with a colorable, or putative, title, namely one which was conceded by a legitimate Superior, and of itself would be apt for conferring jurisdiction, unless it were made void by an occult defect. - Moreover, that defect can occur: 1. in the one conceding, for example if he had not been free in conceding, or if the Bishop had died, and, the death being commonly unknown, his Vicar continued to hear confessions; - 2. in the one receiving, whether some vice preceded, for example occult irregularity or excommunication, or whether he has been despoiled of his title and this is unknown; - 3. in the act, as if occult simony intervened, by reason of which the act would be void. Therefore, in these cases, the confessor, common error standing, validly absolves; although he sins mortally if he is conscious of his defect.[17]

"It is more doubtful," says the Holy Doctor,[18] "whether the Church supplies jurisdiction when only common error intervenes, WITHOUT A COLORABLE TITLE.

"Busenbaum, Concina, Roncaglia, Sporer, Holzmann, etc., deny it, while they say that otherwise impious priests would take occasion from this to feign that they are confessors, and to disseminate errors. - But this reason does not convince; because although the Church denied jurisdiction to these, nevertheless it would not impede the damage. - Wherefore Lugo, Lessius, Pontius, Castropalaus, Sanchez, etc., probably affirm it, and Roncaglia, Sporer, and Holzmann themselves, with Cardenas, etc., say that it is probable, since the same reason of the common good which is brought forward for a colorable title runs also for error."[19] - But since this opinion is at least probable, it can sometimes, with a just cause, be licitly brought into practice, as is clear from the following principle.

(16) H. A., XVI, 90; Book VI, 572. (17) Craisson, Man. jur. can., n. 293, 301, 306. (18) H. A., XVI, 90; Book VI, 572. (19) NB. Some Bishops remove every doubt by expressing the will which they have of giving jurisdiction to every priest absolving from error, even private error, yet in good faith.

1755. III. A priest VALIDLY and LICITLY absolves WITH PROBABLE JURISDICTION, with probability of law, if some gravely reasonable cause concurs. The reason is because a universal custom flourishes in the Church, and almost all confessors follow it, of absolving, when a just cause is present, with probable jurisdiction. - But such a custom certainly confers jurisdiction, and therefore the confessor now does not absolve with a probable opinion, but with true certitude, namely with reflex certitude (cf. n. 82, Except 2).

We said 1. with jurisdiction probable with probability of law, namely that which rests upon the opinion of grave Theologians. Therefore not any probability whatever suffices, but, as the Authors commonly hold, that is required which is supported by truly serious reason and authority.

We said 2. if a gravely reasonable cause concurs (at least, so that absolution be given licitly); because although in that case the Church can rightly be judged to supply jurisdiction on account of the good of souls, nevertheless, every just cause being lacking, she is not presumed to wish to connive at the mere liberty of priests.[1]

Moreover, a REASONABLE CAUSE would be had: 1. If the penitent especially needed the help or counsel of this confessor. - 2. If the accomplice of the sin is known to the confessor who possesses certain jurisdiction. 3. If the confessor who has probable jurisdiction prudently fears that the penitent will make a sacrilegious confession before him who has certain jurisdiction. - 4. If the penitent himself fears lest he fall into some aversion or damaging suspicion of the approved confessor. 5. If otherwise he would have to abstain from confession for a longer time. 6. If the precept of annual confession is urgent, or an occasion is given of gaining particular Indulgences. 7. If the penitent had already declared some grave sin to the confessor, and this latter doubted whether it is reserved or not (cf. n. 1769).[2]

(1) Book VI, 573; H. A., XVI, 91; cf. Vindic. Alph., p. 5, q. 9. (2) Book VI, 573.

1756. IT IS ASKED. Whether it is permitted to absolve with jurisdiction doubtful by DOUBT OF FACT, for example when it is doubted whether jurisdiction was in fact conceded by the Superior, whether it endures, etc.?

Resp. Negative, unless some necessity compels, and then only under condition. But NECESSITY is judged to compel when it is better that someone be doubtfully absolved than not absolved at all, that is: 1. If the precept of annual confession is urgent; 2. if the penitent must celebrate Mass or communicate, and otherwise would incur the mark of infamy; 3. if a priest must celebrate from obligation on that day. Yet one doubtfully absolved cannot communicate unless he elicits an act of perfect contrition, and he is bound to subject the sins again to the keys, unless he learns that the confessor had true jurisdiction.[3] (cf. n. 1663, q. 5, and there at the end of the Note.)

(3) H. A., XVI, 81; XV, 34; Book VI, 432.

Article III: On The Limitation Of Jurisdiction As Regards Persons

1757. To be noted beforehand. Jurisdiction, which is necessarily required for valid absolution, has this proper to itself, that it descends as it were by degrees from Superiors to inferiors. Consequently, the inferior power is rooted solely in the superior power, and depends upon this alone. From this it follows that it belongs to Superiors to limit or restrict the jurisdiction of inferiors, indeed to take it away entirely, according to this rule of law: "Every thing is dissolved by the same causes through which it is born." - And hence it has been done by very good right that limitations or restrictions of this sort have always been customary in the Church, whether as regards PLACE AND TIME, or as regards PERSONS AND SINS. The Roman Pontiff alone, in whom there is the fullness of power, enjoys jurisdiction in every way and unlimited.

Concerning the limitation of jurisdiction as regards place and time we have said enough in treating of ordinary and delegated jurisdiction. It remains that in the present and following article we speak of its limitation as regards persons, and as regards sins.

The limitation of jurisdiction as regards PERSONS, established by the law itself, especially touches Regulars and Nuns. Wherefore we shall treat separately of the concession of jurisdiction, both with respect to Regulars and with respect to Nuns.

§ 1. On The Concession Of Jurisdiction With Respect To Regulars

1758. Regulars can be considered under a twofold respect: insofar as they are confessors, and insofar as they are penitents. - Hence, so that all things which pertain to them under each respect may be treated, we shall divide the present matter into two parts, so that in order we may discuss: 1. the Regular Confessor; 2. the Confessor of Regulars.

I. On The Regular Confessor

There is a twofold reason why we judge that the question concerning the Regular Confessor is to be treated in this place: the one, so that all things which are proper to Regulars concerning jurisdiction may thus be inspected in one view; the other, so that the doctrine concerning their jurisdiction may become better known. For although the jurisdiction of a regular confessor receives no special limitation from the Law, nevertheless it is so bound by it that unless the Bishop's approbation accedes, it cannot be validly exercised over the Christian faithful. - With these things premised, let the following be:

1759. Principles. I. REGULARS properly so called, who pronounce solemn vows and who enjoy the privilege of exemption (likewise those who have communication of privileges with Mendicant Religious), receive jurisdiction immediately from the HOLY SEE for receiving the confessions both of THEIR OWN and of SECULARS. This is established from the Constitutions of the Supreme Pontiffs in the Body of Law;[4] likewise from other Constitutions, which, although they were afterwards modified, especially through Trent as regards privileges, nevertheless remained unrepealed as regards jurisdiction. Thus commonly. Hence jurisdiction is conceded to any Regular by that very fact that the Superior grants him delegation, or communication of jurisdiction, in the name of the S. Pontiff.[5]

II. Regulars, for receiving confessions of SECULARS, need the APPROBATION of the Bishops in whose dioceses they are going to receive confessions. This is established from the decree of Innocent

XII (in the year 1700), by which it was sanctioned that confessors, whoever they may be, both secular and regular, cannot hear secular penitents without the approbation of the Bishop of the place (cf. n. 1747, q. 2).

(4) Extravagant Super cathedram, de sepult.; Clementine Dudum, same title. (5) Cf. Acta S. Sed., vol. I, p. 678 seqq.

1760. From these things it is inferred: 1. The Bishop can concede approbation to Regulars at will, without restriction, or with some restriction as regards time, places, and persons. It is confirmed from various decrees of the Holy See.[6] See what was said in n. 1749 seqq.

2. If the Bishop has expressly conceded approbation only for some transitory act, for example for some Mission, the conceded faculty is judged 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 clear. But if the request of the faculty is general, and the concession has not been restricted, the obtained faculty is not limited to the work which was the occasion of the petition: thus, for example, if you seek the faculty on the occasion of giving spiritual exercises to Nuns in such a convent, by the same faculty received you can hear confessions also of other faithful. The reason is because "whatever is not excepted is contained in the concession." Yet except reserved cases, which, by the law itself, are never understood as comprehended in the general faculty of hearing confessions.[7]

(6) Cf. H. A., XX, 103, end. (7) Gury, II, 558.

1761. Questions. Q. 1. Whether the Bishop can, WITHOUT CAUSE, DENY approbation to Regulars?

Resp. Negative. "For," says Pignatelli,[8] "Regular confessors do not receive jurisdiction from the Bishop, but from the Supreme Pontiff, and approbation is required only as a condition so that jurisdiction can be exercised. Therefore Bishops cannot prohibit Regulars from absolving at some time." Yet if approbation is lacking, even if unjustly denied, free jurisdiction will also be lacking (cf. n. 1747, q. 3).

Q. 2. Whether the Bishop can REVOKE approbation conceded to Regulars?

Resp. 1. He cannot revoke approbation conceded to all Regulars of the same community without consulting the S. C. of Bishops and Regulars. Thus from the Bull *Superna*. - Except if it is a question of regions very distant from the City, and a most grave cause underlies it; concerning which the S. Congregation wished the consciences of Bishops to be gravely burdened.[9]

Resp. 2. But the Bishop can revoke the approbation of individual Regulars in particular if a just cause is present. Moreover, if the Regular, after previous examination, was approved by the Bishop himself, without any restriction as regards persons or as regards time, the cause is not judged just unless it concerns confession. On the contrary, if he was approved by his Vicar or predecessor, or with limitation, the Bishop can, on account of any just cause whatever, revoke the approbation and subject

him to a new examination. Thus from the same Bull *Superna*.[10] - In practice, the regular confessor must always acquiesce in the judgment of the Bishop.

Q. 3. Whether a Regular once approved in some diocese needs NEW APPROBATION if, his dwelling having been changed, he returns to the same place or passes through it?

Resp. Negative, unless the diocesan Statutes, or the Bishop, decree otherwise. The reason is because one approved indefinitely and without limitation remains approved, at least until implicit revocation; but in the present case no revocation, not even implicit, has intervened. Therefore. Thus Croix,[11] Lugo,[12] with the common opinion.

Q. 4. Whether a Religious validly absolves, AGAINST THE WILL OF THE SUPERIOR, but from the express delegation of the Bishop?

Resp. 1. Negative, if the Bishop intended to give approbation only; and from another source the Superior, who has from the Rule the power of constituting confessors, is unwilling in such a way that he is judged to take jurisdiction away from his subject. The reason is clear; for then the Religious has jurisdiction from no one.

Resp. 2. Affirmative, if the Bishop intended also to confer jurisdiction; as in present practice is usually done. The reason is because the Bishop can well confer jurisdiction upon a Religious, no otherwise than upon a secular priest, over his own sheep. For whoever enjoys ordinary jurisdiction can delegate it to any priest.[13]

But that Religious would sin gravely against obedience, because he would transgress the precept of his Superior in a grave matter; nor could he in a case of this sort use the privileges of his own Order, because these are communicated through Superiors alone.

These things are confirmed by the declaration of the S. C. OF BISHOPS AND REGULARS. For when the doubts were proposed: - I. Whether a Religious not approved according to the laws of his own Order by his Superior, or against the will of the same, with only the faculty of the Ordinary, validly receives the confessions of seculars. - II. Whether Regular Superiors, having jurisdiction, can suspend their subjects from hearing the confessions of seculars, even from informed conscience. - And insofar as affirmative, III. Whether a suspension pronounced orally and without writing is valid? - IV. Whether absolution imparted by one who is bound by such suspension is valid? And insofar as negative, V. Whether he who attempts an absolution of this sort incurs irregularity.

The Sacred Congregation of Bishops and Regulars, the matter having been discussed, on March 2, 1866, judged that it should respond: To I. Affirmative. - To II. Affirmative; yet in such a way that the suspended Religious receives confessions illicitly, but not invalidly. - To III. Affirmative, since it is made after the manner of a particular precept. - To IV. Affirmative. - To V. Provided for in the preceding.[14]

See other things in the Treatise on the Religious State (n. 2187).

(8) Consult. canon., tom. IV, cons. 163, n. 12. (9) Constitution of Innocent X, Cum sicut accepimus. (10) Cf. H. A., XX, 103. (11) De Poenit., n. 1521. (12) Lugo, Disp. 21, n. 44. (13) Gury, II, n. 563. (14) Acta S. Sed., I, p. 678.

II. On The Confessor Of Regulars

1762. Principle. Jurisdiction for receiving the confessions of EXEMPTS cannot be conceded by the Bishop, but by their PRELATE or by the POPE, whether directly or indirectly. But the Prelate can concede it even to one not approved, provided that, so that the delegation may be licit, he is judged fit. This is established from what was said above concerning the origin and nature of the jurisdiction of Regulars (nn. 1757 and 1759).

Hence: 1. Regulars dwelling at home are bound to confess to the Prelate, or to confessors appointed by him, and no Regular validly confesses except before the Superior, or before him who has been appointed by the Superior. Wherefore Clement VIII (Decree of May 26, 1593) COMMANDS: "Superiors, in individual houses, shall appoint two or three confessors, according to the greater or lesser number of subjects." - Except the time of Jubilee, as was said in n. 1736.

2. Servants and other seculars who are of the household and almost continual table-companions CAN be absolved by a confessor approved either by the regular Prelate or by the Bishop. This is established from Trent, sess. 24, cap. 11, *de ref.*, and from the Constitution *Superna* of Clement X[15] (cf. n. 2186).

(15) Cf. Book VI, 583; and H. A., XX, 74.

1763. Questions. Q. 1. To whom can or must Regulars dwelling OUTSIDE THE CONVENT confess?

Resp. Regulars traveling with the license of their Superiors, or staying outside the Convent, must, if they have the availability of a confessor of their own Order, confess to him; for he is appointed by the law itself. "But if a companion is lacking, or another suitable confessor of his own Order, they can well, from the presumed license of the Prelate, confess to another SUITABLE priest, regular or secular (except the case in which it is a question of reserved sins); and in this all agree."[1]

"But it is doubtful whether this priest must be APPROVED for confessions. Wigandt and Antoine affirm it, and Concina with Vasquez, etc. But others very commonly and more truly deny it";[2] because for confessors of Regulars even implicit deputation of the Superior suffices, according to the constitutions or customs of the Order, nor is approbation of the Ordinary of the place required by any law. It is established moreover from the declarations of Sixtus IV, in the Bull *Supplicari*,[3] issued August 2, 1479, and of Innocent VII in the Bull *Provenit*,[4] issued October 17, 1405, which concede to Regulars in that case "that they are able to choose any other suitable and discreet presbyter, Religious or Secular." Nor was this privilege revoked by the Council of Trent, which requires approbation for confessions of seculars, but not of Regulars.[5]

Nor does the declaration of the S. C. of the Council of November 18, 1769, in Hildesimen.[6] hinder this: namely that illicit and invalid are the confessions of Religious who there were accustomed to choose for themselves a secular presbyter not approved by the Bishop; for they did not lack the availability of a confessor of their own Order, as is clear from the very exposition of the Doubt.

Nor does the Brief of Benedict XIV of March 30, 1742, in which it is required that Capuchins choose an approved one, hinder more; nor the declaration of the S. C. of Bishops and Regulars of June 3, 1861, by which the same condition is appended for the Order of Hermits of St. Augustine. For it is by no means established that the things thus established and decreed for Capuchins and Hermits must be extended to all Regulars. For each Religion has its own constitutions. - For the rest, as regards the

Capuchins, "Pius IX, by Brief of September 27, 1852, modified the aforesaid disposition of Benedict XIV, by conceding to Capuchin Friars, whether lay or priests, dwelling in any place whatever because of sermons, Missions, a journey, or on account of any other legitimate cause, when there is no monastery or hospice there, and they have availability only of one priest confrere, the faculty of confessing their sins to a SECULAR priest approved by the Ordinary, or to another REGULAR priest approved by the Superior of the Order to which he belongs: - likewise by these they can be absolved from cases and censures reserved in the Order, with the obligation nevertheless remaining firm of later presenting themselves to their proper Superior, etc., so that they may again be absolved from the said cases and censures."[7]

Q. 2. Whether Regulars can absolve resident students, without the Bishop's approbation, as being of the household?

Resp. Some deny it, because resident students are not of the household, as servants are. Yet others, more commonly, affirm it. Nor does St. Alphonsus dissent; for speaking of that privilege which familiars of religious enjoy, he adds without any mark of reprehension: "Bordonus extends this to pupils of Monasteries."[8] "In practice," says Gury,[9] "this latter opinion is safe"; and the reason is because this has been expressly conceded to several Regular Orders, for example to Benedictines, Theatines, Somaschans, Clerics Ministers of the Infirm, etc., in which privilege the other Orders communicate by the fact itself.[10]

(1) Book VI, 575. (2) Ibid. (3) In Rodriguez, Bullar., p. 365 (Salamanca edition, 1605). (4) Ibid., p. 157. (5) Book VI, 575. (6) Thesaur. Resol., t. 38, p. 111; cf. also Acta S. Sed., vol. I, p. 677. (7) G. a Varceno, Compend., tom. 2, p. 156. (8) Book VI, 583, here note. (9) Book II, n. 564 (Dumas ed., 1874). (10) Cf. St. Alphonsus, De Privil., n. 9.

§ 2. On The Concession Of Jurisdiction With Respect To Nuns

1764. I. Nuns who pronounce solemn vows and are CLOISTERED cannot confess except before a priest SPECIALLY approved for them. - Nor are those exempt from the jurisdiction of the Bishop and subject to the jurisdiction of their own Order excepted from this law. Yet in this case the appointment of the confessor and his election pertain, by law, to their regular Prelate. Thus from the Bull *Inscrutabili* of Gregory XV, which Benedict XIII confirmed through the Bull *Pastoralis*, March 27, 1726. But a confessor approved for one monastery cannot by that very fact receive confessions also in other monasteries, unless he has been universally approved by the Bishop for all Nuns. Thus from the Bull *Superna* of Clement X, June 21, 1670.[11]

Several things worthy of note must be added here:

1. From the decree of the S. C. of Bishops and Regulars of September 20, 1642,[12] ordinary confessors of Nuns cannot be approved except for a three-year period: this having elapsed, so that they can be confirmed, an Indult of the S. C. of Bishops and Regulars is required, which it is accustomed to concede, just causes standing, under certain conditions.[13] - And this same thing is valid for confessors of Conservatories, as is established from another Decree issued on March 18, 1649.[14] Yet there are Authors who think that the Bishop can permit the confessor to continue beyond three years in his office, if other suitable priests are lacking.[15]
2. An Apostolic Indult being saved, the confessor of Nuns must be forty years old; nor are the Vicar of the Bishop, a Canon, or another Beneficed cleric obliged to choir, a pastor, or, if it is a

question of Nuns subject to the Bishop and of the ordinary Confessor, a Regular priest, to be appointed to this office.[16] Besides, only one confessor must be appointed for any monastery, as Benedict XIV expressly declared.[17]

3. The ordinary confessor is bound to go to hear the confessions of Nuns as often as he is called. - But let him beware lest he conduct himself as Superior of the monastery, since no authority of this kind belongs to him in any way. Thus the S. C. of Bishops and Regulars, September 7, 1797.[18]

(11) Cf. Lucidi, vol. II, cap. V, n. 227 seqq. (12) Cf. Thomas de Villanova, manuscript vol. I, p. 304, where: Salutiarum, September 20, 1642, to the 5th; Lib. Decretor., 17, 103. (13) Analecta J. P., series 14, col. 244. (14) Cf. De Alexandris, cap. 6, § 6, q. 3; and cf. Book VI, 577, Note 2. (15) Cf. Craisson, n. 1534. (16) Analecta J. P., series 4, col. 1289 seqq. (17) Constitution Pastoralis curae. (18) Analecta J. P., series 4, col. 1322-1324.

1765. II. To Nuns, and to the novices themselves, an EXTRAORDINARY confessor is to be granted TWO OR THREE TIMES each year. This is established from Trent, sess. 25, cap. 10: "Besides the ordinary confessor, moreover, another extraordinary one, by the Bishop and other Superiors, is to be offered two or three times in a year, who must hear the confessions of all."

This statute was confirmed by Benedict XIV in the Bull *Pastoralis* issued August 5, 1748. In this same Bull it is prescribed: "that Nuns, although they are not bound to confess to the extraordinary, are nevertheless bound to present themselves to him, for hearing salutary admonitions. - Likewise, that Bishops observe this same thing, that is, establish the same law, with Conservatories. Likewise, that in the article of death there be granted by the Bishop to any Nun requesting it a particular confessor: and if the monastery is exempt, if the regular Prelate does not grant it, it is to be assigned by the Bishop, or, if the Bishop also refuses, by the Major Penitentiary, if time allows. - Likewise, that if some Nun refuses to confess to the ordinary confessor, another be appointed for her by the Bishop, for certain times; and if the monastery is exempt, by the regular Prelate, and if he refuses, it be granted by the Bishop or Major Penitentiary. - But the Pontiff exhorts Bishops not to be difficult in granting sometimes an extraordinary confessor to particular nuns requesting one. - Finally he establishes that regular Prelates of Nuns are bound two or three times in a year to assign an extraordinary one from those approved by the Bishop for confessions of Nuns, who, at least once in a year, is either a secular or of another Order; otherwise let the Bishop appoint him; and at that time the ordinary confessor is to hear the confessions of no one, neither of the abbess nor of the novices."[19]

The extraordinary himself, after completing his office, must not afterward go to the monastery, nor under any pretext continue commerce of any kind, under the penalties imposed on those going to Monasteries of Nuns and conversing with them[20] (cf. n. 2164).

IT IS ASKED. Whether Nuns living OUTSIDE THE CLOISTER or COMMUNITY enjoy full liberty concerning the choice of confessor?

Resp. When a Doubt was proposed in these words to the S. Congregation of Bishops and Regulars: "It is sometimes conceded to Nuns, either from a motive of health, or from another cause, that, retaining the habit, they stay outside the monastery for a brief time. Hence it is asked whether, in such circumstances of things, they can confess to confessors approved by the Bishop for each sex,

although not approved for Nuns." The response was: "The Most Holy, in the Audience held on August 27, 1852, commanded that the reply be made: Affirmative, during the stay outside the monastery."[21]

For the time of Jubilee, see n. 1736.

(19) Book VI, 576. (20) Cf. Bull Pastoralis at the end; cf. Collect. S. Sed., n. 525. (21) Cf. Bizzarri, p. 141; Del Vecchio, II, n. 745, where there is also another Response.

Article IV: On The Limitation Of Jurisdiction As Regards Sins

1766. Jurisdiction is restricted either generally, so that Superiors alone, with all inferiors excluded, can absolve; or specially, so that the power of absolving is taken away from only one, but not from the other confessors. Sins of the former kind are very many, and are called RESERVED CASES; of the other kind there is only one sin, namely a base sin committed with the very ACCOMPLICE to be absolved. Hence there is a twofold paragraph: 1. On reserved cases. 2. On the forbidden absolution of an accomplice.

§ 1. On Reserved Cases

RESERVATION OF CASES is the denial of jurisdiction concerning certain sins. Thus St. Alphonsus.[22] - From this definition it is clear that a reserved case is one from which the confessor cannot absolve on account of defect of jurisdiction denied to him by the Superior over that case, although power of absolving from other sins has been granted.

(22) H. A., XVI, 128; Book VI, 578.

The end of reservation is TWOFOLD: 1. that the faithful may be more efficaciously deterred from crimes whose remission they have seen to be more difficult; 2. that those who have fallen into sins of this sort may receive fitting penances, admonitions, and remedies, which it is not fitting to be given by others than by Superiors, who are always considered more prudent and more suitable.[23]

(23) H. A., ibid.; Book VI, 581.

These things having been noted beforehand, so that all things necessary to know about this matter may be set forth, one must treat: 1. of the power of reserving sins; - 2. of the conditions of reservation; - 3. of the distinction of reserved cases; - 4. of absolution from reserved cases.

I. On The Power Of Reserving

1767. Principles. I. There exists in the Church the POWER OF RESERVING certain sins, from which inferior confessors without a special faculty cannot absolve outside the article of death. - This is established: 1. from Trent, sess. 14, on Penance, can. 11, thus defining: "If anyone shall say that Bishops do not have the right of reserving cases to themselves, except as regards external polity; and therefore that reservation of cases does not prohibit a priest from truly absolving from reserved cases: let him be anathema." - 2. From the perpetual practice of the Church, which innumerable documents attest. - 3. From the very nature of the Sacrament of Penance, having the character of judgment. For in judgments all greater causes are remitted to judges of a higher order.[24]

(24) Cf. Benedict XIV, De Synodo, book 5, c. 5.

1768. II. The power of reservation is in all Superiors who enjoy the power of ORDINARY jurisdiction in the EXTERNAL forum (cf. n. 1749). The reason is because these alone, who can confer jurisdiction, can also limit it. Hence: 1. the Pope can reserve cases in the whole Church; 2. Bishops in their dioceses; 3. Prelates of Religions, and others who possess quasi-episcopal power, within the ambit of their own jurisdiction, yet under certain limits determined by the Roman Pontiff. - But such a faculty has been abrogated for pastors, at least by custom.[25]

Let it be noted: Superiors indeed sin gravely if they reserve cases without reasonable cause; nevertheless reservation of this sort is valid, according to the more common and truer opinion, because all jurisdiction descends from the Superior; "but in every doubt, one must stand for the power of the Superior who possesses it."[26]

But the S. C. OF BISHOPS AND REGULARS (November 26, 1602)[27] judged that Ordinaries should be admonished not everywhere, but when it will seem expedient for the common good, to reserve to themselves the absolution only of more atrocious and graver crimes, whose reservation contributes to retaining Christian discipline and yields to edification, but not to destruction. - It also prohibits them from superfluously reserving to themselves cases specially reserved to the Apostolic See.

(25) H. A., XVI, 130; Book VI, 578. (26) H. A., ibid., 131; Book VI, 579. (27) Bizzarri, Collectanea, p. 14.

II. On The Conditions Of Reservation

1769. I. From the custom of the Church, a sin is not judged reserved unless it is INTERNALLY and EXTERNALLY grave, CONSUMMATED in its species, and CERTAIN. The reason is, 1. because although any sins whatever are, of themselves, subject to reservation, nevertheless from the Tridentine norm only the more atrocious and graver are reserved; and hence it is why an offense falling under reservation must be internally and externally grave; 2. because reservation, as something odious, is of strict interpretation, and therefore it is required that the offense be consummated in its species, and certain, and certainly reserved (cf. n. 1263).

Therefore, when the confessor suspects a reserved case, let him carefully inquire:

1. Whether the sin is INTERNALLY GRAVE with perfect advertence and full consent in grave matter. - 2. Whether it is also GRAVE AS REGARDS THE EXTERNAL ACT; for if it were externally light, it would not be reserved, although internally grave.

3. Whether it is CONSUMMATED and perfect in its species: for example, in homicide, whether death truly followed; in adultery or incest, whether copulation was consummated in the due vessel, etc. 4. Whether it is so CERTAIN that no prudent doubt remains; whether doubt of fact (for it is required by all that the sin be certainly committed with all required conditions), or doubt of law; because, when it is disputed among the Doctors whether some sin is reserved or not, the confessor is in possession of the faculty of absolving, as is taught most probably and commonly. And in the case in which this opinion were false, the Church certainly would supply[1] (cf. n. 1755). Yet in this matter, diocesan statutes must be consulted.

(1) H. A., XVI, 142.

1770. II. Reservation immediately affects the CONFESSOR, and mediately the penitent. - This is established from the nature of reservation, "which is not a penalty regarding penitents, but a denial or restriction of jurisdiction regarding confessors. And concerning this there seems no room for doubt; for Trent (sess. 14, cap. 7), to show that priests can do nothing in reserved cases, premises these words: *that absolution ought to be of no moment which a priest pronounces upon him over whom he does not have ordinary or subdelegated* (note this) *jurisdiction*."[2]

Hence it is inferred: 1. A simple confessor CANNOT absolve from reserved cases, even if they were committed in a place or time in which reservation did not exist, because here and now he lacks jurisdiction; - 2. he CAN absolve from sins committed at the time and place of reservation, if reservation does not exist at the time and place of absolution.

(2) Book VI, 581; H. A., ibid., 128.

1771. Questions. Q. 1. In how many ways can a case be reserved?

Resp. In two ways: 1. By reason of itself only, when no censure is attached to it, or is attached only accessorily: and this case is said to be reserved principally because of the sin; hence, although the censure is not incurred, nevertheless the reservation remains. 2. By reason of censure, when namely the sin is reserved principally because of the censure, so that the censure is immediately reserved, and the sin itself mediately; hence, the censure being removed, for example because someone sinned led by grave fear, the sin does not remain reserved.[3]

Q. 2. Whether IGNORANCE OF RESERVATION excuses from incurring it?

Resp. St. Alphonsus, with the very common opinion, distinguishes thus: 1. If cases are reserved principally ON ACCOUNT OF CENSURE, as almost all papal cases are, ignorance certainly excuses, because in reservation of this sort the character of penalty is principally considered, which is inflicted only on the contumacious. - Therefore in these cases, the censure being reserved, the sin also remains reserved; but the censure being removed, for example because it was unknown, the sin is not reserved, as is clear from the preceding question. - Yet if someone knows the censure, and is ignorant only that it is reserved, he is not excused from incurring it; because he now consents to the penalty of censure, and therefore implicitly to its reservation and to all other effects, although unknown (cf. n. 220).

2. If cases are reserved principally BY REASON OF SIN, such as are the two papal cases (cf. n. 1772), and almost all the cases which not common law reserves to Bishops, but Bishops themselves reserve to themselves, ignorance, according to the truer opinion, does not excuse from reservation. The reason is because reservation deprives the confessor himself of all jurisdiction as regards that sin.[4] - And the same is valid as regards cases which Bishops reserve to themselves with censure, because while in papal cases the censure is reserved principally and the sin secondarily, on the contrary, in episcopal cases the case itself, or sin, is reserved principally and of itself, even when a censure has been annexed accessorily, for binding more strongly.[5] Universal practice confirms this; hence the opinion of those who teach the contrary does not seem able to be brought into use (cf. n. 1767). - Except, however, if the contrary were positively established from the words of the Bishop, that is, if he reserved the case principally

because of the censure, and expressed this;[6] or if he openly said that he did not wish to comprehend in the law the case of ignorance.

Q. 3. Whether and how TRAVELERS are subject to reservation?

Things to be noted beforehand. Two things must be kept before the eyes: 1. A confessor whom reservation affects cannot absolve travelers except according to the limits of jurisdiction which he has from his Ordinary. 2. Penitent travelers, that is, those of another diocese, are subject, as regards the sacramental forum, to the laws of the place where they are actually present and confess.[7] And this indeed from the will of the Church, or from universally introduced legitimate custom (cf. n. 1752, q. 2). Hence:

Resp. 1. A penitent departing into another diocese with a sin reserved in each diocese perseveres in being subject to reservation, and can be absolved in neither diocese except by one having the faculty.

2. He who confesses a sin not indeed reserved in his own country, or in the place where it was committed, but reserved in the diocese where he confesses, is likewise subject to reservation, nor can he be absolved except by one having the faculty.[8] Yet here he is not bound by the censure which is reserved by the law of that diocese, because he is not a subject of that diocese in the external forum, nor is he contumacious.

3. He who confesses a sin reserved in his own country, but not in the place where he confesses, can be absolved by a simple confessor, provided he has not migrated there in fraud of reservation. Thus from the Constitution *Superna* of Clement X for Regulars, and from universally introduced custom for secular confessors[9] (cf. n. 1752, q. 2). - Nor does it hinder if a censure reserved by the law of his country is annexed to the sin; because it has been received that Bishops, and their delegates, absolve even from censures reserved in another diocese, unless they are public or imposed by a particular sentence.[10]

Q. 4. What is it TO MIGRATE IN FRAUD OF RESERVATION?

Resp. Different persons interpret the matter differently; but the more common and more probable opinion holds that the penitent then migrates in fraud of reservation "when he seeks another diocese for the principal end of obtaining absolution and avoiding the judgment of his own pastor"; even if he were to do this in good faith, believing that it is not forbidden. "The reason is because fraud is said to intervene where the law is rendered illusory.... But the law of reservation would be eluded if the penitent migrated elsewhere from the principal motive of seeking absolution. Hence he can well be absolved if he has gone away to some diocese for some honest end, for instance of conducting business, or of gaining an Indulgence; or so that he may confess with less inconvenience, or dispatch confession more quickly; or so that he may find an unknown or more prudent confessor who may direct him better, etc." Nor indeed does he migrate in fraud of reservation for obtaining absolution who departs from a diocese to commit a sin which is reserved there; for he does this so as not to incur the reservation itself.[11]

(3) Book VI, 581. (4) Cf. first list of reformed questions, 83. (5) Book VI, 581, doubt 2. (6) Cf. Rev. des sc. ecclés., tom. XLIII, p. 352. (7) Book VI, 591 and 587; De Priv., n. 32, 35. (8) First list of reformed questions, n. 86. (9) Book VI, 588-591; but cf. De Privil., n. 35 (from ed. 82), and the annotation of St. Alphonsus in Istruzione e pratica, cap. XVI, at

n. 135 (cf. also Craisson, n. 1612). (10) De Privil., n. 35 (where the last revision); likewise Book VI, 594 (in ed. 72). (11) Book VI, 589.

III. On The Distinction Of Reserved Cases

Papal, episcopal, and regular cases are distinguished.

1772. I. PAPAL cases are of two kinds. For some are reserved by themselves, or by reason of the sin; others because of the reserved censure.

1. The cases reserved to the Pope by themselves, WITHOUT CENSURE, are two: 1) False denunciation of a confessor: namely when someone falsely accuses an innocent priest before ecclesiastical judges of the crime of solicitation, whether by calumniating by himself, or by causing the calumny to be brought by others. From the Bull *Sacramentum* of Benedict XIV.[12] This case is reserved most specially, namely in such a way that the Major Penitentiary himself, without consulting the S. Pontiff, cannot absolve from it, even in the time of Jubilee. - 2) Retention of gifts received from Religious. Namely, he who has received gravely illicit gifts, even if not of great price, from Religious of either sex bound by solemn vows, cannot be absolved by a simple confessor unless they have first restored them (however much he may have been disposed to restore); or unless, being unable to restore, he has promised that as soon as he is able he will restore.[13]

Before restitution has actually been made, in a case in which it is not impossible, the Major Penitentiary, or a Confessor appointed by him, can indeed absolve a detainer of this sort, provided that the gifts received do not exceed the value of ten Roman scudi, 54 francs, and were not from goods of the Religion, and provided that the obligation of alms is enjoined, to be determined at the judgment of himself or of the delegated confessor, which is to be expended for the benefit of the Religion or Convent to which restitution would have to be made by law, if it can be done cautiously.[14] But if the gifts received exceed the value of ten scudi, or are from goods of the Religion, neither the Major Penitentiary by ordinary faculty nor another can absolve before restitution has been made, but only the Roman Pontiff. - From the Bull *Religiosae* of Clement VIII; *Nuper* of Urban VIII; *Pastor bonus* of Benedict XIV.

2. Cases reserved to the Pope BECAUSE OF CENSURE, from the Constitution *Apostolicae Sedis* issued by Pius IX, are subdivided into two classes. For some are reserved in a special way, others simply, as we saw in the Treatise on Censures (cf. n. 1313 seqq.).

(12) Ibid., 693. But whether... (see the Bull at the end of the work of St. Alphonsus). (13) Ibid., 580; H. A., XIII, 8, 9. (14) Cf. Book VII, 470, 11, and Folio of the S. PENITENTIARY, n. VI.

1773. II. EPISCOPAL cases are also of two kinds: some are said to be reserved BY LAW, others reserved BY MAN.

1. Cases reserved to Bishops or Ordinaries BY COMMON LAW are the following: 1) the three excommunications with which are struck those attempting marriage while bound by solemn vow - those procuring abortion - and those using false Apostolic Letters (cf. nn. 1348-1350). 2) The striking of a cleric in certain circumstances (n. 1310). 3) The suspensions inflicted by

Trent (nn. 1368-1374). - It is known besides that papal cases, by law, become episcopal, whether in an occult case, if they are simply reserved, or at least in the case of perpetual impediment, according to what was said in nn. 1280 and 1283.

2. Cases reserved to the Bishop BY MAN are those which any Bishop, whether in Synod or outside Synod, by general sentence, reserves to himself, and ordinarily indeed without censure.

They are various according to the diversity of places, and therefore to be learned from the statutes of each diocese. But here:

IT IS ASKED. Who are EXEMPTED from episcopal reservation?

Resp. 1. EXEMPT Religious, their Novices, familiars, and domestics, provided they are continual table-companions; hence, "if a Novice has fallen into a reserved case before entrance, he indeed will not be able to be absolved by any secular confessor, but by privilege he will be able to be absolved by a confessor of the Religion."[15] But if a Religious were to offend in those things in which he is not exempt but subject to the Bishop, he certainly could incur censure and reservation.[16] 2. EXEMPT Nuns.[17] Yet reserved cases must be excepted in matter pertaining to the Bishop as delegated by the Holy See, for example relating to enclosure, as is established from the decision of the S. C. of Bishops and Regulars (September 1746, in Nicoteren.).[18]

Note. Cases reserved to the Most Eminent Cardinal Vicar of the City are only TWO, namely: 1. The sin which they commit who do not satisfy the precept of paschal Communion within the time which runs between Palm Sunday and Low Sunday inclusive. 2. The excommunication to be incurred by the very fact by those who either lend or receive the certificate, commonly called *bollettino*, of paschal Communion.[19]

(15) Book VI, 583, here. (16) Cf. H. A., XX, 79. (17) Book VI, 602, q. 6; H. A., XX, 67. (18) Cf. Bizzarri, p. 405. (19) Cf. G. a Varceno, de Poenit., c. 6, art. 3, § 2.

1774. III. Prelates of Religions CAN, if they wish, reserve cases to themselves, but, as Clement VIII decreed on May 26, 1593, only ELEVEN, and no more without the consent of the general Chapter for the whole Religion, or of the provincial Chapter for the whole province.

The ELEVEN cases are: 1. Apostasy from Religion, even with the habit retained. - 2. Nocturnal and furtive departure from the monastery. - 3. Poisonings, incantations, and divinations. - 4. Ownership against the vow of poverty, which is a mortal sin. - 5. Mortal theft from the things of the monastery. - 6. Voluntary lapse of the flesh consummated by work. - 7. A false oath in a legitimate judgment. - 8. Procuration, counsel, or aid toward abortion of an animated fetus, even with the effect not following. - 9. Killing or wounding, or grave striking of any person whatever. - 10. Falsification of the hand or seal of the Officials of the monastery. - 11. Malicious impediment, delay, or opening of letters from Superiors to inferiors, or the contrary."[20]

These cases are all reserved in the Religion of the Capuchins.[21]

Let it be noted: 1. Prelates CANNOT impose censures upon other cases; because this would be indirectly to reserve and to elude the prohibition of Clement VIII. Thus the S. Congregation of Bishops and Regulars, July 7, 1617. - 2. A Confessor of Regulars, if the Superior denies him the faculty of absolving, which he himself prudently judges ought to be conceded, can absolve for that

time (Thus Clement VIII);[22] that is, as often as the Superior unjustly denies the faculty. It is also probable that the same can be done if the time of celebration or Communion is urgent, and the Superior cannot be approached. Except if scandal, or some other grave damage, first had to be repaired.[23]

(20) Book VI, 583. (21) G. a Varceno, loc. cit., § 3. (22) Cf. Bullar. Cherub., tom. IV, p. 274, after Bull 28 of Urban VIII. (23) Book VI, 586, 5; H. A., XVI, 134.

IV. On Absolution From Reserved Cases

1775. Things to be noted beforehand. 1. Absolution from reserved cases can be given directly or indirectly: directly, when the reserved sin is expressly declared before a confessor possessing due faculty; indirectly, when, from a just cause, it either is not declared, or is declared before a simple confessor, who can absolve only from sins not reserved.

2. Direct absolution is conceded either regularly by the reserving Superior or his delegate, or exceptionally by a simple confessor in certain circumstances. Wherefore the following principles are established.

Principles. - I. The RESERVING Superior, or his SUCCESSOR, or even the SUPERIOR OF THE ONE RESERVING, absolves from reserved cases from his own and ordinary power. The reason is because it belongs to him to absolve to whom it belongs to bind (cf. n. 1278 seqq.).

1776. II. An INFERIOR cannot absolve from reserved cases unless the faculty has been delegated to him either BY MAN, that is, by the Superior, or by LAW, or by CUSTOM, or by PRIVILEGE (cf. n. 1282). - But the general principle is that the delegate represents the one delegating, and enjoys his power for the benefit of the subject. Hence the subject can approach the delegate as often as he is impeded from approaching the Superior: yet he seems to be constrained to this by no law (cf. n. 1284, q. 2).

Moreover: 1. As regards cases reserved by the Pope, BISHOPS have from LAW a threefold power, which they can subdelegate. For: 1. By ordinary power, of which Vicars general also are participants, they absolve from cases reserved by the Pontiff to the Bishop or Ordinary, as we said above (nn. 1280, 3; 1773, 1). 2. Where Trent has been received, they have from chapter *Liceat* the faculty of absolving their subjects, in the forum of conscience,[1] from all occult cases simply reserved to the Pope (cf. n. 1280, 2). - They also obtain broader faculties by special Indults. See after n. 2333, Appendix I.

2. All INFERIORS need delegation of the one reserving, or of his Superior, so that they can absolve in his territory. - Hence, although a Vicar general has ordinary jurisdiction and can approve and delegate others, as is established from the Constitution *Superna* of Clement X, nevertheless without special commission he cannot either personally absolve or give to others the faculty of absolving from cases which the Bishop reserved to himself alone. St. Alphonsus says aptly to the point:[2] 1. The Bishop indeed sins gravely if he unjustly denies the faculty of absolving, with harm to souls, especially if the penitent cannot be induced to approach him; yet the confessor is bound by his denial (cf. n. 1768, 1). 2. But the Superior "can always justly

deny the faculty until the penitent brings to him the information necessary for repairing public scandal or damage; for otherwise, as indisposed, he can be absolved by no one."[3]

3. The faculty which the Bishop grants of absolving from CASES reserved to himself extends, of itself, only to reserved SINS, but not to reserved censures. - Except, however, excommunications annexed to the same sins by the very fact. For excommunication, otherwise than must be said of suspension and interdict, obstructs absolution from sins. Hence, by that very fact that a faculty is conceded of absolving from a sin which has excommunication annexed to itself, the faculty of absolving from that excommunication is also conceded. But when the power of absolving from cases reserved to the Pope has been conceded, the power of absolving from annexed censures is always conceded; because the Pope is not accustomed to reserve cases except by reason of an attached censure[4] (cf. n. 1772).

4. A privilege or Indult for the absolution of reserved cases can be either of the one absolving himself, as is, for example, that of those who obtain a schedule of the S. Penitentiary, quinquennial faculties, etc.; or of the penitent himself, when namely a privilege is conceded to him by force of which he can be absolved from reserved cases by a simple confessor, as for example from the Bull of Jubilee, Crusade, etc.

NB. Ancient privileges, as regards censures reserved to the Pope, are at present extinguished by abrogation, according as was said in the Treatise on Censures (n. 1280, 1); but new concessions are always limited to time or to persons, and therefore their communication among Regulars cannot be made. And hence it is why the very words by which the faculty of absolving has been granted to him must be carefully weighed by the confessor.

(1) Cf. first list of reformed questions, n. 95. (2) H. A., XVI, 134; Book VI, 586, 4. (3) H. A., loc. cit. (4) Book VII, 115; cf. Craisson, n. 6480 and 6491.

1777. III. There is no reservation in the ARTICLE or danger of DEATH. Therefore a simple confessor, and in his defect a simple priest, can absolve from any censures and sins whatever.[5] This is established from what was said in n. 1753.

But let it be noted: 1. The dying person, so that he may be duly absolved, must, if he is in possession of himself: 1) seek absolution; 2) repair scandal, if he publicly gave any, in the better way in which he then can; 3) first satisfy the injured party, unless this party validly remits the reparation of the injury, for example the church whose goods he usurped; or if he then cannot furnish this, swear that he will satisfy as soon as he can; 4) if the crime is very enormous, swear that he will perpetrate it no more[6] (cf. n. 1287).

2. If the sin was reserved by reason of itself, without censure, "there remains no obligation of presenting oneself to the Superior; because then the sin was truly directly absolved," as Suarez and others rightly teach.[7]

3. If a censure reserved to the Bishop or in a special way to the Pope is annexed to the reserved sin, the penitent must promise that, if he recovers, he will present himself to the Superior, not indeed so that he may again be absolved, but so that he may receive due admonition and penance, according to what was said in nn. 1274 and 1282.

4. When the Bishop is present, a simple confessor cannot licitly absolve from cases reserved by that Bishop with censure. The reason is because the confessor, by reason of the censure, would have to enjoin the dying person that, if he recovers, he present himself as soon as possible to the Superior. Since therefore the Superior himself is present, relaxation of the censure must be sought and obtained from him, unless danger of infamy or something else hinders.[8] It is otherwise with censures reserved to the Pope; because, although the burden of presenting oneself to him is sometimes given, nevertheless in practice the Pope is never personally present.

(5) Book VI, 561; VII, 92. (6) Book VI, 537, q. 7; VII, 120-127, 127-130. (7) Book VII, 91. (8) H. A., XVI, 96, 97; Book VI, 563; VII, 92.

1778. Questions. Q. 1. In what other way does reservation CEASE?

It ceases: 1. Except in a Jubilee (cf. n. 1739, q. 10), through confession, although invalid, or even sacrilegious, made to the Superior or to one having the faculty, and in which the reserved sin is accused; for thus the end of reservation is sufficiently obtained, since the Superior can now judge concerning the accused sin, and the penitent now receives from him remedies and penance "which he is always bound to fulfill, although afterward he perceives that the confession was invalid." Thus the more common and more probable opinion.[9] 2. Through a VALID confession made to the Superior or to one having the faculty, although the penitent forgets the reserved case, yet inculpably. And this opinion indeed, which is commonly taught, St. Alphonsus holds as probable;[10] except only the case in which from the circumstances it is positively presumed that the Superior would have delayed absolution if he had heard the sin; for otherwise he is judged to have wished to free the rightly disposed penitent from every bond, namely by using these words: "Insofar as I can, and you need."[11] 3. Through confession of a DOUBTFULLY RESERVED sin, whether by doubt of fact or even of law, made to one not having a special faculty, even if the penitent afterward recognizes the case as certainly reserved. Thus the common and most probable opinion; and the reason is because in doubt odious things are to be restricted, nor is the faculty of absolving taken away except by certain reservation, as was said in n. 1769. And besides, "since this opinion is common and most probable, in the case in which perchance it were false, the Church supplies."[12]

Therefore, in these three cases, confession can, at least when a reasonable cause is present, be repeated or completed before a simple confessor (cf. n. 1755).

Q. 2. Whether he can be absolved from reserved cases who sinned IN CONFIDENCE of obtaining license?

Resp. "Some have doubted; but the more common opinion affirms it, because, granted that the one conceding license does not wish sinners to sin more easily because of it, nevertheless he does not exclude that those who have sinned on the occasion of it can be absolved, if they truly propose to avoid sin."[13] And this is valid also for Jubilee, because the same reason runs, and a faculty generally conceded is not to be limited by decision.[14] (cf. n. 1736, B, I).

Q. 3. Whether license given for reserved cases can be EXTENDED to sins committed after the license has been imparted?

Resp. It is not extended "if the license has been given for sins only specifically named, or determined by number. But otherwise if it has been conceded indefinitely, as is taught very commonly." Yet except "if the penitent to whom license has specially been conceded were to commit another sin after a notable time, for example after a month, or if the license had been conceded in view of some particular festivity."[15]

Q. 4. Whether a simple confessor can never, OUTSIDE DANGER OF DEATH, absolve from reserved cases?

St. Alphonsus responded:[16] "When the Superior cannot be approached, the inferior can indirectly absolve from reserved cases, if some cause is urgent: for example, so that scandal or the mark of infamy may be avoided; or so that the paschal precept may be satisfied; or if the penitent otherwise would have to persevere longer in mortal sin, because the Superior is far away. Thus commonly." And the reason is because, necessity standing, confession is formally integral, and the confessor possesses jurisdiction over non-reserved sins; hence he validly and licitly absolves.[17]

It was said indirectly, because simple confessors, as Trent declared, sess. 14, cap. 7, outside the article of death, can do nothing in reserved cases. Wherefore, the impediment ceasing, even if by its nature it were perpetual, the penitent is bound to approach the Superior or his delegate, so that he may be directly absolved from the reserved cases.

Q. 5. Whether the penitent is VALIDLY absolved who, in GOOD FAITH, confesses a reserved sin to a simple confessor, or forgets it before the same?

Resp. Affirmative, if at the same time he confesses a non-reserved sin, whether mortal or venial; because in such a case, as is sufficiently established from what has been said, the non-reserved sin is directly absolved, and the reserved sin indirectly.[18] But the confessor sins, and gravely indeed, if knowingly, without just cause, he absolves in this way, and the penitent is always bound to repeat the confession of the sin remitted only indirectly.

Note. As regards TRAVELERS, see n. 1771, q. 3. As regards the necessity of communicating or celebrating in a case in which someone has a reserved sin, cf. n. 1551.

(9) H. A., XVI, 141; Book VI, 598, q. 3 and 4. (10) Book VI, 597; cf. Vind. Alph., part 5, q. 18. (11) Cf. first list of reformed questions, n. 87, and second list of reformed questions, n. 20. (12) H. A., XVI, 142; Book VI, 600; Conf. dir., XV, 44. (13) H. A., ibid., 144; Book VI, 601. (14) Ibid., 537, q. 6. (15) H. A., ibid., 145; Book VI, 601, q. 4. (16) H. A., XVI, 133 (cf. also Istruz., same place). (17) Book VI, 585; VII, 91 and 92, Si quis (cf. Vindic. Alph., p. 5, q. 15). (18) Book VI, 596, q. 1; H. A., XVI, 139; cf. Sporer, Theol. Sacram., p. 3, n. 858.

1779. PRACTICAL RULES. The confessor, having heard a reserved sin from which he cannot absolve, must, when the case is not urgent, immediately remit the penitent to the Superior, or to another endowed with the faculty. - Ordinarily speaking, it is not expedient that he offer himself to seek the license, lest namely the end of reservation be destroyed (cf. n. 1766). But if nevertheless charity suggests that he himself seek leave, let him hear the remaining sins, both so that he may prescribe fitting remedies, and so that he may see whether other reserved sins are present. - But when the faculty has been obtained, let him not use it unless he has first shown to the penitent the gravity of the crime committed, and has imposed upon him a salutary satisfaction (cf. n. 1289, Note).

§ 2. On The Forbidden Absolution Of An Accomplice

1780. Principles. I. It is forbidden to every priest, outside the case of extreme necessity, to dare to receive the sacramental confession OF A PERSON WHO IS AN ACCOMPLICE in a base sin against the sixth precept. Thus from the Constitutions of Benedict XIV, *Sacramentum* (June 1, 1741), and *Apostolici muneris* (February 8, 1745), namely for guarding the sanctity of the sacred Tribunal and removing dangers of souls.[1]

It is said 1. outside the case of extreme necessity, that is, outside the article or danger of death; because then it is permitted to absolve an accomplice, provided another priest is lacking, even a simple one, who is able to absolve; or provided that priest cannot receive the confession of the infirm person without grave scandal, or infamy of the approved priest. Yet the priest accomplice is bound to forestall such dangers of scandal or infamy, if he can, for example by departing under some pretext, etc.; otherwise he will not escape the guilt and penalties of a grave offense, although the absolution is valid "lest on this very occasion," says the Pontiff, "someone perish."[2]

It is said 2. of a person who is an accomplice: by which name, from the common interpretation, come not only women, but also men, nor are even the prepubescent themselves excepted. - Indeed, persons with whom the confessor already sinned before the priesthood was received are not excluded; as is established from the Response of the S. PENITENTIARY of January 22, 1879.[3]

It is said 3. in a base sin...: in which appellation is comprehended every sin, certain on each side, grave, external and mutual, against the sixth precept, even if it was not consummated by copulation; indeed, although it is only a base touch, or gaze, or indecent conversation, as is more commonly taught, and as is established from the Response of the S. OFFICE, May 28, 1873 (cf. n. 1324).[4] - But venial faults are not comprehended, whether they are such because of smallness of matter, or because of defect of advertence or consent; nor merely internal sins, or sins not fully manifested externally; nor doubtful sins, by doubt of fact or of law; nor finally when doubt turns on whether the penitent himself also sinned gravely; because the Bull is to be understood of a formal accomplice, in mortal sin against the Sixth.[5]

(1) Cf. Book VI, 584-585; Praxis, n. 80. (2) Book VI, 553. (3) Cf. M. Haringer (in 2nd Regensburg ed. of the Moral Works of St. Alphonsus), Annotation to book VI, 556. (4) Ibid., 554. (5) Cf. H. A., XVI, 95.

1781. II. The confessor, outside danger of death, LACKS all JURISDICTION for absolving an accomplice as regards the sin of which he was participant. - This is established from the words of the Bull saying: "Any authority and jurisdiction therefore being taken away from him by the law itself for absolving any person whatever from a fault of this sort." - Therefore, as long as the sin of complicity has not been directly remitted through absolution duly imparted by another priest, the confessor absolves his accomplice neither licitly nor validly. Indeed, it is probable that that sin, even after it has been directly remitted by another, can never and in no way be declared and subjected to the confessor-accomplice as sufficient matter of absolution, since he seems perpetually to lack jurisdiction over it.[6]

(6) C. P. Rota, Enchiridion confess. et judicis (Turin, 1884), n. 144.

1782. III. EXCOMMUNICATION, reserved to the Roman Pontiff in a most special way, IS INCURRED by a priest who, outside extreme necessity, absolves an accomplice in a base sin. - This is established both from the Bull *Sacramentum* of Benedict XIV, and from the Constitution *Apostolicae Sedis* issued by Pius IX (cf. n. 1324).

Yet here it must be adverted that the following are not bound by the censure: 1. he who only hears the accomplice in confession, but does not absolve; otherwise, if he simulates absolution, as is established from the Response of the S. Penitentiary given on March 1, 1878, and confirmed from another Response of the Congregation of the Holy Office made to the Bishop of Périgueux on December 10, 1883[7] (cf. n. 1324); 2. he who indeed absolves, but with ignorance, even crass, of the censure; or without advertence to the complicity of the penitent; for the Constitution of Benedict XIV, from which the censure was taken, requires daring, so that excommunication may be incurred.

(7) Nouv. Revue théol., tom. XVI, p. 366.

1783. Questions. Q. 1. Whether the censure and privation of jurisdiction have place if the sin of complicity is not subjected to the keys?

Resp. Negative. For it was asked: "Whether he incurs the censures imposed on those absolving an accomplice in a base sin, who indeed absolves an accomplice, but an accomplice who did not declare the sin of complicity in confession? The reason for doubting seems to be because such a priest, even if the accomplice sacrilegiously omitted the confession of this sin, and he culpably abstained from questioning, nevertheless does not absolve from the fault of complicity of this sort, as not declared, nor subjected to the keys."

And the S. PENITENTIARY, on May 16, 1877, responded: "The privation of jurisdiction of absolving an accomplice in a base sin, and the annexed excommunication, insofar as the confessor shall have absolved him, are in order to the base sin itself in which the same confessor was the accomplice. Nevertheless the confessor is bound with all zeal to place before the eyes of the priest who in this way absolves the accomplice, yet not from the sin of complicity, the enormity of his offense and the abominable abuse of the Sacrament of Penance; nor otherwise to impart to him the benefit of absolution than after a most grave exhortation has been premised, that he strive to lay down the office of confessor, and also with the obligation imposed that in the future he wholly abstain from hearing confessions of the accomplice; the same person who was the accomplice being admonished, if he appears again, that he accuse himself before another confessor of the sin of complicity and of the others invalidly confessed."[8]

Q. 2. Whether he avoids EXCOMMUNICATION who, when the precept of CONFESSION is urgent, INDIRECTLY only absolves an accomplice unable to confess to another without danger of grave infamy or scandal?

Resp. Some deny it; but the Salmanticenses affirm it; and this opinion (if the penitent knows or is admonished that he must afterward approach another confessor) seems more probable and safe in practice, from the fact that in a case of this sort there is not present the rash daring which the Constitution of Benedict XIV requires.[9] It also seems more conformable to the Response of the S. Penitentiary just reported.

(8) Cf. Planchard, Practica, Dissert., p. 9 (cf. also Collectan. S. Sed., n. 520). (9) Appendix to Treatise VI, on the Bull of Crusade, cap. 6, n. 262; Rota, loc. cit., n. 148. Cf. Pennacchi, Comment. in Const. Apost. Sedis, tom. I, Addition to Appendix IX, p. 37.

1784. From what has been said you resolve:[10] 1. The confessor INVALIDLY absolves: 1. A penitent with whom he agreed about seducing a woman, although afterward he did not seduce her; because it is verified that this penitent is a partner of an iniquitous agreement against chastity. - 2. A penitent from whom he only heard base conversations, if he showed that they pleased him; because by being outwardly pleased with them, he participated in them, and therefore is an accomplice of the base sin. 3. A penitent accomplice who makes a general confession, if it is certain or probable that the past confessions were invalid.

2. He VALIDLY absolves: 1. A woman whom, while sleeping or resisting, he immodestly touched, or by whom he himself, sleeping or resisting, was touched; because he does not absolve from the sin of complicity. 2. A woman with whom there intervened a kiss given in passing, or a momentary touch of hands or of honorable parts, from jest or levity. And the same would have to be said if the priest had taken the woman by the hand, although he himself, but he alone, had experienced venereal delight. For in these cases either there is not a certainly mortal sin, or it is not present on each side. 3. Resolve the same if delight, however carnal and arising on both sides, is personal to each, without any external sign and mutually unknown. - 4. Nor is the absolution invalid over other sins directly imparted to an accomplice if he inculpably omitted the sin of complicity in confession; for from the aforesaid Response of the S. Penitentiary of May 16, 1877, it is established that the priest is not deprived of his jurisdiction.

Note. The penitent accomplice himself incurs no censure or other penalty, nor is his sin subject to reservation (unless perhaps episcopal reservation, from diocesan Statutes). - Therefore let a person of this sort be benignly received by a legitimate confessor, so that he may not blush to confess his own misery; and, the confessions invalidly made before the accomplice having been repeated, and the occasion of sinning having been removed, let him be dismissed absolved. But let him be turned away, as much as can be done, from further return to the confessor-accomplice, even if the law concerning fleeing a proximate occasion does not seem absolutely to require it (cf. Response of the S. PENITENTIARY at the end).

But if besides this, on the occasion of confession, he had been solicited to sin, see n. 1795.

(10) Konings, n. 1406; cf. Pennacchi, loc. cit., Appendix IX, p. 305 seqq.

Chapter II: On The Qualities Of The Minister Of Penance

1785. "Now besides the power of Order and jurisdiction, which are altogether necessary, first of all there is need," says the Roman Catechism, "that the minister of this Sacrament be endowed both with knowledge and learning and with prudence; for he bears at once the person of JUDGE and PHYSICIAN."[11] He also bears the person of FATHER, and indeed of a most excellent father, namely of Christ the Lord conferring upon the penitent the life of grace. Nor this alone, but he bears besides the person of TEACHER, because it is his part to admonish the penitent, and to teach him, as much as there is need, things useful or necessary to know. And because so many and so grave offices cannot be fulfilled unless they are continually

supported by goodness or integrity of life: hence, so that all the qualities which every minister of Penance ought to furnish may be recalled, it occurs to treat: 1. of the knowledge of the confessor; 2. of his prudence; and 3. of his goodness or integrity of life.

(11) De Poenit., n. 56.

Article I: On The Knowledge Of The Confessor

1786. Principles. I. The confessor is bound, and indeed UNDER GRAVE obligation, to have KNOWLEDGE of all those things which are required for the function of his office. - St. Alphonsus says gravely to the point:[12] "And to dispatch myself more briefly, I affirm that the confessor who, without sufficient knowledge, exposes himself to receiving confessions is in the state of damnation." The reason is because, this knowledge being lacking, the confessor certainly commits himself to danger of fulfilling his most holy office badly, with injury to the Sacrament and with harm to penitents.

Nor let it be said that knowledge is supplied by experience; for this, although it helps knowledge, nevertheless never fills its role. Hence "no confessor ought to interrupt the study of moral theology, because, from so many things so diverse and different among themselves which pertain to this knowledge, many things, although read, because they occur more rarely, fall from the mind with the passage of time: for which reason it is necessary always, by frequent study, to recall them into memory."[13] (cf. n. 4).

Hence it is inferred: 1. A priest who, ignorant in moral matters, receives confessions sins gravely. Nor does the approbation of the Superior excuse him; for this supposes the knowledge due, but by no means infuses it. 2. A Superior who grants the faculty of receiving confessions to an unlearned priest sins gravely; for he consents to and cooperates in this one's sin. - 3. The penitent himself sins gravely who, placed in grave spiritual necessity, approaches a confessor whose knowledge he recognizes to be unsuitable to his state; because, besides the spiritual harm which he suffers, he is the cause why the Sacrament of Penance is administered in an undue manner.[14]

(12) H. A., XVI, 100. (13) Ibid., 100. (14) Book VI, 626 and 628, 1, 2.

1787. II. As regards the QUALITY of knowledge, "It would surely be desirable," says Benedict XIV,[15] "that every confessor possess that knowledge which they call eminent; but since this quality belongs to few, it is altogether necessary that he be instructed at least with competent knowledge." But this knowledge will be competent if he himself can always bring a prudent judgment in this forum; for judicial power requires this, that the things which must be judged be well discerned.

Therefore the confessor must know: 1. which sins are mortal, which venial, at least from their kind; - 2. the species and circumstances necessarily to be explained; - 3. things pertaining to restitution of goods and reputation; - 4. reserved cases, so that he may know to which his jurisdiction does not extend; likewise excommunications, censures, and irregularities, at least the more common; - 5. matrimonial impediments, and the common obligations of states; - 6. the requisites in the penitent for good disposition; - 7. opportune remedies to be opposed to sins.[16]

For the rest, FOR PRACTICE, it is useful to advert: 1. It is enough if the confessor is at least skilled in those things which more frequently occur, and concerning more difficult matters knows at least how to doubt, so that thus he can consult books, or learned men with due leave if he needs this. - 2. The same knowledge is not required in all; but greater or lesser knowledge according to the diversity of places and penitents: thus greater knowledge is required for hearing confessions in a city than in villages; greater for receiving confessions of Bishops, priests, and clerics, than of seculars and farmers. - 3. In more involved doubts, especially if the case is public, or easily to be made public, not only should learned men of greater experience be consulted, but often it is expedient, if time permits, that recourse be had to the Bishop himself.

IT IS ASKED. Whether a priest is bound to render himself FIT for receiving confessions?

Resp. Since Christ the Lord instituted priests for this end, that souls might be saved, and since the salvation of souls is obtained especially through the Sacrament of Penance: it follows that the office of receiving confessions is one of the chief offices of the priesthood; and therefore priests ARE BOUND, at least in grave necessity of peoples, to exercise it, and consequently to render themselves fit for it.

Hence St. Alphonsus:[17] "I do not see," he says, "how those priests who, on account of idleness, withdraw themselves from this burden, can be safe in conscience, and be excused from the reproach of the Lord, and from the punishment of damnation inflicted on that idle servant who hid his talent.... Nor let priests of this sort say that they sufficiently fulfill their obligation if they assist souls in another way, namely by instructing, correcting, praying, without ministering the Sacrament of confession; for they are bound to assist them in that in which they have need for their own salvation. For if the neighbor needs food, you must assist him in food, not in garments. Nor is it valid to say that the office of hearing confessions is a work of charity, and charity does not oblige with so much inconvenience: for it is answered that this office does not have its origin from a simple motive of charity, but from the proper priestly office, as has been said."[18]

(15) Bull Apostolica, § 21 (June 26, 1749). (16) Book VI, 627; H. A., ibid., 100. (17) Book VI, 625. (18) H. A., XVI, 127.

Article II: On The Prudence Of The Confessor

1788. Great prudence is required in the confessor, because the rule of souls is the art of arts, and because his office abounds in many difficulties and dangers. This prudence ought especially to show itself: 1. in choosing approved opinions; 2. in granting liberty of confession; 3. in receiving the confessions of women; 4. in questioning and admonishing penitents; 5. in giving or deferring absolution; 6. in correcting his own errors; 7. in guarding the sacramental seal. Here we shall treat only of the first three, since we shall speak of the others below.

1789. I. The confessor ought, in the CHOICE OF OPINIONS, to use the greatest prudence. - To this pertain the following RULES assigned by our Holy Doctor.

Rule 1. "If the penitent shows himself ready to follow that which is SAFER, the confessor is bound, speaking in itself, to direct him according to the safer opinions; because, since this belongs to greater perfection, the confessor is indeed bound to apply himself to the greater progress of his penitent. - But afterward it belongs to the prudence of the confessor to weigh whether the use of the safer or less safe opinion will be profitable to his penitent. Therefore I said, speaking in itself; because

although that, in itself, is safer and more perfect, nevertheless it will be more dangerous to impose upon many the obligation of always acting according to the more rigid opinions. - Therefore, in practice, the confessor rather, as far as can be done, ought to be benign rather than rigid with penitents."[1]

Rule 2. "The confessor, in the choice of opinions, ought then to follow the more BENIGN opinions, when these rather induce the penitent to avoid sin. But otherwise, if they rather conduce to the transgression of the law: such as those opinions which, although speculatively they may seem probable, nevertheless in practice are very dangerous; as in the matter of the sixth precept there are some concerning touches, kisses, dances, plays, repressing sensual motions, and similar things. Likewise, in the matter of simony and usury, where many things seem to be excused by reason of liberal gratitude, but in practice involve great danger. Likewise, when there is question of making compensation, or of pursuing an accusation against offenders, where there is easily danger of injustice or revenge."[2] (cf. n. 83. 2).

Moreover it is to be noted that the Holy Doctor judges that special severity must be used when there is question of procuring the common good, as will be declared below (n. 1810, Rule 32).

Rule 3. Absolution cannot be denied to a penitent, otherwise disposed, if he wishes to use some probable opinion contrary to that which the confessor holds.[3] - The reason is because a penitent truly disposed, after confession has been made, has a certain and strict right to absolution. Nor is it valid to say that the penitent is therefore not disposed because he refuses to follow the judgment of the confessor; for it is answered that the confessor is not judge of opinions and controversies as the Supreme Pontiff is, but is only judge of the disposition of his penitent, and of the penance which the sins deserve, as is plain from Trent, sess. 14, cap. 5. "But the disposition of the penitent consists only in having true sorrow for the sins confessed, and a firm will not to sin in the future."

Nevertheless it is required: 1. That the penitent not be rude and unlearned, but capable of forming for himself a right conscience from the opinion or probability which he judges solid, at least extrinsically, e.g. from the response of another learned and prudent man; for if he wished to act imprudently, he would not be disposed. - 2. That there not be question of judgment, whether concerning the disposition of the penitent or concerning the administration of the Sacrament; e.g. if the confessor judged that he lacked jurisdiction over such a case, the penitent must stand by his judgment; "for otherwise by absolving without due jurisdiction, or one whom he himself judges indisposed, he (the confessor) sins by acting against his own conscience." - 3. That the opinion of the penitent be not only speculatively, but also practically probable, i.e. that it lack every certainly probable danger of formal sin; because the penitent is bound to avoid such danger. - 4. That the confessor, although he does not judge the penitent's opinion as solidly probable, nevertheless does not hold it as wholly false, or resting on a false foundation; for in such a case St. Alphonsus,[4] with Navarrus and St. Antoninus, denies that the penitent can and ought to be absolved, unless he withdraw from his opinion (but see what will be said at n. 1810).

(1) Book VI, 605. (2) Book VI, v. Sapienter. (3) Cf. Vindic. Alp., Appendix I, § 2, II, 6. (4) Cf. Conf. diretto, XV, 39; and Book VI, 604; Book III, 609.

1790. II. The confessor should especially beware of taking away from his penitents LIBERTY OF CONFESSION. To the point St. Thomas says:[5] "A priest would sin if he were not easy in

granting permission to confess to another; because many are so weak that they would rather die without confession than confess to such a priest: whence those who are too solicitous to know the consciences of their subjects through confession cast many into a snare of damnation, and consequently themselves." And St. Alphonsus:[6] "Let the confessor beware lest he prohibit his spiritual penitents, especially women, from approaching another confessor; and when he notices that they have approached, let him show that this was pleasing to him: indeed, let him impose upon them that sometimes they confess before others; except if someone should be very scrupulous, concerning whom he prudently fears that, if he should approach another who is ignorant of his conscience, he would be notably disturbed." It is also to be desired that pastors from time to time summon unknown confessors; and that access to them may be easier and freer, let the pastors themselves abstain at this time from receiving confessions. Mothers of families also should cautiously be persuaded that, in this matter, they grant full liberty to their sons and especially to their daughters.

(5) In 4, dist. 17, qu. 3, art. 3, ad qu. 4, ad 6. (6) H. A., tr. ult., n. 43; or Praxis, n. 100.

1791. III. In receiving the confessions of persons OF THE OTHER SEX, especially of those who profess piety, the confessor ought to be MOST CAUTIOUS. Wherefore let him diligently observe these prescriptions, and let him judge it unlawful to violate them:[7]

1. From the decree of the S. C. of Bishops, Jan. 21, 1610: "Confessors, without necessity, ought not to hear the confessions of women after the evening twilight and before dawn." But if necessity is present, let this not be done without a lighted lamp and without a witness. Access should always be granted to men before women, where this can conveniently be done.
2. In receiving their confession, especially if they are younger, let him be austere rather than affable and familiar; in no matter let him intimate that they are known to him; let him also be most restrained as to the eyes, so that he never, while they remain in the confessional, look them in the face, nor, when they depart, follow them with his eyes. - Let him abstain especially from all flattering and rather tender words, lest the tribunal of the immaculate Lamb be changed into a den of thieves.
3. Outside confession, let him flee all familiarity with them, nor let him visit them at home, except in the case of grave illness; but not even then let him receive their confession unless the door of the room is open. - Little gifts, flatteries, praises, and whatever usually conciliates friendship, are to be entirely avoided on both sides. Nor are women less to be guarded against because they are more holy; for, St. Thomas testifying, the holier and purer they are, the more they allure the mind. See other things at nn. 833, 1841 sqq., 1847 sqq.
4. "Never, without necessity, let him speak of the defects of other confessors; but rather let him sedulously seek to excuse them from some error committed."[8]
5. "Let him not undertake the direction of anyone who wishes to leave his own director, unless there is an urgent cause... And let him advert that, for changing a confessor, it is not enough that the penitent feels some abhorrence toward him, or that he seems no longer to have faith in his words: for, as St. Teresa says, often this is a temptation of the devil. - Hence St. Francis de Sales teaches thus: 'The confessor is not to be changed without grave reason. But, on the

contrary, neither is it expedient in this to be unchangeable, if legitimate causes of change supervene.'"[9]

6. "Let the confessor avoid showing himself partial with some penitent. Some attach too much benevolence of soul to some soul, when they take upon themselves every care, time, and labor for that one. - It is not to be denied that some soul will sometimes need greater assistance than another; but assistance is one thing, attachment another, which brings it about that less care is had for other penitents. Therefore it will be expedient that the confessor assign to that more needy person some particular day or time, without others receiving inconvenience."[10]
7. "In receiving the confessions of these spiritual persons, the confessor ought to beware lest he raise his voice too much, although he is not speaking of sins: because from this it can happen that others are frightened from confessing their faults, out of this fear that the confessor speaks with a loud voice."[11]

See also the ROMAN RITUAL: Order of Ministering the Sacrament of Penance.

(7) Cf. Praxis, nn. 119-120, where there are more things. (8) Praxis, n. 100, 2. (9) Ibid., 3. (10) Ibid., 4. (11) Ibid., n. 101.

Article III: On The Goodness Or Integrity Of Life Of The Confessor

1792. "Let suitable confessors be had" (said St. Pius V), "behold the complete reform of all Christians. For it is not to be doubted that, if all confessors were strong in that knowledge and goodness of morals which so great a ministry demands, neither would the world be so befouled with the filth of sins, nor would hell be filled with so many souls of the baptized. - And when I say goodness, here I do not understand only habitual goodness, that is, the simple state of grace, but positive goodness, which befits the minister of Penance. For he must handle the wounds of so many sinners without defiling himself: he must often deal with women and adolescents, receiving their confessions about those things of which they are greatly ashamed, without feeling that any harm has come to himself; with distinguished persons, all respect of human things having been cut away, he must be armed with great fortitude; and, that I may embrace all things in one word, he ought to be rich in charity, honey-sweet in meekness, grave in prudence. - Wherefore, that all these parts may be fulfilled as is fitting, there is need of no common goodness, which certainly he will never attain for whom prayer is not most familiar, nor meditation daily: for by no other way can anyone obtain the light and graces necessary for this so great office, formidable, as it is said, even to angelic shoulders."[12]

But first of all the confessor ought to abound in great and sincere charity, by which he is so led that he spends and is spent wholly for souls, and proposes to himself nothing other than their salvation and spiritual progress. But it is manifest that nothing is more opposed to this charity than the execrable and truly diabolical malice of a priest who impiously and sacrilegiously abuses this most holy ministry unto the ruin of penitents, namely by soliciting them to base things. - The Supreme Pontiffs, in order effectively to exclude so nefarious an abuse and so impious a prevarication from the sacred Tribunal, have sanctioned by various Decrees that those most wicked confessors who solicit to base things be DENOUNCED before competent ecclesiastical Judges.

Hence we must here treat: 1. of the zeal and charity of the confessor; 2. of denouncing the crime of solicitation.

(12) Praxis, n. 1.

§ 1. On The Zeal And Charity Of The Confessor

1793. In the confessor there is required, so that he may be able fruitfully to perform his office, eminent CHARITY. - For since confession is an entirely voluntary act, by which the highest trust is shown to the confessor, it is manifest that such trust cannot be provoked unless the confessor in turn shows the highest kindness to the penitent who approaches him to open the secrets of his conscience.[13] - Wherefore the following admonitions are handed down by our Holy Doctor:

Admonitions. - 1. Let the confessor show great charity and zeal in BENIGNLY RECEIVING all, whether poor or rich; since with God there is no acceptance of persons. - Indeed, in imitation of Christ, who says: "I came not to call the just, but sinners," a good confessor, with the inmost parts of charity, the greater the number and the more foully stained by the filth of sins he finds souls to be, with so much the greater charity he embraces them, that he may win them for God, and he supplies courage to them with these or similar words: "Come, brother! Be of good heart! Do not fear; confess your sins without dread!" etc.

2. Let him show greater charity in HEARING the penitent. "Let him beware lest he exhibit himself impatient, or appear to be struck with wonder at the sins which are being narrated... In the act of confession let him abstain from making correction, lest perhaps, terrified, penitents keep back their sins. Nevertheless this is understood regularly speaking; for 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 himself has been habituated in some vice, so that he may comprehend the gravity of the sin. Yet let the confessor advert that he not exasperate him, nor terrify him. Wherefore, after he has corrected him as much as there was need, immediately let him give him courage to confess the remaining sins."[14] Let him not appear to the penitent impatient of delay, nor let him forget that that is always done quickly enough which is done well enough. Toward the badly disposed let him use much patience, and, every motion of an inflamed soul being restrained, let him endeavor sweetly and at the same time strongly to recall them to good fruit.

3. But let him show the greatest charity and zeal in WELL DISPOSING the penitent, and in helping him, as far as can be done, that thus he may cause him to obtain all the goods which flow from the Sacrament, namely justification, progress in grace, and the gift of perseverance. "Wherefore, with more vehement ardor and zeal, let him apply himself so that he cause the penitent to 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... so that the penitent may understand that what is said to him proceeds not from an angry mind, but from singular love and compassion toward his soul... Afterward, he will help him to form an act of sorrow, and, if he is disposed, let him absolve him."[15]

"But if he should be incapable of absolution, or if it will seem expedient that absolution be deferred, let him assign to him the day on which he ought to return, saying to him thus: 'Come, brother! On such a day I await you; do not omit returning to me; be of strong and great soul, as I have said to you. Commend yourself daily to the Blessed Virgin, and come to me. If, perhaps, then you find me receiving the confessions of others, approach; for I will hear you before the others. If I am elsewhere, arrange that they summon me; I will leave all things so that you may confess.' And thus let him dismiss him from himself with sweet words. 'This is the way by which sinners can be made saved, namely to act with them with as much charity as can possibly be done; otherwise, if they fall upon a confessor who acts harshly with them, they will dread confession, they will neglect to confess, and unbridled they will go to perdition.'"[16]

The RITUAL also admonishes: "For those confessing more rarely or later, or easily falling back into sins, it will have been most useful to counsel that they confess often, say once a month, or on certain solemn days, and, if it is expedient, communicate."

(13) Cf. Praxis, nn. 3-5, where very many things can be read. (14) Ibid., n. 4. (15) Ibid., n. 5. (16) Ibid.

§ 2. On Denouncing The Crime Of Solicitation

1794. First of all it is useful to report the words of BENEDICT XIV, who, confirming the Bull of GREGORY XV, speaks thus in the Constitution *Sacramentum*: "We command all local Ordinaries... that diligently, and with every human respect set aside, they inquire and proceed against each and every priest, both secular and regular, however exempt... and of whatever dignity... who shall have attempted to solicit or provoke any penitent, whatever person he may be, either in the act of sacramental confession, or before, or immediately after confession, or on the occasion or pretext of confession, or even outside the occasion of confession in the confessional, or in another place destined or chosen for hearing confessions, with the simulation of hearing confession there, to dishonest and base things; whether by words, or signs, or nods, or touch, or through writing, either then or afterward to be read; or with them shall have had illicit and dishonest conversations or dealings with rash daring."[17]

"Let each and all priests appointed for hearing confessions remember besides that they are held and obliged sedulously to admonish their penitents, whom they know to have been solicited by others as above, according to the circumstances of the cases occurring, concerning the obligation of denouncing to the aforesaid local Ordinaries the person who has committed solicitation, even if he be a priest who lacks jurisdiction for validly imparting absolution, or the solicitation was mutual between confessor and penitent, whether the penitent consented to the solicitation or by no means furnished consent, or a long time has already flowed by after the solicitation itself, or the solicitation was performed by the confessor not for himself, but for another person."

On these matters three things come to be weighed: 1. when the crime of solicitation is present; 2. what the obligation of denouncing is; 3. how in practice the confessor ought to proceed.

(17) Cf. Berardi, Prax. Conf., n. 549 sqq.; and Benger, Compend., n. 404; and Rota, Enchiridion, nn. 164-402.

I. When Is The Crime Of Solicitation Present?

1795. By the word SOLICITATION, in the Sacrament of Penance, is understood an invitation, incitement, or provocation to venereal things, made by a confessor, under certain clauses. It is a MOST GRAVE sin, both because it inflicts grave injury on the Sacrament, and because it brings mortal harm upon the penitent, offering him poison for medicine. If the one soliciting is the pastor himself, solicitation contains a special malice, or a special sin against justice, because from justice he is bound to feed his sheep by word and example (cf. n. 786, note 2).

It is said, 1. Invitation, namely one which is made by words or signs inductive to lustful acts. Hence solicitation must be held as complete (whether the penitent in fact consents to the sin, or resists), whenever an act suitable for alluring to venereal things is placed.[18] - Nor does it matter whether the act is, in itself, evil or indifferent, provided from the circumstances it is afterward known that it was placed for soliciting; for example, if the confessor imposed upon a woman that she wait for him at home, or if he asked where she lived.[19]

It is said, 2. to venereal things; for a denunciation is not to be made if the solicitation was to other crimes. Nor does the obligation of denouncing press unless the solicitation was gravely culpable; wherefore it is to be noted that some acts can be held in themselves as venial, which nevertheless, if they are done by a priest engaged in the act of administering the Sacrament of Penance, become gravely culpable.[20] - But denunciation is to be made whether he solicited a male or a female, whether he solicited to sin with himself or with another, or finally whether he solicited the penitent immediately or, through the penitent, some other person.[21]

It is said, 3. under certain clauses, by which namely the law defines solicitation to have sufficient connection with the Sacrament, and to be denounced as an abuse of it.

CLAUSE 1. In the act of sacramental confession. For this it is sufficient if confession has been begun, although not perfected. Note here the sixth proposition condemned by Alexander VII, which said: "A confessor who, in sacramental confession, gives the penitent a paper to be read afterward, in which he incites to venery, is not judged to have solicited in confession."[22]

CLAUSE 2. Immediately before or after. This word immediately, according to the more common opinion, is to be understood so strictly that no interval or action intervenes between the solicitation and the sacramental confession.[23] - Hence a confessor is to be denounced: 1. if, before the confessional, he dishonestly touches with hands or feet a woman waiting for the sake of confession, not by chance, but by design. 2. If immediately after confession, while she approaches to kiss his hand, he himself basely touches her. Likewise, if he at once leads her into a room and there solicits her; or if immediately he says: Wait a little while, and after some interval (but not on the following day) begins to solicit: for in either case he immediately places the means of solicitation. But otherwise, if, with no such means having been placed, he approaches and solicits her when she has already gone out of the confessional.[24] Yet attend to

CLAUSE 3. On the occasion or pretext of confession. It is said on the occasion of confession, when the confessor takes the opportunity of soliciting from a confession truly sought, or truly made; but on the pretext, when he takes the same opportunity from a fictitious confession, that is, from a confession which was proposed solely for this end, that it might serve solicitation.

Hence: 1. From the first head, a confessor is to be denounced who, having been asked for confession, diverts the conversation elsewhere and solicits, even if he has not yet sat down, nor the woman knelt. And this same must be said, although he is asked that he hear the confession only on the following day; provided the solicitation is then made in the confessional, or in the place of confession, or under pretext of confession. Likewise, he is to be denounced if, on account of the fragility of the woman known from her confession, he afterward solicits her at home; provided, from indications, it is sufficiently evident that he was induced to solicitation from that knowledge, and not from other causes.

2. From the second head he is to be denounced if, on account of an evil end, he fictitiously invites a woman to confession, and then solicits; likewise, if, called by a mother to hear the confession of her daughter, he approaches this daughter with an evil end and solicits her; or if, called to absolve a woman deprived of her senses, he comes under such pretext or occasion, and dishonestly touches her. Likewise, if he persuades a woman, already solicited outside confession and refusing on account of fear of defamation, that, pretending herself sick, she summon him for sinning. But otherwise, if he uses such a pretext not to solicit the woman, but only to deceive the Superior, members of the household, etc.; or if the woman herself, with no prior agreement, uses the pretext of confession to call and solicit the confessor; "although afterward they have relations."[25]

CLAUSE 4. In the confessional, or in another place destined or chosen for hearing confessions, with simulation of hearing confession. Therefore, that the obligation of denouncing may arise from this clause, it is necessary that simulation of confession have intervened. That is, the priest must so conduct himself that he can deservedly be believed actually to be receiving confession, e.g. by applying his ears. Hence, one is not to be denounced who, sitting in the confessional and in no way simulating confession, solicits a woman standing or sitting before the confessional. Thus from the Declaration of the HOLY OFFICE, Feb. 11, 1661, under n. 15. But otherwise, if he solicits her kneeling in the confessional, or in the place of confession. Otherwise also, according to many, if both IN THE CONFESSIONAL treat of dishonest matters, without simulating confession; for, from the Decree of Paul V (July 10, 1614), all those are to be denounced who have abused the Sacrament of Penance by employing confession, or the confessional, for dishonest ends.[26] Others, however, not improbably contradict: because the cited Declaration of the Holy Office, which Benedict XIV approved, seems to have derogated from the Decree of Paul V by an authentic interpretation.[27]

(18) Viva, Theses damnatae Alex. VIII, prop. 62, n. 7. (19) Book VI, 676. (20) Berardi, De sollicitatione, nn. 23-24. (21) Book VI, 691; H. A., XVI, 171. (22) H. A., XVI, 166; Book VI, 676. (23) Ibid., XVI, 167. (24) Book VI, 677. (25) Book VI, 678-679; H. A., XVI, 168-169. (26) Book VI, 680; H. A., 170. (27) Del Vecchio, n. 770, Vo.

1796. IT IS ASKED. Whether denunciation is to be made if the solicitation was DOUBTFUL?

Resp. Distinguish. 1. If from some fact or saying solicitation is indeed certain, but it is not evident who the one soliciting was, denunciation is to be made, so that the Superior may be able to inquire concerning the person soliciting, in the case where such inquiry is easy, without danger of defaming an innocent person. - 2. If the one suspected of solicitation is certain, and it is doubted whether the fact or saying was true solicitation, denunciation is not to be imposed on the penitent; both because in penalties the more benign interpretation is to be made, and because, in doubt, no one is to be

deprived of the reputation which he possesses. Except: 1. If vehement indications of solicitation accede, e.g. on account of the evil life or bad reputation of the confessor, which would found moral certitude. - 2. If the words of themselves carry solicitation before them, and only it is doubted whether the confessor uttered them for an evil end; because, unless something else stands in the way, the presumption of intention is to be taken according to the proper meaning of the words.[28]

To this point belong two Responses of the HOLY OFFICE taken from the declaration of February 11, 1661:[29] To the 12th: "Whether a confessor, if he praises the penitent for beauty and gracefulness, is said to solicit her, and therefore is to be denounced? They judged that if that is serious and smells of no evil intention, the negative opinion is probable. - To the 16th: Whether a confessor is to be denounced who, while hearing confession, gives a gift to a woman, so that by this deed he is said to solicit her? They answered the same as to the twelfth."

(28) Cf. Book VI, 702-704; H. A., ibid., 180-182. (29) Cf. Card. Albitius, De inconstantia in fide, cap. 35, n. 66, p. 413; P. Rota, op. cit., n. 205.

II. On The Obligation Of Denouncing

1797. We pre-note: 1. "The end of the law of denunciation, as Eusebius Amort skillfully adverts,[30] is not the correction 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 inevitable fear of all confessors of incurring the gravest punishments, even by a single act, or one repeated only once; indeed also the indemnity of the Church, lest pests of this sort steal into public offices, than which nothing is more harmful to the common good of the Church."[31]

2. But the end of each denunciation is: 1) That, if the person denouncing is otherwise very honest and worthy of faith, and suspected of no malice, revenge, enmity, or subornation, and the denounced person otherwise is a man of little fear, he may make such a denounced person suspect, so that he may be observed by the Ordinary. - 2) That, if greater indications from another source concur on the part of the denounced person, e.g. otherwise suspicious conversation, they may furnish the Ordinary a motive for employing, the first time, a paternal admonition, by which he indeed does not impute the crime, but exhorts to caution, yet in such a way that he does not render the denouncing person suspect to the denounced. For, very often, one is accustomed to proceed to judgment only from the third denunciation (Instruction of the HOLY OFFICE, Feb. 20, 1867, under n. 11).[32] - From these things you will understand the response to the following.

(30) De Poenit., disp. 10, § 1, qu. 19. (31) Cf. Book VI, 686. (32) Acta S. Sed., vol. 3, p. 499; or Collectanea S. Sed., n. 518.

1798. Questions. Q. 1. Who OUGHT to be denounced?

Resp. 1. From the Pontifical Bulls and decrees of the Holy Office, one is to be denounced: 1) A priest of whatever dignity, who is certainly guilty of the crime of solicitation, from the rules and clauses explained above. Nor does it matter that he lacked jurisdiction, if he solicited in confession[33] (from the Response of the Holy Office, Feb. 11, 1661, to doubt 5, and Instr. of the year 1867 under n. 2). - 2) A confessor consenting to solicitation; nor is he excepted who, immediately ceasing to speak of

base matter, deferred the completion of it to another time, and did not furnish absolution to the penitent; likewise if he consented induced by fear; and a fortiori, if the solicitation was mutual between him and the penitent. From Resp. of the Holy Office 1661 to the 2nd and 9th.[34] - 3) He is to be denounced, even if a long time has flowed by from the solicitation, and the crime has remained wholly occult. Nor, more probably, does the law of denunciation cease if the one soliciting has been corrected, or because of another denunciation has already abjured before the Inquisitor, i.e. has purged himself of suspicion of heresy, or has been punished, or even has spontaneously denounced himself. A fortiori if he has offended again, he must again be denounced.[35] - 4) Likewise he is to be denounced who solicited a girl who, on account of her simplicity and candor of soul, suspected nothing about the malice of impurity. She, as soon as she has become conscious of the wicked solicitation, is bound to denounce.

Resp. 2. One is not to be denounced: 1) The one soliciting, if already deceased, because the total end of the law ceases, namely both correction and punishment of the guilty. Except if there is question of repairing damage perhaps inflicted on others.[36] - 2) A penitent who solicited the confessor, and an interpreter who solicited the penitent; likewise one commanding the confessor to solicit; a layman and a simple cleric who simulated themselves as confessors. Nevertheless these, if they received confession, are to be denounced, from the Constitution *Officii nostri partes* of Gregory XIII (Aug. 6, 1574) and the Edict of the Holy Office, as suspected of heresy.[37] - 3) Finally, a priest is not to be denounced who, amid the administration of other Sacraments, has fallen into the crime of solicitation.[38] Except if the circumstances of the matter are such that there is an obligation from natural law. For all, having seen the wolf in the sheepfold, ought to cry out.

Q. 2. Who are HELD to denounce?

Resp. 1. All and each of the solicited penitents are held, even if they consented to the solicitation; nor can they be absolved unless they first denounce, or, if there is a just cause for deferring, e.g. the necessity of communicating, at least promise to denounce.[39] - But from the decree of the Holy Office, Sept. 27, 1624:[40] "If a woman consents to the confessor soliciting, she is not bound to manifest her consent, nor can she be questioned about this by the Bishop."

2. Besides the solicited persons themselves, every witness of this delict is held, whether by sight or by hearing, and any other person (even an impubescent) who has understood the solicitation, immediately or mediately from the sayings of the one soliciting himself, or of the person solicited (provided this person is worthy of faith), outside confession.[41] - Nor does the obligation cease to press even if there is question of denouncing one's own blood-relatives; indeed, even if the crime is known under a natural secret, or with an oath promised. Except if the solicitation was manifested for seeking counsel; because the common good requires that such a secret be kept.[42]
3. The solicited person is not exempted from the law of denunciation because another has already denounced; for each solicited person is bound to denounce.[43] Nor is anyone exempted from this law on account of intrinsic and common difficulties, such as: shame of the solicited person; fear of stirring up against herself the suspicion of the judge; danger of undergoing a slight inconvenience, or of inflicting damage on the Church and souls; indeed, danger of grave, but scarcely probable, damage: for difficulties of this sort are not of such weight that they give

place to epikeia.[44] Nevertheless, a founded fear will be able to be a motive either for deferring the denunciation, or for obtaining a dispensation, as will be said below.

4. No one is bound to denounce himself; hence no confessor is bound to admonish a penitent whom he solicited that he denounce him. Nevertheless, if the solicitor spontaneously appears, he will enjoy the benefit of those spontaneously appearing, that is, he will be punished only with salutary admonitions and penances, unless perhaps he had already been denounced by others; in which case the penalty will only be diminished.[45]

Q. 3. What PENALTIES were established or threatened in the present law?

Resp. 1. The solicited penitent (and this one alone) incurs an excommunication reserved to no one, if he culpably omits for a month to denounce the guilty person, according to what was said at n. 1354. - 2. One falsely denouncing, or commanding, counseling, etc., another to denounce, falls into a case reserved to the Roman Pontiff, as was said at n. 1772. And he is bound, as is plain, to retraction. - 3. The solicitor, from the Decree of Benedict XIV of August 5, 1745, incurs perpetual inability for celebration of Mass. The Bishop, the matter having been well considered, is ordered to interdict him in perpetuity from receiving confessions, depriving him of all faculties, not even excepting those which had been granted to him by the Holy See. - But all these penalties, like the others threatened by Gregory XV, namely privation of benefice, of active and passive voice, etc., are of ferendae sententiae, and suppose that the guilty person had been admitted to defense, as the laws demand (from the Instr. of the Holy Office, year 1867, n. 12).[46]

Note. Besides, inquiry must be made: 1. Whether the case of solicitation, as is customary, is reserved in the diocese. - 2. Whether the solicitor attempted to absolve the accomplice: in which case the penalties are incurred which we have recalled at nn. 1781 and 1782.

(33) Book VI, 685; H. A., XVI, 171. (34) Cf. Albitius, cap. 35, n. 66, p. 414. (35) Book VI, 686-687; H. A., ibid., 171-175. (36) Book VI, 692; cf. Nouv. Revue théol., tom. XVI, p. 451. (37) Book VI, 688-690. (38) Ibid., 684. (39) Ibid., 693; H. A., 176. (40) Book VI, 700; cf. Donatus, Praxis, tom. 4, tract. 13, qu. 51 (p. 163), where the text of the decree is had. (41) Book VI, 695, fin.; cf. Amort, De Poenit., disp. 10, § 1, qu. 11. (42) Book VI, 698. (43) Cf. Book VI, 687, fin. (44) Amort, loc. cit., qu. 21. (45) Cf. Instr. S. Off., year 1867, n. 13. (46) Cf. Acta S. Sed., vol. 3, p. 503; 2 Elench qq. ref., n. 21.

III. Practical Rules For The Confessor

1799. 1. The confessor, hearing in confession that a person was solicited, before all things ought to EXAMINE: 1) whether this person is worthy of faith, whether led by hatred or malice or even levity she wishes to calumniate the priest; 2) whether all the circumstances are present which make certain the obligation of denouncing. - But let him beware of inquiring into the name of the one soliciting, and let him admonish the penitent that the case of false denunciation is reserved to the Supreme Pontiff.

2. If the solicitation is plainly evident, he is bound sedulously to admonish the solicited person, although existing in good faith, concerning the obligation which binds her, under penalty of excommunication, to denunciation. And indeed he is bound to this, even if he foresees that it will happen that the person refuses to denounce.[47] "Those who do not admonish their

penitents about this obligation ought to be punished" (from the Instr. of the HOLY OFFICE, Feb. 20, 1867, n. 4).

3. Let him sedulously weigh the excuses which the solicited person usually brings forward. If they seem just, let him examine whether there is a cause for deferring the denunciation, or even for petitioning relaxation of the law. - If the first, e.g. if the Bishop is absent, or if the necessity of communicating presses, the penitent will be able to be absolved, provided he seriously promises that, as soon as possible, he will satisfy his obligation.[48] If the second, e.g. if there is probably danger of undergoing grave damage in the goods of reputation, fortune, or body, let the penitent, by himself or through another, e.g. through the confessor, have recourse to the Superior, explaining the nature of the impediment by which he is detained from making denunciation, and ask what is to be done by him. If necessity presses, and he pledges that he will stand by the decision of the Superior, he can be absolved.[49]
4. If the excuses are vain, e.g. if the penitent, on account of gifts received or to be received, says that he is impeded from denouncing by gratitude or necessity, etc.: let the confessor oppose the gravity of the sacrilege, the necessity of obeying the laws of the Church, and the penalty of excommunication to be incurred. Let him also show that no danger of infamy is present, because the solicited woman is not bound to manifest her consent; indeed, if she should spontaneously manifest it, or if the accomplice should reveal it, it will not happen that the judge ever alludes to such a fall. If he consents, absolution should not be granted to him at once, but prudently deferred until he has actually denounced.[50]
5. If, detained by no impediment, he wholly refuses denunciation, "the confessor is to be praised who has not denied his effort to the penitent." Therefore in this case, let him not indeed absolve the person, but make him return to himself at another convenient time. Meanwhile, let him consult either the Ordinary or the Holy See through the Sacred Penitentiary or Sacred Inquisition, all the circumstances having been explained, for an opportune remedy, the name of the penitent nevertheless being suppressed.[51]

(47) Book VI, 694; and H. A., 178. (48) Instr. S. Off. (1867), n. 5. (49) Ibid., n. 7. (50) Praxis, n. 83. (51) Instr. S. Off., n. 7.

1800. IT IS ASKED. How is denunciation to be made?

Resp. The burden of denunciation is personal, and to be fulfilled by the solicited person himself,[52] and this in judicial form. - Hence, either let the person himself approach the competent judge, or see that the judge by himself, or through another, meet with him. - Therefore, if impeded from personally approaching the Ordinary, either let him inform him, through an intermediary or through a letter, that he has a denunciation to be made pertaining to the ecclesiastical tribunal, and that he asks that a delegated person be sent to receive it; or let him manifest the delinquent by letters.

This memorial can also be drawn up by the confessor, the sacramental seal always being safe, if the person is unable to write, or performs this with difficulty. - But if, on account of too much shame or fear of infamy, the person refuses to depose before another delegate, let the Bishop be admonished about this matter, who will be able to delegate that confessor himself to receive the denunciation in judicial form.[53] Generally, indeed, it is not expedient that the confessor take this burden upon

himself, because he would be exposed to not a few detractions and dangers. Yet sometimes he can be held by the law of charity to do this.[54]

The substantial things which must altogether be observed in a denunciation to be accepted judicially are these:[55] 1. Let the day of denunciation be noted. - 2. Let an oath be received from the denouncer about speaking the truth. - 3. Let the place of the crime, its time, qualities and circumstances, and witnesses be expressed. - 4. Let the name both of the one soliciting and also of the one solicited be expressed; but if the name is unknown, it must be expressed in an equivalent way, i.e. from stature, age, features, etc. - 5. Let the denouncer and witnesses emit an oath about keeping silence, and, the acts having been drawn up, let them subscribe.

Note. For more things about the manner of proceeding in these cases, see in the cited Instruction of the HOLY OFFICE edited in the year 1867. In this it is also found noted under n. 15 what is to be done in distant regions, where the ordinary form of trial cannot be observed. See also the Canonists.[56]

(52) Ibid. (53) Ibid.; cf. Rota, op. cit., n. 440 sqq. (54) Book VI, 699. (55) Rota, n. 442; and Fol. Instr. S. Off. annexed in Acta S. Sed., vol. III, p. 505. (56) Cf. Pignatelli, tom. I, Consult. 104; Rota, op. cit.

Chapter III: On The Office Of The Confessor In Receiving Confession

1801. In this chapter we shall treat: 1. of the obligation of the confessor in general, or of his obligation toward all and each of the penitents; 2. of the obligation of the confessor in species, or of his varied obligation toward various penitents.

Article I: On The Obligations Of The Confessor In General

There are many obligations of the confessor in the sacred tribunal, namely: 1. the obligation of hearing confessions; 2. of questioning the penitent; 3. of teaching the ignorant penitent; 4. of disposing the indisposed; 5. of imposing satisfaction; 6. of bringing a just sentence, whether in giving, or denying, or deferring absolution. Of all these things one by one we must now treat, except, however, the question of imposing satisfaction, concerning which we have already treated above (nn. 1715-1720).

§ 1. On The Obligation Of Hearing Confessions

This obligation can arise from a twofold head, namely from justice, and from charity.

1802. I. Pastors, or those having care of souls, are held, FROM JUSTICE, and indeed UNDER GRAVE obligation, to hear, whether by themselves or through others, the confessions of penitents committed to them, as often as these reasonably ask to be heard. The reason is because they have obliged themselves to this by undertaking the care of souls, from a tacit contract entered with their subjects, from whom they receive support or honor.[57] "But the following are called pastors: Superiors, with respect to Religious; and with respect to seculars, Bishops and pastors, or those who have subsidiary care with obligation."[58]

Hence, authors teach that "that pastor sins who shows himself morose and difficult in hearing confessions; especially if he has been summoned by the sick, to whom, as St. Charles Borromeo commands, he ought to hasten immediately and at any hour. Yet if the Curate once or twice, outside

necessity, should refuse to hear someone's confession, Suarez and others say, probably, that he does not sin gravely, unless some urgent occasion is present, e.g. of a Jubilee, of a solemn feast... But if the pastor has an oeconomus (or coadjutor) approved by the Bishop, he is not held with so much rigor to be free for hearing confessions; but let him advert that it is altogether required that it be evident to him that the oeconomus is suitable, both as to knowledge and as to morals; otherwise he himself will have to render an account to God for all the damages which will come about on account of his ignorance and wicked morals."[59]

(57) Book VI, 58; cf. Billuart, De Poenit., disp. 5, art. 10, § 1. (58) Book VI, 58. (59) H. A., VII, 24 (cf. Istruz., at the same place).

1803. II. Priests not having care of souls are not held to hear confessions from justice; but SOMETIMES they are held to this from CHARITY. For charity obliges us to succor a neighbor placed in spiritual necessity, as is, e.g., a sinner in danger of death deprived of his own pastor. Wherefore:

IT IS ASKED. Whether a confessor who is not a Curate is bound, WITH DANGER OF LIFE, to absolve a DYING person existing in mortal sin?

Resp. 1. The first opinion denies; the reason is because, since the dying person can absolutely free himself from danger of damnation by eliciting an act of contrition, he is not constituted in such necessity that another is bound to succor him with danger of life. He is excepted if he labors under so great ignorance that he does not know how to elicit an act of contrition.

Resp. 2. "The truer opinion affirms; because although the dying person can supply by contrition, nevertheless, since this is difficult, it cannot be denied that, if he is left unabsolved, he remains in great danger of his damnation. Hence it happens that, just as in the case in which the neighbor without your absolution will certainly perish, you are held to undergo certain death, so that you may absolve him; so in the case in which he remains in probable danger of damnation, you are held to expose yourself to probable danger of death; for, in equal danger, each one is bound to postpone his own temporal life to the eternal life of his neighbor.[60] But if the priest does not know that he is in mortal sin, he is not held to absolve with danger of life."[61] - Recall what was said at nn. 1786 and 1787.

(60) H. A., XVI, 125. (61) Book VI, 624, fin. (from the 3rd edition).

§ 2. On The Obligation Of Questioning The Penitent

1804. "The priest ought to search out the conscience of the sinner in confession, as a physician the wound, and a judge the cause." Thus St. Thomas.[1] - Wherefore hold the following:

Principles. I. The confessor is bound, sometimes under grave obligation, TO QUESTION the penitent. Thus all Theologians; and it is proved:

1. By the authority of the Church, especially from cap. *Omnis utriusque, de Poenit.*, in which one reads: "But let the priest be discreet and prudent... diligently inquiring both the circumstances of the sinner and of the sin." And from the ROMAN RITUAL: "If the penitent has not

expressed the number, species, and circumstances of sins necessary to be explained, let the priest prudently question him."

2. By manifold reason. - The first is that omission of opportune questions redounds TO THE DAMAGE OF SOULS: for, 1) it can furnish occasion for many sacrilegious confessions, because there are many penitents who, unless they are questioned, pass over more grave sins in silence. "Frequently," says St. Thomas,[2] "things which one confessing would keep silent out of confusion, when questioned he reveals." 2) Many penitents will lack opportune remedies; for the confessor, not questioning about habit, occasions, causes of sins, diligence used or not used for amendment (all of which things are usually kept silent), cannot indicate remedies by which new falls are prevented. - 3) Damage will very easily be brought also upon others; for things which turn to the detriment of others are usually passed over in accusation: such are scandals, neglect in fulfilling the very grave duties of one's own state, e.g. in the education and custody of children. Hence, unless penitents are questioned and suitably admonished, no amendment will be able to follow.

The other reason is because the omission of questions redounds TO THE PREJUDICE OF THE SACRAMENT; for, 1) it frequently prejudices its integrity: for, questions being omitted, the accusation will be made in this or a similar way: "Father, I have blasphemed, I have committed base things, I have had quarrels, etc.," with species and number not explained; - 2) it also frequently prejudices its validity: for unless the penitent is questioned, e.g. whether he has used any care not to fall again, whether he has used the prescribed remedies, etc., it will not be possible prudently to judge whether he is disposed, or whether he needs a more ardent exhortation, so that he may be rightly disposed. Hence it can most easily happen that absolutions are given which are wholly invalid.[3]

We said, 1. under grave obligation; for there is question of a grave matter, which regards the salvation of the penitent and the reverence of the Sacrament. - Nevertheless there can be negligence lightly culpable, as is plain.

We said, 2. he is bound sometimes; for if the penitent explains his sins and his state as much as there is need, it is clear that the confessor is held to no further questions.[4]

(1) In 4, dist. 19, qu. 2, a. 3, in Exposit. textus. (2) Ibid.; cf. Monit. eccles., vol. 2, 3 and 4, Dissert: Sulle confessioni sacrileghe. (3) Berardi, Prax., n. 199 sqq. (4) Cf. Book VI, 607, 2.

1805. II. The confessor is bound to question AS MUCH AS this is NECESSARY for procuring the validity of the Sacrament, the integrity of confession, and the healing of the penitent. - The reason is because these three things must be cared for by him, insofar as he is minister of the Sacrament. Hence, as often as he reasonably presumes, or prudently thinks, that something of those things which are required for the aforesaid has not been sufficiently declared, so often he is bound to inquire.[5] (See also n. 1809.)

Therefore: 1. For procuring the VALIDITY of the Sacrament, it may be necessary, by questioning, to investigate: 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 is keeping something back out of shame, as happens especially in boys and girls; - whether sufficient disposition is present:

for knowing this, it will often be necessary to question the penitent, e.g. whether and how, after confession, he abstained from faults; whether and how he fulfilled the prescribed means.

2. For the INTEGRITY OF CONFESSION it may be necessary to question the penitent - about the number of sins; - about their species; - about circumstances changing the species (whether objective or theological); - about certain sins which he is accustomed, from inconsideration, wholly to keep back, e.g. sins of thought, and sins of omission concerning the obligations of his own state (cf. n. 1810, Rule 32).
3. For the HEALING OF THE PENITENT, questions can be necessary by which it becomes known, e.g., what the causes of his sins are, namely whether they proceed from some occasion, or habit, from lack of custody of the senses, from impure thoughts, etc.

Hence, the PRACTICE of certain confessors is especially to be disapproved, who not only do not question penitents, but do not even allow them to bring their confession to an end, and who, having heard one or another sin, interrupt the accusation, saying: "Come now, that is enough, I absolve you from all your sins." Nor can such a practice be used with that penitent who declares only venial sins (unless he is scrupulous); for often penitents begin from venial sins, being about to confess mortal sins only toward the end, which therefore, on account of the fear injected by the confessor, are easily kept back. For the rest, confession made so very hastily and cursorily usually disturbs them exceedingly, far from calming their mind.[6]

(5) Ibid., 607 and 615, fin. (6) Cf. V. Jaugey, De Sacram. Poenit., n. 406, 3.

1806. III. Questions, where they must be made, should be MODERATE, DISCREET, and TIMELY, namely such that no greater inconvenience stands in the way than would be the defect itself of the integrity of confession.

1. MODERATE; therefore the confessor: 1) should never inquire into matters foreign to confession, nor suffer them to be narrated to himself. - 2) let him remember that he is not held to question the penitent except with ordinary diligence. - 3) Let him remember, moreover, that less distinct knowledge is required from one who, either because of incapacity, or because of sickness, or because of the multitude of sins, or for another reason, could more difficulty render exact knowledge (cf. nn. 1703 and 1705). - Hence the penitent is not to be questioned about sins which he has probably not committed; because, in this case, there is lacking a reasonable presumption and prudent doubt that the things which must be declared are not being sufficiently declared. - But because of the contrary presumption, let him be questioned about sins which usually abound in men of such a condition.[7]
2. DISCREET, especially in those things which regard the sixth precept. For theologians, without any exception, affirm that it is rather to be permitted that material integrity be lacking to confession than that scandal be furnished to the penitent. And the Roman Ritual admonishes concerning the same thing. Wherefore: "Questions, in the matter of chastity, ought to be few and cautious, lest (the confessor) either give occasion for investigating or betraying confession, or teach the ignorant, or offend, or expose himself or the other to danger. And if he fears these things, he ought rather to suffer something to be lacking to material integrity. And indeed, if in this matter thoughts are denied, there is no need to proceed to works. Yet the more rude deny

thoughts; when asked, they confess words and works, because they do not equally recognize or advert to those thoughts."[8] (cf. n. 1694).

3. TIMELY, i.e. made at the time and in the manner in which it is fitting. - Hence: 1) Certain questions are to be made before confession, but few, lest the penitent be offended: e.g. from what time he has not confessed? whether he was absolved? whether he fulfilled the penance? - 2) But questions concerning the condition of life, state, age, etc., if these do not appear from the confession itself, will more fittingly be made when an occasion has been given in the course of confession: for thus, on the one hand, every suspicion of curiosity and levity will be avoided, and on the other, the penitent will more easily respond, since his trust in the confessor has increased more.[9] - 3) Let the penitent first be allowed to explain himself as much as he can, as is fitting; then let him be helped from time to time by questions.[10] - 4) Toward the end, unless a better occasion has previously offered itself, let it be benignly asked of an unknown penitent whether there is anything which still troubles his conscience, whether he has omitted nothing in prior confessions. "Through these questions many souls are usually freed from sacrileges."[11]

St. Alphonsus also notes:[12] "1) It is better if the confessor examines the sins one by one, as soon as the penitent exposes them, 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 grave burden, to repeat what had been confessed." 2) "Regularly speaking, it is not expedient that the confessor rebuke the penitent in the course of confession, lest he, being terrified, omit some sin; nevertheless, sometimes it is expedient within confession to set before him the malice of some graver sin, provided courage is immediately furnished to him," according to what was said at n. 1793, 2.

(7) Book VI, 607, 3; Prax., nn. 19-20. (8) Book VI, 632; cf. more in Konings, n. 1425. (9) Prax., n. 21. (10) Book VI, 608-609. (11) Ibid., 609. (12) Prax., n. 71.

1807. Q. What ought the confessor to do with a penitent concerning whom he KNOWS or SUSPECTS some sin which that one does not confess?

Resp. Distinguish. 1. "If he knows outside confession, and knows from his own knowledge, for example by seeing him stealing, or hearing him blaspheming, without doubt he ought not absolve, if that one denies it: provided there is not present a prudent doubt whether he has confessed to another; or he has a just cause for keeping silent. Thus commonly."[13]

2. "But if the confessor has this from suspicion or from the report of others, the Doctors also commonly say that after diligent inquiry, if the penitent still denies, he must be absolved; for then the confessor is not able to refuse faith to the penitent, nor, on account of a suspicion or another's report, can he deprive him of the right which he has acquired to absolution by confession and by signs of contrition."[14]

3. Finally, if the confessor knows the sin from the confession of an accomplice, he certainly will not be able, without violation of the sacramental seal, to question the penitent in a special manner about that sin, unless he has obtained express permission for this (but this permission is not ordinarily to be sought); but only in a general manner, that is, in the manner in which he is accustomed to question other similar penitents. But whether he ought to absolve one

denying is disputed. But St. Alphonsus, having brought forward the opinions of others, concludes in this manner: "In my judgment, Croix, etc., thinks better, that in that case he should in no way absolve, but only pray something, to hide the denial of absolution." Nor is the conclusion of the Blessed Doctor supported by a reason of little moment: for the confessor, by using the knowledge of confession in the aforesaid manner, by no means violates the sacramental seal; wherefore he is bound to do this for denying the Sacrament to the unworthy person secretly asking it, according to those things which we said above, nn. 1426 and 1430.[15]

(13) Book VI, 608-609. (14) Ibid., 609. (15) Cf. Vind. Alph., tom. 2, p. 209.

§ 3. On The Obligation Of Teaching And Admonishing The Penitent

The penitent sometimes needs special instruction concerning things which he ought to know or do. - Hence the following are established:

1808. Principles. I. The confessor is bound TO INSTRUCT the penitent when he observes, or prudently judges, that he is ignorant of things necessary for faith and salvation. - The reason is because one who labors under such ignorance is not capable of absolution (cf. n. 427).

Nor rarely in modern times does it happen that, amid so great a neglect of divine things, men otherwise liberally educated are involved in ignorance of this sort. - Nevertheless a long instruction is not required. It is sufficient that the one to be absolved be taught the principal mysteries, and those things which pertain to receiving the Sacrament here and now rightly. As to the rest, concerning things necessary by precept to be known, it is enough if he promises that he will learn them from others, at least as to the substance. But confessors who are led by the true spirit of charity do not refuse to teach them by themselves.[16]

(16) H. A., XVI, 105.

1809. II. The confessor is bound TO ADMONISH the penitent concerning his various obligations, and concerning the gravity of the sins to which he is liable; nevertheless WITH PRUDENCE. - The reason is because he is bound, from his proper office, to direct the penitent into the way of salvation. Obligations of this sort, concerning which he is bound to admonish him, are: the obligation of restoring reputation, honor, or goods; the obligation of avoiding dangerous occasions; the obligation of laying aside hatred, repairing scandal, making fraternal correction, bestowing alms according to his condition, etc.; likewise the obligations of his own state.[17] We said with prudence, namely lest he harm the penitent more than he profit him.

But let him use these FOUR CAUTIONS:[18]

1. Lest he present as mortal that concerning which it is probably disputed on either side among the Doctors whether it is such (cf. n. 337).
2. Before he makes a conscience of mortal sin for the penitent, let him be sufficiently certain that he has rightly understood the sense of his words; for not rarely penitents use such expressions which at first sight seem to indicate mortal sins, while in reality there is in no way question of mortal sin. - Thus, e.g., when a penitent says: I have hatred against my neighbor, sometimes there is question only of displeasure and unavoidable antipathy because of some injury

received. - The same sometimes happens in girls, who say: I had evil thoughts; I had evil conversations with other girls; I committed immodesties, etc.; or in boys, who say: I did base, foul things, etc. (cf. n. 1806).

3. Let him attend whether a sin truly committed by the penitent is also truly mortal. Thus a confessor would act imprudently if, hearing a penitent accusing himself of some sin against the sixth Precept, immediately and in every case he argued that he was guilty of mortal sin. For although the principle is most true, that in venereal matter there is no smallness of matter, nevertheless this must be understood in the sense in which we spoke at nn. 768 and 769.

4. Let him attend lest 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. - But he will seek this from the natural disposition of the penitent, from his instruction, from his manner of expressing himself, and from similar probable conjectures; yet taking care lest he give him occasion for doubting, and bring upon him bad faith, which he previously lacked.

(17) Book VI, 608-609. (18) Cf. Berardi, Prax. Conf., nn. 226-229.

1810. Questions. Q. 1. Whether a penitent who labors under ignorance concerning some obligation is ALWAYS TO BE ADMONISHED?

Resp. Negative; for the RULES of correction must be attended to, which can be reduced to three.[19]

Rule 1. The penitent is to be admonished, even if no fruit of amendment is hoped for, as often as he labors under VINCIBLE ignorance. For he who labors under such ignorance is already involved in the state of sin, or at least in the proximate danger of sinning formally, because he acts with a practical doubt, or from culpable ignorance. Therefore admonition cannot harm; and it can profit, since it can happen that afterward it produces its desired fruits.

Whence it follows: 1. As often as the penitent, pressed not indeed by mere scruple but by grave doubt, questions the confessor, the confessor is bound to disclose the truth, nor can he dissemble; because what the penitent was previously doing from ignorance, this same thing he will do after the question, relying on the testimony of the confessor. Nevertheless the confessor ought not respond more than he is asked: e.g. if someone bound by a vow of chastity asks whether marriage was invalid because of the vow, let him respond negatively, keeping silence about the debt; if he asks whether he ought to render the debt to the spouse, let him respond affirmatively, keeping silence about petitioning.[20] - 2. The penitent is similarly to be admonished as often as his ignorance concerns those things which he cannot be ignorant of for a long time, especially if the vice, with the progress of time, increases and is rooted out with greater difficulty. Thus impubescents who begin to contract the habit of pollution are to be strongly admonished, even if they are found in some good faith. And the same must be said of those who perhaps in good faith had contracted a merely civil marriage. - 3. Finally he is to be admonished as often as, the admonition being omitted, he would remain in a proximate occasion of formal sin.

Rule 2. The penitent is to be admonished, although he labors under INVINCIBLE ignorance, as often as fruit of amendment is hoped for. - Hence, although it is foreseen that he will not immediately obey, nevertheless the admonition is not to be omitted if there is hope that he will shortly obey; for it

sometimes happens that the penitent, disturbed in mind at the beginning, rejects the correction; but afterward, the mind having become calm, thinks it over again with fruit.[21]

We said, as often as fruit is hoped for. For if from the admonition no fruit is hoped for, the common and true opinion teaches that the confessor, speaking in itself (i.e. unless another reason presses, e.g. of the public good), is bound to omit the admonition, and to leave the penitent in his good faith. Hence, e.g., "if the confessor knows that the penitent contracted marriage invalidly, because of some occult impediment, and there is danger of infamy, scandal, or incontinence if he manifests the nullity, he ought to leave him in good faith until a dispensation is obtained"[22] (cf. n. 2081). Likewise, the admonition about making restitution, about repairing reputation, etc., is to be omitted if the confessor foresees that it will happen that the penitent, who is in good faith, will not obey the admonition. - The most valid reason is because of two evils the lesser must be permitted. Wherefore, in this case, the confessor ought to be silent and, by not opening the truth of the matter, permit material sin in the penitent, "because one formal sin outweighs all material sins."[23]

IN DOUBT whether the admonition will profit or harm, it is to be omitted; on account of the reason already brought forward, namely because formal sins are rather to be avoided than material sins. We said in doubt; because if the admonition will more probably profit, it is still to be made.[24] And "Viva and Roncaglia rightly advert that it is not easily to be judged that the penitent, the truth being known, will not obey the admonition."[25]

Rule 3. The penitent is to be admonished, even if indisposed, as often as, the admonition being omitted, damage would redound to the spiritual COMMON good. - The reason is "because then the confessor, since he himself is constituted a minister for the good of the Christian republic, is bound to prefer the public good to the private good of the penitent."[26] Nor does it stand in the way that the admonition here and now may seem to be made uselessly, or even with scandal of the penitent; for such a penitent, when he afterward sees that he is absolved by no one, will more easily be amended; and meanwhile the scandal of others will cease, when they see that he is not admitted to the Sacraments.

Hence: 1. Princes, Governors, Bishops, Prelates, pastors, masters, who fail in their proper office as to those subject to them, must altogether be admonished. The reason is both because their ignorance is not easily to be supposed invincible (since each one is bound to know the obvious obligations of his duty), and "because their ignorance, even invincible, will always be for damage to the community, since with easy business others can think that what they see to be done by Superiors is licit for themselves." And, on account of this same reason, those are to be admonished, as Benedict XIV teaches, who frequently receive the Sacraments, lest namely that be judged licit by others which is noticed to be practiced by these with impunity.[27]

"Moreover, Lugo well adds that if the confessor reasonably doubts whether penitents of this sort satisfy their duty, he is bound to question them about it."[28]

2. Penitents are similarly to be admonished as often as the silence of confessors would be the cause why some false dogma, whether against faith, or against the law of God or of the Church, would gradually be scattered among the people: as if it were believed or said that certain illicit things, e.g. the reading of wicked books, frequenting modern dances, entrance into a masonic sect, are not illicit, because confessors seem little to oppose them.

Note. If some admonition is to be made, and it is greatly feared lest the penitent take it in a bad part, there are many authors who think that the penitent is to be admonished in more obscure words only after absolution has been given. Nor does this opinion seem to be rejected, provided it is understood of the sole case in which, on the one hand, it is despaired that the penitent will obey a clear admonition, and on the other hand, no good effect is foreseen as going to flow from denied absolution.[29]

(19) Book VI, 615; H. A., XVI, 116. (20) Book VI, 616. (21) H. A., XVI, 115. (22) Book VI, 611; H. A., 113. (23) Book VI, 610, 614; cf. Book III, 682, q. 2. (24) Ibid., 616, fin. (25) Book VI, 614, Inf. 2. (26) Praxis, n. 9. (27) Ibid., n. 9. (28) Book VI, 615, fin. (29) Ibid., 608, Hic.

§ 4. On The Obligation Of Rightly Disposing The Penitent

1811. Principles. I. The confessor is bound, as much as he can, RIGHTLY TO DISPOSE the penitent who approaches indisposed. - Thus commonly.

To the point St. Alphonsus says thus: "I do not know," he says, "how those slothful confessors can be excused from fault, who, as soon as they know that the penitent is not sufficiently disposed, dismiss him, with no diligence or very slight diligence first used for healing him. For I say that the confessor is bound, from a rigorous obligation of charity, to dispose him as much as he can, by exposing to him the deformity of sin, the value of divine grace, the danger of damnation, and similar things, even if he ought to spend much time in this. Nor ought it to be a care to him that other penitents are waiting: for then the confessor is not bound to attend to the good of others, but only of his penitent, for whom alone he will then have to render an account to God, not for the others."

But if the penitent approaches conveniently disposed, it is sufficient that the confessor exhort him to renew the act of sorrow and firm purpose.

1812. II. The confessor, in exhorting the penitent, ought chiefly to attend to THREE things: namely, TO CORRECT him, to move him to CONTRITION, and to INDICATE TO HIM THE MEANS by which holy perseverance is obtained. On this matter St. Alphonsus says thus:[30]

1. "The origin and gravity of the sickness being known," he says, "let the confessor proceed to making the due observations. - And although he, as father, ought to listen to penitents in charity, nevertheless as physician he is bound, as much as there is need, to admonish and correct them, especially those who, burdened with many mortal sins, rarely approach the Sacrament of Penance. And he ought also to fulfill this office if the penitent shines with some illustrious quality (namely if he were a magistrate, Prince, priest, pastor, or Prelate), if, without too much feeling of soul, he accused himself of some omission of his duty." Indeed, even the fervent themselves are to be rebuked when they fall into negligence, so that they may carry away more abundant fruit from the Sacrament. "Benedict XIV says[31] that the admonitions of the confessor are more efficacious than sermons themselves; and deservedly by right, because the particular circumstances are hidden from the preacher, but openly become known to the confessor, and therefore he will be better able to use due observations and to apply remedies which are suited to the sicknesses."[32]

2. "After due corrections, or admonitions, it is better that labor be applied to disposing the penitent for absolution by acts of true sorrow and purpose. - Wherefore I wish confessors to be warned that there are very few penitents, especially rude ones, who approach to confess with the act of sorrow placed beforehand. Some confessors think that they have done enough for their office if they only question penitents of this sort in the following manner: Come, do you ask pardon from God for all these things? (Which in reality is not a true act of sorrow.) Are you sorry from the heart for all your sins? And with no other word inserted, they bestow absolution upon them. The manner of good confessors is wholly other than this; for these first of all labor so that penitents (the speech is about those who are held by mortal sins) conceive true sorrow and detestation of sins."[33] - To this end, let the confessor first of all set forth the motives of attrition: such as the deformity of sin, the value of divine grace, the danger of damnation to be incurred through unexpected death, etc.; then the motives of contrition, namely the infinite goodness of God offended by sin, the Holy Spirit saddened, the lovable heart of Jesus afflicted with grief, and similar things.

But if the penitent is stained only by venial sins, recall what was said at n. 1648, qq. 2 and 3.

3. For consulting the perseverance of the penitent and guarding it, the confessor, as physician, ought to assign to him REMEDIES, both general and particular, which drive away the danger of relapse and confirm him in holy purposes.

A) "The GENERAL remedies to be insinuated to all are: 1. Love toward God, since He created us for this end alone. And let care likewise be taken that the penitent know the interior peace with which those who enjoy the friendship of God are endowed, and the hell which those who are alien from God experience before the time; with added temporal ruin, which sin frequently drags along with itself. - 2. Prayer, i.e. often commending oneself to the Blessed Virgin by reciting the rosary; commending oneself to the guardian Angel, and to some Saint as particular protector. - 3. Frequency of the Sacraments, and if ever he falls into some mortal sin, that he confess immediately. - 4. Consideration of the eternal truths, and before the rest consideration of death: and to fathers of families daily mental prayer (or pious reading) in common with the family is to be insinuated, or at least the rosary with the children. - 5. The presence of God, when temptation presses, by saying: God sees me. - 6. Every evening to examine conscience, with sorrow of soul and purpose. - 7. To seculars, that they enroll themselves in some Congregation; and to priests, mental prayer and thanksgiving after Mass, and that they read through at least some little spiritual book before and after Mass."[34]

B) "But PARTICULAR remedies will be assigned according to the diversity of vices: e.g. to him who is held by some hatred, let it be insinuated that daily he commend to God the one whom he hates, reciting for him the Lord's Prayer and the Angelic Salutation; and when he feels himself disturbed by the memory of the injury inflicted upon him, let him remember the insults with which he himself has affected God. To him who has fallen into base sins, let it be enjoined that he avoid idleness, flee evil companions and wicked occasions. To him who for a long time has contracted a wicked habit in this vice, let it be prescribed that he avoid not only proximate occasions, but also certain remote ones, which for one so weak in resisting have become as proximate for him." But especially let the confessor take care that he frequently communicate; because the Eucharist is called "wine bringing forth virgins."[35] And so concerning the others (cf. n. 1831, q. 3).

(30) H. A., XVI, 107. (31) Bull Apostolica, June 26, 1749, § 22. (32) H. A., loc. cit. (33) Prax., n. 10. (34) Ibid., n. 15. (35) Ibid., n. 16.

§ 5. On The Obligation Of Giving, Or Denying, Or Deferring Absolution

1813. Penitents, after admonitions and exhortations have been heard, can be divided into a threefold class: for some are certainly disposed, others doubtfully disposed, and others finally positively indisposed. - Therefore the confessor, so that he may rightly and fruitfully perform his twofold office toward each, i.e. the office of JUDGE and PHYSICIAN, ought to attend to the following:

Principles. I. Absolution IS TO BE GIVEN to capable and worthy penitents, or the RIGHTLY DISPOSED, unless the good of the penitent counsels delay, as will be said at n. 1816. "The reason is because the penitent, after confession has been made, since he is disposed, has a strict right to absolution; by denying which the confessor would inflict grave injury upon him, both because he would deprive him of the grace of the Sacrament, and because he would oblige him to undergo a great burden, namely to repeat before another his grave sins."[36]

(36) Book VI, 604, Ratio.

1814. II. Absolution must altogether BE DENIED to incapable and unworthy persons. The reason is because to administer a Sacrament where essential conditions are lacking is a great sacrilege; and often also a most grave deception of the penitent, namely when, from invalid absolution received, he incurs greater danger of eternal damnation.

We said, 1. to the incapable, namely to those who either have never had the use of reason, or are ignorant of necessary things with necessity of means (cf. n. 1808), or are not morally present, or bring no matter to the Sacrament.

We said, 2. to the unworthy, i.e. to those certainly indisposed (cf. n. 1817, q. 4).

Wherefore St. Alphonsus gravely admonishes, saying:[37] 1) Let the confessor be inflexible in deferring or denying absolution as often as it is proper; especially with priests and Ordinands. 2) Let him be full of charity, both by bringing it about according to his strength that the indisposed penitent become disposed, and by dismissing with sweet words the one whom he cannot absolve, so that this one may not be reluctant to return (cf. n. 1793, 3).

(37) Cf. Praxis, cap. 10, nn. 173, 131 sqq., and cap. 1, n. 5.

1815. III. Absolution IS TO BE DEFERRED for the penitent DOUBTFULLY DISPOSED; unless there is present a GRAVE CAUSE because of which absolution can be imparted under condition. - The reason of the first part is because otherwise the confessor would expose the Sacrament to danger of nullity, and so would commit grave sacrilege. The reason of the second part is because the Sacraments are for men, and therefore in a case in which the salvation of a man is endangered, they are to be administered in every better manner by which it can be done; but irreverence toward the Sacrament is removed by a just cause and condition. See individual cases under n. 1663, q. 4, where concerning the conditioned form. But here:

Let it be noted: 1. Delay of absolution, when it can be used, is a most efficacious REMEDY; for it shakes the drowsy, lest they fall into the sleep of death; as a carbuncle it rouses those deceived by the

fallacy of sin, so that they open their eyes and know their dangerous state. - Even if they should not return to the same confessor, a just and prudent delay is not useless; because, like a strong admonition, it will be a seed of reflection and conversion, which will bear fruit in its own time.[38] It was said: when it can be used; for among penitents doubtfully disposed there are found some who, dismissed, would not return, and would waste away in their sins, although it is not impossible for them to dispose themselves better. These ought rather to be absolved under condition.[39]

2. The delay ought to be brief, i.e. for eight or ten days, if the sin proceeds from intrinsic frailty; indeed sometimes for a shorter time, e.g. for a day, or an hour, or even for a quarter of an hour. - But if it proceeds from an extrinsic cause, e.g. from a proximate occasion, the delay can be longer, e.g. of one month, if from the circumstances it is required (cf. n. 1831).

And indeed these principles press the Confessor insofar as he is considered solely as judge. But since the parts of physician also must be performed by him, it must be established:

(38) Cf. Vind. Alph., P. 6, c. 2, § 1, a. 4 (II, p. 422). (39) Cf. Book VI, 432; Prax., n. 72.

1816. IV. The confessor, insofar as he performs the office of PHYSICIAN, CAN, indeed OUGHT, sometimes TO DEFER absolution for a penitent, even one RIGHTLY DISPOSED, namely when he prudently judges that such a delay will be profitable for his amendment and salvation. To the point St. Alphonsus says thus:[40] "It is certain and common among all that the confessor can defer absolution for a penitent even disposed, and even without his consent, whenever he prudently judges that delay is useful for his amendment. The reason is because the penitent, although he has a right to absolution by reason of confession performed, nevertheless does not have a right to be absolved at once: for the confessor, to whom not only the duty of judge but also of physician belongs, can well, indeed in my judgment is bound to, defer absolution when he judges such a remedy to be necessarily useful to the salvation of his penitent." But that the Blessed Doctor in this matter by no means departs from the opinion of the ancient Theologians (of the sixteenth century) is found demonstrated splendidly in the *Alphonsian Vindications*.[41]

We said, 1. when he judges that the delay will be profitable: as, e.g., when there is probable danger lest the penitent, after receiving absolution, break his purpose: as often happens to those who must make restitution, make a denunciation, remove an occasion of sin, reconcile themselves with enemies, learn things necessary to be known, shake off culpable negligence, etc. But the delay, in these cases, will be able to be of the very briefest time, namely until they have fulfilled the obligation. - But the obligation itself of deferring absolution will be grave or light, according as the delay itself will be judged necessary, or only useful.[42]

We said, 2. when he judges PRUDENTLY; because one must proceed considerately. For absolution is never to be put off for one sufficiently disposed if the delay is foreseen as more harmful than profitable, or if from it a mark or danger of infamy would arise for the penitent. And the same must be said if, all things weighed, the delay would seem useless, or if such a remedy could be used with too little convenience.[43]

Note. - According to the diversity of places and times it is expedient to defer absolution more frequently or more rarely. Thus, in great cities or in impious regions, where faith has collapsed, it hardly ever seems expedient that absolution be deferred; otherwise elsewhere, where faith is living.

(40) Ibid., 462. (41) P. 6, cap. 2, § 1, art. 1. (42) Cf. Berardi, De recidivis, n. 134 sqq.; Gaume, Man. des confesseurs, n. 367. (43) Cf. Book VI, 464, Quidam; cf. Berardi, loc. cit., n. 155 sqq.

1817. Questions. Q. 1. Whether and what sort of CERTITUDE is required concerning the disposition of the penitent, so that he can be absolved?

Resp. The extreme opinions being passed over, of the Rigorists, who will that no one, outside danger of death, is to be absolved before he has put forth most certain arguments of conversion; and of the Laxists, who think that absolution is to be denied to no one unless evidence holds signs of indisposition, we say with St. Alphonsus:

1. In this Sacrament, since the matter is moral, as the acts of the penitent are, MORAL or respective CERTITUDE suffices... "Hence, as regards our purpose, it is sufficient that the confessor have prudent probability concerning the disposition of the penitent, and that, on the other hand, no prudent suspicion of indisposition stands in the way; otherwise scarcely anyone could be absolved, since whatever signs of penitents furnish nothing except probability of disposition... And this seems to be sufficiently expressed in the Roman Catechism, where it is said: If, the confession having been heard, the priest has judged that neither diligence in enumerating sins, nor sorrow in detesting them, was wholly lacking to the penitent, he will be able to be absolved"[44] (cf. n. 1424).
2. The dispositions of the penitent ought to become known to the confessor through certain signs, whether ordinary or extraordinary. ORDINARY SIGNS indeed suffice if no indication of indisposition appears to the contrary. But if they are attacked by some positive presumption, or in other words, if there is present a founded suspicion concerning the indisposition of the penitent, e.g. because of his new and continuous falls into sin, they no longer suffice; but SOME EXTRAORDINARY SIGN is required. The reason is because the presumption which ordinary signs introduce concerning the disposition of the penitent is destroyed by the presumption which founded reasons furnish concerning his indisposition. Hence the confessor necessarily becomes hesitating and doubtful (in which case see what was said at n. 1815). But where some extraordinary sign (which either precedes the accusation of sins, or, with the confessor admonishing and exhorting, follows it) supervenes, suspicion concerning indisposition is (for the most part) removed, and the confessor judges that his penitent is now sufficiently disposed.[45]

Q. 2. What are the ORDINARY SIGNS of sufficient disposition?

Resp. According to St. Alphonsus,[46] they are the confession itself rightly made, and the protestation of the penitent asserting that he is sorry and proposes. For the presumption is in favor of the penitent, and he is to be believed when nothing stands in the way to the contrary.

Q. 3. What are EXTRAORDINARY or special SIGNS?[47]

Resp. St. Alphonsus enumerates nine signs of this sort, which can be recalled to two heads, namely some zeal for amendment, and a special manifestation of sorrow.

1. Some ZEAL FOR AMENDMENT, for example: 1) The use of means, e.g. if the penitent diligently avoided the occasion, carried into execution the means prescribed by the confessor,

used prayers, alms, etc., for rooting out the vice. - 2) Perseverance for some time, e.g. absolutely speaking, for about three weeks, or relatively to temptations, for one or another week, when previously he was accustomed to fall many times in the week. That continence can happen after confession, which is a better sign, or even before he approaches confession, so that he might dispose himself for it. - 3) A more difficult or rarer fall: more difficult, i.e. after notable resistance; rarer, namely in the same occasions and temptations. - 4) Fulfillment of some difficult obligation, as, e.g., of restitution, repairing the neighbor's reputation, etc.

2. Some SPECIAL MANIFESTATION OF SORROW, e.g. 1) Tears and sighs, at least for the most part, but especially cordial words. - 2) Spontaneous confession made, not from custom, but from an internal impulse of grace, so that divine friendship may be received, especially if there accedes a long journey, loss of notable profit, grave inconvenience, great internal or external conflict. - 3) External impulse of grace, in some extraordinary event, for example because of a sermon heard, because of the death of a friend, because of fear of an imminent scourge. - 4) Confession of sins previously concealed. - 5) Signification of a new knowledge of one's sin, or of the danger of damnation. - 6) Request for means of amendment, and similar things: for example, "if the penitent says that he repented immediately after the sin, if he desires to make satisfaction, if he accepts a great penance with a good mind, if of himself he protests that he would rather die than fall again." From signs of this sort it is rightly gathered that the penitent asserts sorrow and purpose not only with the mouth, but from the soul.[48]

"The following things are to be noted concerning these: 1. Zeal for amendment can sometimes stand with slight amendment, on account of special difficulties of amendment, which can proceed: 1) from a habit very deeply rooted, since it demands great efforts; 2) from assiduous and vehement temptations, because they entangle a man; 3) from a very light and changeable disposition, which is especially proper to adolescents, and by which it happens that with equal facility they pass to good and to evil; 4) from the facility with which some sins are committed, for example sins of heart and of mouth.[49]

"2. Spontaneity of confession is to be presumed especially in those regions in which faith has grown weak; for there human respect does not impel one to receiving the Sacraments, as in others in which religion flourishes, but rather draws one back from them. For the rest, even in regions of this sort, there are not lacking those who approach the sacred Tribunal from custom alone, or from other natural motives.[50]

"3. In the time of a Mission which turns out prosperously, recidivists for the most part are usually rightly disposed, if they diligently attended the sermons, and at this time abstained from sin."[51]

Q. 4. What are the signs of INDISPOSITION?

Resp. 1. The ABSOLUTELY indisposed, and therefore incapable of the benefit of absolution, are to be judged, from the Roman Ritual:[52] "Those who give no signs of sorrow; who DO NOT WANT to lay aside hatreds and enmities, or to restore the goods of others, if they can, or to leave a proximate occasion of sinning, or in another way to leave sins, and amend life for the better; or who have given public scandal, unless they publicly satisfy and remove the scandal"; and generally, whoever refuse to fulfill a known grave obligation.

Resp. 2. The DOUBTFULLY disposed are to be judged: 1) Those who approach the sacred tribunal compelled, or only from human consideration, or without any preparation; - 2) those who confess without any sense of humility, narrating their sins historically and almost jokingly, or without any submission to the confessor, namely excusing their own wicked manner of acting, accusing others, etc.; - 3) those who use crafty words, seeking rather to cover over than to expose sins, or not confessing them unless they have been detected by the industry of the confessor; - 4) those who are very difficult in accepting penances and remedies necessary for sins; - 5) those finally who, remedies being neglected, have fallen back into a wicked habit after they have already been admonished by the confessor.[53]

But let it be noted FOR PRACTICE: - 1. In the Confessor there is necessary the industry of ardent charity, by which namely, according to his strength, "not without prayers poured out to God from the inmost heart" (as Leo XII says),[54] he strives to make the unprepared prepared: and this often succeeds with true zeal.

2. "In the penitent there is not necessary an interpretative disposition, namely that if he were found in this or that conflict of circumstances, he would not sin, when he does not at all reflect on this; because otherwise, if confessors wished to presume the interpretative indispositions of penitents, they could absolve few, since they could judge that many of those whose children had been killed certainly would be moved with hatred against the killers; if they were tempted by tyrants with torments, they would fall away from the Faith, etc. - Therefore it suffices to find in the penitent that actual disposition, so that he may be absolved; namely that here and now he resolves no longer to sin in any case in general. Nor does it stand in the way that he would be indisposed by interpretative will, namely if he were admonished."[55]

(44) Book VI, 461; Prax., n. 75. (45) Book VI, 459; Prax., n. 73. (46) Praxis, n. 71; where advert that the ordinary signs are properly reduced to ONE, namely to confession instituted in the usual manner. But not so among many authors, especially modern ones. (47) Aertnys, De occas., n. 16, q. 2. (48) Book VI, 460, 505; Praxis, n. 74. (49) Berardi, Prax. Conf., n. 67. (50) Vind. Alph., tom. 2, p. 402, 4; p. 444. (51) Berardi, Prax. Conf., n. 81. (52) De Sacr. Poenit., c. 1, n. 22. (53) Benger, Compend., n. 455. (54) Encycl. De extens. Jubilaei, 1825. (55) H. A., XVI, 112.

Article II: On The Varied Obligation Of The Confessor Toward Various Penitents

Among penitents a twofold variety can be detected: the one, namely, which arises from their internal state of soul; and the other, which proceeds from their external condition of life. - Hence there is a twofold paragraph.

§ 1. On The Obligation Of The Confessor Toward Penitents Diverse From The State Of Soul

1818. Penitents who are distinguished from others from the very state of their soul can conveniently be reduced to SEVEN CLASSES, namely: 1. to occasionaries; - 2. to the habituated and recidivists; - 3. to converts from heresy; - 4. to the scrupulous; - 5. to those vexed by the demon; - 6. to pious and devout penitents; - and 7. finally to those enriched with the gift of contemplation.

Hence, in order, one must treat of the obligation by which the confessor is held toward these various penitents, and especially of the obligation by which he is held toward those whom we have listed in the first two species. For, as our most zealous Doctor speaks:[1] "The greatest care of the confessor ought to be to conduct himself well with those who are in a proximate occasion of sinning, or are habituated in vices, or are recidivists. These are two great rocks against which the greater part of confessors dash themselves and fail."

(1) Praxis, n. 63.

I. On Occasionaries

1819. DEFINITION. An occasion of sin is either a person or any external thing, alluring to sinning. Therefore it is constituted from two things: an external and alluring object, and an internal propensity to sin (cf. n. 373).

DIVISION. A manifold occasion is distinguished, namely: remote and proximate; and this latter is continuous or interrupted; voluntary or necessary.

1. A REMOTE occasion is that which indeed has some force of alluring to sin, but in which the danger of sinning is less probable, and in which men for the most part do not sin. We are not bound to avoid this, except perhaps under light obligation, insofar namely as a light danger of sinning would threaten us from it. Nevertheless, per accidens, we would be obliged under grave obligation, namely in the case in which grave scandal would be furnished to others (cf. n. 376).

A PROXIMATE occasion is that which induces probable or grave danger of sinning. - It is such per se, or per accidens. It is called an occasion per se, or absolutely proximate, when the external object is such that most men, through it, are for the most part induced into sin, e.g. a fixed look at a very base thing, dwelling with a concubine. "A proximate occasion per accidens, or relative, is that which, although with respect to others it is not proximate, nevertheless with respect to someone is proximate: either because this one, in such an occasion, has frequently fallen, or because it can prudently be feared that he will fall, on account of the known experience of his fragility."[2] - Therefore, just as an occasion proximate per se can be remote with respect to someone very pious and cautious; so, on the contrary, an occasion remote per se will be proximate with respect to someone who has become very weak and ready to fall.

2. A continuous occasion, or one in being, is that which is always present, without being sought: e.g. a concubine or maidservant with whom someone dwells and is accustomed to sin; an obscene book which someone keeps in his library. An interrupted occasion, or one not in being, is that which is not indeed always present, but is easily found: such as a brothel, tavern, wicked friend, lover, or mistress.

3. A voluntary occasion is that which can easily be avoided; but a necessary occasion is that which cannot physically or morally be removed: physically, for example, if someone were in prison or on a galley, or at the point of death, no longer having time or manner of expelling a concubine; morally, if the occasion cannot be dismissed without grave scandal, or without

danger of falling into something worse, or without great detriment in the goods of life, reputation, or fortune.[3]

Hence ADVERT that an occasion is not judged necessary: if the scandal or danger of falling into something worse is light, or fictitious and imaginary, as often happens in cases of this sort; likewise if the damage or inconvenience to be undergone is of small moment. - Hence St. Alphonsus with Sporer and Palao does not excuse a moderately rich man who, lest he suffer damage of one hundred ducats (today I would say one thousand francs), would not wish to leave the occasion.[4]

(2) Praxis, n. 63. (3) Praxis, 68; Book VI, 455. (4) Ibid., 455.

1820. Principles. I. The confessor, so that he may bring a PRUDENT JUDGMENT concerning those who are involved in an occasion of sin, ought TO ATTEND both to past falls, and to the peculiar circumstances of the penitent, and finally to the things commonly happening. Thus from the mind of St. Alphonsus and others. And indeed in truth:

1. From past falls the gravity or probability of danger is especially to be argued, in the case in which the penitent has already been involved in an occasion for some time, and has already sinned in it. Now, "some authors will that it is not a proximate occasion unless it is one in which a man has fallen almost always, or for the most part; but the more common and truer opinion teaches that a proximate occasion is that in which someone has frequently sinned."[5] But frequency of falls is either relative or absolute. Relative frequency is computed according to the number of times in which someone was exposed to the occasion, and will be present, e.g., if someone in twelve visits is accustomed to sin five or six times; likewise, if he visited a woman only three or four times in a year, and for the most part sinned with her; indeed if he visited only once in a year, and nevertheless always sinned. - But absolute frequency will be present when the number of falls, considered in itself, is notable, as if two persons who meet every Sunday should fall ten or twelve times per year. Either frequency suffices for constituting a proximate occasion.[6]
2. From the circumstances of the penitent, especially from his known fragility, likewise the gravity of danger is to be judged, in the case in which he himself has not yet, or has rarely, been involved in the occasion, or has not yet sinned in it; for it would be unadvised to wait for experience of falls in order to bring judgment concerning the danger. Hence St. Alphonsus: "When," he says, "an external occasion is joined with a vehement passion or vicious habit, or strong temptation, he sins who does not leave it, even if he has not yet yielded to temptation; because it will rarely happen that such a one will contain himself if he is not separated from the occasion."[7] - And hence it is why a maidservant, earnestly solicited by her master, is generally bound to depart from his house. We say generally; for if she were very devoted to piety, very cautious, and always used opportune remedies, she would not be absolutely bound to departure.[8]
3. From things commonly happening, and from these alone, the gravity of danger is to be judged when other special indications cannot be had from the very person of the penitent. Hence the following RULE must be held: If some occasion has induced others, involved in the same

circumstances of things, into danger of sinning, it is to be presumed that the same occasion will similarly induce this penitent also.

But lest the Confessor be led by false conjectures, let him remember that others, because of difference of age, state, sex, disposition, education, instruction, etc., are affected otherwise, although they are involved in the same occasions. It is also to be adverted that habituation brings it about that not all are equally excited by the allurements of sin. And thus indeed it happens that many things are more dangerous to those habituated than to those not habituated, because habit renders both consent and fall easier; and vice versa, that some things are more dangerous to those not habituated than to those habituated, since, because of long use, they have now been made more dull, or because of the use of worse things they need stronger incitements for sharpening lust. Hence St. Alphonsus,[9] speaking of the very bad custom of certain women: "Habituation brings it about," he says, "that men, from such a sight (of women showing their breasts), are less moved to concupiscence, as experience establishes."

(5) Praxis, n. 63. (6) Book VI, 452, Ex praemissis; cf. Berardi, De Occas., nn. 13-14. (7) Book VI, 452. (8) Cf. Konings, n. 1430. (9) Book II, 55; cf. Berardi, loc. cit.

1821. II. Never is a penitent to be absolved who DOES NOT WISH to remove, insofar as it is in him, the PROXIMATE occasion of sin. - It is proved: 1. From Scripture (Eccli. 3:27): "He who loves danger will perish in it"; (Matt. 5:29): "If your eye scandalizes you, etc."

2. From several propositions condemned by Innocent XI: N. 61: "Sometimes he can be absolved who is involved in a proximate occasion of sinning, which he can and does not wish to omit, indeed directly and by design seeks, or casts himself into it." N. 62: "A proximate occasion of sinning is not to be fled, when some useful or honorable cause of not fleeing occurs." N. 63: "It is licit directly to seek a proximate occasion of sinning, for the spiritual or temporal good of ourselves, or of the neighbor." - 3. From reason: he who freely wills an occasion in which he will probably sin, by that very fact and implicitly wills the sin; and therefore he already sins, and is unworthy of absolution.[10]

We said insofar as it is in him: namely by taking away the danger of sinning: whether physically, i.e. by removing the external alluring object, when the occasion is voluntary; or at least morally, i.e. by healing fragility, or proclivity to evil, by opportune and suitable remedies, when the occasion is necessary (cf. n. 1825).

(10) Book VI, 452-454.

1822. From what has been said there arise, for practice, the following Rules:

Rule 1. One who is involved in a PROXIMATE VOLUNTARY OCCASION IN BEING, as, e.g., a concubinary, or a maidservant frequently sinning with her master, whatever promises he may make, cannot, ordinarily speaking, be absolved, even the first time, unless he has actually removed the occasion. - The reason is the proximate danger of breaking the purpose; because the removal of such an occasion, on account of the great attachment of soul, demands an arduous victory over oneself; and therefore, if the occasion is not taken away before absolution, the penitent will easily deceive himself after absolution, falsely persuading himself that he will resist temptations, and thus, the

occasion not having been dismissed, he will certainly return to the vomit. Wherefore the PENITENT who, adverting to this, wished rashly to expose himself to this danger, would be indisposed; the CONFESSOR who exposed the penitent to such danger would sin gravely, both against the office of judge, by absolving the indisposed, and against the office of physician, by not applying the necessary remedy.[11]

It was said ordinarily speaking; because exceptions are given, provided the penitent firmly promises that, as soon as possible, the occasion will be taken away. - Namely there is excepted: 1. If the occasion is such that it can easily be dismissed, e.g. a wicked book. - 2. If the penitent manifests compunction and firmness of purpose through extraordinary signs of sorrow; because prudently, in this case, because of the sign of more abundant grace received, execution of the purpose can be hoped for. "Nevertheless," Roncaglia says, "that he himself, even in this case, would defer absolution until the occasion is removed, if absolution could conveniently be deferred; and so also (St. Alphonsus adds) I would act." - 3. If a grave cause compels that absolution be granted at once; because, from a grave cause and with due precautions, it is licit to expose oneself and another to a danger which is then rendered remote; therefore, when the penitent is in some necessity of receiving absolution before he takes away the occasion, he is judged as if he were in a necessary occasion, and accordingly has a right to be absolved at once.[12]

FOUR grave CAUSES of this sort are listed, namely: - 1. Danger of death, namely if the penitent is mortally sick, and the occasion cannot be removed at once: whether because there is no time, or because grave infamy, or grave scandal, will arise from such dismissal, as often happens.[13] - 2. Difficulty of returning: namely if he cannot return to the same confessor, or not except after a long time, and would find great inconvenience in repeating confession before another. The reason is the great burden either of repeating confession before another, or of remaining for a long time in the state of sin.[14] The same is valid if the penitent confesses in a place very distant from his own domicile, so that there would be a great burden of returning.[15] - 3. Danger of infamy, namely if he has the necessity on the same or following day of entering marriage or receiving Communion, insofar as he cannot abstain without grave infamy.[16] Similarly, if he confesses in the time of a Mission, and cannot, without a mark of infamy, remove the occasion at once. In this case, removal of the occasion is to be remitted to some weeks after the Mission, under this condition nevertheless, that at once, if it can be done, some precaution be used, e.g. renunciation of leasing, and that remedies be prescribed for preventing relapse. Thus St. Leonard of Port Maurice.[17] - 4. Danger of spiritual damage, namely if it is prudently to be feared lest the penitent, on account of the delay of absolution, since he has not yet been made constant, be alienated from confession and waste away in sins; because then the delay would rather increase the danger of breaking the purpose.[18]

But in the cases mentioned, the Confessor ought TO ADMONISH the penitent not to trust that he will obtain absolution in the future unless he has stood by his promises.[19] - But if the penitent has already at another time been admonished by another confessor concerning removing the occasion, and has not obeyed the admonition: he is to be held as a recidivist, and therefore cannot be absolved unless he brings extraordinary signs of sorrow, as we shall say below (n. 1830).[20]

(11) Cf. Book VI, 454; Prax., n. 66. (12) Ibid., 454; Praxis, 67. (13) Ibid., 455; ibid., 68. (14) Ibid., 454; ibid., 67. (15) Berardi, De Occas., n. 45, III. (16) Book III, 436. (17) Disc. mist., n. 22. (18) Berardi, loc. cit., nn. 49-50. (19) Aertnys, De Occas., n. 8, III. (20) H. A., tr. ult., n. 5, fin.

1823. Rule 2. One who is involved in a PROXIMATE VOLUNTARY occasion, but not in being, e.g. by frequenting games, taverns, wicked societies, can be absolved the first, second, indeed even the third time, provided he firmly proposes to keep himself from it. But if afterward amendment does not appear, absolution is to be deferred until he has actually left the occasion. Thus St. Alphonsus,[21] with St. Charles Borromeo and others. - Now, the reason why one must act more mildly with a penitent of this sort seems to be in this: that when the occasion is not present (especially if the danger is not that of falling into base acts, but into blasphemies, quarrels, drunkennesses, obscene words, impure thoughts, and other things of this sort, as in the cases proposed by St. Charles), it does not allure to sin as strongly as an occasion always present, or in base matter; and therefore the penitent, who firmly proposes to guard himself from the occasion, can, without rashness, hope that it will happen that he avoids sin, whether by not approaching the occasion unless some reason is given, or by otherwise using precautions and remedies.

It was said, 1. can be absolved, that is by the confessor as judge, because he is judged sufficiently disposed. But he can also be sent away to another time by the confessor as physician, so that he may more promptly and more firmly take away the occasion from the midst. And it is counseled that this be done, even the first time, when the habit of sinning in the occasion has already grown old, so that an experiment may be taken whether in reality he removes the occasion, or at least begins to amend himself[22] (cf. n. 1827).

It was said, 2. can be absolved the second, indeed even the third time, i.e. when a wicked habit is not joined with the occasion. For when the penitent, in an occasion of sinning, is formally recidivist into a wicked habit, he must be treated as a recidivist (cf. n. 1829).

(21) Book VI, 454; Prax., n. 66. (22) Conf. diretto, XV, 10.

1824. Rule 3. One who is involved in a PROXIMATE NECESSARY occasion can be absolved without leaving the occasion, provided he appears otherwise disposed and wishes to use the prescribed remedies. "The reason is," says St. Alphonsus,[23] "because an occasion of sinning is not properly sin in itself, nor does it induce the necessity of sinning; hence true sorrow and purpose not to fall again can well stand with the occasion; and although each one is bound to take away the proximate danger of sinning, this is understood when he himself voluntarily wills such danger; but when the occasion is morally necessary, then the danger becomes remote through opportune remedies, and God then does not withdraw Himself from assisting by His grace him who has truly deliberated not to offend Him."

We said, as above: can be absolved, namely by the confessor as judge, if he appears otherwise disposed. But let us hear St. Alphonsus again:

"But IN PRACTICE," he says, "all agree that it is expedient that absolution be deferred for those who are involved in a proximate occasion even if necessary. Indeed, that I may say candidly what I think in this matter, I would never absolve one who is in an extrinsic proximate occasion (for concerning an intrinsic one I shall speak otherwise), especially if the occasion is concerning base matter, whenever absolution could conveniently be deferred. For I judge that the confessor as PHYSICIAN is bound to fit to his penitent the more opportune remedies, so that he may secure his salvation; and I think no

antidote more apt can be ministered to one who is in a proximate occasion than delay of absolution; since experience teaches that penitents, after they depart absolved, for the most part neglect to use the prescribed means, and thus most easily fall again. On the contrary, when absolution is denied to them, they more vigilantly strive to execute the remedies and resist temptations, indeed impelled by fear lest, when they return to the confessor, they again be dismissed without absolution.

"And in the case in which the penitent previously admonished by another confessor has neglected the prescribed means, and has fallen again in the same way, I say that he must altogether be dismissed without absolution, unless perhaps he exhibits extraordinary signs of sorrow. And even for this one gifted with extraordinary compunction, ordinarily speaking, I would deny absolution, when absolution could conveniently be deferred.

"Perhaps to someone handing down these things I shall seem too rigid; but I, when I had met penitents entangled in the snares of occasions of this sort, have always acted thus and always will act; for proceeding in this way I think myself not rigid, but especially benign toward them: since no manner seems to me more apt than this, that they be snatched from sins and from eternal damnation; and on the contrary I would believe that, if by acting benignly I furnished to them the absolution which they ask, I would be the cause that they miserably languished in vices. Let each one abound in his own sense. - Would that all confessors conducted themselves thus with penitents of this sort! Far fewer crimes indeed would be committed, and many more souls would avoid perdition."[24]

(23) H. A., tr. ult., n. 6. (24) Book VI, 456.

1825. Questions. Q. 1. What REMEDIES ought the confessor to assign to a penitent who is involved in a NECESSARY occasion?

St. Alphonsus responds: "The remedies are: great prayer, - more frequent use of the Sacraments, - daily before an image of the Crucified to renew the promise of sinning no more, - to avoid being alone with her alone, - to flee from the sight of the accomplice, and similar things."[25]

And these remedies the penitent IS BOUND to use, insofar as he can; for otherwise the occasion will indeed be necessary, but the danger voluntary: just as, in the case of shipwreck, not to seize the plank is to commit oneself to certain danger of death.[26]

Q. 2. Whether one can be absolved who, existing in a NECESSARY occasion, ALWAYS IN THE SAME WAY, notwithstanding the remedies, falls again?

Resp. Negative, if after many experiments no amendment appears, nor probable hope of amendment. Thus St. Alphonsus, as the truer opinion; and the reason is because, if someone always falls again in the same way, he is truly indisposed; for from such a relapse it is detected that either the remedies were not duly used, or the occasion is not truly necessary; for necessity of sinning is not given, and no one is tempted above what he can bear. Therefore the precept of Christ presses, saying: "If your right eye scandalizes you, pluck it out and cast it from you" (Matt. 5:29). It was said, if no hope of amendment appears; but this is judged to shine forth if the penitent, at present, brings extraordinary signs of sorrow.[27]

From what has been said you will resolve:[28] 1. A woman ought rather to choose to perish from want than to frequent a house where she is given gifts which have already passed, or probably will soon

pass, into meretricious wages. - 2. A penitent ought to leave a confessor, although useful, if from his conversation he is accustomed to consent to impure delight. - 3. A man, thieving for a long time, ought to leave the office which impels him to stealing. - 4. A glutton ought to avoid banquets; a drunkard, taverns; a lustful man, familiar and private conversations with women, etc., even if he seems to himself to have a just cause for conversing thus. - 5. An adolescent and a girl, frequenting one another with a view to marriage, are not to be absolved unless the occasion from proximate becomes remote, through means to be prescribed by the confessor (cf. n. 826). - 6. A son of a family sinning with a maidservant who dwells with him in the paternal house is not to be absolved unless he diligently uses the remedies prescribed by the confessor and thus truly removes the occasion. But, generally, an occasion of this sort cannot be removed except through the emigration of one or the other (namely, of the son or of the maidservant).

Concerning occasions in particular see what was said at n. 824 and following.[29]

(25) Book VI, 455; Prax., n. 68. (26) Cf. Berardi, De Occas., nn. 79-83. (27) Cf. Book VI, 457-458; cf. Vindic. Alph., p. 5, q. 22. (28) Cf. Scavini, lib. III, n. 342, fin. (29) Cf. Berardi, De Occas., p. 2; Konings, nn. 1438-1469; Ciolli, Dirett., n. 70.

II. On The Habituated And Recidivists

From the doctrine of St. Alphonsus, one must properly distinguish between the HABITUATED and RECIDIVISTS, concerning whom not a few authors speak rather confusedly. - Hence, so that confusion of this sort may be avoided, we shall treat separately: 1. of the habituated; 2. of recidivists.

A. On The Habituated

1826. DEFINITION. A consuetudinary or habituated person, as he is distinguished from a recidivist, is one who, by repetition of sins of the same kind, has contracted a wicked habit, and confesses it the first time.[1]

How many acts suffice for contracting a wicked habit depends on the nature of the repeated sin itself, and on the manner in which it was committed, namely by thought, word, or deed; on the longer or shorter time which intervened between sinful acts of the same kind; on the disposition or temperament of the one sinning; on the greater or lesser intensity with which the will placed the acts, etc. - Thus, "five times in a month," says St. Alphonsus,[2] "can already constitute an evil habit in some vice of EXTERNAL SIN, provided some interval intervenes among them"; for otherwise it seems to be a continuation of one sin. But in sins of consummated lust which have an accomplice, e.g. of fornication, sodomy, a much smaller number can constitute a habit: thus, e.g., one who, through an entire year, should fornicate once a month, could well be called habituated. - Finally, in sins of HEART and MOUTH a much greater number is required, so that a habit may be judged to be present.

DIVISION. Among the habituated, those must be distinguished: 1. who sin and have contracted the habit with perfect election of the will; 2. who sin and have contracted the habit from incontinence, or from weakness of the will. The former offend: 1) because of habitual perversity of will, 2) without the previous impulse of vehement passion, and therefore 3) do not easily detest the sin committed. On the contrary, the latter offend: 1) because of the force of an impelling passion, so that 2) their will is habitually good and contrary to sin; which sin therefore 3) once the ardor of passion has been extinguished, they abhor exceedingly.[3]

(1) Book VI, 459. (2) Praxis, n. 70. (3) Cf. Berardi, De Recidiv., n. 76, from St. Thomas.

1827. Principle. A habituated person, even if no amendment has preceded, can be absolved, provided he SERIOUSLY PROPOSES to himself to use the MEANS which are prescribed to him for amending life. - Thus most commonly, against certain more rigid authors. The reason is "because such a penitent, on the one hand, is not to be presumed evil, so that he would wish to approach the Sacrament indisposed; and on the other, he is well presumed disposed, while he confesses his sins, since spontaneous confession itself is a sign of contrition, unless some positive presumption stands in the way to the contrary. Nor is it valid to say that the same wicked habit is a sign of indisposition: for, although a wicked habit renders the sinner more prone to sin, nevertheless it does not give a presumption of his weak will."[4]

Except: 1. If the habit is very deeply rooted, such as it is accustomed to be in one who is habituated from an evil will, or through a long time has been given to some vice, especially of the flesh; for then the confessor will be able to defer absolution (for a brief time), if something else does not stand in the way: both so that he may test how the penitent executes the remedies, and so that the penitent himself may conceive greater horror of his vice.[5] - 2. If the one habituated in grave sin is a cleric who shortly wishes to be promoted to sacred Orders; for positive goodness is necessary in him, as will be said in its place (n. 1916, q. 2).

IT IS ASKED. Whether absolution can be denied to a habituated person who REFUSES to confess SEVERAL TIMES in the year.

Resp. Negative, in itself, if he otherwise seems sufficiently disposed; because there is no precept of confessing several times in the year, and there are other means which can be enjoined for rooting out the habit. Nevertheless otherwise must be said if the other means are not judged sufficiently efficacious. For many penitents can find an apt remedy in confession alone. Hence Toletus says most rightly,[6] speaking of those habituated in the crime of pollution: "I scarcely think there is any other efficacious remedy than to use most frequent confession: for this Sacrament is the greatest bridle; and he who does not use it should not promise himself amendment, unless through a miracle."[7] (cf. n. 1812, 3).

(4) Book VI, 459. (5) H. A., tr. ult., n. 8. (6) Instr. sacerd., L. 5, c. 13, n. 6. (7) Book VI, 464, in med.

B. On Recidivists

1828. DEFINITION. A recidivist generally is said to be one who after confession has fallen back into the same sins.

Of those relapsing after confession, some are recidivists formally, others only materially. FORMALLY, or a true RECIDIVIST, according to the mind of St. Alphonsus, is one who: 1. has contracted a habit of sin; 2. has been rightly admonished in another confession; and 3. has fallen back into accustomed sins in the same or nearly the same manner, with no zeal for amendment having been used, nor any of the prescribed means having been fulfilled. MATERIALLY, that one is judged a recidivist in whom one or another of the three aforesaid conditions is lacking. And he is to be treated either as a simple sinner or as a habituated person (cf. n. 1826).[8]

(8) H. A., tr. ult., n. 9; cf. Vind. Alph., p. 6, c. 1 (tom. 2, p. 276).

1829. Principles. I. A penitent FORMALLY A RECIDIVIST cannot be absolved if he brings only the ORDINARY sign of disposition, namely if he only asserts that he is sorry for his sins, and that he no longer wishes in the future to offend God gravely. It is established: 1. From proposition 60 condemned by Innocent XI: "For a penitent having a habit of sinning against the law of God, of nature, or of the Church, even if no hope of amendment appears, absolution is neither to be denied nor deferred, provided he orally states that he is sorry and proposes amendment." - 2. From reason: "For the habit contracted, and past relapses without any amendment, furnish great suspicion that the sorrow and purpose which the penitent asserts he has are by no means true. Hence for this one absolution is to be deferred for some time, until a prudent sign of amendment appears. And at this point the ruin of souls is to be lamented, of which so many evil confessors are the cause, by absolving without distinction so many recidivists, who when they have found confessors who always absolve them so easily, lose horror in sinning, and go on to rot in the mire of vices, even unto death." Thus St. Alphonsus.[9]

"Certain Doctors admit that a recidivist can be absolved with ordinary signs alone up to the third and fourth time. But to this opinion (the Holy Doctor writes) I have never been able to acquiesce, since a habituated person who after one confession relapses without amendment (at least begun), is already a true recidivist, and furnishes a founded suspicion of his indisposition."[10]

"And let it be noted here that this rule proceeds even with respect to venial faults; for although it is commonly admitted that those who fall into light sins can more easily be absolved, because their occasions are more frequent, nevertheless, since it is the common opinion that it is a grave sin and sacrilege to receive absolution upon light sins confessed without true sorrow and purpose; and that it does not suffice to be sorry for the multitude or excessive number of such faults, unless sorrow is had for some one in particular": it can easily happen that penitents, recidivists in venial faults, perform sacrilegious or at least invalid confessions. "Hence, let the confessor strive diligently not to absolve such penitents indiscriminately; for then, even if they are in good faith, nevertheless he himself will not be able to be excused from sacrilege, by imparting absolution to those who can be judged not sufficiently disposed for absolution."[11] But see n. 1842.

(9) Praxis, n. 71. (10) Ibid.; cf. Berardi, De Recidivis, n. 82 sqq.; Ciolli, Dirett., n. 71. (11) Praxis, n. 71; H. A., tr. ult., n. 9; cf. Berardi, n. 193 sqq.

1830. II. A penitent, even formally a recidivist, can be absolved as often as he furnishes SOME EXTRAORDINARY SIGN of disposition. - Thus the Holy Doctor, against Merbesius and others, who with intolerable rigor say that a habituated person can never be absolved unless his amendment is established by long experience. The reason of our opinion is because an extraordinary sign, provided it is solid and founded, takes away the suspicion of indisposition which repeated falls introduce[12] (cf. n. 1817, q. 1).

"Nor is it true what the adversaries object, namely that proof of time alone is the sole sign of a changed will: for change of will depends on divine grace, which does not need time, but operates in an instant; and therefore it can become manifest not only by experiment of time, but by certain other signs. - Indeed, sometimes other signs of present disposition manifest the change of will much better than experience of time; for those signs indicate directly the disposition of the penitent; but experience only indirectly, so that not rarely it can happen that someone, even for a long time,

abstains from vices for the honorableness of this world, as St. Gregory says, and nevertheless is not rightly disposed. Therefore, as often as the penitent brings true signs of sorrow and purpose (or in other words: as often as he is prudently judged to have changed his will), so often he will be able to be absolved well."[13]

We say, he will be able to be absolved; for he is not necessarily and always to be absolved, because the confessor can, indeed sometimes ought, as PHYSICIAN, to defer absolution for a penitent even sufficiently disposed, as we have already affirmed several times (cf. n. 1816).

Let it further be noted: 1. A recidivist returning the first time will more easily be able to be absolved than the second or third time. For extraordinary signs are obtained more easily the more promptly the confessor puts the sickle to the root, and besides, the special signs of disposition required are smaller in proportion as the indications of indisposition have not yet been multiplied so much.[14]

2. Incontinent recidivists (from passion) can more easily be absolved than the intemperate (from habit); because in the former the confessor will very often find, or will be able to induce, some extraordinary sign, but in these latter rarely.[15] Hence, recidivists into blasphemies can more easily be absolved than into other sins of hatred, theft, or lust, to which the habit clings more strongly because of the greater passion which is found in them.[16]

3. A recidivist formally such, unless he is certainly indisposed, can or ought to be absolved under condition in those cases in which one doubtfully disposed can or ought to be absolved (cf. n. 1663, q. 5, Rule 1). - Advert also that, because faith has everywhere collapsed, in this our age there more often occurs the lamentable case in which it is rightly to be feared lest a penitent doubtfully disposed, and dismissed without absolution, bid farewell to the Sacraments and waste away in his sins.[17]

(12) Book VI, 459, Secunda. (13) Ibid. (14) Vind. Alph., tom. 2, p. 402, n. 4. (15) St. Thomas, 2.2, q. 156, a. 3. (16) Aertnys, De Recid., n. 15, fin.; Praxis, n. 75, fin. (17) Vind. Alph., loc. cit.

1831. Questions. Q. 1. Whether one must use the remedy of delay of absolution toward a recidivist SUFFICIENTLY DISPOSED?

Resp. 1. Negative, when the delay is judged more likely to harm than to profit, or to bring upon the penitent some mark or danger of infamy (cf. n. 1816).

2. Outside these cases, the matter is to be committed to the prudence of the confessor. St. Alphonsus distinguishes thus: 1) If the penitent has relapsed because of an intrinsic cause or fragility, as happens in sins of pollution, morose delectation, hatred, blasphemy, and similar things, delay is rarely expedient; because greater fruit is to be hoped for from the grace of the Sacrament than from the delay of absolution (especially for recidivists into the sin of pollution there is no remedy more efficacious than frequent confession, indeed without it amendment can scarcely be hoped for, since this Sacrament is the greatest bridle): nevertheless, an opportune threat of delay will always be profitable... It was said, rarely expedient; for sometimes it profits, or even is necessary for striking terror, e.g. if remedies for a long time have been applied in vain, if the beginnings of a vice, especially in an adolescent, must be opposed, etc. - 2) If he has relapsed because of an occasion, ordinarily delay is expedient; both

because the occasion is a stronger incentive to sin: but a stronger restraint must be opposed to a stronger allurement; and because removal of the occasion, more than rooting out of the habit, depends on the will: but what depends more on the will must be exacted more rigidly.[18] The same must be said of a penitent obliged to restitution, reconciliation, denunciation, repair of grave scandal[19] (cf. nn. 1793, 3, and 1816).

Q. 2. Why must a RECIDIVIST formally such be treated with greater severity than one simply RELAPSED from a voluntary occasion not present?

Resp. The reason is because the occasionary is supposed not at the same time to be habituated in sin; wherefore the occasionary, or recidivist from occasion, as such, can be absolved twice or three times without the occasion having been left; but otherwise, if at the same time he is recidivist into a habit of sin, without amendment.[20]

Q. 3. What REMEDIES ARE TO BE ASSIGNED to recidivists INTO POLLUTION or into other lustful acts?[21]

Resp. The most apt will be: 1. To excite in them an ardent desire of recovering purity of mind and body, and to raise their soul to the struggle; otherwise the rest will be altogether useless. To excite the desire, let the confessor show the sick person the danger of damnation unless he corrects himself; because the more sins are accumulated, so much the more difficult is the attainment of salvation rendered; and the more intense the habit becomes, so much the weaker the will becomes. But to raise the soul to the struggle, let him insert into the penitent a sense of his dignity, by which he is man and Christian, and which by his vile habit he lowers, indeed finally no longer even feels; let him inspire in him confidence in God, in the Blessed Virgin Mary, and hope of victory, if he is going to use the remedies faithfully and constantly, even if it happens that he relapses from fragility.[22]

2. To withdraw far from every dangerous occasion, to flee idleness and solitude, to avoid dishonest conversations, not to read amatory books, not to frequent dances and theaters, since these throw impure phantasms into the mind and soften the soul.[23]
3. Frequent prayer, especially to recite three times each day the Angelic Salutation in honor of the purity of the Most Blessed Virgin, morning and evening, always adding before her image the purpose of not sinning and supplication for the gift of perseverance. Very much also will serve the frequent meditation of the eternal truths, according to the divine saying: "Remember your last things, and you will not sin forever"; and according to this counsel of St. Alphonsus: "Mental prayer is to be insinuated, not only to the timorous, but also to sinners, who often, because of defect of consideration, return to the vomit."[24]
4. When some temptation rushes in, immediately to avert the mind elsewhere, and, if the temptation persists, to invoke several times and confidently the Most Holy Names of Jesus and Mary; thought concerning the Passion of Christ, eternal fire, death, the presence of God, remorse of conscience after sin, etc., also helps; likewise a fervent act of love toward God, with the purpose of undergoing death rather than sinning.[25]
5. Frequenting of the Sacraments, which in wondrous ways represses the heat of lust; indeed, without it scarcely any other efficacious remedy is supplied; but especially care must be taken

that the penitent return to the confessor immediately after a fall, and also that he choose for himself a stable, learned, and pious confessor.[26]

6. Marriage, if it can be done, according to the admonition of the Apostle (1 Cor. 7:2, 9): "Because of fornication let each man have his own wife, and each woman her own husband... If they do not contain themselves, let them marry; for it is better to marry than to burn." Indeed, the incontinent who would not wish to use other opportune means would be held to marriage.[27]

To these we add some NATURAL REMEDIES which can assist the supernatural ones; they are namely: 1. temperance in food and drink, especially in the evening; in the evening not to use wine, nor hot foods; - 2. temperance in sleep; not to lie in an immodest position, nor in a soft bed; in the morning to rise early; - 3. exercises which tire the body, such as walks, hunting, etc.[28]

Concerning recidivists into blasphemies, recall what was said at n. 599.[29]

(18) Book VI, 463-464; Prax., nn. 76-77. (19) Book VI, 693; Prax., 184-185; Aertnys, n. 16, q. 4. (20) Aertnys, ibid., q. 6. (21) Ibid., q. 8. (22) Cf. Segneri, Instruct. conf., cap. 12. (23) Praxis, n. 16. (24) Ibid., n. 16 and 124. (25) Book V, 8. (26) Cf. Book VI, 464. (27) Book III, 209; Book VI, 75. (28) Cf. Berardi, Examen. confess., n. 157. (29) Cf. M. Haringer, annotation to Book VI, 464.

III. On Converts From Heresy

1832. I. A heretic, converted to the Catholic faith, when he first presents himself to the confessor, is to be received kindly and greatly helped in the examination of conscience, from which excessive rigor is to be excluded. - He is to be asked how many years he lived in his sect while doubting concerning its truth, and whether he contemned or neglected to inquire concerning the true religion, and for how long.

If he was only a material heretic, any confessor can absolve him without a special faculty; likewise, if he was formally a heretic, but ignorant of the excommunication attached to formal heresy; for excommunication is not incurred by one who is ignorant of it. - But if even a slight doubt concerning an incurred excommunication should arise, he is to be absolved under condition, and with the profession of faith having first been made. Wherefore the confessor would act inconsiderately if, when about to reconcile a heretic, he did not beforehand procure for himself a special faculty, which he could easily need (cf. n. 443).

The exhortations should allude especially to those dogmas concerning which the newly converted man previously did not think rightly. - A penance which does not frighten him away is to be imposed upon him. - Recall what was said at n. 1479 as to Baptism, and at n. 1655 as to the obligation of confession.

1833. II. In reconciling heretics, according to the diversity of cases, a THREEFOLD MODE OF PROCEEDING is distinguished: 1. If the previous Baptism has been judged certainly valid, "only the abjuration, or profession of faith, is received, which absolution from censures follows." Thus the S. C. of the Holy Office, on July 20, 1859.[1] 2. If the nullity of the previous Baptism is established, Baptism is conferred absolutely, nor does any abjuration or absolution follow, because the Sacrament of regeneration washes away all things. 3. If Baptism is to be repeated under condition, the following order is to be observed: 1) Let the abjuration, or

profession of faith, be made before two witnesses, according to the form prescribed by Pius IV, and more recently by Pius IX, with some addition.[2] 2) Let conditional Baptism follow. 3) Let conditional absolution from censure be imparted. 4) Let sacramental confession be made, with absolution from sins likewise conditional.

Note. - Those who must be baptized under condition "can, for the greater ease of the ecclesiastical function, first be heard sacramentally as to the accusation of their faults. Then, after the conferral of Baptism under condition, the confessor, again taking up summarily with the penitent those things concerning which he has already made accusation, is to absolve him sacramentally, likewise under condition." (S. OFFIC., November 1, 1875).[3]

(1) In Collect. Lacens., tom. 3, p. 550. (2) Cf. Pontif. Rom.; Acta S. Sed., Vol. X, p. 72; Schneider, S.J., Manuale Sacerd. (ed. 10a), p. 436. (3) Haine, III, p. 134.

1834. III. If an acatholic, in the article of death, wishes to return to the Catholic faith, he must emit a profession of Faith before two witnesses, at least as to those things which must be believed explicitly by necessity of means and of precept. And this act of conversion is immediately to be described in a public instrument, so that in this way all cavils of adversaries may be forestalled. - After this the dying man is to be duly disposed by acts of faith, hope, charity, sorrow, and purpose; then, confession having been made, he is to be absolved from excommunication and from sins, and lastly refreshed with the Most Holy Viaticum and Extreme Unction.[4]

(4) E. Muller, lib. 3, § 160; cf. Voit, I, n. 383; Konings, n. 1264, IV.

IV. On Scrupulous Persons

1835. Those are called SCRUPULOUS who, from an empty cause, suspect and, with disturbance of soul, fear sin where there is none (cf. n. 27). Much care must be expended upon them. For SCRUPLES impede tranquility of mind, torture the soul, weaken the body, ruin health, disturb promptness in acting; indeed they sometimes cast one into despair, or into madness itself, and bring innumerable other evils.

Therefore, so that the confessor can provide opportune and useful governance to scrupulous persons, he must attend to four things: 1. the signs by which scruples are recognized; 2. the causes from which they arise; 3. the matter about which they turn; 4. certain rules of prudence, the application of which fits all scrupulous persons indiscriminately.

1836. I. "The SIGNS of a scrupulous conscience are these:[5] - 1. Pertinacity of judgment, by which the scrupulous person refuses to obey the counsels of the wise, consults various men, but acquiesces in the judgment of none; indeed, the more he hears many, the more perplexed he becomes. 2. Frequent change of judgment from light motives; whence arises inconstancy in acting, and disturbance of mind, especially in external operations, for example in the celebration of Mass, in the recitation of the Hours, or in the administration or reception of the Sacraments. 3. To have irrelevant reflections concerning many circumstances which were present in the action, or could have been present. 4. To be fearful concerning sin in all things, and to cling in mind contrary to the judgment of the wise, and even to his own judgment; and therefore never to be content with one assertion of the confessor, but often, in the same act, to

ask the same man whether, in acting according to the counsel given, the conscience can be immune from fault."

But he is by no means to be counted among the scrupulous who always watches over himself very attentively, lest in some matter, however small, he displease God; - nor he who, after sins have been committed and confessed with moderate detestation and sorrow, is distressed and therefore desires to repeat confession; - nor he who, now and then, in a passing way, is disturbed by some empty anxiety of conscience.

(5) Cf. Ciolli, Dirett., n. 80. - Book I, 11.

1837. II. The CAUSES of scruples are some intrinsic, others extrinsic.[6] -

The INTRINSIC are: a disposition much inclined to anxiety and fears, such as is that of melancholic persons; weak health of the head, especially in women; excessive abstinence and immoderate vigils, from which, the head being weakened, the mind is easily disturbed; slowness of mind, which judges foolishly concerning the precepts of God and of the Church; hidden pride, inclining to excessive confidence in one's own judgment, etc.

But the EXTRINSIC causes are: 1. God, who permits the soul to be tossed by the storm of scruples through a transitory loss of light; and indeed He permits this for this end: that man may detest committed sins more vehemently, and recede farther from the evil way; then, that he may truly progress in humility, in confidence, in patience, in obedience, and in other virtues, and thus be found faithful in divine service. 2. The demon, who terrifies the soul by false imaginations of sins, whether committed or to be committed, disturbs mind and body, and thus fishes in troubled water. Nor is fishing of this kind done in vain. For unless his snares are avoided, the soul, in a short time, falls into tepidity, into acedia, into various faults, and finally into crimes, indeed into despair.[7] 3. Association with scrupulous persons; direction by a scrupulous confessor; reading of books which abound in severity in moral doctrine; and similar things.

To these causes, however, congruous REMEDIES must be opposed, such as are: flight from idleness, moderate occupations, honest recreations, humble prayer full of confidence toward God, avoidance of scrupulous persons; but above all prompt and blind obedience, without which it is impossible to be healed from this disease (cf. n. 28).

(6) Ibid., 12-13. (7) Cf. Vera Sposa, cap. 18, § 2.

1838. III. The MATTER about which scruples turn consists, for the most part, of actions to be placed, evil thoughts to be repelled, and confessions already made.[8]

1. To scrupulous persons who fear that they sin in every action, it must be enjoined that they act freely, that is, by contemning scruples, indeed even by acting against them, whenever evident sin does not appear; that they never repeat works once done, and that in every doubt they always choose the part more benign to themselves. - Although, however, by acting thus, they sometimes sin materially, still they will not sin formally, by reason of the obedience which they must render to the confessor, according to this rule of St. Ignatius: "One must obey in all things in which sin is not perceived" (recall what was said at nn. 28 and 693).

2. To scrupulous persons who are distressed by evil thoughts (against chastity, faith, charity), and who think that they consent to them, let the confessor enjoin that they take no account of thoughts of this kind, because thoughts are not sins, but consent is; and let him prescribe to them that in confession they abstain entirely from declaring thoughts of this kind, unless they can swear that they certainly gave consent to them (cf. n. 1696). - For the rest, not even their oath would always be an indubitable argument concerning consent having been given. For a very scrupulous man can come into such disturbance of mind that he shows himself ready to swear, although in reality he has not sinned. But "by their fruits you shall know them," i.e., from their works, and from their ordinary manner of acting.

3. To scrupulous persons who are always distressed concerning confessions already made, if the confessor knows that they have sincerely set forth all things (or if they have already made a general confession with a prudent confessor), let him absolutely impose that they no longer think about past faults, nor make any mention of them; unless they can immediately swear that they certainly committed mortal sins, and never declared them in confession. - It is expedient to say to such distressed persons: "Be entirely quiet, I take all things upon myself"; or to repeat these words, by which St. Bernard tranquilized a certain scrupulous priest: "Go, and celebrate on my faith." But if the penitent returns after confession, let him be dismissed unheard, so that he may learn to contemn vain fears.

Concerning these things it is still to be NOTED: 1. A scrupulous person who is anxious concerning past confessions must be asked whether, knowingly, he concealed some grave sin, and whether he had it in mind to commit the same sins again. If he answers negatively, the confession is to be judged valid.

2. A scrupulous person can sometimes be excused from material integrity, namely whenever, from confession or examination of conscience, grave harm of body or soul would threaten him. And the same must be said concerning the Hours to be recited, concerning fraternal correction to be made, concerning the truth to be investigated about doubtful restitutions, and similar matters, in which new doubts always arise for him; because the law does not oblige with so great an inconvenience.

(8) Book I, 15-19.

1839. IV. The MODE OF ACTING with scrupulous persons, which prudence universally advises, is expressed by the following RULES:[9]

1. Let the confessor be full of charity and patience, and let him listen kindly to their narration, however tedious, especially in the first times. For unless he has won for himself the confidence of the distressed person, he will accomplish nothing.

2. In responses let him be prompt, without hesitation and change; for the trembling of the scrupulous person will not otherwise be excluded.

3. Let him be brief and dictatorial. For scruples are not driven away by discourse, but by contempt and obedience. - Nor should he easily add reasons to his responses, because reasons prepare a snare for penitents of this kind.

4. Yet let him teach true doctrine and benign opinions, for example concerning attention in prayers, concerning the integrity of confession, concerning Communion received in good faith, etc. Let him

above all frequently remind them of those things which holy men have handed down concerning the security and merit of obedience, namely: "That he walks entirely safely who acquiesces in and obeys the counsels of his director in all things in which sin does not appear; for then he does not obey man, but God Himself, saying: He who hears you, hears Me; and he who despises you, despises Me."[10]

5. Let him prescribe for them rules of acting, not particular, but general; because new cases always seem to them diverse from preceding cases. - Nor let it weary him to repeat the same things. For the sick mind is healed not suddenly, but gradually.

6. Let him excite those who have fallen, not otherwise than other penitents, to contrition, but at the same time to every confidence; for scrupulous persons especially need this.[11]

(9) Book I, 15-19; H. A., I, 8-11; Prax., n. 95-98. (10) Book I, 13. (11) Cf. Reuter, Neo-confess., p. 3, cap. 13.

V. On Persons Vexed By The Demon

1840. Since it rarely happens that men are vexed by the demon in a sensible manner, there is no reason why we should dwell much on the present argument.

Before all things, the confessor must be warned that in this matter he should recede equally from excessive incredulity and from excessive credulity. "Let the confessor not be so incredulous," says St. Alphonsus,[12] "that he judges all invasions or infestations of demons to be fantasies or bodily infirmities; because it must not be denied that true possessed persons are found even among Christians." Therefore let him prove all things according to those things which we said concerning divination (n. 558 and n. 622 and following).

These things being premised, it will be sufficient to have noted the following from St. Alphonsus: 1. Some possessed persons are vexed by evil spirits with horrible specters, or bodily torments. The care of these is easy: prayer, patience, and above all perfect conformity with the divine will are to be insinuated to them. 2. Those who usually trouble confessors more are those who are vexed by the demon with filthy visions, motions, and even touches... etc. But let the confessor take care that the penitent subject such acts to the keys of the Sacrament, if perhaps he fails in anything, either because of imperfect advertence, or because of some deficiency of resistance.[13]

The REMEDIES are: that the penitent, in so horrible a conflict, pray perseveringly and insistently, commending himself a hundred and a thousand times to God, groaning, and asking mercy at the feet of the Crucified and of the Mother of God; that he apply himself much and constantly to mortification, diligently turning the mind away from the pleasures of the senses and frequently protesting that he does not wish to consent to the operations of the demon. - Then to prayer and mortification humility with unshaken confidence must be joined; the use of the Sacraments, of the most sacred sign of the Cross, of blessed water, of private exorcism, of holy Relics, and of the book of the Gospels.[14]

But if someone falls miserably in these temptations, the care of him is very difficult. Let the confessor prescribe for him the remedies just recounted, and especially let him employ exorcism, at least private exorcism. - Let him delay absolving him and exhort him to return often, nor let him absolve him except after a long trial; for such conversions are rarely true, and very rarely persevering.[15] See more, if you wish, in St. Alphonsus.

Note. Scaramelli[16] warns that exorcism profits nothing or little with persons who are in the state of contemplation; because God Himself wills their purgation through the infestation of demons.

(12) H. A., tr. ult., n. 50; Praxis, n. 110. (13) H. A., ib., 50, 51; Prax., 110-111. (14) H. A., ibid., 52; Prax., 112. (15) Praxis, 53; ib., 113. (16) Dir. mystic., tr. 5, c. 11.

VI. On Pious Penitents

(1) Cf. Mach, Tesoro del sacerd., Tr. 13, c. 7, § 2; Berardi, Prax. conf., n. 1136; Meynard, Traite de la vie int., I, chap. prelim., n. 9 sqq.

1841. "It is a work very acceptable to God to adorn spouses for Him, that is, to cultivate spiritual souls, so that they may give and hand themselves over wholly to Him. One perfect soul is more acceptable in His eyes than a THOUSAND imperfect ones. Hence, when the confessor sees a penitent living immune from mortal faults, he must apply every care to introduce him into the way of perfection and divine love."[2]

Now, so that the confessor may truly consult the spiritual utility of these souls, behold what RULES OF GOVERNMENT St. Alphonsus prescribes to him:

1. Before all things, let him take care that he instill into them a great DESIRE of Christian perfection, and a most firm PURPOSE of attaining this perfection, "by representing to them the merit which God has that He be loved, and the gratitude which we owe to Jesus Christ, who loved us even unto dying for us; and also the danger in which all souls are placed who, called by God to a more perfect life, resist Him."[3]

2. Let him take care that they progress ORDERLY and GRADUALLY in perfection.[4] - Hence they are to be taught: 1. To beware of the least deliberate defect, or one admitted with open eyes, yet in such a way that, after some light fault has been admitted, they do not fall in spirit, but rise from the fall by acts of humility, sorrow, and purpose, and this even if they were to fall a hundred times in a day. 2. To perform ordinary actions well, or prayers, the duties of their state, etc., and to have a right intention in all things. - 3. First to strive for patience, then only for joy in adversities. - 4. Let them learn to bear light things before they desire grave things. - Nor meanwhile should the confessor be unmindful of the saying of the Lord, saying: "The Spirit breathes where He wills"; nor should he forget that this usually happens: that even souls enriched with great gifts of God and abounding in the fruit of solid virtues are seen to be infected with various defects and imperfections, God so permitting.

3. Let him take care that he introduce them into the custom of MENTAL PRAYER. - Hence let him establish for them the time to be expended on this most holy exercise; let him himself assign to them the truths to be meditated; let him teach them the method of meditating fruitfully; and now and then, for example each month, let him ask an account of this method. - Moreover, let him watch with open eyes that they pass no day without some consideration of truths; that they frequently think of God always present to us; that they pour forth frequent and fervid ejaculatory prayers; and that, insofar as it can be done, on individual days they read something attentively and piously from a spiritual book prudently chosen (cf. n. 535).

4. Let him take care that he effectively teach them the exercise of Christian MORTIFICATION. "To assert absolutely," says St. Alphonsus,[5] "that external mortifications profit nothing or little, is a very great error." Yet let the director take care that he not be excessive in conceding them, especially in the

first fervor of devotion; nor generally should he concede them except when asked, and let him concede less than is requested. - But let him watch that they exercise themselves constantly rather in negative mortification: for example, that they abstain from curious looking, that they speak sparingly, that they be content even with unpleasant foods, that in wintertime they do not approach the fire, that they command their passions, etc.[6] Moreover, the particular Examination will serve excellently as a singular aid to this exercise.

5. As regards the reception of the SACRAMENTS: 1. Let him advise general confession for those who are not scrupulous and who have not yet made it (cf. n. 1711). - 2. Let them confess once, or at most twice, in a week. But one who has fallen into a venial sin and lacks an opportune occasion of confessing should not on that account abstain from Communion, since venial sins are remitted also by other remedies. Indeed, some timorous persons will often more usefully dispose themselves for Communion by their own acts, as being those which then are wont to be more fervent, than by confession. - Concerning frequent Communion, recall what was said at nn. 1575-1582.

(2) Praxis, n. 121. (3) Ibid. (4) Cf. Konings, n. 1486. (5) Praxis, n. 145. (6) Praxis, n. 146.

1842. IT IS ASKED. How ought the confessor conduct himself with penitents who bring only IMPERFECTIONS or VENIAL sins?[7]

Resp. 1. "If they confess imperfections which do not reach faults certainly venial, Bonacina says that they can be absolved under condition; but I judge that this is not to be admitted except very rarely, and when they themselves could not assign certain matter from past life, or not without great trouble. For the rest I say that if the penitent does not present certain matter, the confessor must not inquire into it in order to absolve him; and in the case in which he had inquired and had not found it, he is not bound to impart conditional absolution to him" (cf. n. 1658 and 1663, qu. 5, Reg. 24).

2. "If the penitent confesses certain venial sins, but usual or daily ones, for example concerning impatiences, intemperances, distractions in the Office, in prayer, and similar things, so that absolution can be given to him, it must be considered whether he has at any time imposed force upon himself, as much as he could, in order to overcome the passion; because then it can be judged that his faults proceeded rather from human frailty than from defect of sorrow or purpose. - Conversely, if he has relapsed frequently, and without resistance, into faults of this kind, then he must be dealt with as with a recidivist," according to what was said at n. 1829; and therefore it must be obtained either that he truly grieve over at least some one of those sins, or that he present for matter some graver sin of past life.[8] - Recall what was said at n. 340 and following.[9]

(7) Cf. ibid., n. 99. (8) H. A., Append. IV, n. 17, Monita ad confessar. (9) Especially, as to the direction of nuns, cf. Scavini, tom. IV, n. 519; Berardi, Prax. conf., n. 1137 sqq.

VII. On Persons Who Enjoy The Gift Of Contemplation

1843. Preliminary Remarks. "When some soul is gifted by God with the grace of contemplation, it is necessary that the confessor know very well the mode by which he ought to direct it and free it from all illusions; otherwise he will bring the greatest harm, and, as St. John of the Cross says, he himself will have to render a great account to God." These things are from St. Alphonsus.[10]

Wherefore, if any penitent is raised to such a state, it is necessary that the confessor, ignorant of mystical matters, send him to a suitable moderator; or, if he judges that he is not to be sent, that he himself at least have docile recourse to learned books and experienced men, by whom he can be taught.[11]

Meanwhile, it will profit a confessor of this kind not a little to receive at least the NOTION here sketched of those supernatural states; for, imbued with such a notion, he will be occupied more easily and more safely in the study of such sublime things.

DEFINITION. Contemplation is defined by Guigo the Carthusian:[12] "An elevation of the mind suspended in God, tasting the joys of eternal sweetness." It differs much from meditation: for in the latter God is sought by the labor of discourse, and the soul operates by acts of its own powers; but in the former, without labor of this kind, it contemplates God already found: for God Himself then operates, and the soul only suffers, since the very light and divine love with which it is then wholly filled render it sweetly attentive to contemplating the goodness of its God.[13]

DIVISION. - "Contemplation is either affirmative or negative. - 1. It is affirmative when the soul, by benefit of divine light without any work of its own, beholds some truth either created, such as the unhappiness of hell, the happiness of paradise, etc., or uncreated, such as divine mercy, love, power, goodness. - 2. It is negative when it recognizes the divine perfections not in particular, but in general, with a certain confused knowledge, but one which introduces a far greater concept of the divine greatness."[14] This latter is more perfect and is called by the Mystics the prayer of darkness, clear darkness, sublime knowledge of God through ignorance, pure contemplation, etc.; in it all the interior powers of the soul are suspended, and sometimes also the exterior senses.[15]

(10) Praxis, n. 126 (likewise H. A., App. I, § 2). (11) Ibid., n. 194; Mon. ad confess., n. 23. (12) Scala Claustralium, cap. 1, fin. (ap. Migne, Patrolog., tom. 184, col. 476). (13) Prax., 126. (14) Ibid., n. 132. (15) Ibid., n. 135.

1844. Principles. I. Infused contemplation, IN THE ACTIVE STATE, is usually preceded both by the prayer of natural recollection, or of contemplative leisure, and by purgation of soul through aridity of sense. We say it is usually preceded; for "the Spirit breathes where He wills" (John 3:8); nor are there lacking examples of souls which have been immediately raised to the last grade of contemplation without having passed through the preceding grades.

Moreover: 1. The PRAYER OF NATURAL RECOLLECTION is said to be granted to the soul "when the intellect does not need, with labor, as it were to go outside the soul in order to consider some mystery or eternal truth; but, drawn away from external things and gathered as it were within the soul itself, without labor, indeed with great sweetness, it attends to that truth or mystery, whatever it may be. - Contemplative leisure is almost the same, except that in recollection the soul attends to some particular devout thought; but in leisure, with a certain general knowledge of God, it feels itself gathered within itself and sweetly drawn by God."[16]

2. SPIRITUAL PURGATION consists not only in natural aridity, by which souls proceeding even by the ordinary way often labor, but in supernatural aridity, which is a drawing of grace and a certain light bringing punishment and obscurity. - This is twofold: namely aridity of sense and aridity of spirit:

1. Aridity of sense is a most troublesome subtraction of sensible devotion, through which the soul is led to a certain alienation from all sensible pleasures, both earthly and spiritual. It endures until, the senses having been purified, the soul is rendered apt for the first grades of contemplation.[17] 2) "Aridity of spirit, or substantial aridity, is a certain divine light by which God causes the soul to recognize its own nothingness." In this state, although more attentive to pleasing God, it sees itself in a certain more terrible agony, believes all things done by itself worthy of punishments, and itself hateful to God; indeed, it sometimes experiences a thousand temptations, the punishments of the damned, and divine dereliction. God is wont through this purgation to prepare the soul for the last grade of contemplation, i.e., for passive union, in which there are ecstasies, raptures, etc.[18]

(16) Ibid., n. 127. (17) Praxis, n. 128, 131. (18) Ibid., n. 129.

1845. II. The GRADES OF CONTEMPLATION are indeed various and many; yet among them three principal ones are numbered, namely supernatural recollection, quiet, and union. Now:

1. SUPERNATURAL RECOLLECTION is had "when the gathering of the powers does not come about by the work of the soul itself, but by benefit of the light which God infuses, and through which a great and sensible divine love is excited in it." The soul is placed, through this infused recollection, in the PASSIVE STATE, in which "it must not investigate more curiously what that interior recollection of spirit is; but let it permit itself to be directed by God to consider those things and to make those acts toward which it knows itself to be more borne by God."[19]

2. QUIET differs from the preceding grade in this, that "in recollection the force of divine love is communicated immediately to the external senses, which God Himself causes to be gathered within the soul; but in quiet love is communicated immediately to the spirit, in the very center of the soul: and the love itself is more ardent," and sometimes is diffused to the senses themselves. Then, in quiet, "the will indeed is suspended, which remains as it were bound, because then it can love no other object besides God, who draws it to Himself; but the intellect and memory or imagination sometimes remain free and run here and there." Nor, truly, should the soul be saddened about this, but neither should it strive to gather its thoughts; for it would attempt this in vain and would lose quiet: but let it elicit only those acts toward which it feels itself sweetly impelled by God.[20] - There is usually a following:

3. UNION, namely passive union, by which God offers Himself to be seen by the soul not only as near (as in the preceding grades), but as present: and the soul experiences Him joined to itself by a certain sweet contact; whence it can no longer doubt concerning the truth of that presence. See St. Alphonsus.[21]

(19) Ibid., n. 133. (20) Ibid., n. 134-135. (21) Ibid., n. 136-138.

1846. III. Often certain GRACES are granted with the gift of contemplation, such as visions, locutions, and revelations, which it is of great interest to distinguish from false ones. - Now:

1. VISIONS (whether external, or imaginary, or even intellectual) can be caused by the devil. - But the probable signs from which their divine origin is recognized are these: 1) if they are rare, sudden, passing like lightning, yet immovably fixed in the mind; - 2) if in the beginning they bring confusion

and terror, but in the end leave the soul in the greatest peace and in living knowledge of its misery, with a great desire of perfection. For such things ordinarily proceed neither from the devil nor from nature, although they can also proceed from the devil, who "transforms himself into an angel of light"; but "by their fruits you shall know them," i.e., demons and false prophets.[22]

2. LOCUTIONS, for example for imposing works, for instructing, are: either successive, when someone, meditating, feels as though he is answered by his own spirit, but as if it were an external person; or formal, when the soul hears (by the ears, imagination, or intellect) some formed words, but outside itself; or substantial, when they quickly operate that which they express: as, for example, if the soul were to hear: Do not fear, and immediately becomes intrepid. - These last are safer than all the others; the first are very uncertain, and the second very suspect. - Hence the director, if he observes that the things commanded are contrary to Christian prudence, must prohibit them altogether. But if they are not contrary, it is expedient that he suspend execution until greater certainty is acquired.[23]

3. REVELATIONS of hidden or future things, for example of mysteries of faith, states of consciences, etc., can be had in three ways, namely through visions, through locutions (as above), and through understandings of naked truths. - In these one must proceed most cautiously, especially when there is question of certifying someone because of knowledge received in revelation.[24]

Note. "When God speaks and operates, it is necessary that the soul be silent and cease from its own operations; but when He does not speak, it is necessary that the soul help itself in that mode in which it can, in order to join itself to God, namely by meditations (when these are necessary), affections, prayers," etc., as in the active state.[25]

(22) Praxis, n. 139-140. (23) Ibid., n. 141. (24) Ibid., n. 142. (25) Ibid., n. 127, v. fin.

1847. Questions. QUAER. 1. What is the OFFICE OF THE CONFESSOR toward a soul which walks by the ways of contemplation?

Resp. Two things in this office of his are principal: 1. He must PRESERVE IT IN HUMILITY while it is gifted with graces. For no grade of contemplation confers impeccability; "and therefore, the more it sees itself gifted by God with graces of this kind, so much the more it must be humble and alienated from all things, loving the cross alone, and living wholly conformed to the divine dispositions, with continual fear that its infidelities from that time will be punished more bitterly, on account of the greater ingratitude with which they will be committed."[26] Therefore let him impose on it "that it faithfully narrate all the communications which it has in prayer. Yet let him show no appetite for knowing them (nor have it write them, unless this is necessary); nor let him ever manifest to another the supernatural graces conceded to his penitent." Nor let him show to it "a sign of esteem, and much less send other penitents to ask counsel from it, or to seek solace or direction. Rather let him show that he makes less of it than of other souls which walk by the way of faith"; let him not spare its faults and defects, etc.; "because souls adorned with these favors, regularly speaking, are always and much to be humbled." - Especially, "when there is question of external graces, such as visions, locutions, and revelations, regularly speaking, it is safer that the director show that he makes little of them (because there are more false visions than true ones);[27] and the more avidly they are sought and held in value, so much the more the person will stray from faith and humility, which is the safer way that God has placed. - Wherefore, let him give it the counsel that it pray God to concede true

ecstasy, namely total alienation from earthly things and from itself, without which it will never be able to arrive at perfection."[28]

2. He must COMFORT and HELP the soul when it is placed in doubts, aridities, and temptations, which are wont to abound in these ways. To this end let him not show himself fearful, or in any way hesitating, but let him manfully comfort it to fear nothing. Let him say to it that all those suggestions of blasphemies, unbelief, impurities, and despair are not consents, but punishments which, if they are tolerated with resignation, join the mind more and more to God. "Let him exhort it to be of strong soul, and to expect great things manfully from God, while He leads it by the safer way, namely by the way of the cross. Let him also warn it that first it humble itself, as being worthy to be treated thus by God on account of the defects of past life; secondly, that it wholly resign itself to the divine will, presenting itself most ready to bear all these things, indeed even greater things for every time for which it shall please God; thirdly, let it cast itself as dead into the arms of divine mercy, and commit itself to the protection of Most Holy Mary, who is rightly called Mother of mercy and consoler of the afflicted."[29]

QUAER. 2. Must the favors of divine contemplation be SOUGHT?

Resp. Distinguish. 1. If there is question of souls which have not yet been gifted with these favors, it is safer to desire and seek only active union, i.e., perfect uniformity with the divine will; for in it certainly consists the whole perfection of divine love, and a faithful soul can, without the gift of contemplation, but with only the benefit of ordinary grace, arrive at annihilation of its own will and at transforming it into God.[30]

2. If there is question of those which have already rejoiced in extraordinary graces in the passive state, again one must distinguish: 1) The graces which are called uniform with faith, such as confused and general knowledges and divine touches which unite the soul to God, are not to be rejected; and therefore they can be humbly sought and desired, so that union with God may thus be perfected and divine love take new increases. - 2) But graces which remove from faith, because they consist in certain distinct knowledges (such as visions, locutions, and revelations), are to be most constantly rejected, "yet always in the spirit of humility, and without any contempt, as would be to spit, to laugh in the face, etc. (which is not licit, as several assert); and by protesting before God that one wishes to serve Him in pure faith."[31] See more among the mystical authors.[32]

(26) Ibid., n. 136. (27) Cf. Benedict XIV, De Beatif., L. III, c. 53, n. 17, where he treats of false revelations even among the Saints. (28) Praxis, n. 144. (29) Ibid., n. 130. (30) Ibid., n. 136. (31) Praxis, n. 143. (32) Cf. Scaramelli, Direct. mystic.; Meynard, Traite de la vie inter., tom. 2.

§ 2. On The Obligation Of The Confessor Toward Diverse Penitents From External Condition

Penitents who, on account of external condition, demand a special care proper to themselves, are especially: 1. children and adolescents; - 2. the betrothed and spouses; - 3. persons of distinguished condition; - and 4. finally, the sick and the dying. As regards Nuns, see what was said at nn. 1764, 1765, 1736.[1]

(1) Cf. Berardi, Examen, n. 347 sqq.

I. On Children And Adolescents

1848. I. It is an excellent custom, and St. Charles Borromeo held it, to call CHILDREN, even six-year-olds, to confession, so that, by anticipating the obligation soon necessarily to be fulfilled, they may gradually become accustomed to the reception of the Sacrament. - Seven-year-olds are subject to the common law concerning annual confession, not otherwise than those greater by birth (cf. n. 194); and it is to be wished that, from this time onward, they be refreshed by the benefit of confession at least three or four times in each year.

But so that the confessor may truly consult their spiritual utility, let him attend to the following ADMONITIONS:[2]

1. Before confession, let him diligently teach them both the things necessary to be known for salvation, and all those things which regard receiving this Sacrament worthily, namely the necessity and mode of examining conscience, the necessity and motives of contrition, sincerity in confessing with opportune examples, and also the most grave obligation of the sacramental seal, incumbent not only upon the confessor, but also upon all to whom, by accident, something from confession should become known.

2. To this instruction let him join a practical exercise of all those things which must be done before confession, in confession itself, and after it. Let 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; namely, so that neither they themselves, by waiting, be exposed to weariness, nor the confessor, by hearing, to the danger of haste.

3. In the confession itself of little children, let the confessor[3] use all charity and kindness which he can, lest namely, from fear, they hold back something. Let him permit them, indeed exhort them, that they themselves first explain their sins; in which, if they fail, especially if they seem to be distressed by fear or shame, let him help them by brief questions, for example whether they prayed morning and evening, whether they heard Mass on feast days; whether they were obedient to parents and superiors, etc. Then, whether they kept silent about some sin? whether they did anything base? But in this matter the confessor must be especially cautious. - Let him then only turn away from general questions when necessity truly demands it. In which case he will be able to ask the little child, for example, whether he heard bad words? whether he said such things? whether he played badly with other children? If he admits it, he can be asked what he did. He can also be asked whether he is fearful at night, so that thus it may be discovered whether he sleeps alone or with others, and whether some question about this matter is to be added. - It is also useful, now and then, to proceed by suggestive questions, for example, And now tell me how many times you did this? five times, ten times? And from the responses let him proceed to further things, but always with the greatest prudence, according to what was said at n. 1806. Let the confessor also beware lest he be excessive in examining, lest children conceive a horror of confession.

4. Pious instructions and admonitions are to be instilled into little children; for they are seeds which, if not immediately, nevertheless afterward will bear fruit. - Hence, just as they are to be praised if they have conducted themselves laudably, so that they may be confirmed in a right manner of living; so, on the contrary, if they have conducted themselves badly, the confessor must sweetly deter them from sin: for example by saying that sin renders the soul foul after the manner of the devil, but things rightly done effect that little children become like Angels; that God is present everywhere and

beholds all things; that the same God wishes to crown the good with eternal reward, but will punish the bad with eternal torments; that God commands that we dread sins worse than a serpent, that obedience be shown to parents, that evil companions be avoided, etc. But if the child's conscience has been found erroneous, let it be corrected, lest he himself sin in the future from such a conscience.

5. Little children must be helped much in eliciting an act of sorrow. To this end the confessor will be able to use the following words: "Do you love God, who is your Lord, so great and good, who created you, died for you, etc.? This God you have offended. He wishes to give you pardon, and you hope that, on account of the blood of Jesus Christ His Son, He will forgive you. But it is necessary to repent. What do you say? Does it now repent you that you have offended Him, etc.? By these injuries which you have inflicted on God, do you know that you have deserved hell? Does it displease you that you committed them?... My God, I do not wish to offend Thee any more, etc."[4]

6. Let him impose on little children only a light penance. - Let him greatly commend to them devotion toward the Virgin Mother of God, and the most holy and most useful custom of reciting three Hail Marys morning and evening, with that or a similar invocation: My Mother, free me from mortal sin.[5] - Whether absolution is to be conceded to children or not; whether absolutely or conditionally, see n. 1663, qu. 5, Reg. 2a.

7. Finally, after confession care must be taken that they spend some brief time in giving thanks to God and pay the penance, yet separated from companions who have not yet completed confession.

NB. As regards FIRST COMMUNION, see what was said at nn. 1573-1574.

(2) Cf. Konings, n. 1482; Furniss, Le Missionaire des enfants (Tournai, 1888). (3) Prax., n. 90. (4) Praxis, n. 91. (5) Ibid., fin.; cf. Mach, Tesoro del Sacerd., tr. XII, c. 1, art. 3, § 3.

1849. II. ADOLESCENTS of either sex, who have already been admitted to Holy Communion, likewise demand a special care proper to themselves. Over these the confessor must watch with most open eyes, so that they may be preserved immune from the corruption of the age and the enticements of the flesh. - But for this end nothing more efficacious can be devised than frequent reception of the Sacraments.

1. In hearing their confessions, let him see: - whether and to what dangers their faith and morals are exposed; - with what companions they foster familiarity; by what enticements, as it were, they are exposed to sin or have been exposed, whether by thoughts, by conversations, by little songs, by looks, by bad books, or by familiarity with others; - what their first mortal sins were like, whether of malice or of infirmity.

2. Let him exhort them to sincerity, and induce them faithfully to open temptations, lest, deprived of opportune means, they succumb. - Let him especially teach them the necessity of praying and of fleeing the dangers of sin. - Generally, let him be more ready in teaching and admonishing than in questioning. But let him abstain from any little word whatever which he would not wish to be heard by others.[6]

3. "Concerning the STATE to be chosen by some adolescent, let the confessor not dare to determine it for him; but only from indications let him take care to persuade that state to which he can prudently judge the adolescent himself to be called by God"[7] (cf. n. 2142, q. 2). "But as regards girls who desire to consecrate their virginity to Jesus Christ, let him not permit them to vow chastity perpetually,

unless he knows them to be well founded in virtues, and taught in the rules of the spiritual life, and especially exercised in prayer. In the beginning he can permit them only to vow chastity for some definite time, namely from the solemnity of one feast to another of another feast."[8] As regards the state of matrimony, see nn. 1851, 1951.

4. Concerning the RELIGIOUS STATE in particular, let the director conduct himself cautiously: 1) lest he easily induce anyone to embrace it, unless indications of true vocation manifest themselves; for the danger of inconstancy would be feared (and especially in girls), if more vivid exhortations or flatteries had induced them to take up such a kind of life; 2) lest he introduce a long delay and impediments for those adolescents who desire to embrace the religious state with a right end; for less probation is required for a vocation to Religion than for a vocation to exercise the priestly office in the world, as St. Alphonsus warns.[9] - See what is to be said at n. 2142, concerning vocation.

(6) Cf. Konings, n. 1483. (7) Praxis, n. 92. (8) Ibid., 93. (9) Ibid.; cf. Ciolli, Direttorio, n. 89-91; Mach, op. cit., tr. XIII, c. 7, app.

II. On The Betrothed And Spouses

1850. I. The BETROTHED are generally to be admonished that they celebrate matrimony as quickly as possible; for thus very many sins are impeded. Recall what was said at n. 826 and following, to which add the following:[10]

1. Let the confessor first see whether any impediment is present, whether prohibiting or diriment, ecclesiastical or civil, so that it may be removed opportunely. See n. 1984 sqq. and n. 2041 sqq.

2. Let him use every zeal and industry, so that the betrothed, purified by holy confession, may receive this great Sacrament fruitfully. - The matter having been accomplished in vain, let him dismiss the indisposed without absolution, without, however, denying to those asking, if they have truly confessed, a certificate of confession made. Let him absolve the doubtfully disposed under condition, as was said above at n. 1663, q. 4 and 5. - Moreover in either case, let him gravely admonish them to prepare themselves, through perfect contrition, for entering matrimony worthily, and to return shortly to confessing, with all mention of the sacrilege by which those contracting unworthily defile themselves omitted, in order to forestall a greater sin, unless perhaps a certain fruit could be hoped for from an admonition of this kind.[11]

3. Let him admonish them concerning the most grave end of matrimony, and concerning the obligations of spouses and parents (cf. n. 699 sqq. and n. 703). - But speaking of those things which regard the use of matrimony, let him use the greatest prudence. "For innocent betrothed women, who perhaps are ignorant of copula, are not to be instructed by a priest before matrimony; but if they ask anything, they are first to be sent back to their mothers. This especially holds for betrothed women of a more honorable condition, who are wont to be taught by their mothers on the day before matrimony. If they do not have a mother, let the pastor or confessor point out to them some prudent and pious matron, from whom they may learn all those things which it is fitting for spouses to know."[12] But if the betrothed have already been corrupted, or are by no means ignorant of the base matter, let the confessor teach them, yet briefly and with the most chaste words, as is set forth in the following rule.

(10) Ciolli excellently discusses the betrothed, loc. cit., n. 94-96. (11) Cf. Muller, lib. III, § 163. (12) Aertnys, Fascicul. Theol. mor., n. 40, q. 2.

1851. II. "SPOUSES are to be taught that not all things are licit for the married, but that the sanctity of matrimony can be defiled by grave sins. Wherefore the following general RULES are to be handed down to each: 1. All those things are licit to spouses which are ordered to the generation of offspring, or to the legitimate use of marriage. - 2. They are immune from mortal fault if deliberately they do nothing by which they expose themselves to great danger either of losing semen on the part of either one, or of harming a fetus conceived. - 3. For the rest, if afterward they doubt concerning some matter, counsel must be sought from the confessor.

"Moreover, each is to be taught: 1. The HUSBAND, that he not ask the debt at those times in which copula can be gravely harmful to the wife, for example at the time of purgation, or of grave disease. - 2. The WIFE, that she is bound under grave sin to obey the husband in rendering the debt, unless she is excused from a just cause, for example because of infirmity."[13]

(13) Ibid.

1852. Let it be noted: "1. The instruction premised, which of itself is incumbent on the pastor, is to be handed down either on the day before matrimony is to be contracted, or a little after it has been contracted, according as it shall have seemed expedient; or as often as younger spouses ask to be taught by the confessor concerning this matter, or are noticed to need instruction of this kind.

2. "Instruction of spouses concerning things to be observed in the case of abortion, as regards Baptism of the aborted fetus, wholly pertains to the pastor; nevertheless, when an occasion has been given, namely when the confessor notices that spouses are ignorant of these things, or have failed in their office in this matter, let him himself not neglect to teach them. The same must be said concerning those things which spouses must avoid, that they may beware of abortion.

3. "Let the confessor not omit to admonish younger wives, for whom it is fitting, that they not take with themselves into bed an infant not yet one year old, nor boys or girls already six years old; and much more, that they not permit children of this kind of either sex to sleep together in the same bed."[14]

IT IS ASKED. How must one proceed with spouses who are placed in a PROXIMATE OCCASION of sin because of abuse of matrimony against nature, for example if one directly pollutes the other, if one is accustomed to consent to onanism, sodomy, one's own pollution, etc.?

Resp. They are to be treated as habituated persons or recidivists in a necessary occasion. But if, remedies having been applied, they always relapse in the same way, without probable hope of amendment, they are in no way to be absolved unless they have removed the occasion, according to what was said at n. 1825, q. 2. - Indeed, in this case, a spouse who is placed in proximate danger of sinning because of the solicitation of the consort is bound to make separation if no other remedy remains,[15] as will be seen in the Treatise on Matrimony (n. 2124, 2).

(14) Ibid. (15) Aertnys, ibid., n. 40, qu. 3.

III. On Persons Of Distinguished Condition

1853. St. Alphonsus admonishes:[16] "With persons of this kind (i.e., with princes, magistrates, prelates, pastors, priests, etc.), although corrections must be applied in milder and more discreet words, nevertheless let it be done with greater fortitude and warmth of soul, since from the sins of these persons, on account of the graver harm which can be brought to others by their evil example, a more pernicious consequent license of crimes is wont to exist." (cf. n. 1810, Reg. 3a).

See the *Praxis Confessarii* n. 48 and following, as regards the questions to be asked of those who are of a conscience little meticulous. See also the things set forth in Part 4, *On Particular States*.[17]

(16) H. A., XXI, 4; cf. St. Thomas, 1.2, q. 73, a. 10. (17) Cf. Ciolli, n. 100-104; Berardi, Prax. Conf., n. 1138, as regards priests.

IV. On The Sick And The Dying

1854. "No work of charity is present which is more acceptable to God and more conducive to the salvation of souls than to help those placed in the extreme danger of life to die holily; for at the time of death, on which the eternal life of each one depends, the powers of hell are stronger, but those of the sick are weaker."[18]

Moreover, the sick lying dangerously ill are of a twofold kind: some enjoy the use of reason and the senses; others are destitute of the senses. As regards guilty persons condemned to capital punishment, see in St. Alphonsus[19] (cf. n. 2300 and 2311, 2).

I. As regards the sick USING REASON AND THE SENSES, the Ritual admonishes: "Let the confessor approach the sick man so prepared that he have ready arguments apt for persuading, and especially examples of the Saints, which avail very much; by which he may console, excite, and refresh him in the Lord."

Moreover, to many other things which the Ritual hands down concerning the visitation and care of the sick, and which are to be observed faithfully, it is helpful to add some things excerpted from the writings of St. Alphonsus,[20] namely the following:

1. Having entered the room of the sick person, let the confessor speak to the one lying ill in a friendly manner, by inquiring how he is; and having exhorted him to conform himself to the will of God, let him gradually transfer the conversation to instituting confession. Yet in the first visit, unless necessity urges, let him generally be silent concerning it; but after, on the second or third visit, he has begun to speak about it and has assigned the day and hour for instituting it, let him skillfully take care that the sick man make it without procrastination, especially if the disease is of such a nature that delirium could easily supervene. See also n. 2332.

2. If the sick man is a scandalous man, for example living in concubinage or in a merely civil marriage, an author of bad books, notoriously excommunicated, etc., commonly he must not be heard unless first he has promised amendment and due satisfaction; for it is to be feared lest, confession already having been begun, he refuse to obey; from which it could easily happen that the confessor, bound by the sacramental seal, would be forced to administer the last Sacraments to one

unworthy. - Nevertheless circumstances can persuade otherwise, for example if death is imminent, and immediate confession already signifies reparation of scandal.

3. As regards confession itself, let him take care that it be made so diligently that nothing of those things which are required for integrity and contrition be omitted, and so moderately that the penitent is neither affected by annoyance nor wearied by too much application of mind. - But if imminent danger of death, or the gravity of the disease itself, or other grave reasons persuade this, let the confessor urge material integrity less, but, with the admonition premised that the penitent complete his confession afterward if he recovers, let him watch much and almost solely over the dispositions of his soul.[21]

4. If those serving the sick man cannot withdraw, let the confessor admonish him to declare at least one sin, and this a light one; when this has been declared, let him incite him in a few words to sorrow concerning all sins which he has committed, and then impart absolution to him. - Finally, if someone could confess no special sin, for example because he is deprived of speech, but gives signs of penance, and shows that he wishes absolution, he is also to be absolved; absolutely, if no prudent doubt concerning his disposition underlies; otherwise, conditionally (cf. n. 1663, q. 5).

5. Let him impose a light penance, indeed sometimes a very light one, such as invocation of the Most Holy Names of Jesus and the Virgin Mary; but let him add, as the Ritual wills, to this penance another more proportioned one for the time in which the sick man will have recovered. But it will be enough, says St. Alphonsus, to enjoin on him that he return in time of health; or, that he satisfy by alms, if he can (cf. n. 1720, 2).

6. If a convenient occasion seems present, "let him exhort the sick man to dispose opportunely concerning his domestic affairs: for this is expedient for the peace of the family, and the more so if it is necessary for the relief of his conscience. - Yet in this the priest should carefully beware lest he himself fall into any note of gain (or into the hatred of relatives)."[22]

7. The sick man must be forearmed against temptations.[23] If he is tempted against FAITH, he is to be exhorted to elicit acts of faith without any examination; that, as soon as the temptation rushes in, he have recourse to prayers and turn thought aside to other things; also, if the temptation persists in urging much, let the confessor explain to him in few words the motives of credibility, and take care that the one tempted, by his own prayers and those of others, obtain the grace of resisting and persevering. - If he is tempted against HOPE (and this temptation indeed is very frequent), let the confessor set forth to him the reasons why we must hope; let him pray for him, and rarely, while he is hearing, have conversation about matters which inject terror. - Let him also watch that temptations of vainglory, impatience, excessive aversion from death, excessive love toward relatives and temporal goods, as well as temptations of hatred and vengeance, be kept away from him.

8. Let the confessor suggest to the sick man, but with few words and only at intervals, acts of virtues by which Christians ought to dispose themselves for a holy death, namely acts of faith, hope, charity, contrition, conformity with the divine will, and acceptance of death. Nor should he omit now and then to offer him an image of the Crucified, and other holy images, that he may kiss them.

9. Finally let the priest take care that the sick man gain all the Indulgences which he can; but especially the plenary Indulgence in the article of death, which the Apostolic blessing has annexed to

itself. - Hence let him admonish him, contrite, to implore the Most Holy Names of Jesus and Mary, once or more often (by mouth, if he can; but if not, by heart)[24] (cf. n. 1741).

10. When the sick man is already in his last moments, care must be taken that persons whose presence could bring some danger to the dying man be removed from his room.[25] But let the priest frequently sprinkle him with blessed water, frequently fortify him with the sign of the cross, and frequently offer him sacred things to be kissed. - Let him pour forth many prayers together with those standing by, nor omit to recite the accustomed prayers of the Church.

11. Let him hand him a blessed candle, so that, holding it, he may profess that he dies in the Faith. - But let him disturb him by no touch of the body, nor do anything by which death could be accelerated. - As long as the struggle with death endures, let him repeat the holy acts, and multiply them and pronounce them in a loud voice, so that thus they can be heard by the dying man.[26]

12. The SIGNS of imminent death, see in St. Alphonsus.[27]

(18) Praxis, n. 227; cf. Mach, op. cit., Tr. XII, cap. 2. (19) Ibid., 108-109. (20) Praxis, 231 sqq. (cf. Scavini, lib. IV, app. VII). (21) Ibid., n. 105. (22) Ibid., n. 233. (23) Ibid., n. 237 sqq. (24) Praxis, n. 276. (25) Ibid., 236. (26) Ibid., 276. (27) Ibid., 280-283; cf. also Capellmann, Medicina past., De Agonia.

1855. II. With dying persons DESTITUTE OF SENSE the following things are to be observed:

1. All dying persons destitute of senses who, before the privation of the senses, expressly showed a desire of confession, for example by ordering a priest to be called, are to be absolved, more safely however under condition. The reason is that confession, in the case, becomes known to the confessor sufficiently sensibly through the testimony of another, and is as it were confession by an interpreter. This is established from the Roman Ritual on the Sacrament of Penance.

2. All dying persons wholly destitute of senses who have lived as Christians are to be absolved under condition, even if they have manifested by no sign either sorrow concerning their sins or desire of confession. The reason is that in such persons sorrow and desire of absolution can be presumed through sensible signs, for example through sighs, movements of the body, anxious breathing manifested, although these are not perceived by the confessor.[28]

3. For the same reason, other dying persons destitute of senses who have lived little as Christians are to be absolved under condition. Indeed, it is sufficiently probable that a dying Catholic who, in the very act of sin, has been deprived of senses, for example in a duel, adultery, theft; likewise free-thinkers, Freemasons, apostates, etc., is to be absolved conditionally. - Nor does it stand in the way that attrition and confession in these persons are very doubtful; because, in the case of extreme necessity, even in the administration of the Sacraments it is licit to use a slight and little-founded probability.[29]

4. Under condition, similarly, those can be absolved who, although they have never professed the Catholic faith, nevertheless have shown a will inclined toward it; provided that they had 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 a certain reason for conjecturing that they wish to depart life in the communion of the Church.[30] But if heretics have given no indication of this will, they are not to be absolved even if they give signs of sorrow; because such persons can never prudently be presumed to furnish those signs in order to confession, from which they shrink exceedingly.[31]

You will resolve for practice: 1. A dying Catholic, or one not certainly a heretic (even if perhaps unknown), in every case in which it is not evidently established that he is already dead, or actually altogether indisposed, or refusing the Sacraments, is to be absolved either absolutely or conditionally (according to his condition).

2. Nevertheless an act of contrition is to be suggested to him briefly and in a loud voice, if he has given no signs or doubtful signs of penance. For physicians testify that "hearing generally persists even to the last time, and not rarely, when the other senses have already plainly been extinguished, it still remains."[32]

IT IS ASKED. How often must ABSOLUTION be renewed for a dying person?

Resp. 1. If, having already confessed duly, he still flourishes in the senses, absolution must be renewed for him several times; yet in such a way that, before it is imparted anew, a new sign of sorrow and confession, at least some sort of sign, is manifested. For thus the sick man is rendered more secure concerning the state of grace, or certainly sanctifying grace is increased, and the punishments of Purgatory are diminished.

Resp. 2. If the dying man (likewise having confessed) is already destitute of senses, and manifests no sign of sorrow, it is not expedient to impart absolution to him frequently within the same day, i.e., not more often than every three or four hours; for a grave and urgent cause (on account of which alone the Sacrament can be administered under condition) is not present here of itself, so that the words of absolution should be repeated more frequently. We have said of itself; for, upon a dying man accustomed to bad thoughts, or entangled by some passion of hatred or impure love, or very impatient with the troubles of disease, or also now about to die, they can be repeated more often. "It will not be out of place," adds St. Alphonsus, "to admonish the sick man, while he is capable in mind, that if he cannot speak, he give some determined sign when he seeks absolution, or when the priest wishes to confer it upon him, for example that he close or open his eyes, lift his hand, incline his head, and similar things."[33]

Resp. 3. Finally, if the dying man has been so destitute of senses that he could never either confess or express contrition, he is to be absolved much more often, at least under condition; because it can happen that he succumbs to hidden temptations, and especially because it can happen that the infinite mercy of God mercifully grants him the grace of compunction, which he previously lacked, in a lucid interval.[34]

NB. Recall what was said at n. 929, II, 1282 and 1777.

(28) Book VI, 482. (29) Book VI, 483. (30) Konings, n. 1371. (31) Book VI, 483, fin. (32) Capellmann, loc. cit. (33) Praxis, n. 276, 11. (34) De infirmis et moribundis; cf. Van Egeren (fascic. 13), Confessar. moribundorum; Berardi, Prax. Conf., n. 762 sqq.

Chapter IV: On The Obligations Of The Confessor After Confession Has Been Received

The obligation of the confessor after confessions have been received is twofold: - one, and this per accidens, is occupied in correcting errors committed; - the other, in preserving the sacramental seal.

Article I: On The Obligation Of Correcting Errors Committed

The errors which escape the confessor can be occupied: 1. about the value of the Sacrament, e.g. if he did not absolve, or if he absolved without jurisdiction; 2. about the integrity of confession, e.g. if he doubts whether he omitted questions that should have been asked; 3. about the obligations of the penitent, as if he left him in an occasion of sin, if he did not oblige him to due restitution, or obliged him to an undue one.

Wherefore the following things are established:

1856. Principles. I. An error about the VALUE OF THE SACRAMENT, committed with grave fault of the confessor and with grave DAMAGE of the penitent, must be repaired by the confessor, even with his own GRAVE inconvenience. The reason is that, although the confessor from charity alone took upon himself the burden of hearing the confession of the penitent, nevertheless, after he has heard it, he is bound from office, and from a quasi-contract, to administer the Sacrament to him rightly. Hence, if he administers it invalidly, he is an unjust damager.[1]

It was said, 1. with grave fault; because from light fault there does not arise a grave obligation of repairing damage (cf. n. 950, qu. 1 and 3). - Exceptions: 1. If the confessor is a pastor; for he, from another title, i.e. by reason of the stipend received, is bound to avert spiritual damage from his subjects; 2. if the penitent were in grave danger of dying in the state of mortal sin, i.e. if he were in the article of death, or in probable danger of not confessing any more; for then the obligation of charity urges.

It was said, 2. with grave damage, namely a persevering damage, which needs reparation. - Hence, if the penitent afterwards has confessed to another priest, or if he has received the Eucharist or Extreme Unction, he need not necessarily be admonished concerning the error, since he is supposed already to have been morally certainly justified.

(1) Book VI, 619; H. A., XVI, 121; 1 Elench. qq. ref., n. 85.

1857. II. An error about the INTEGRITY OF CONFESSION must be repaired in a diverse mode, according as namely the confessor bore himself NEGATIVELY or POSITIVELY. For:

1. If he bore himself NEGATIVELY, whether from forgetfulness, or even from culpable negligence, e.g. by not questioning (when he should have done so) concerning the species and number of sins, he is not bound to repair the error outside confession. And the same must be said if he omitted imposing a penance or handing down salutary admonitions and remedies. The reason is that the obligation of procuring the integrity of the Sacrament directly affects the penitent, not the confessor, who therefore is not censured to be the efficacious cause of the omission, nor is he bound to repair it, except per accidens, in another confession, as spiritual physician and minister of the Sacrament.[2]

2. If POSITIVELY, and with grave fault, he erred, e.g. by inducing the penitent not to explain otherwise the number or species of sins, he is bound, with the previous permission of the penitent, to repair the error, even outside confession; for, by natural right, each one must remove a cause of evil which he positively and voluntarily posited (cf. n. 513). Understand this, however, provided he

can do it without his own grave damage and scandal; for just as grave damage excuses the penitent, so also it excuses the confessor from the integrity of confession.[3]

(2) Book VI, 620. (3) Ibid.

1858. III. An error about the OBLIGATIONS OF THE PENITENT, tending to his damage or that of a third party, must be repaired by the confessor, even with his own grave inconvenience, if he POSITIVELY and with GRAVE fault induced the penitent into error. But otherwise, if he induced him with no fault, or with fault only light, or if he bore himself negatively. - The reason for the first assertion is that by his counsel or doctrine, in reality, he existed as an unjust and efficacious cause of the damage (cf. n. 980 and 981). - As regards the latter, if indeed he positively, but inculpably, or with light fault, drew the penitent into a damaging error, he is bound (as he who inculpably moved fire to another's house) to impede the damage with some inconvenience to himself, but not with grave inconvenience. And the same must be said if the confessor, not having been questioned, bore himself negatively; for in this case he cannot be called an efficacious cause of the damage, and therefore he is not bound from justice, and with grave inconvenience, to repair the damage; nevertheless he is bound from charity, and with some inconvenience to himself, namely one proportioned to the gravity of the damage brought on, and to his negligence or fault, as is clear from the things said at n. 989.[4]

From these things it is inferred: the confessor is sometimes bound to make RESTITUTION in the place of the penitent, namely in the two following cases:

1. If he positively, and with his own grave fault, exempted him from the obligation of restitution, and afterwards either never recalled the error committed by himself, or recalled it later, namely at a time when the faculty or will of making restitution was now lacking to the penitent, because previously he could have made restitution and would have willed to do so.

2. If indeed inculpably, or without grave fault, he positively exempted him from restitution, and afterwards, when he could have admonished him concerning the error and could conveniently have done so, from grave negligence he did not admonish him. And the same must be held if the confessor culpably obliged the penitent to pay what he did not owe, and he has now paid it; for then, on account of the same reasons, he is bound to repair his damage.[5]

(4) Book VI, 621; H. A., XVI, 122. (5) Cf. Book III, 564 and 994.

1859. Questions. Q. 1. Whether the confessor can, without the permission of the penitent, OUTSIDE CONFESSION, speak with him concerning a defect committed in confession?

Resp. Distinguish. 1. If the judgment has been completed through the conferring of absolution, he cannot, without his permission, speak concerning the error; because such an admonition would be a reproach of sin, which would render confession odious. - 2. If the confessor did not absolve, either because he forgot to give absolution, or because he pronounced it badly, he can admonish the penitent concerning this defect, even outside confession, because then no reproach of sin intervenes.[6]

Q. 2. Whether the confessor ought, if the same penitent RETURNS to confession, to ADMONISH him concerning the defect committed in the preceding confession?

Resp. In the affirmative, with light or grave inconvenience, according to the principles established above; for then the confessor must again, from office, question and teach the penitent, and therefore correct errors committed by himself.

(6) Book VI, 622; H. A., ib., 124.

Article II: On The Obligation Of Preserving The Sacramental Seal

1860. The SACRAMENTAL SEAL, or the seal of confession, induces an obligation of keeping silent, even before the penitent himself, both about sins and about all other things manifested in confession, in order to absolution.[7]

Principles. I. There is a most strict obligation of preserving the seal of confession inviolably. It is clear: 1. From natural right, which commands that it be preserved both by title of fidelity, and by title of justice, and by title of religion; whence it happens that the violation of it includes in itself a threefold sin: namely the sin of sacrilege against the Sacrament, the sin of infidelity against an onerous, although tacit, promise of preserving a secret, and the sin of detraction, if the delicts of the penitent were not public. - 2. From positive divine right, at least implicit; for from the institution of Christ confession ought to be secret; therefore by that very fact the obligation of preserving the seal was imposed by Christ on confessors. - 3. From ecclesiastical right, as is clear from several places of Canon Law, especially from the Fourth Lateran Council, c. 31, *Omnis utriusque sexus*, where it is said: "Let him beware altogether (the confessor), lest by word or sign, or in any other way, he betray the sinner in any respect. But if he should need more prudent counsel, let him cautiously seek it without any expression of the person." - Nevertheless, the confessor is not bound in this matter to avoid every empty suspicion, but only a probable one.[8]

We said a most strict obligation; and indeed in truth: 1. It is most strict, because it does not admit smallness of matter, for the reason that matter, even the very lightest, includes the whole rationale of the precept. Exception: if the danger of revelation is little probable; in which case, if a revelation should follow, it should be censured to follow from a fortuitous event. - 2. It is most strict, because it never admits any exception; for if it ever admitted any, penitents would always have to fear lest such a sin would be that cause for licitly breaking the seal; therefore the Sacrament would be rendered odious. Hence the obligation of the seal urges, although, with it remaining inviolate, greater damage would follow to the penitent (thus from the decree of the Holy Office issued on November 18, 1682, by mandate of Innocent XI); although the manifestation would serve for exterior governance, without the penitent noticing in any way (thus from the decree of Clement VIII, issued May 26, 1593); although it is a question of the revelation of one venial sin; although otherwise the confession cannot be made entire (e.g. if the penitent cannot be questioned without the voice being raised); although it is a question of avoiding one's own death or that of others, indeed although the safety of the whole kingdom should be endangered.[9] - 3. It is most strict, because it forbids using, in this matter, a probable opinion; for this would be to the prejudice of a certain right which another possesses, etc. Wherefore the confessor is held to the seal, even in doubt whether something was said by the penitent in order to confession.[10] - 4. It is most strict, because it perseveres in force even after the death of the penitent; for each one, even after death, wishes to be held good.[11] But if anyone should teach or believe that this seal does not oblige gravely, he would have to be DENOUNCED, as suspected of heresy.[12]

(7) H. A., XVI, 147. (8) Book VI, 635, 661; Gury, II, n. 647. (9) Book VI, 634, 656, 657; Scavini, III, n. 382. (10) Book VI, 633, 637; H. A., XVI, 164. (11) Book VI, 634. (12) Cf. Albitius, cap. 35, n. 86 sqq.

1861. II. The obligation of the seal arises from EVERY and ONLY SACRAMENTAL confession, namely one which is made with the intention of accusing oneself and obtaining absolution; because this, and this alone, includes the rationale of the precept. - It is said, 1. from every sacramental confession; whether already completed, or begun, valid or invalid and sacrilegious; whether absolution is given, or not. - 2. From only sacramental confession; wherefore there is no obligation of the seal if someone approaches the confessor with the intention of deceiving him, mocking him, drawing him into sin, or extorting something from him. - But if someone approaches him not for this end, that he institute confession, but that he make complaints, or that he ask counsel, the priest indeed ought to keep silent about the things heard, not however from the obligation of the sacramental seal, but from the obligation of natural secrecy alone. Similarly, if someone outside confession should commit a secret matter to a priest, with this formula added, "under the seal of confession," the obligation would not exceed the obligation of a committed secret.[13]

With these things having been premised in general, the following must be weighed: 1. Who are held to the seal; 2. what things fall under the seal; 3. when the seal is not injured; when it is injured.

(13) Book VI, 636; cf. Muller, lib. III, § 169.

§ 1. Who Are Held To The Seal

1862. Principle. All are held to the seal, to whom NOTICE of sacramental confession has COME in any way whatever, whether from the confession itself, or from means ordered to it. The reason is that, if Christ had not bound the obligation of the seal to confession, however heard, He would not have sufficiently provided for penitents; for confession would be very odious if penitents knew that their sins revealed in confession could ever be revealed by someone. Besides, a thing passes with its own burden; therefore that notice also passes with the obligation of the seal.

Therefore, there is held: 1. The confessor, as is clear. - 2. A simple priest, who pretends himself to be a confessor; indeed also a layman, who was held to be in place of a priest. - 3. A Superior, to whom one absolved from a reserved case presents himself by law, or from whom permission of absolving from a reserved case is sought. - 4. An interpreter, or one who, asked by another, for instance by an uneducated person, etc., wrote his confession. - 5. One who furtively, or by chance, although inculpably, hears something. Thus bystanders are held to the seal, in whose presence confession is made from necessity, as in shipwreck, in battle. But otherwise, if the penitent, for his own confusion, wishes to confess publicly. - 6. All to whom something from things heard in confession has been revealed sacrilegiously or imprudently; hence concerning this they cannot even converse among themselves. - 7. A doctor or another, who is consulted with the permission of the penitent; for although the notice of the sin is directly manifested to him for the instruction of the confessor, nevertheless indirectly it is manifested also in order to absolution to be imparted and the Sacrament to be perfected.[14]

(14) Book VI, 647-648; and 1 Elench. qq. ref., n. 77.

1863. Questions. Q. 1. Whether one is held to the seal who READS A PAPER in which the penitent WROTE the confession?

Resp. 1. Of itself he is not held; the reason is that that writing is not confession, but preparation for confession; nevertheless it induces the obligation of natural secrecy, and indeed under grave sin, unless it is a question of the very lightest faults.

Resp. 2. Per accidens he is held to the seal, if such a paper necessarily pertains to confession: e.g. 1) if a mute person confesses by writing to a confessor present, and by chance another reads it; because then the reader in reality draws the notice of sins from his actual confession; - 2) if someone by letter should seek from a Superior permission for a reserved case, and another should read it; - 3) and the same must be said if someone reads a paper relating not to a confession already made, but prepared for making confession to a priest; because that presentation is a certain begun confession.[15]

Q. 2. Whether a doctor consulted by the penitent himself is held to the seal?

Resp. 1. Affirmatively, if he is consulted about confession to be made before that very one, and if the penitent manifests his faults to him; because this consultation is to be held as a begun confession.

Resp. 2. Negatively (although there is an obligation of natural secrecy), if it is a question of confession to be made before another. The reason is that the obligation of the seal arises from sacramental confession alone, in which the penitent actually manifests his sins in order to obtaining absolution. Thus more probably, against some who reject this opinion for this reason, because, they say, such a revelation would render confession odious; but this reason is not of great moment; for, as St. Alphonsus excellently observes, not confession itself, through a revelation of this kind, would be rendered odious, but the consultation.[16]

Q. 3. Whether the PENITENT is held to the sacramental seal with respect to the confessor?

Resp. Negatively, "because the seal was instituted only in favor of penitents, not of confessors." Nevertheless the penitent is held to natural secrecy concerning those things whose publication could bring either damage to the confessor, or injury or contempt to the Sacrament. "But to me," says St. Alphonsus, "penitents seem to be held to this secrecy (although natural) more strictly than others; for others voluntarily provide counsel, but the confessor is bound to provide it from office... Hence the penitent is more rigorously held to beware lest damage come to the confessor on account of counsel given to himself."[17]

(15) Book VI, 650. (16) Book VI, 649. (17) Ibid., 647.

§ 2. What Things Fall Under The Seal

1864. Principle. The matter of the seal is constituted by all and each of those things HEARD IN CONFESSION, whose revelation would render the Sacrament of Penance ODIOUS to the faithful, and whatever the penitent REASONABLY does not wish to be manifested by the confessor.

Hence, UNDER THE SEAL there fall: 1. All the sins of the penitent, both mortal and venial, both present and past, both occult and manifest, provided they were declared in a truly sacramental confession. - 2. The circumstances of sins, even those explained after absolution, whenever they were

disclosed in order to confession: e.g. if one illegitimate by birth has received Sacred Orders. - 3. The objects of sins: e.g. if someone confesses that he hates his mother because of her adultery, or because she was unwilling to correct his brother concerning theft: the adultery and the theft fall under the seal. - 4. The sins of an accomplice, even imprudently manifested in confession. - 5. The penance imposed, unless it is minimal, namely that which usually is imposed for the very lightest venial sin. - 6. All things which would expose the penitent to mockeries and would turn the faithful away from the Sacrament, such as natural defects, ignorance, incapacity, etc. - 7. Virtues and revelations, when they are disclosed to the confessor in order to manifest some defect committed, or one's own ingratitude toward God; but otherwise, if they are manifested so that the state of the soul may become known to the confessor.[18] Hence, in a Cause of Beatification, attestations of the confessor are judged licit and useful, although not necessary.[19]

(18) H. A., XVI, 152-154; Book VI, 640-644. (19) Benedict XIV, De Beatific., Book III, c. 7.

1865. Questions. Q. 1. Whether the SCRUPLES or SCRUPULOSITY of the penitent fall under the seal?

Resp. Affirmatively, if the manifestation would redound to a burden for him, as would happen if such a thing were said of a Prelate, of a confessor, and the like. - But otherwise, if it were said of some secular persons, for whom this would rather redound to praise.[20]

Q. 2. Whether sins fall under the seal which the penitent committed IN THE CONFESSION ITSELF, for instance sins of impatience, of insult against the confessor, or against others?

Resp. Negatively of themselves, because the penitent does not confess such faults, but commits them while the confessor sees. Ordinarily, however, they fall under the seal per accidens, because they involve danger of revelation; for they provide an indication from which it can be conjectured with a certain probability that the confessor either was unwilling to absolve, or noticed something in the penitent on account of some graver fault.[21]

(20) Book VI, 644; H. A., ib., 153, 7. (21) Book VI, 643.

§ 3. When The Seal Is Not Injured

1866. The seal IS NOT INJURED: 1. If the confessor says in general that the confession was about light matter; otherwise, if he said that it was about several venial sins, or named some fault, although minimal, in particular.

2. If he praises the conscience of the penitent. But let him beware lest he give suspicion of the bad conscience of others, who perhaps at the same time confessed to him.

3. If he says that someone confessed before him, provided the penitent by word or deed, e.g. by approaching secretly, did not signify that he wished to keep his confession occult. Likewise, if he says that he absolved such a one, provided this does not cede to the prejudice of others, about whom he does not say the same.[22]

4. If he says in general that he heard such a sin in confession, yet in such a way that those hearing can by no means come to knowledge of the penitent. - Nevertheless it is always more advisable to

abstain from utterances of this kind, because it can happen that the hearers (especially if they are also confessors) come to knowledge, or at least suspicion, of the penitent.

5. If he uses notice which he had outside confession. But here also one must proceed cautiously, because thereafter, where there is no revelation, there can be danger of scandal, since bystanders easily believe that matters are revealed from confession heard.[23]

6. If he uses the notice of confession where no revelation intervenes, nor is any burden brought upon the penitent.[24] Hence the confessor can well, from that notice, reform his own morals, pray for the penitent, conduct himself more benignly toward him, consult books and wise persons, temper rigor, direct himself in questions, guard himself from dangers and occasions of spiritual or temporal damage, instruct others or admonish them in general to take care for themselves, abstain from the celebration of Mass in a polluted church, etc., provided that (as was said) every danger of revelation or burden is absent.[25]

7. If he manifests something with the previous permission of the penitent. For since the seal is in favor of the penitent, nothing prevents him from yielding his right. Hence St. Thomas:[26] "The penitent can bring it about that what the priest knew only as God, he may know also as man: which he does when he licenses him to speak. And therefore if he speaks, he does not break the seal of confession."

But concerning this PERMISSION OF THE PENITENT several things occur to be noted, namely:

1. The permission must be: 1) "formal and express; for presumed, tacit, interpretative, and virtual permission (even for the good of the penitent himself) does not suffice;" - 2) free and altogether spontaneous, not arisen from force, injury, deceit, or importunate prayers, or reverential fear; - 3) not revoked; for the penitent, according to his own pleasure, can revoke it even without cause. The reason for these things is that it is a question of a very odious matter, in which permission is not wont to be given so easily. Wherefore, it is to be sought by the confessor only when a grave necessity is urging, and then only when it can be presumed with certainty that the penitent will consent willingly. For it is ordinarily clear that a priest who outside the tribunal recalls his sins to the penitent is gravely troublesome to him, and renders confession odious to him.[27]

2. Having obtained such permission, the confessor can also correct or admonish others, e.g. the accomplice of the penitent, etc. Ordinarily, however, it is not expedient that he ask such permission; it will be better if he induces the penitent to open this to him outside confession; indeed, it will be better still that the penitent himself bring the matter to another who can bring a remedy to the evil.[28]

3. In fact, permission is given when the penitent himself outside confession begins to speak about sins declared.

4. Within the confession itself, no permission is required. The reason is that it pertains to the office of the confessor to make mention of past things, whenever it is judged to profit the penitent, e.g. to reprove him concerning relapse. - And the same is licit immediately after absolution has been given, because the sacramental judgment is censured still to endure morally.[29]

(22) H. A., XVI, 156; Book VI, 638. (23) H. A., ib., 156, VI, VII. (24) Book VI, 657, Commonly. (25) Ibid. and n. 660. (26) Suppl., qu. 11, a. 4. (27) Book VI, 651. (28) Ibid., 641, dub. 1. (29) Book VI, 652, 653; H. A., ib., 156.

1867. Questions. Q. 1. What ought the confessor to do when he detects that the penitent is DEAF or HARD OF HEARING?

Resp. St. Alphonsus:[30] 1. "If he notices the deafness of the penitent around the beginning of confession, let him impose on him that he return at another time and suitable place, where the confessor can speak freely, lest others hear.

2. "But if he notices this in the progress of confession, and after several due questions the penitent does not respond rightly, then it is not licit for the confessor, in a loud voice, to impose on the penitent that he return, in such a way that those standing around would hear this; because great suspicion would be given to them that he had confessed grave matter. - And therefore, in such a case, I think the counsel is that the confessor, understanding the sins in the better mode in which he can, [impose a light penance and] absolve: absolutely indeed, if the penitent is probably censured disposed; but under condition, if there is doubt about the disposition."

Q. 2. What ought the confessor to do if he NEEDS counsel?

Resp. If danger of revelation is present, either let him propose the case in a fitting mode, e.g. as fictitious; or let him ask from the penitent permission of using sacramental knowledge; or let him have recourse to some learned counselor, to whom the person of the penitent is altogether unknown; or let him remit the penitent to another confessor, etc. - But if he can use none of these means, let him trust in God, and, with prayer and study diligently applied, let him solve the difficulty himself, in the better mode in which he can.[31]

Q. 3. In what way ought the confessor to RESPOND to INDISCREET questions?

Resp. 1. If he is questioned concerning sins heard, he can rightly affirm, even with an oath, that he has heard nothing; for concerning all things which he received in confession, he has no communicable knowledge. Thus commonly with St. Thomas, who says:[32] "He can swear that he does not know what he knows only as God." And this is valid even if he should be asked to respond without equivocation.

Resp. 2. If he is questioned whether he gave absolution or not, let him respond: I have discharged my office; or better, by way of rebuke: Are such questions to be asked? - But if, absolution having been denied, he were asked by a cleric whether the penitent is going to communicate, let him respond: Ask him whether he wishes to communicate. And in like manner parents, teachers, masters, etc., are to be referred to the penitents themselves, when they inquire whether absolution has been imparted to sons or subjects.[33]

Q. 4. In what way must one act with an INDISPOSED person asking for a CERTIFICATE of confession or of absolution?

Resp. 1. If he asks for a certificate of CONFESSION outside confession, it cannot be denied to him, whenever he truly instituted sacramental confession; because through such a denial it would be revealed indirectly that the penitent had not confessed rightly. But otherwise, if he had simulated confession, e.g. for avoiding punishment or infamy, for snatching a certificate; for in this case the obligation of the seal would not exist, and it would be asserted mendaciously that such a one had confessed. But it is never licit to lie.

Resp. 2. If he asks for the same certificate in the confession itself, or before he withdraws from the confessional, it must be conceded whenever he truly has confessed at least one sin, and a certificate is wont to be given, or is required by the Superiors of the penitent, e.g. before matrimony, in paschal time, in Colleges, etc. For the same reason is valid as above. - But otherwise, if he asks for it compelled by no necessity; because, in such a case, denial brings no burden, or danger of revelation.

Resp. 3. If one not absolved asks for a certificate of ABSOLUTION, the confessor cannot write it, because it would be to lie, as is clear. - "If however certificates were already printed, in which (imprudently indeed) it is asserted that absolution has been imparted, it seems probable, as some more recent authors say, that it can be handed to those confessed but not absolved, at least if they ask publicly; because then the confessor utters or writes no lie, but only performs a material act, by handing such a certificate."[34] This opinion, since it favors the seal, can be held in practice.

(30) Ibid., 644; ib., 155. (31) Konings, n. 1499, qu. 6. (32) In 4, d. 21, qu. 3, a. 1, ad 3m. (33) H. A., ib., 148; Book VI, 646. (34) Book VI, 639; H. A., XVI, 162.

§ 4. When The Seal Is Injured

1868. The seal IS INJURED directly or indirectly: directly, if something is openly and expressly manifested which falls under the seal; indirectly, if the confessor so bears or speaks himself that others can know or suspect a sin or defect of the penitent, or of others, or any other things known through confession, from which, whether to the penitent himself or to others, shame, annoyance, dishonor, damage, or any burden whatever would come.[1] But if the sayings or deeds of the confessor after confession are held indifferently by penitents, the seal is not injured. In doubt whether danger of revelation or of offense is present, the safer part is to be held, i.e. the seal is to be preserved, as we admonished above (n. 1860).[2] These things having been premised, we say:

I. By WORDS the confessor indirectly violates the seal: - 1. Who addresses the penitent in so loud a voice that those standing around understand, from his responses or admonitions, what the penitent has confessed. - 2. Who says that he denied absolution to someone, or that he had not yet absolved him, or that he imposed on him a grave penance. - 3. Who, out of several penitents joined together among themselves by close relationship or kinship, as if they are brothers, greatly praises one or two, no word having been made about the others. - 4. If, in narrating some fact, he mentions such circumstances that the penitent can easily be recognized from them. - 5. Who admonishes the parents or Superiors of the penitent that they watch especially in such a place and time. - 6. Who speaks with another confessor concerning a sin which the penitent confessed to both. - 7. Who, after hearing the confessions of few persons, says that he heard such a sin, although he conceals the person; for each one suffers something of suspicion against himself from that revelation. - 8. Who says that he heard a grave sin in such a monastery, even if he does not name the person; or if he says that the Superior of the monastery does not watch sufficiently over his subjects; because such words stain the reputation of the whole Community. A fortiori, he would violate the seal who said that grave sins are committed in that Convent. - Likewise, if he said this concerning an Order of stricter observance, or concerning a Religion little spread, which namely would number fewer than three thousand members. Otherwise, if he should speak thus concerning some Religious in general, or concerning an Order much spread and notoriously relaxed, every danger of suspicion concerning

some monastery in particular nevertheless being excluded.[3] - 9. A preacher who, in a Community or in a village or small town, i.e. below 3000 persons, names vices in species (although public) known to him only from confessions, by saying e.g. "here blasphemy reigns; here many are thieves, onanists, etc."; or in some monastery: "here sacrileges are committed." Likewise, if, speaking concerning a town of inhabitants below 6000, he should name a sin bringing infamy, e.g. by saying: "In this place sodomy, adultery, etc., runs rampant." Otherwise, if he should speak thus concerning a larger city, or if he should rise up against sins already known to himself and to others from elsewhere.[4]

II. By DEEDS the confessor breaks the seal: 1. Who denies a certificate of confession to those asking for it outside confession; or within confession, if the certificate is required by Superiors, or is wont to be conceded to all (cf. n. 1867, q. 4). - 2. Who after confession looks at the penitent with hostile eyes, speaks with him less amicably than before, or by his manner of acting manifests that he remembers his sins, is actually thinking about them, and makes him of less account than before. - 3. Who, without another sufficient cause, shrinks from hearing a penitent whom, from a preceding confession, he knows to be troublesome, scrupulous, indisposed, etc.; yet otherwise, if the penitent were commonly known as too prolix in confessing, and at the same time of good conscience.[5]

(1) Schmitt, Epitome, p. 468. (2) Book VI, 661. (3) Cf. Vind. Alph., p. 5, q. 24. (4) Cf. H. A., XVI, 157, 158; Gury, II, 665-666; Porpora, tract. 18, n. 382 et sqq. (5) Book VI, 657-659; cf. Berardi, Prax. Conf., n. 1150 sqq.

1869. Questions. Q. 1. Whether a priest who from confession knows that snares are being prepared for him can FLEE, or in another way take precautions against DAMAGE?

Resp. In the affirmative, if from such a caution the sin confessed is by no means manifested to others, nor any burden brought upon the penitent. Otherwise, if from the circumstances it could be conjectured that the flight occurred because of notice received in confession; for flight would be an indirect revelation of the sin confessed. And although the confessor should simulate flight from some pretext, nevertheless he would always inject some reasonable suspicion of the sin confessed.[6]

Q. 2. Whether it is licit for SUPERIORS to use the notice of confession FOR EXTERNAL GOVERNMENT, if in no way it appears that they direct themselves from that notice?

Resp. Negatively, because this would evidently cede to the burden of penitents, who, if they knew that this were licit, certainly would be drawn back from confession. It is clear from the decree of Clement VIII, May 26, 1593, § 4,[7] and the decree of the Holy Office issued by the authority of Innocent XI on November 18, 1682, by which the opposite opinion was expressly proscribed.[8]

Hence: 1. It is never licit to use the notice of confession, for removing an unworthy person from office, for denying him the suffrage of election, for denying Sacraments to a sinner, for taking keys away from a servant, etc. But the Superior can, indeed ought (as any other confessor), against an evil which becomes known to him in the forum of penance, to bring a remedy in the same forum, by obliging the penitent, if the common good requires this, to external manifestation.

2. It is not expedient to consult confessors when it is a question of someone to be promoted; for from this, as Croix well notes,[9] many inconveniences and dangers are born. And generally Confessors ought to testify only to the frequency of the Sacraments.

(6) Book VI, 659. (7) Bullar. Cherubini, tom. IV, 274 (Ed. Rom.). (8) Book VI, 656-657; H. A., ib., 159. (9) Book VI, p. 2, n. 2001.

Treatise VI: On Extreme Unction

1870. EXTREME UNCTION, just as it is the last Sacrament, so, according to D. Thomas, is the crown of spiritual life; for, fortified by this Sacrament, a man is disposed proximately to entrance into the heavenly fatherland.

The Treatise on Extreme Unction very fittingly follows the Treatise on Penance; for, according to the Council of Trent (sess. 14, on E. U.), Extreme Unction is the consummative Sacrament of Penance: insofar, namely, as it consummates and perfects penance, deleting the remnants of sins, and imposes an end to the Christian life, which ought to be perpetual penance. "Extreme Unction," says St. Thomas,[10] "is compared to Penance as Confirmation to Baptism; namely in such a way that Penance is of greater necessity, but Extreme Unction is of greater perfection."

The things to be said concerning this Sacrament will be set forth in three chapters. In the first, the discourse will be concerning the nature of Extreme Unction; in the second, concerning its minister; and in the third, concerning its subject.

(10) III, q. 65, a. 3.

Chapter I: On The Nature Of Extreme Unction

One must treat: 1. Of the notion and effect of this Sacrament. 2. Of the matter and form by which it is constituted.

Article I: On The Notion And Effect Of Extreme Unction

1871. DEFINITION. Extreme Unction is "a Sacrament instituted by Christ and promulgated by Blessed James, for conferring the health of the soul, or even of the body, on the sick who are in danger of life, through the anointing of blessed oil and the prayer of the priest."[11]

Principles. - I. Extreme Unction is truly and properly a SACRAMENT of the New Law. - It is of faith; and it is clear: 1. from the words of James (5, 14 and 15): "Is any one of you sick? Let him bring in the priests of the Church, and let them pray over him, anointing him with oil in the name of the Lord; and the prayer of faith shall save the sick man, and the Lord shall raise him up; and if he be in sins, they shall be forgiven him." - 2. From Trent, sess. 14, on Extreme Unction, can. 1: "If anyone shall say that Extreme Unction is not truly and properly a Sacrament instituted by Christ our Lord and promulgated by the blessed Apostle James, but only a rite accepted from the Fathers, or a human figment: let him be anathema."

This Sacrament was instituted by Christ the Lord after the resurrection, as the more common opinion holds with Suarez; and it was promulgated by St. James, as is clear from the text alleged above.[12]

(11) H. A., XVII, 1. (12) Book VI, 706; cf. Dogm. in Trid., sess. 14, on Extreme Unction, n. 2-4.

1872. II. Besides sanctifying grace, which, like the other Sacraments, it produces, Extreme Unction has ITS OWN PROPER EFFECTS, which are the following:

1. The PRIMARY effect is to strengthen the soul in its last agony. "This Sacrament," says the Council of Trent (sess. 14, on E. U., cap. 2), "alleviates and confirms the soul of the sick person, by exciting in him great confidence in the divine mercy; by which the sick man, supported, both bears more lightly the inconveniences and labors of disease, and more easily resists the temptations of the devil lying in wait for his heel."

2. The SECONDARY effect is threefold: 1. To delete the remnants of sin, such as obscurity of mind, hardness of heart, love of sensible things, diffidences, anxieties, and similar things which are contracted from sins. - 2. To take away part of the punishments which remain to be expiated for sins. (These two effects are produced greater or lesser according to the degree of disposition of the sick person.) - 3. To confer health of body, if it is expedient for the health of the soul, as Trent has it (loc. cit.); and to this end the prayers placed in the Ritual are also directed. But the Sacrament does not work this effect by way of miracle, lest faith be emptied out; but by a certain supernatural power, which aids natural causes, as far as the body is capable of their action.[13]

(13) Cf. Book VI, 731.

1873. Questions. Q. 1. Whether and in what way sins ARE REMITTED through Extreme Unction?

Resp. 1. Although the principal effect of this Sacrament is not to remit sins, neither mortal nor venial, as the Thomists more commonly and more probably teach against the Scotists, and as the Apostle James himself seems to suggest, saying conditionally "and, if he be in sins"; nevertheless, remission of sins must be specially attributed to it; for the Apostle continues, saying: "they shall be forgiven him," and Trent teaches similarly: "delicts, if any are still to be expiated, it wipes away."

Resp. 2. But concerning the mode in which mortal sins are remitted, Theologians do not agree. - Some with Gonet, Sporer, etc., to whom St. Thomas seems to give support,[14] say that they are remitted per accidens, since it is a question of a Sacrament of the living; but others more probably and more commonly, with Suarez, Tournely, etc., teach that they are remitted per se, not indeed directly, but consequently; for it is clear that Extreme Unction was instituted to take away the remnants of sins; but because these cannot be taken away from a soul in which sin is found, unless the sin itself is first taken away, therefore this Sacrament, consequently, takes away sin.[15]

Q. 2. Whether through EACH ANOINTING partial grace is conferred?

Resp. 1. Suarez and others affirm it; because any anointing with its own form already signifies grace independently of the other anointings. - 2. But St. Thomas with the more common opinion denies it; because no anointing of itself constitutes the Sacrament, nor even a partial Sacrament; hence, grace is not conferred unless when the Sacrament is completed by the last anointing. - Each opinion is probable.[16]

Q. 3. Whether this Sacrament can be VALID and UNFORMED, so that, with the obstacle receding, grace is conferred?

Resp. "The Doctors commonly affirm. Hence the Salmanticenses with others infer that, if a sick person in good faith, or destitute of senses, received the Sacrament in mortal sin, it suffices that afterwards he have attrition, for grace to be received. Otherwise, if in bad faith. - But this runs, if the obstacle is removed while the same disease and danger persevere, at least as regards the effect of special helps, as Suarez and others say."[17]

From these things you will gather that through Extreme Unction souls often are saved, both because the Sacrament supplies strength and helps without which the sick person would yield victory to the devil; and because it is received more easily with a lesser disposition, and with a more lasting efficacy; and finally because it is the most salutary admonition of all concerning the proximity of death.[18]

(14) Suppl., q. 30, a. 1, c. (15) Book VI, 731. (16) Ibid., 707. (17) Ibid., qu. 2. (18) Cf. Bellarmine, De Extr. Unct., cap. VIII, and Benedict XIV, De Syn., Book 8, cap. 6.

Article II: On The Matter And Form Of Extreme Unction

§ 1. On The Matter Of Extreme Unction

1874. A twofold matter is distinguished, namely remote and proximate.

I. The REMOTE matter is oil expressed from olives, and blessed by a special blessing by a Bishop.[1]

But the choice of this matter was most fitting: "for, as OIL greatly profits for mitigating pains of the body, so the power of the Sacrament diminishes the sadness and pain of the soul. OIL besides restores health, brings cheerfulness, and supplies, as it were, food to light; and then it is most greatly accommodated to restoring the strength of a wearied body. All these things declare what, in the sick person, is effected by divine power through the administration of this Sacrament." - Thus the Roman Catechism.[2]

We said, 1. IT IS OIL; for it is clear from the words of the Apostle, *anointing him with oil*; and this oil, by necessity or validity of the Sacrament, must be the juice of the olive; because in common use this juice alone is designated by the name of oil. Hence Eugene IV, in the Decree to the Armenians, expressly names oil of olive. "This oil moreover, at least from the precept of the Church, ought to be simple, that is, without any admixture of another liquid," as Benedict XIV teaches.[3]

2. BLESSED BY A BISHOP: wherefore Trent (sess. 14, cap. 1) has these words: "For the Church understood that the matter is oil blessed by a Bishop." But whether this blessing is not only of precept, but also of the necessity of the Sacrament, is disputed; but Authors most commonly affirm it with St. Thomas, and today the matter is plainly certain. For to the doubt: whether, with the oil of the sick lacking, it is licit to administer, under condition, the Sacrament of Extreme Unction with oil blessed by a simple priest, at least in a case of extreme necessity, for instance when the dying person, destitute of senses, previously gave no sign of sorrow and does not give it: the response was always Negative. Thus the Holy Office on January 13, 1611, before Paul V, and September 14, 1842, before Gregory XVI.[4] Nevertheless, the blessing of oil can be committed by the Supreme Pontiff to a simple priest, as is clear from the Decree of Clement VIII,[5] who (indirectly) declared that the Sacrament of Extreme Unction conferred on Latins by Greek priests, with oil blessed by the same priests, is valid.[6]

3. Blessed BY A SPECIAL BLESSING, i.e. in order to Extreme Unction: for that this is required by necessity of the Sacrament the Salmanticenses with Bellarmine affirm probably, against Suarez and others; because, just as by the blessing of chrism the matter is deputed for the Sacrament of Confirmation, so by the blessing of the oil of the sick the matter is deputed to the Sacrament of Extreme Unction.[7] Hence, in a case of necessity, the Oil of catechumens or Sacred Chrism can indeed be employed UNDER CONDITION. But when the oil of the sick itself has been found, the anointings

must be repeated under condition; and the same must be done if by error the priest had employed those oils.

It is doubted: Whether one single drop of oil suffices for administering the Sacrament? - St. Alphonsus responded: "Only speculatively probable is the opinion saying that it suffices to administer this Sacrament with one drop of oil, without spreading it over parts; not, however, practically, because this would not be a true anointing."[8] Nevertheless, for the value of the Sacrament, it certainly suffices to dip the extreme part of the finger in oil for the individual anointings which are made under the repeated form.

Note. This oil (as also the oil of catechumens and Sacred Chrism), from the precept of Clement VIII[9] (which according to the more probable opinion obliges under grave sin), must be renewed yearly; and, the renewal having been made, the oil of the preceding year must be burned (namely in the lamp which burns before the Most Holy Sacrament); nor is it licit to use it any longer, except in the case in which the new cannot be had. - But if the new does not suffice, another, not blessed, can be mixed with it, but in lesser quantity, as the Ritual says. Indeed, it is licit to renew the admixture several times, provided that the oil to be mixed in is always in lesser quantity, and true necessity requires this.[10] - See the rest in the Ritual.

(1) H. A., XVII, 2; Book VI, 708. (2) De Extr. Unct., n. 5. (3) De Synodo, lib. 8, c. 1, n. 3. (4) Cf. Collect. S. Sed., n. 670 and 671. (5) Instruction on the Rites of the Italo-Greeks, August 31, 1595 (Bullar., tom. V, p. III, 72). (6) Book VI, 709, dub. 3. (7) Ibid., dub. 2. (8) H. A., App. II, § 4, III; cf. Book VI, 709, dub. 4. (9) Cf. Bull of Approbation of the Roman Pontifical. (10) Book VI, 708; cf. Konings, n. 1502, q. 4.

1875. II. The PROXIMATE matter is the anointing of certain parts of the body, and at least of the five senses, made by a priest. - From the Roman Ritual, principally five parts of the body ought to be anointed, namely: 1. the eyes (or eyelids) or eyebrows; - 2. the ears (at the lowest part of the ear, so that it can be wiped more easily); - 3. the nostrils, i.e. both nostrils (outside), or the extremity of the summit of the nose, with one anointing; - 4. the mouth, with the lips compressed so that one anointing can be made (if this could not be obtained, it will be enough that the lower or upper lip be anointed); - 5. the hands (outside for priests, inside for others); - 6. the feet (either on the soles, or above the feet, according as custom bears or diocesan Statutes prescribe, or as it can be done more conveniently).[11] Although, however (from the common opinion), this anointing of the feet is not of the necessity of the Sacrament, nevertheless it cannot be omitted at the priest's pleasure.[12] - 7. The reins; whose anointing is not of the necessity of the Sacrament, as is clear from the Roman Ritual, where it is read: "But the anointing of the reins in women, for the sake of modesty, is always omitted; and also in men, when the sick person cannot conveniently be moved. But, whether in women or in men, another part of the body ought not to be anointed for the reins." At Rome it is customary to anoint the reins of men from each side, or at least from one side, upon the bone which they call the ischion (hip): for thus the sick person scarcely needs to be moved. Elsewhere, the anointing of the reins is omitted in all indiscriminately; nevertheless the S. R. C. (August 1, 1858) desires that it be introduced where it is not in use.[13] Meanwhile, the custom of the diocese is to be observed by the priest.

(11) S. R. C., August 27, 1836, in Rhedonen. (cf. Gardell., n. 4780 with note). (12) Book VI, 710-711. (13) Del Vecchio, II, n. 781, annot. 1.

1876. Questions. Q. 1. In what way ought the anointings to be made?

Resp. 1. From the ROMAN RITUAL, each anointing ought to be made with the thumb dipped in the holy oil, in the manner of a cross, adapting the cross and the words in the anointing of each part, always beginning from the right. "But the minister, if he is in Sacred Orders, or the priest himself, after each anointing, should wipe the places anointed with a new little ball of cotton or of something similar, and should place it in a clean vessel, and afterwards carry it to the church, burn it, and cast the ashes into the Sacrarium."

Resp. 2. It is certain that it is not of the necessity of the Sacrament that the anointings be made through the immediate contact of the hand; wherefore in a case of necessity, i.e. when plague is raging, a little rod anointed with oil can be employed, which afterwards is to be burned.[14] - Nor is it of the necessity of the Sacrament that a double anointing be made in double parts; since the tinder of sins is now sufficiently indicated through the anointing of one part: hence, when necessity urges, or if the sick person cannot be turned to another side, it suffices to anoint one eye, one ear, etc. Nor finally is it essential to observe the order of the RITUAL among the anointings of the parts; since the inversion of order does not impede the signification of the Sacrament. - But, outside the case of necessity, these three things are to be observed under grave sin, as is commonly taught.[15]

Q. 2. Whether the anointing OF THE FIVE SENSES is of the necessity of the Sacrament?

Resp. It is controverted. - The first opinion (speculatively probable), with Merbesius, Tournely, etc., denies it; for from St. James a simple anointing is prescribed, and in Trent mention is made of only one anointing by these words: "this sacred anointing"; whence it seems to suffice that a man be anointed in only one part, so that he may be called anointed. But the more common and safer opinion (to be held under grave sin in practice) affirms that the simple anointings of the five senses are of the necessity of the Sacrament. Thus St. Bonaventure, St. Thomas, Suarez, Bellarmine, etc., who gather this chiefly from the use of the Church.[16]

Q. 3. Whether and in what way are the BLIND, DEAF, MUTILATED to be anointed?

Resp. "If someone is mutilated in some member, the part nearest to that place is to be anointed, with the same form of words." Thus the Roman Ritual. In the same way, those blind from birth, deaf, and mute are to be anointed, namely near the organs of the senses of which they are deprived; for although they have not sinned exteriorly through them, nevertheless they could have sinned through the interior powers to which those correspond, e.g. through desires of seeing, hearing, etc. Thus D. Thomas and the Salmanticenses with the common opinion.[17]

(14) Book VI, 710; H. A., ib., 3. (15) Book VI, 710; cf. Collect. S. Sed., n. 679. (16) Book VI, 710, Quaer.; H. A., XVII, 4. (17) Book VI, 732, 3.

§ 2. On The Form Of Extreme Unction

1877. The FORM of Extreme Unction is this: *Through this holy anointing, and His most loving mercy, may the Lord forgive thee whatever THROUGH SIGHT* (if the eyes are anointed, and so concerning the others) *thou hast committed. Amen.* - It is clear from the Council of Trent and from the Roman Ritual. The indicative form would be invalid, as is taught more truly; for from the words of St. James, *And let them pray over him*, it ought to be deprecatory.[18]

Moreover, to one asking why the form of this Sacrament is deprecatory, the Roman Catechism responds:[19] "This was constituted by the best right; for since this Sacrament is therefore applied so that, besides the spiritual grace which it bestows, it may also restore health to the sick; nevertheless, because it does not always follow that the sick recover from diseases, for that cause the form is completed by prayer, so that from the kindness of God we may obtain that which the power of the Sacrament is not wont to effect by a constant and perpetual order."

As regards the form, LET THE FOLLOWING BE NOTED:

1. To the essence of the Sacrament pertain the words: *Through this anointing may the Lord forgive thee whatever thou hast committed.* - There are indeed some who deny that the word *thou hast committed* is of the essence; but undeservedly: for this word expresses the remission of sins, which is the principal effect of this Sacrament.

2. The word *holy* does not pertain to the essence, as all confess; nor these other words: *through His most loving mercy*, because one who prays God that He forgive already implores His mercy, as the Authors more commonly and more probably teach. Nevertheless, to omit these last words would be a grave sin against the use of the Church, in a grave matter; but neither can the word *holy* be omitted without fault.

3. The form is not to be ended before the other part of the same sense has been anointed. If the priest fails between the anointings, the anointings already made are not to be repeated, unless a fourth part of an hour has now elapsed; in which case they would have to be repeated under condition.[20]

4. Once the form has been ended, in the individual anointings, the sick person with those standing by can respond Amen. And it will be excellent if, while the five senses of the body are being anointed, he expressly grieves concerning the faults committed through them.[21]

IT IS ASKED. In what way, WHEN NECESSITY URGES, must the Sacrament be conferred?

Resp. 1. "If someone labors in extremis, and danger is imminent lest he depart before the anointings are finished, let him be anointed quickly, beginning from that place: *Through this holy anointing*, etc. Then, if he still survives, let the prayers omitted, placed in their own place, be said." Thus the ROMAN RITUAL.

2. If the danger of death is so imminent that all the anointings do not seem able to be carried out in the due manner, let the priest make one anointing, under condition if it is valid, on some sense (yet more advisedly on the forehead, since the nerves of all the senses descend from the head), using this form: *Through this holy anointing... may the Lord forgive thee whatever thou hast committed through the senses: sight, hearing, taste, smell, and touch*; therefore placing first the word *thou hast committed*, because if it were pronounced at the end, and meanwhile the sick person should die, there is no Sacrament. - If the sick person survives, the anointings, as Lacroix rightly affirms, are to be repeated on the individual senses, and the other omitted prayers are to be added.

3. But if it is doubted whether the sick person still lives, let the priest continue the anointing under condition, saying: *If thou livest, through this*, etc. "But if the sick person, while he is anointed, departs, let the priest proceed no further, and let him omit the aforesaid prayers." Thus the RITUAL.

(18) Book VI, 711; H. A., XVII, 5. (19) De Extr. Unct., n. 7. (20) Book VI, 711; H. A., ib., 5. (21) Praxis, n. 274.

Chapter II: On The Minister Of Extreme Unction

1878. Principles. I. Only and every priest can VALIDLY administer the Sacrament of Extreme Unction. - That only a priest is the minister of this Sacrament is clear both from the words of St. James already cited: *Is any one of you sick? Let him bring in the priests of the Church*, etc.; and from the definition of the Church in Trent, sess. 14, on Extreme Unction, can. 4. But that any priest, even one excommunicated, can validly administer this Sacrament, is clear from the fact that Extreme Unction was not instituted by way of judgment, as Penance was, and therefore for its conferral the power of Order suffices.

You will ask whether this Sacrament can be validly administered to the same sick person by SEVERAL priests? - Resp. Affirmatively, if the individual priests anoint a different sense, and in anointing pronounce the form suitable to this sense (for if one anointed, and another uttered the words of the form, the Sacrament would not be conferred, as is clear). - And in reality, that Extreme Unction was in antiquity administered in this way in the Latin Church is gathered from several ancient Rituals;[1] but today, on account of the contrary practice of the Church, the same would be gravely illicit.

(1) Cf. Benedict XIV, De Synodo, lib. 8, cap. 4, n. 5.

1879. II. Only the pastor of souls, or a priest delegated by him, administers Extreme Unction LICITLY. This is drawn from Trent; and the reason is that it belongs to the pastor alone to feed his sheep and to lead them to the pastures of blessed eternity (If a Bishop becomes sick, the right of fortifying him with the last Sacraments belongs to the Canons, i.e. to the more dignified one among them).[2] Hence he sins gravely who administers this Sacrament without permission of the pastor or Bishop, since in a grave matter he injures the right of another.[3]

Nevertheless, interpretative, or reasonably presumed, permission probably suffices; and this certainly is had when the administration of the Sacrament urges, and the sick person cannot be anointed by the pastor or vice-pastor, either because they are absent, or because they do not wish to anoint him, and otherwise the Bishop cannot be approached. In such a case of necessity, any priest, even a Regular, provided he is not excommunicated or suspended, can licitly confer this Sacrament, because the Pope is censured to give permission. Thus commonly Suarez, the Salmanticenses, and others, against a few. But outside the case of necessity, permission is not easily to be presumed.[4]

And here it is to be noted that Religious (or Regulars) who presume, outside the case of necessity, to administer the Sacrament of Extreme Unction (or of the Eucharist by way of Viaticum) to clerics or laymen, without parochial permission, incur an excommunication reserved to the Pope: from the Constitution *Apostolicae Sedis* (cf. n. 1341).

(2) Cf. Acta S. Sed., VIII, 210. (3) Book VI, 722. (4) Ibid.; H. A., XVII, 6.

1880. Questions. Q. 1. Whether and how great is the OBLIGATION of conferring this Sacrament?

Resp. 1. A pastor, unless a just cause excuses him (such as danger of life), is held by reason of his office, and indeed under grave sin, to confer it on his subjects asking for it. Indeed, in any case whatever, not even excepting danger of life, he is held to this if the sick person for a long time has no longer confessed and probably is judged to be in the state of mortal sin, and because of the privation

of the senses cannot be absolved except under condition.[5] - 2. Another priest, when the pastor is absent, is held to the same from charity; indeed under light obligation, in the common case; but under grave obligation, if the sick person greatly needed this Sacrament, e.g. if otherwise he would be about to die without any Sacrament.[6]

Q. 2. In what way, or BY WHAT RITE, must Extreme Unction be administered?

Resp. It must be administered with surplice and violet stole, with a minister and a light, and with the prayers prescribed in the Ritual. - Wherefore the following things COME TO BE NOTED:

1. The surplice and stole are required under grave sin, on account of reverence for the Sacrament. Exception, according to the probable opinion, is the case in which these were lacking, and the sick person would be about to die without the protection of this Sacrament. For Christ the Lord is not presumed, on account of the lack of sacred vestments, to wish the sick person to be deprived of so great a good.[7]

2. Outside the case of necessity, more probably, it is venial to anoint without a minister. But it is never licit to use the ministry of a woman; hence, when a man is absent, let the priest himself respond to the prayers.[8]

3. Probably it is not mortal to administer this Sacrament without a light; but one light suffices, according to the Ritual. To omit the sign of the cross in the anointings is only venial; indeed, it would be no sin if it were omitted on account of imminent death, so as to act more quickly.[9]

4. To omit the prescribed prayers, except in a case of necessity, is, of itself, a mortal sin. But the litanies and other prayers to be recited by the assistants are, more probably, only of counsel.[10]

5. The holy oil cannot be solemnly carried as Viaticum; but neither is it to be carried secretly and, as it were, stealthily, unless necessity excuses. The Cross is carried without a shaft, as in the funerals of little children. In the room of the sick person, all things ought to be, as is fitting, clean and well disposed.

Note. It is not licit for the pastor to keep the sacred oil constantly at home, "except in the case of great distance from the church: in which case the rubric is wholly to be observed as regards honorable and decent, and safe custody." Thus the S. R. C., December 16, 1826.[11] We said constantly, for St. Alphonsus adds:[12] "The pastor can rightly keep the holy oil in his own house at night, while he foresees probable danger, as if, when called to confer Unction, it would not be available."

(5) Book VI, 729; H. A., VII, 28; XVII, 6. (6) Book VI, 729, 12. (7) Book VI, 726. (8) Ibid., 724. (9) Ibid., 728. (10) Ibid., 727. (11) Gardell., n. 4623, in Gandaven. (12) Book VI, 730; Praxis, n. 275, fin.

Chapter III: On The Subject Of Extreme Unction

1881. Principles. I. The SUBJECT of Extreme Unction is only a baptized man, who has attained the use of reason and is in danger of life from disease. - It is clear: 1. from the words of St. James: *Is any one of you sick?*, etc.; 2. from Trent (sess. 14, cap. 3), where it is declared: "This anointing is to be applied to the sick, but especially to those who lie so dangerously ill that they seem to be placed at the exit of life."

Hence, for the VALID reception of this Sacrament the following things are required:

It is required, 1. that the one to be anointed BE BAPTIZED; for Baptism is the gate of the Sacraments. But this Sacrament can be conferred on an adult immediately after Baptism. "The reason is both because, more truly, through Baptism the remnants of mortal faults committed before Baptism are not wiped away, such as torpor toward good and proneness toward evil; and because the primary effect of this Sacrament is not so much the remission of faults as the strengthening of the sick person against the temptations of the devil, as Suarez and others commonly say."[13]

It is required, 2. that the one to be anointed HAS ATTAINED THE USE OF REASON. For otherwise the form would become vain: *May the Lord forgive thee*, etc. Hence it follows: 1) Children who have not yet attained the use of reason cannot be anointed. On the contrary, whatever Soto with others may say, children endowed with reason are to be anointed, although they cannot receive the Sacrament of the Eucharist and have not yet reached the age of seven, as Benedict XIV teaches.[14] In doubt concerning the use of reason, let them not be deprived of so salutary a remedy, but let them be anointed under condition: *If thou art capable*.[15] - 2) The perpetually insane cannot be anointed; otherwise, if they have had lucid intervals; or even if it is probable that they had them, in which case they ought to be anointed under condition. But the RITUAL admonishes: "If the sick person, while he labors under frenzy or insanity, likely could do anything against the reverence of the Sacrament, let him not be anointed, unless the danger is removed altogether," for instance, if he is held or even bound. - 3) The sick who are destitute of the senses ought to be anointed, and indeed without condition, if they have given a sign of a pious soul, or have lived as Christians, so that it can be presumed that they would have asked for the Sacrament if they had been masters of reason: or, as the Ritual speaks, if they likely would have asked. And the reason is that, in one receiving this Sacrament, an interpretative intention suffices (cf. n. 1434, 3).

It is required, 3. that the sick person BE SICK UNTO DEATH, "so that there is fear concerning his death," as the Council of Florence says in the Decree to the Armenians. - Hence, neither validly nor licitly can the healthy be anointed, even if they are in open danger of death, such as those in danger at sea, in battle, etc.; those to be punished by public death; women laboring only with common pains in childbirth, even if they give birth for the first time, or at other times have been in danger of life; otherwise, if most grave torments supervene, through which illness with danger of death is verified. But those can be anointed who are infected with lethal poison; likewise those laboring under some evil on account of which they are about to undergo a difficult operation of surgery; likewise decrepit old persons "who fail from old age (as the Ritual speaks) and seem to die day by day, even without another infirmity": for old age itself is a disease.[16]

To the following question: "Sometimes, when Missionaries are visiting Christians committed to themselves, there occurs a sick person laboring with hectic fever or a similar disease, who according to experience will live still several months, but within a year will die. - It is asked whether, in such a case, the Missionary can administer Viaticum and Extreme Unction to him, because when the truer case for receiving them will be present, a Missionary will not be able to be had present, on account of the great distance and other circumstances impeding this?" The S. C. DE PROPAG. FIDE responded on February 20, 1801: Affirmatively.[17]

(13) Book VI, 721; cf. Collect. S. Sed., n. 685. (14) Book VI, 720. (15) Ibid., 719. (16) Ibid., 712-714; H. A., XVII, 7. (17) Collect. S. Sed., n. 361; cf. also n. 687.

1882. II. For the LICIT and FRUITFUL reception of Extreme Unction, certain dispositions of the subject are required besides. For it is primarily, and of itself, a Sacrament of the living (cf. n. 1395).

Hence, besides the intention, at least presumed, of receiving the Sacrament, which is also necessary for validity, there IS REQUIRED: 1. Confession of sins, if the sick person is in the state of mortal sin. - 2. Contrition, at least estimated, in the case in which he cannot confess; for he must be at least putatively in grace; but if he has only attrition, the Sacrament will not lack its effect (cf. n. 1395 and 1397, qu. 2). - 3. The Most Holy Eucharist, from the general custom of the Church (but at most under venial sin), must be premised, unless vomiting or another reasonable cause excuses.[18] - The other dispositions, such as lively faith, firm hope, perfect conformity with the divine will, etc., effect that a richer fruit is perceived from the Sacrament (cf. n. 1437).

The RITUAL admonishes: "But to the impenitent, and those who die in manifest mortal sin, and the excommunicated... (the Sacrament) is to be denied." - Nevertheless, it is given both to the drunken now about to die, and to those wounded in a brawl now destitute of senses, and to any others whatever concerning whom it is doubted whether they are in the state of mortal sin or are sufficiently disposed. - Benedict XIV also says:[19] "Concerning any faithful person, concerning whom the contrary is not established, it must be presumed that he would have asked for this Sacrament, if he could have."[20]

(18) H. A., XVII, 9. (19) De Syn., Book 8, c. 6, n. 5. (20) Cf. Berardi, Prax. Conf., n. 778-780.

1883. Questions. Q. 1. In what degree of infirmity CAN or OUGHT Extreme Unction be conferred?

Resp. 1. It CAN be conferred validly and licitly as soon as the sick person is prudently or probably judged to be in danger of death, although not yet proximate. It is proved from Trent (sess. 14, cap. 3, on Extreme Unction), where it is had: "This anointing is to be applied to the sick, but especially to those who lie so dangerously ill that they seem to be placed at the exit of life." That particle especially sufficiently indicates that Extreme Unction can be ministered also to the sick who do not yet seem to be at the exit of life. The matter is proved more strongly from the Bull *Ex quo* of Benedict XIV,[21] in which it is read: "Let the Sacrament of Extreme Unction not be administered to those well in health, but only to those who labor under a grave disease." Wherefore, whenever Viaticum can be furnished to a sick person who is not fasting, Extreme Unction can also be given to him; indeed, it is expedient that it then be given. - But if it were given in a GRAVE disease, though danger of death at least remote were not judged to be present, it would indeed be given validly, but illicitly; if in a LIGHT disease, it would be administered neither licitly nor validly.[22]

2. It OUGHT to be given when danger of death urges; for thus the RITUAL speaks: "This Sacrament ought to be furnished to the sick who labor so gravely that danger of death seems to be imminent." - Nor is the last time of life to be awaited, as the Roman Catechism says:[23] "They sin most gravely (priests) who are accustomed to observe that time for anointing the sick person when already, all hope of health having been lost, he begins to lack life and senses." The reason is, says St. Alphonsus, because the sick person is deprived of the richer fruit which he would have received if, master of himself, he had received the Sacrament; likewise because he is deprived of spiritual strength for resisting the devil and for bearing the inconveniences of disease; he is perhaps deprived also of health

of body, if he had been anointed at the suitable time, according to what was said at n. 1872; indeed also of the eternal salvation itself of the soul, in the case in which, existing in mortal sin, he would have attained grace with the help of attrition. - All these things, at least heaped together, seem to bring grave damage to the sick person.[24]

Q. 2. Whether and when can this Sacrament be REPEATED?

Resp. It must be repeated: - 1. In a different and dangerous infirmity; for it is ordered to healing; "but healing medicine ought to be repeated as often as infirmity is repeated," as D. Thomas says.[25] - 2. In a different danger of a long infirmity; for the RITUAL says: "In the same infirmity it ought not to be repeated, unless it is long-lasting, as when the sick person has grown better and again falls into danger of death."

Hence, IN A LONG-LASTING DISEASE, such as phthisis and dropsy, if the sick person after anointing certainly has remained in the same state of infirmity, or only for a brief time, for instance for 4 or 5 days, has had himself better, it ought not to be repeated. - But if such a change has intervened in his state that with probability it must be judged that he had exited from the danger of death, because for a notable time, for instance for a month, he had had himself better than before, in such a case, with Benedict XIV as witness,[26] one must stand for repetition of the Sacrament, "because," he says, "this repetition is more conformed to the ancient custom of the Church, and through it a new spiritual help comes to the sick person."

Q. 3. Whether the reception of this Sacrament is NECESSARY for salvation?

Resp. 1. It is not necessary by necessity of means, since salvation can be obtained without this Sacrament. Thus all. - But whether it is necessary by necessity of precept is controverted. St. Alphonsus judges the affirmative opinion as very probable, and altogether to be advised in practice: but this, not now by reason of a precept, concerning whose grave obligation it is not established; but by reason of charity which the sick person owes to himself, and which urges especially in the extreme article of life. For although other protections, with which he can fortify himself, are not lacking to him, nevertheless he would act mercilessly toward himself if willingly he deprived himself of this most powerful protection. For he who is in danger of death, on the one hand, is able to excite himself to good acts only with great difficulty, and on the other hand is subject to strong attacks of enemies, since "in this point of time (as Trent speaks), the snares of the devil are more vehement." Hence (thus the Blessed Doctor concludes) he seems to expose himself to great danger of succumbing to temptations, who neglects to fortify himself with this Sacrament instituted by Christ the Lord as a most firm protection in so great a conflict.

2. Although of itself it is not established that there is a grave obligation of receiving Extreme Unction, nevertheless all agree that the sick person PER ACCIDENS is held, and indeed UNDER GRAVE SIN, to the reception of the Sacrament, whether by reason of special necessity, namely if, existing in mortal sin, he could not receive another Sacrament, or by reason of scandal to be avoided, or finally by reason of contempt. - For it is certain that formal contempt induces grave fault. Moreover, contempt is censured formal when the sick person refuses this Sacrament because he values it little; but not when he refuses from some repugnance or ignorance. It is confirmed from the Bull of Martin V: This Sacrament can neither be neglected without fault, nor contemned without

mortal sin. "Hence, the Pontiff seems sufficiently to have expressed that contempt of this Sacrament indeed carries grave fault, but negligence no more than light fault."[27]

Note. Concerning ASSISTANCE TOWARD THE DYING, see the Opuscule of St. Alphonsus at the end of the *Praxis Confessarii*, or in *Hom. Apost.*, last Treatise, Appendix II. - Concerning the Indulgence to be imparted to the dying[28] (cf. n. 1854, 9).

(21) Bull Ex quo, § 46. (22) Book VI, 714; H. A., XVII, 7. (23) De Extrema Unctione, n. 9. (24) Book VI, 714; Prax., n. 273, 274. (25) Contra Gent., Book 4, c. 73. (26) De Syn., Book 8, c. 8, n. 4; Book VI, 715. (27) Book VI, 733; H. A., XVII, 12. (28) Cf. also Berardi, Prax. Conf., n. 783-791.

Treatise VII: On the Sacrament of Order

1884. After we have treated of the five Sacraments which are ordered to the spiritual life of the private man, it remains that we discuss the two others which were instituted for the advantage of religious society. - And first we shall discuss ORDER, on which, as the Roman Catechism says, all the other Sacraments so depend "that without it they partly can in no way be confected and administered, and partly would seem to lack solemn ceremony and indeed religious rite and worship."

We shall treat: 1. of the nature of Order; 2. of the Minister; 3. of the Subject of Order; 4. of Irregularities, or of the impediments of receiving Order or of Order received.

Chapter I: On The Nature Of Order

It must be spoken: 1. of the notion of Order; 2. of the effects of this Sacrament; 3. of the matter and form by which it is constituted.

Article I: On The Notion Of Order

1885. I. DEFINITION. Order, generally, is the apt disposition of things among themselves and to some end.

Order, specifically, considered in relation to our scope, is taken in two ways: 1. passively, for a certain grade, or state of men, who by some consecration are deputed to the divine ministry in the Church of Christ; in which respect it is not a Sacrament, but something permanent; 2. actively, for the sacred rite itself through which a man is enrolled into this sort of state and dignity of the divine ministry: in which sense it is something transitory, and is commonly defined: "A certain seal of the Church, by which spiritual power is handed over to the Ordained, in order to the Eucharist...."[1] So defined, Order comprehends also the lower grades or minor Orders, which, more probably, are not instituted by Christ the Lord, but only by the Church.

But more exactly Order, insofar as instituted by Christ the Lord, can be defined: "A Sacrament of the New Law, by which there is handed over the power of consecrating, offering, and ministering the Body and Blood of Christ, and also of remitting sins, or of serving the priest from office."

From Trent, sess. 13, cap. 1 and 2.

(1) Book VI, 735; Exam. Ord., n. 25.

1886. II. DISTINCTION OF ORDERS. It is of faith that there are MANY Orders in the Church, as Trent defines, sess. 23, can. 2: "If anyone shall say that, besides the priesthood, there are not in the Catholic Church other Orders, both major and minor, through which, as through certain grades, one tends to the priesthood: let him be anathema."

SEVEN ORDERS are counted in the Latin Church, namely: four minor ones: Ostiariate, Lectorate, Exorcistate, and Acolythate; three major ones: Subdiaconate, Diaconate, Priesthood or Presbyterate.

The three latter are also called sacred, both because they immediately concur in confecting or ministering the Eucharist, and chiefly because they have annexed the obligation of perpetual chastity, by which the Ordained are consecrated to God.[2]

The distinction of Orders, according to D. Thomas,[3] is taken according to relation to the EUCHARIST, insofar as it is confected, distributed, and received. - Hence, either the matter is of consecrating the Eucharist, and for this the Priesthood is given; or of distributing it, and in this the Deacon cooperates with the priest; or in preparing the sacred vessels, that the matter may be received in them, which pertains to the Subdeacon; or of presenting the matter itself, and this pertains to the Acolyte. - But as regards the recipients, these ought to be clean: therefore the unclean are to be kept away. Of these there is a THREEFOLD genus: some are those who do not wish to receive the Faith, as Infidels, to whom the church is to be closed, and this pertains to the Doorkeepers; others, who indeed have received the faith, but are not yet sufficiently instructed, such as Catechumens, and to these Lectors are given; others, who indeed sufficiently abound in doctrine, but are detained by the demon, as Energumens, and to these Exorcists are deputed.

Tonsure and Episcopate do not hinder the sevenfold number of Orders. - For Tonsure is not an Order, but a disposition to Orders, as is clear from Trent, sess. 23, cap. 2. But Episcopate is the complement of Presbyterate, since Priesthood is subdivided into Presbyterate and Episcopate.[4]

(2) Exam. Ord., n. 27. (3) Suppl., q. 37, a. 2. (4) Cf. Panzuti, De Ord., n. 345.

1887. III. TRUTH OF THE SACRAMENT. Order, or sacred Ordination, is a true and properly so-called SACRAMENT of the New Law. For it has the three things which constitute a Sacrament, namely: 1. a sensible sign through the imposition of hands with the words joined to it, from Acts of the Apostles, c. 6, 6: "And praying, they imposed hands upon them"; 2. the promise of grace, from 1 Tim. 4, 14: "Do not neglect the grace... which was given to you with the imposition of the hands of the presbytery"; 3. the institution of Christ, from Eph. 4, 11: "He gave some... Apostles... and others pastors and doctors... unto the work of ministry"; and from Luke 22, 19: "Do this in commemoration of me": by which words the priesthood was openly instituted. It is confirmed from Trent, sess. 23, can. 3: "If anyone shall say that Order or sacred Ordination is not truly and properly a Sacrament instituted by Christ the Lord: let him be anathema."[5]

(5) Exam. Ord., n. 25.

1888. Questions. Q. 1. Whether the individual seven Orders are Sacraments?

Resp. 1. It is of faith that the PRESBYTERATE is a Sacrament, because at least concerning it those things are verified which we have said of Order in general, and those words of Trent (sess. 23, can. 4): "If anyone shall say that through sacred Ordination the Holy Spirit is not given, and therefore that the Bishops say in vain: Receive the Holy Spirit, or that through it a character is not imprinted: let him be anathema."

Resp. 2. It is certain, although not of faith, that the DIACONATE is a Sacrament; because in it are found the essentials required for a Sacrament, namely a certain matter, which is the imposition of hands, and a form with the promise of grace, in these words: Receive the Holy Spirit, etc. - It is

established besides from Trent, sess. 23, can. 6: "If anyone shall say that in the Catholic Church there is not a hierarchy instituted by divine ordination, which consists of Bishops, Presbyters, and ministers (who are at least deacons): let him be anathema."

Resp. 3. "That the other Orders, namely the SUBDIACONATE and the FOUR MINOR ORDERS, are still Sacraments, is sufficiently probable, from D. Thomas, since to each Order a matter and form seem to have been assigned.... Nevertheless, it is more probable that they are not Sacraments; because in them matter is lacking, namely the imposition of hands, which (as we shall soon say) is more probably the sole matter of Order; and the form is also lacking which expresses the production of grace, since in the conferral of the aforesaid Orders no mention is made of grace, but only of the power which is handed over."[6] Add to these things that in the Greek Church the minor Orders are not found, except the Lectorate. - And hence it follows that those who are promoted to Orders lower than the diaconate with consciousness of mortal sin cannot be condemned of certain sacrilege. Make an exception as regards the Eucharist, which they receive in the Ordination itself.

Q. 2. Whether the EPISCOPATE is a Sacrament distinct from the Presbyterate?

Resp. 1. It is of faith that the Episcopate was instituted by Christ the Lord, and that through it Bishops are made, by divine right, superiors to presbyters: as is established from Trent, sess. 23, can. 6 and 7. - 2. Yet it is not of faith that it is a Sacrament distinct from the Presbyterate; for D. Thomas and not a few others deny this, who teach that the Episcopate is an extension or complement of the presbyterate: led, namely, by this reason, that through the Episcopate no broader and more sublime power of consecrating and offering is conferred. Hence, they say, it is not required that a new character be imprinted, but it is sufficient that the character of priesthood be perfected and extended to other offices: almost in the way in which, in the Ordination of a presbyter, the sacerdotal power through the final imposition of hands is extended to the power of remitting and retaining sins. But very more probably and most commonly, others teach with Bellarmine that the Episcopate is a Sacrament distinct from the Presbyterate, and that in it a special character is imprinted; both because it is conferred through the imposition of hands and through the form: Receive the Holy Spirit; and especially because through it a special power is handed over, not only as regards various sacred functions, but also as regards the Eucharist itself, namely the power of constituting the ministers of this Sacrament.[7]

Q. 3. Whether and how the various Orders constitute only ONE SACRAMENT?

Resp. "They constitute only one Sacrament from unity of end, since the individual Orders are ordered to confecting the one Sacrifice of the Mass; and all (in the opinion of St. Thomas) are supposed to have been instituted by Christ in those words: 'Do this in commemoration of me.' For in the Order of Priesthood the others are either contained eminently, as are the inferior Orders, or consequently with respect to the Episcopate."[8]

(6) Ibid., n. 28. (7) Book VI, 738; VII, 314, dub. 2. (8) Exam. Ord., n. 28.

Article II: On The Effects Of Order

We shall treat: 1. of the effects of this Sacrament, in general; 2. of the power and offices of the individual Orders, in particular.

§ 1. On The Effects Of Sacred Ordination

1889. I. The effects of Order, AS REGARDS THE ORDAINED HIMSELF, are the following three:[9]

1. The conferral of GRACE, both habitual and sacramental, according to what was said concerning the Sacraments in general (n. 1394-1396). - This grace, whose excellence is to be judged from the sublimity of the ministry,[10] is imparted only to those who worthily receive the Sacrament.

2. The imprinting of an indelible CHARACTER, on account of which no Order can be repeated. It is established from Trent (sess. 23, can. 4). All who validly receive the Sacrament are marked with this character.

3. The conferral of the POWER of exercising the functions of the Order which is received. - This power is concerned with spiritual things, and first of all with the real body of Christ, or with the Most Holy Eucharist, with some preeminence; and it is conferred on all who validly receive the Sacrament; indeed also on those who are promoted only to the Subdiaconate or to minor Orders, although, more probably, they do not receive a character. Nor are helps of grace lacking to these, granted by reason of the prayers of the Church.

(9) Ibid., n. 31. (10) Cf. Selva, cap. 1.

1890. II. The effect of Order, AS REGARDS THE CHURCH, is the permanence in it of the divinely instituted hierarchy. - For thus Trent speaks (sess. 23, can. 6): "If anyone shall say that in the Catholic Church there is not a hierarchy instituted by divine ordination, which consists of Bishops, presbyters, and ministers: let him be anathema." From these words it is openly gathered that the Sacrament of Order (as the Roman Catechism notes) chiefly regards the utility of the Church and its beauty.[1]

What, you will ask, is the DIFFERENCE between the power of ORDER and the power of JURISDICTION?

Resp. A threefold difference chiefly can be assigned. - The FIRST arises from the manner in which each power is ACQUIRED; for the power of Order is conferred through sacred Ordination; but the power of jurisdiction is transmitted through mission, which is defined: "The legitimate assignment of subjects, or legitimate deputation for exercising a spiritual office." - The SECOND is had from the OBJECT or END of each power: Order, or ministry, sanctifies men through rites; but the power of jurisdiction rules and directs them through magisterium and discipline. - The THIRD difference is taken from the manner in which each power INHERES IN THE SUBJECT: the power of Order inheres immutably; hence Bishops and Priests always and everywhere validly do those things which are duly performed by the force of Order alone; but jurisdiction, since it is conferred from the mission of the Church, can be limited or entirely taken away, and therefore acts of jurisdiction can be made null by a Superior. - Add that one power is able to stand without the other, as is clear in a Bishop instituted, who, although not yet consecrated, obtains jurisdiction over his diocese; while a titular Bishop has the power of Order without jurisdiction, at least proper jurisdiction.[2]

(1) De Ordine, n. 34. (2) Book VI, 735; cf. Huguenin, Expos. Jur. can., tom. I, p. 147 (or 4th ed., 1887, n. 235-238); cf. S. Th. 2. 2., q. 39, a. 3.

§ 2. On The Power And Offices Of The Individual Orders

1891. I. The Order of EPISCOPATE confers on a presbyter the power of confirming, ordaining, judging concerning the Faith, and consecrating things pertaining to divine worship.

The OFFICES of a Bishop annexed to the power of Order are the following: Administration of Order and Confirmation; likewise consecration of altars and churches, of oil of the sick, of catechumens and chrism, of chalices and patens, of Kings and Queens; veilings of Nuns, and the major or solemn blessing. - The offices annexed to the power of jurisdiction will be briefly explained in Part IV (cf. n. 2250 and following).

1892. II. The Order of PRESBYTERATE confers on a deacon the power of consecrating the Body and Blood of Christ, of remitting and retaining sins, and of feeding subjects by work and doctrine.[3] It is established from Trent, l. c., can. 1. - See in what words the Offices of a presbyter are described in the Pontifical: "It belongs to a Priest to offer, to bless, to preside, to preach, to baptize" (see also n. 2266 and following).

(3) Book VI, 735, 7.

1893. III. The Order of DIACONATE confers on a subdeacon the power of immediately assisting the priest in solemn Mass, by extending to him the paten with the host, and the chalice with wine, and of chanting the Gospel, and of preaching.[4] The Diaconate pertains to the divinely instituted hierarchy, as is established from what was said at n. 1888; for under the name of ministers at least deacons are comprehended. Their OFFICES, besides those already commemorated, are the following: 1. To baptize solemnly, but only with permission of the pastor and in grave necessity; for a deacon who, without commission, even in a case of necessity, baptizes solemnly, incurs irregularity (cf. n. 1462). - 2. To minister the Eucharist; but neither is this licit to them unless from commission, and in a case of grave necessity: such as if the priest is lacking to the people approaching Communion; otherwise he would be irregular. 3. To carry the pyx or monstrance with the Eucharist. - 4. To wash Corporals, in default of a subdeacon.[5]

(4) Exam. Ord., n. 90. (5) Ibid., n. 91.

1894. IV. The Order of SUBDIACONATE confers on the ordained the power of serving the deacon in solemn Mass and solemnly chanting the Epistle.

The OFFICES of subdeacons, besides the most grave obligation of reciting the divine Office daily and of observing perpetual chastity, can be stated briefly thus: 1. To minister to the deacon at the altar; to prepare wine, bread, linens, etc., for the Sacrifice; to chant the Epistle with the maniple in solemn Mass; to carry the chalice and paten to the altar; to pour water into the chalice; to hold the paten elevated; to carry the peace to the choir. 2. In processions to carry the cross; to wash corporals and purificators: as is prescribed in the Roman Pontifical.[6]

If a subdeacon is lacking for solemn Mass, Superiors can, if necessity exists, permit that a cleric marked only with minor Orders be substituted for him, to chant the Epistle, but without the maniple

(thus from the decree of the S. R. C. on July 5, 1698, ad 18).[7] For if he intended to exercise the proper office of a Subdeacon, he would incur irregularity[8] (cf. n. 1943).

(6) Book VI, 805; Exam. Ord., n. 57. (7) Cf. Gardellini, n. 3477. (8) Exam., n. 57.

1895. V. The Order of ACOLYTHATE confers on a cleric the power of carrying cruets to the altar, and of lighting candlesticks and lights on it. (From the ROMAN PONTIFICAL.) - "The OFFICE of an Acolyte is to prepare the ampullae of wine and water for the Sacrifice of the Mass, and to extend them to the Subdeacon; to carry candles to the same Sacrifice and to minister to it: whence he is also called candle-bearer."[9]

(9) Book VI, 805.

1896. VI. The Order of EXORCISTATE confers on a cleric the power of expelling demons from the possessed, lest they impede them from Communion (FROM THE ROMAN PONTIFICAL.) The OFFICE of an Exorcist is to impose hands over those vexed by unclean spirits, for adjuring and casting them out; likewise for exorcizing catechumens.[10] "But in order that an exorcist be able to exorcize solemnly, there is required also the conferral of jurisdiction, or permission of the Bishop. Yet this is not by common law, but by a particular precept of Bishops prohibiting exorcism without their permission. - It was said solemnly, since any one of the faithful can privately command demons, that they not harm, nor impede the faithful from sacred actions"[11] (cf. n. 622).

(10) Ibid., 805. (11) Exam., n. 55.

1897. VII. The Order of LECTORATE confers on a cleric the power of reading the sacred Scriptures in church (From the ROMAN PONTIFICAL.) - The OFFICE of a Lector is: 1. To chant Lessons and read sacred Scriptures outside Mass (for in Mass it is the office of the Subdeacon); 2. to catechize, or to teach catechumens the rudiments of faith; 3. to bless bread and all new fruits. Thus the ROMAN PONTIFICAL.[12]

(12) Book VI, 805.

1898. VIII. The Order of OSTIARIATE assigns to a cleric the power of opening, closing, and guarding the church. (From the ROMAN PONTIFICAL.) - To his office moreover it belongs to ring bells, to admit the worthy into the church, to expel the unworthy, namely infidels, heretics, and the excommunicated.[13]

(13) Exam. Ord., n. 53.

1899. IT IS ASKED. What are the effects of TONSURE?

Resp. Tonsure, although it is not an Order, nor confers any power, nevertheless by the institution of the Church obtains manifold effects and precious privileges, namely: 1. The tonsured man is transferred to the clerical state. And hence it is why the hairs themselves are cut off, and indeed in the manner of a crown, by which the royal dignity of those who have been called into the lot of the Lord is splendidly expressed. - 2. Clothed with a surplice, he can intervene in choir for singing the divine Offices. 3. He acquires the privilege of forum, by which he is exempted from the jurisdiction of

the lay forum. 4. He also acquires the privilege of the canon, so that those injuriously striking him incur excommunication reserved to the Pope, if the striking is grave; but to the Bishop, if light. 5. The tonsured man becomes capable of an ecclesiastical benefice, provided he has 14 years. 6. He becomes capable of every ecclesiastical jurisdiction, for conferring benefices, bringing censures, and judging spiritual causes. - 7. He becomes proximately apt to receive Orders. For although one not yet tonsured is validly ordained, nevertheless he receives Orders illicitly, and sins gravely against the precept of Trent (sess. 23, cap. 1).[14]

(14) Exam., n. 47, 48.

Article III: On The Matter And Form Of Order

Here we shall PRE-NOTE two things: - The first is that the controversy which is moved concerning the form and matter of Order pertains least of all to practice, since in the administration of the Sacraments the safer part must necessarily be chosen. - The other is that the minor Orders and Subdiaconate, which the more probable opinion denies to be Sacraments, on account of a certain analogy with the Sacraments, likewise consist of matter and form. These things having been pre-noted, we say:

1900. I. Of the Orders which more probably are not Sacraments, the REMOTE MATTER is the instruments, but the PROXIMATE matter is the handing over of these instruments; and the FORM is the words which the Bishop pronounces in the handing over of the instruments.[15] Thus commonly. - Hence:

1. A DOORKEEPER is ordained in the handing over of the keys of the church. If several are ordained, it is not required that individuals succeed one another in touching the keys; it suffices that the touch be made by twos or fours jointly, provided it be done with the right hand, at the time when the Bishop pronounces the formula. Thus the S. R. C., March 11, 1820.[16] But if keys of a Church or Oratory are lacking, the Ordainer can use any key whatsoever. (S. Congr. de Prop. F. to the Apostolic Vicar of Cochin-China, March 23, 1844.)[17]

2. A LECTOR is ordained by the handing over of the book of prophecies and epistles. If in place of the book of epistles or lectionary a Bible or Breviary were handed over, the Ordination would be not only valid, but also licit; otherwise, if another book were handed over.[18]

3. An EXORCIST is ordained by the handing over of the book of exorcisms.

4. An ACOLYTE is ordained by the handing over of empty ampullae, or at least of one, and of a candlestick with an extinguished candle; because it is his part to prepare the light and the wine and water for Mass. But the character (if any is imprinted) is imprinted in the handing over of the cruets, because in this latter handing over the more principal power is conferred.[19]

5. A SUBDEACON is ordained both by the handing over of an empty chalice with an empty paten placed upon it, and by the handing over of the book of Epistles.

Among the Greeks, the imposition of hands is had for the matter of the subdiaconate; yet they deny that the Sacrament is conferred by that imposition.[20]

(15) Book VI, 739. (16) Gardellini, n. 4565, ad 7m in Civitaten. (17) Collect. S. Sed., n. 818 (cf. also 816, 817). (18) Exam., n. 54. (19) Ibid., n. 56; Book VI, 745. (20) Book VI, 746; Exam., 57.

1901. II. Of the Orders which are certainly Sacraments, the ESSENTIAL MATTER, according to the more probable opinion, is the imposition of hands alone; but the FORM is the words which accompany the imposition of hands. But the handing over of the instruments is ACCIDENTAL matter, although integral. - This opinion is proved: 1. from those texts of Scripture which commemorate that both deacons and Bishops and presbyters were ordained through the imposition of hands; 2. from the Fourth Council of Carthage, where it is said: "When a deacon is ordained, the Bishop alone shall place his hands over his head"; and from Trent (sess. 14, cap. 3, on Extreme Unction), where it is declared that the ministers of Extreme Unction are priests duly ordained through the imposition of the hands of the presbytery. Add that the handing over of instruments was not introduced before the eighth or ninth century. Therefore, if priests in the first centuries were validly ordained through the imposition of hands alone, it follows that Ordination essentially consists in the imposition of hands.[21]

Yet neither are the two contrary opinions improbable: of which one teaches that the matter of the diaconate, as also of the inferior Orders, consists in the handing over of the instruments alone, but the form in the accompanying words; while the other opinion contends that both the handing over of the instruments and the imposition of hands are required for the essence of the diaconate, with the corresponding form.[22]

Therefore, FOR PRACTICE, according to the safer opinion which must be held:

1. The MATTER of the Diaconate is both the imposition of the hands of the Bishop over the head of each one of the Ordinands, and the handing over of the book of Gospels; and its FORM is the accompanying words.

2. The MATTER of the Presbyterate likewise is twofold, namely the handing over of the chalice with wine and water, and of the paten with bread placed upon it, and then the imposition of hands. But in the Ordination of presbyters this is threefold: the first, when the Bishop extends both hands over the head of each Ordinand, saying nothing; the second, when together with the presbyters he holds the right hand extended over the Ordinands, pronouncing these words: "Let us pray, most dear brethren, etc."; the third finally, when after Communion he again imposes both hands on the head of each, saying: "Receive the Holy Spirit, etc." Hence it is asked, which of these three impositions is the essential matter? And we respond: It is certain that the first is not essential, since no form corresponds to it. But neither is the third imposition essential, according to the common opinion, both because it was not in use among the Latins through the first twelve centuries, and because it supposes them already consecrated priests, since they have already consecrated the Eucharist with the Bishop.

It remains therefore to be said that the second imposition (which is properly that of the presbytery) is the essential matter.[1]

3. The necessary MATTER of the Episcopate is certainly the imposition of the hands of the consecrating Bishop, to whom two other Bishops assist, or in a case of necessity, two priests, by dispensation of the Apostolic See. - Probably there is also required for validity the imposition of the book of Gospels over the head and shoulders of the Ordinand, with the accompanying words. - Indeed, according to several, there also pertain to the essential rite both the anointing of chrism on

the head, and the handing over of the pastoral staff and ring. This must be held in practice, although it is little probable.[2]

(21) Cf. Book VI, 12 and 741; H. A., XVII, 16. (22) Book VI, 748. (1) Book VI, 749; H. A., XVII, 16; cf. 1 Elench. qq. ref., n. 65. (2) Book VI, 755; cf. Panzuti, De Ord., L. 6, n. 350.

1902. It is to be noted, says St. Alphonsus, that in conferring sacred Orders there is required: 1. that the matter be handed over by the same Bishop who pronounces the form. But D. Thomas teaches that it is otherwise in the conferral of minor Orders.[3] There is required 2. that the chalice and paten which are handed over either to the subdeacon or to the presbyter be consecrated, although many say that this is only of precept.[4] In the Ordination of a presbyter there is required 3. that together with the chalice and paten both species of bread and wine be handed over at the same time, to express the power over the whole Sacrifice.[5] There is required 4. that the cup of the chalice and the paten be touched at the same time; although it is commonly taught that it is not absolutely required that the host be touched immediately, just as neither is the wine ever touched immediately.[6]

Likewise, in the judgment of St. Alphonsus,[7] for complete security physical contact of the instruments is required, and therefore moral contact of them does not suffice. And from this it follows that the Ordination of a priest who touched only the paten or only the chalice is sufficiently doubtful, and that, on account of such doubt, it must be repeated under condition.[8] Yet mediated contact suffices, namely if the chalice or the book is touched by means of some veil or glove: for he who thus touches, in the sense of all, is truly said to touch.[9]

As regards the UNION of form and matter, the Holy Doctor furthermore notes that it is not required that the contact of the instruments be made from the beginning of the pronouncing of the form even to the end; but that it suffices if it is made before the form is terminated, or after it has been begun.[10]

(3) Book VI, 744; cf. Craisson, n. 3969. (4) Book VI, 747. (5) Ibid., 750. (6) Ibid., 752. (7) Ibid., 743. (8) Cf. Decision of the S. C. C., May 28, 1796 (Thesaur. Resol., tom. 65, p. 10); cf. also Vindic. Alph., p. IV, q. 3. (9) Book VI, 743, fin. (10) Exam. Ord., n. 29.

1903. IT IS ASKED. Whether, how, and at what time defects committed in Ordination are to be SUPPLIED?

Resp. 1. GRAVE defects, certainly or probably committed, are to be supplied. Indeed, anxiety alone, arisen from a positive doubt, is a sufficient cause for repeating under condition the Ordination of a deacon, presbyter, and Bishop. - But empty doubts or true scruples are to be despised: for Bishops and other officials so watch over sacred Ordination, that moral certitude concerning its validity is always had, unless something positive stands in the contrary.[11]

2. As regards the MANNER of correcting errors, one must distinguish: - "If the defect is concerning the essentials, namely concerning the matter and form, the Ordination must altogether be repeated; and indeed the whole, if the defect, or doubt concerning it, is concerned with the handing over of the first power over the real body of Christ; but if it is concerned with the second power concerning the mystical body, only the second must be repeated. But if the defect is concerning accidentals, then, if it is of a light thing, for instance if the Ordained did not say the Canon, such a ceremony or a similar one need not be repeated; but if in a grave thing, for example if the anointing of hands was lacking, or

if the new priest did not pronounce the words (i.e., the whole form) of consecration with the Bishop, then the defect must be supplied as soon as possible, and by the same Bishop, if it can be done; otherwise the Ordained would sin gravely by neglecting this, or by ministering in the Order."[12] Yet a hidden defect is to be supplied secretly, to avoid scandal and the disturbance of others.

3. As regards the TIME in which defects are to be supplied, the Holy Doctor has these things:[13] "If they are defects concerning accidentals, they can probably be supplied at any time. But if concerning essentials, the Salmanticenses say the same with others; but from the more probable and more common opinion, they are to be supplied at the stated times of Ordinations, as is gathered from cap. *Presbyter, de Sacr. non iterand.*; unless the matter concerns only a doubt of the validity of the Ordination, as several Doctors probably opine." Thus, for example, from the Response of the Congregation of the Holy Office, August 19, 1851, if bodily touch of the instruments was lacking in the Ordination of a deacon, it must be supplied; but it can be supplied "privately and secretly in the action of Mass, and even outside the times of general Ordination."[14]

Moreover, this also is to be noted, that those things which depend on the institution of the Church, for example in the conferral of tonsure or of minor Orders, can likewise be supplied by the will of the Church.[15]

(11) Cf. Book VI, 757. (12) Exam. Ord., n. 94; cf. Book VI, 758. (13) Exam., ibid., 94. (14) Collect. S. Sed., n. 824.
(15) Cf. Lehmkuhl, II, n. 586; Gardellini, n. 5054, where there is an example of sanation.

Chapter II: On The Minister Of Order

In the minister some things are required that he confer Orders VALIDLY; others, that he confer them LICITLY.

Article I: On The Requisites In The Minister That He Ordain Validly

1904. Besides intention (concerning which in the Treatise on the Sacraments in general, n. 1412), conceded power is required in the minister of sacred Ordination. Wherefore these things are established.

Principles. I. A consecrated Bishop is the ORDINARY minister of the Sacrament of Order. It is of faith, and is established both from the Decree of Eugenius IV to the Armenians and from Trent (sess. 23, can. 7), and from the constant tradition of the Church. Nor does it hinder the validity of Ordination that the Bishop is heretical, degraded, simoniacal, censured, or irregular; provided all substantial things are observed.[16]

Hence "Ordinations of the Lutherans are had as null, on account of defect both of character in the one ordaining, and of the form instituted by Christ. Thus likewise Anglican Ordinations are certainly doubtful, indeed far more probably invalid. Otherwise one must hold both concerning Greek schismatics, and concerning the Jansenists in Holland."[17]

(16) Book VI, 761. (17) Haine, De Ord., q. 8.

1905. II. A simple priest can, as EXTRAORDINARY minister, confer by commission of the Supreme Pontiff tonsure and the four minor Orders. - It is established both from various Councils, and from privileges conceded by law or by the Holy See.[18]

Hence regular Abbots can, from Trent (sess. 23, cap. 10, *de reform.*), validly and licitly confer minor Orders and tonsure on their subject Religious. - But on others, even their secular subjects being excluded, they can no longer licitly confer them; indeed, neither validly, as is evinced from various Responses of the S. C. of the Council issued after Benedict XIV, unless there is some special concession for the particular case.[19]

(18) Book VI, 762. (19) Cf. Lucidi, c. I, n. 31 and 32; Bizzarri, Collect., p. 139.

1906. Questions. Q. 1. Whether the Supreme Pontiff can grant to a SIMPLE PRIEST the faculty of conferring SACRED Orders?

Resp. The common opinion denies that a simple priest can ever confer the presbyterate. Whether he can confer the subdiaconate, indeed even the diaconate, by commission of the Supreme Pontiff, is controverted. Some affirm, others deny; others finally, and indeed probably, deny concerning the diaconate and affirm concerning the subdiaconate, because this Order does not have, as the diaconate does, an immediate relation to the Body of Christ, nor was it always counted among the sacred Orders.[20]

Q. 2. Whether for the validity of episcopal Ordination the assistance of THREE BISHOPS is required?

Resp. 1. It is certain that an Ordination is valid which, with permission of the Apostolic See, on account of necessity, has been performed by only one Bishop, two (or even no) presbyters assisting. - It is established from the practice both of the present Church, and also of the Apostles.[21]

2. It is more probable that such an Ordination, even performed without permission of the Holy See, is valid, although illicit: for Benedict XIV reports that some particular case was decided by Clement XI in this sense,[22] yet he adds that the aforesaid question was not defined by this decision. - Hence, since the opinion which denies the validity of such an Ordination is still probable, St. Alphonsus teaches that the Ordination is to be repeated under condition.[23]

(20) Book VI, 762. (21) Cf. Craisson, n. 1735. (22) De Synodo, lib. 13, c. 13, n. 9 et 10. (23) Book VI, 755.

Article II: On The Requisites In The Minister That He Ordain Licitly

1907. The minister, in order that he ordain LICITLY, ought to have ordinary or delegated jurisdiction over the Ordinand.[24] "Each one," says Trent (sess. 23, cap. 8, *de ref.*), "is to be ordained by his own Bishop." - Now then,

I. A Bishop can have ORDINARY jurisdiction over the Ordinand by a FOURFOLD TITLE: namely, by title of origin, domicile, benefice, and triennial familiarity. It is established from the Bull *Speculatores* of Innocent XII, issued in the year 1694;[25] by which the following things also were established:

1. That someone be licitly ordained by reason of ORIGIN, it is required that he was naturally born from the diocese of the one ordaining. Nor indeed does it suffice if by a chance case he was born there, for example on the occasion of the parents' commerce, legation, office, journey, business, or other temporal stay, even if long-lasting. For then the chance birth is not attended to, but the place of the domicile of the father; in which also the son is censured by law to have been born, and from which he is called native.[26] - But if the Ordinand is an illegitimate son, the domicile of the mother is

attended to;[27] if he is an exposed son, the place in which he was exposed;[28] if a baptized infidel, the place in which he was baptized. Thus from the Constitution *Cupientes* of Paul III, § 3.[29]

2. That someone be licitly ordained by reason of DOMICILE, there is strictly required either ten years' habitation, or the transfer of the greater part of goods into that place, and besides a notable, although only successive, residence in the same place; and in either case there ought to be added an oath concerning the intention of remaining there perpetually[30] (cf. n. 203). - Hence, adolescents who complete the curriculum of studies in the seminary of another diocese, since they do not have the intention of remaining there perpetually, are to be ordained by their own Bishop, but with testimonials of the Bishop of the place in which they have devoted themselves to studies.[31] Thus the S. C. C. on July 11, 1840.[32] Moreover, as regards the right of ordination, it is free to a son under paternal power, although he is not his own master, provided he is adult, to establish his domicile wherever he shall have wished.[33] If someone has two domiciles, he can be ordained by the Bishop of either domicile.[34] - But quasi-domicile never suffices.

3. That someone (already tonsured) be ordained licitly by reason of BENEFICE, there is required: 1) that he be in peaceful possession of some ecclesiastical Benefice, whether this Benefice is residential or not, although the whole consists in distributions, indeed although it is removable on the part of the one provided. A perpetual coadjutorship suffices (that is, with future succession), provided the coadjutor has the right of receiving from it a congruous prebend: likewise, a perpetual commendam, namely one which gives full administration of an ecclesiastical Benefice.[35] - But the title of Masses does not suffice, nor a pension, although perpetual and ecclesiastical, nor a lay chaplaincy; because they are not true Benefices. There is required 2) that the Benefice, burdens being deducted, by itself (i.e., without addition of patrimony), suffice, according to the synodal tax or the custom of the region, for congruous sustenance of life. Yet it is left to the judgment and conscience of the Bishop to establish whether the burdens of Masses are to be deducted or not; as is established from the Response of the S. C. of the Council, on July 17, 1723.[36]

But if someone has several Benefices in diverse dioceses, he can be ordained by any Bishop of those dioceses, provided the conditions stated above are present. Thus commonly.[37] (See other things at n. 1922.)

4. That someone be ordained licitly by reason of FAMILIARITY, there is required: 1) that the Bishop has retained him in his actual service, through a morally whole triennium, and has fed him at his own expense; although the triennium was begun before his promotion to the Episcopate. - 2) That the Bishop actually confer on him an ecclesiastical Benefice sufficient for sustenance, any fraud ceasing, at least within the term of one month from the day of the Ordination made.

But by the name of familiars of a Bishop are understood all who serve the Bishop (not now titular, but residing in his own See) and live at his expense, even if they do not dwell in his buildings; provided they live in the place where the Bishop is, or nearby. - Indeed, by the name of familiars are understood the very servants of the servants, provided fraud is absent: which would be present if the Bishop permitted his familiars to have other servants under themselves, so that he could ordain them; and provided all are fed at his expense: for then all, in reality, are reputed as servants of the Bishop.[38]

(24) Book VI, 769. (25) Bullar. M., IX, 374. (26) Book VI, 770-772. (27) Ibid., 773, fin. (28) Ibid., 777. (29) Bullar. M., IV, I, 204. (30) Book VI, 770, 5; 778-779. (31) Book VI, 777, 5. (32) Cf. Thesaur. Resol., tom. 100, p. 213. (33)

Cf. Acta S. Sed., vol. X, p. 479, 491. (34) Book VI, 773. (35) Cf. De Angelis, L. I, Tit. XI (p. 206). (36) Book VI, 774-776. (37) Ibid., 777, 4. (38) Ibid., 780; cf. Del Vecchio, I, n. 642.

1908. II. A foreign Bishop obtains DELEGATED jurisdiction from DIMISSORIAL LETTERS legitimately granted. Dimissorial letters differ from testimonial letters in this, that in the latter there is given only an attestation concerning the birth, age, morals, and doctrine of the Ordinand, who is exhibited as worthy, to whom Orders may be conferred; but through the former there is given, together with the aforesaid attestation, consent and permission, so that the subject can be ordained by a foreign Bishop (cf. n. 1363).

Now, dimissorial letters are LEGITIMATELY granted: 1) by the Supreme Pontiff for the whole Church; 2) by a Legate *a latere* or an apostolic Nuncio, for his province; 3) by the proper Bishop of the Ordinands, although not yet consecrated, or absent from the diocese; 4) by the Vicar general, provided he has a special mandate, or the Bishop is so far distant from his own diocese that he could not be approached except after the journey of one day;[1] 5) by the capitular Vicar, or Chapter, after one year of vacancy for all subjects; but within the year for laymen alone to be initiated with first tonsure,[2] or for clerics alone who are said to be constrained (*arctati*), namely to receive Orders, on account of a Benefice requiring personal service (cf. n. 1369); 6) by a regular Prelate, i.e., the General or Provincial; or if a monastery is not subject to these, by the local Prelate, for his respective subjects.

(1) Book VI, 787. (2) From the declaration of the S. C. C., February 10, 1594, apud Lucidi, cap. 2, n. 71, ad I.

1909. But concerning these things we NOTE: 1. Regularly, the Bishop is bound to ordain his subjects by himself. But if a just cause brings an impediment to him, let him dismiss them to another Bishop to be ordained only after they have been approved and examined, as was decreed in Trent (sess. 23, cap. 3, *de ref.*).

2. Permission granted to someone, that he be ordained by a foreign Bishop, does not expire by the death or removal of the one granting it, unless it is revoked by the successor.[3]

3. With dimissorials there is not understood to be granted to the foreign Bishop the faculty of dispensing the Ordinand over irregularity, or other canonical impediments. But on one dismissed for the Subdiaconate, minor Orders can be conferred, and also Confirmation itself, because the lesser is included in the greater.[4]

4. From the declaration of the S. C. of the Council, January 16, 1595, it is in the discretion of the Bishop to examine those dismissed to him, although they had already been examined; which nevertheless it is not fitting to do without cause. - But to a foreign Bishop, who is summoned to fulfill the place of the Diocesan, it is not licit to subject the Ordinands to examination. He will nevertheless be able to abstain from Ordination, if a just cause occurs to him. Thus from the decision of the S. C. C., August 22, 1721.[5]

(3) Ibid., 787; cap. Si super gratia, de Offic. deleg., in 6. (4) Book VI, 789, dub. 2. (5) Cf. Benedict XIV, de Syn., L. 12, c. 8, n. 7.

1910. IT IS ASKED. By whom are REGULARS to be ordained?

Resp. A special privilege being set aside, after Trent, granted by name, Regulars are to be ordained by the Bishop of the place where they dwell as of the family.[6]

Wherefore it must be NOTED: 1. By the name of Regulars also Novices come, provided they have already passed a notable time in the novitiate, and promise with an oath that they will remain perpetually in the monastery, as far as lies in them. But they can also be ordained by the Bishop of origin.[7]

2. If the diocesan Bishop is absent, or is not about to have Ordinations at the next legitimate time, or even if the See is vacant, it is lawful for regular Prelates to send subjects to any Bishop whatever.[8]

3. Regular Prelates must always give dimissorials to their subjects not only to a foreign Bishop, but also to the proper Bishop. If they are given to a foreign Bishop, there must be inserted in them the authentic testimony of the Vicar or Secretary of the proper Bishop, concerning the cause on account of which he does not ordain.[9] But Regulars do not need this testimony, to whom the faculty has been granted of receiving Orders from any Catholic Bishop whatever[10] (see other things n. 1925, at the end).

Note. The other things required in the Minister, which regard the mode of Ordination, see nn. 1901 and 1902.

(6) Book VI, 768. (7) Book VI, 765; H. A., XX, 114. (8) Book VI, 768. (9) H. A., XX, 113; Book VI, 768, 788, Not. 8. (10) Cf. Honorante, Praxis Secret. Trib. Vic., cap. XII, p. 113 sqq.

Chapter III: On The Subject Of Order

1911. The SUBJECT of Order is a male and baptized man, who, if he is an adult, must have at least a habitual intention of receiving the Sacrament.[11] These things are required for VALID reception of Order, as is established from what was said concerning Sacraments in general, nn. 1433 and 1434. See besides, as to the Episcopate, n. 1924, 1.

But for the LICIT reception of Order, CONDITIONS of a threefold kind are required. The first kind embraces those things which are intrinsic to the Ordinand, or regard his soul, namely divine vocation, the intention of becoming a cleric, competent knowledge, and probity of life.[12] The second kind embraces many extrinsic things, which are required of the Ordinand, such as immunity from censure and irregularity, canonical age, Confirmation, the exercise of the Order received, and title of sustenance. The third kind finally regards the very mode of Ordination, such as Ordination by degrees, interstices, time, place, reception of the Eucharist, and the legitimate Bishop, who at the same time ordains and celebrates Mass. - Each point is to be weighed accurately.

(11) Exam. Ord., n. 32. (12) Book VI, 802; cf. Selva, p. 1, cap. 10; cf. also St. Alph., Notif. V, to his Clergy.

Article I: On The Conditions Which Regard The Soul Of The Ordinand

Besides the STATE OF GRACE, which is necessary for receiving the Sacrament of Order,

1912. I. DIVINE VOCATION is required in the Ordinand, as is established from Heb. 5:4: "Nor does anyone take the honor to himself, but he who is called by God, as Aaron." And from John 15:16: "You have not chosen me, but I have chosen you." The sublimity of Order, the holiness of the office, and the gravity of the burden plainly demand this divine vocation for themselves (cf. n. 2142).

The principal SIGNS of divine vocation are, says St. Alphonsus:[13] 1. suitable knowledge; 2. probity of life (concerning which matters we must soon treat); 3. right intention or the desire of devoting oneself to the divine glory and the salvation of souls. But the signs from which it becomes known that someone is not called are, among others: a certain deformity of body, infamy, a habit of sinning, especially against chastity, natural levity, weariness of piety, sloth, a worldly disposition.[14] "He who, without vocation explored from such signs, thrusts himself into the sacred ministry, certainly cannot be excused from grave presumption...; and since here he exposes himself to great danger of damnation, I do not know how he is excused from grave fault.[15] - And those Bishops commit themselves to this danger of salvation so much the more, who promote those not called to sacred Orders, according to that saying of the Apostle (1 Tim. 5:22): "Do not impose hands quickly on anyone, nor communicate in the sins of others." Nor therefore is it to be wondered at, that in canon law it is prescribed, and expressly in can. *Nullus*, dist. 24: "that no one be ordained, unless he shall have been approved."[16]

(13) Book VI, 802. (14) Cf. Praxis, n. 93. (15) Book VI, 803. (16) Ibid.

1913. II. From Trent (sess. 23, cap. 4, *de ref.*) there is required an INTENTION OF BECOMING A CLERIC, i.e., of ascending to higher Orders: namely, if someone accepts a Benefice, to which offices of a higher Order are annexed; otherwise the Council requires in the Ordinand only the intention of remaining in the clerical state.[17] "Let not those be initiated with first tonsure," it says, "of whom there is not a probable conjecture that they have chosen this kind of life not by fraud for fleeing secular judgment, but so that they may render faithful worship to God."

Hence: 1. He who receives minor Orders or first tonsure for the end that he may decline the lay forum, having in mind to return to secular life, sins; and indeed, according to the more probable opinion, mortally, insofar as he acts in fraud or gravely defrauds the Church, by abusing its sacred ministries for temporal ends. Yet another probable opinion "says that he does not sin mortally, because from Trent someone is then understood to commit fraud, when he receives Orders so that he may escape some secular judgment already begun, and this indeed will be mortal; otherwise it will be only venial by reason of the disordering of the end intended by the Church.[18]"

2. He who, after receiving minor Orders, takes a wife, speaking in itself, does not sin gravely; indeed not even lightly, if he does this from a just cause. - We said speaking in itself; for one who, being certain of his clerical vocation, withdraws from it in order to enjoy the world, can scarcely be judged to be established in a good state of soul.[19]

Note. Concerning a Cleric ordained by force or fear, see n. 1434.

(17) Ibid., 785. (18) Book VI, 785, dub. 3. (19) Ibid., dub. 2.

1914. III. COMPETENT knowledge is required. From the Council of Trent (loc. cit.) it is required for those to be initiated to tonsure "that they have been taught the rudiments of faith and know how to read and write." For those to be initiated to minor Orders, "that they understand the Latin language." For subdeacons and deacons, "that they be instructed in letters, and in those things which pertain to exercising the Order." Finally, for those to be initiated to the priesthood, "that, after a diligent examination has preceded, they be approved as suitable to teach the people those things which it is necessary for all to know unto salvation, and to

administer the Sacraments" (cf. n. 1787). But what is required for a Bishop, see among the Canonists.

To what has been said THREE things are still to be added, namely: 1. The Bishop is bound, unless he is certain from another source concerning the knowledge of the Ordinands, to examine his own subjects, "having called to himself for this purpose expert and suitable men," as Trent speaks (sess. 23, cap. 7). - 2. All who possess the degree of knowledge required by Trent, the Bishop can ordain with a safe conscience. Yet it is licit to require greater knowledge from his own subjects; and this, in present times, is laudably required in many places. - 3. The common opinion holds that less knowledge is required in Regulars devoted to the contemplative life, because they are ordained only for the service of choir and altar. Nevertheless, it must be said otherwise if Regulars are to be deputed to all priestly offices, as is commonly done today.[20]

(20) Book VI, 791-792; Exam. Ord., n. 35-36.

1915. IV. PROBITY OF LIFE is required, by which namely the cleric, existing faithful to the divine vocation, may furnish a certain pledge of future perseverance. Hence Trent (sess. 23, cap. 12): "Let Bishops know that only the worthy are to be assumed to these Orders, and those whose approved life is old age." And St. Thomas: "Not any sort of goodness suffices, but excellent goodness is required." Hence the Apostle (1 Tim. 3:6) prohibits neophytes from being ordained, that is, as the same Angelic Doctor explains, those who are neophytes not only in age, but also those who are neophytes in perfection.

From positive law, especially from Trent, sess. 23, caps. 5 and 7, *de ref.*, and from the Pontifical, THREE SCRUTINIES must be sent before sacred Ordination. - The first is made by the pastor or by another appointed by the Bishop; and for this a proclamation must be made both in the parish of origin and in the parish of habitation of the Ordinand, if they are different. The second scrutiny is instituted by the Bishop himself with certain examiners, on Wednesday, or a few days, before Ordination: to this end, namely, that "he diligently investigate and examine the birth, person, age, instruction, morals, doctrine, and faith of the Ordinands." - The third scrutiny is made in the very Ordination (namely of deacons and presbyters) through those words of the Bishop: do you know that they are worthy? - These today are, together with the attestation itself of the archdeacon, a mere ceremony (cf. n. 1917). See more among the Canonists.[21]

(21) Cf. De Angelis, L. I, Tit. 12; Grandclaude, in the same title.

1916. Questions. Q. 1. What must be done by the Bishop, that he sufficiently prove Candidates for sacred Orders?

Resp. St. Alphonsus:[22] "For this proof, to be sought out by the Bishop, it does not indeed suffice that he himself knows nothing evil concerning the Ordinand; but he must become certain concerning his positive probity, according to the sublimity of the grade to which he pants to ascend, as Suarez, Sanchez, the Salmanticenses, etc., commonly say with St. Thomas... On which matter, Bishops in seeking this proof ought not to be content with the simple attestation of pastors, who, led by human respects, easily indulge clerics in granting attestations of this kind; but besides, after secret information has been taken from others worthy of trust, they must become certain, not only that the one to be initiated has not been evil, namely that he has not been quarrelsome, has not given scandal

by frequenting games, depraved conversations, etc.; but also that he is positively good, that is, that he leads a spiritual life, is assiduous in churches, frequents the Sacraments and prayer, devotes himself to study, etc. Someone will say: If this were observed, ministers would indeed be lacking in the Church. Benedict XIV rightly responds to this: It is better to have fewer ministers, but upright and useful, than many who will be of no value."

Q. 2. What must be done by a Confessor with a cleric habituated in a base vice?

Resp. 1. An Ordinand[23] who is habituated in the base vice of lust (or of drunkenness[24]), although he is disposed for the Sacrament of Penance, by that very fact is not yet disposed to receive sacred Order; but for some time he must devote effort to rooting out the depraved habit. The reason is, because, that someone ascend to the dignity of sacred Order, the simple and actual state of grace does not suffice; but there is also required surpassing and habitual goodness, which, according to the common law, is not acquired immediately. - But if one habituated in a base vice wished to ascend to sacred Order immediately, without experiment of amendment, that man, as rash, would also render himself unworthy of sacramental absolution.

Resp. 2. If nevertheless the penitent were endowed by God with such compunction, which would free him from his former frailty (which can rarely be supposed), and he firmly resolved to avoid sins and occasions, and to use efficacious remedies, so that he could lead a life worthy of a priest, he could be absolved, although he wished to receive Order immediately. But indeed, in this case also, for one wishing to be ordained immediately, it is more advisable that absolution be deferred, so that he may be better proved by an experiment of time; provided that from the delay there is not to be feared a proximate danger of infamy.[1]

Q. 3. Whether a cleric, who has been judged worthy of some Order, can be compelled to receive it?

Resp. Neg., in itself, according to the decision of the S. PENITENTIARY (August 27, 1829), which responded that a cleric is not to be compelled, who, although chosen by his Superiors and judged worthy by his confessor for the sacred ministry, refuses to obey their admonitions, by reason of humility, or fear of dangers; nor did it judge that a deacon was to be compelled to receive the Order of the presbyterate, even if he is chosen by Superiors as most apt, and is judged worthy by his confessor.[2] - But except: 1. if it is judged that the absolute will of God intervenes through extraordinary signs, either exteriorly, or interiorly in the intimate state of the soul, manifested to the Ordinand; 2. if there is present a grave necessity of the Church, for which otherwise provision cannot be made.

Note. Innocent XI, through the S. C. OF BISHOPS AND REGULARS, October 9, 1682, commanded the Archbishop of Milan and all the Bishops of Italy and the adjacent islands, that individual Clerics, about to receive Orders both minor and major, should devote themselves for ten continuous days to SPIRITUAL EXERCISES. Nevertheless, from introduced custom, for sacred Orders alone, ten whole days are required (cf. n. 1367).[3]

(22) Book VI, 803. (23) Ibid., 63-67. (24) Ibid., 67, Prob. 3. (1) Cf. H. A., tr. ult., 16-17; and Benedict XIV, de Synodo, lib. 11, cap. 2, n. 17-18; likewise Vind. Alph., p. 6, c. 2, § 4; Ciolli, Opusc. Del Chierico ordinando (Florence, 1885). (2) Craisson, n. 1956. (3) Cf. Benedict XIV, Instit., 104, n. 5 sqq.

Article II: On The External Conditions Required In The Ordinand

From the Tridentine law there are REQUIRED in the Ordinand:

1917. I. IMMUNITY FROM CENSURE AND IRREGULARITY. - The one to be ordained must be immune from censure and irregularity; for censure deprives of participation in the goods of the Church; and irregularity induces incapacity for Order: therefore each impedes Ordinations.

And hence it is why the Bishop, from the prescription of the Pontifical, before the Ordination has begun, commands, under penalty of excommunication, that no one bound by either impediment approach; just as neither one enrolled, or not approved, or a foreigner, protesting that he does not wish to ordain unworthy persons of this sort. If nonetheless someone of this kind should approach, his Ordination would have to be judged valid; because the aforesaid things today pertain to mere rite, or are customarily prefaced only for terror: whence it cannot be supposed that the Bishop truly wished to bind his intention to such a protestation, unless the contrary is positively established.[4] "For the Bishop," says Benedict XIV[5] with Navarre, Gobat, and Lugo, "lest he become guilty of grave sin, is bound to have the absolute intention of conferring Order on the man present, when he imposes hands."[6]

(4) Book VI, 784. (5) De Synodo, lib. 8, cap. 11, n. 1. (6) Thus Exam. Ord., n. 32, in ed. 7 (tom. 3, p. 169); cf. Craisson, n. 3978.

1918. II. CANONICAL AGE. Trent (sess. 23, cap. 12) establishes these things as to the major Orders: "No one hereafter is to be promoted to the Order of the Subdiaconate before the twenty-second year of his age, to that of the Diaconate before the twenty-third, to that of the Presbyterate before the twenty-fifth." In which law, a begun year is held for completed. - Nor indeed can one be ordained without dispensation, to whom only a few hours are lacking; because the required year can in no way be said to have been begun. - For the Episcopate it is established thus in law: "Let no one be elected Bishop, unless he has already passed, or completed, the thirtieth year of age."[7] - For minor Orders and tonsure, no age is assigned in law; it suffices that the one to be initiated possess the use of reason, and therefore that he be at least seven years old.[8]

Dispensation over age is reserved to the Roman Pontiff, who is not accustomed to grant it, except for receiving the Priesthood, on account of the necessity or utility of the Church.[9] He who knowingly is promoted to major Orders before the legitimate age sins gravely;[10] yet he does not incur suspension (which formerly was incurred): as is drawn from the Constitution *Apostolicae Sedis*.

(7) Cf. Decret. Gratiani, dist. 78. (8) Book VI, 799; Exam. Ord., n. 43. (9) Book VI, 800. (10) Ibid.

1919. III. CONFIRMATION RECEIVED. - "Let not those be initiated with first tonsure," says Trent, "who have not received the Sacrament of Confirmation." It is commonly taught that this obligation is only under light fault, because the words of the Council denote propriety rather than a formal precept.[11] Nevertheless, the S. C. of the Council declared (September 27, 1601) that he who received tonsure or Orders not confirmed cannot, as badly promoted, ascend to other Orders, nor retain Benefices, concerning which he was provided, without dispensation of the Pontiff; for he is held as irregular.[12]

(11) Ibid., 183 and 786. (12) De Angelis, L. I, tit. XI, n. 9, p. 226 (Renzi and Nicolius have, year 1621).

1920. IV. EXERCISE OF THE ORDER ALREADY RECEIVED. The Council of Trent prescribes,[13] that the one to be initiated have exercised the Order previously received, and indeed in the church to which he was assigned. - But the Salmanticenses think this is not of grave precept; since the words of the Synod are more consultative than preceptive, namely these: "let them exercise themselves in each one, according to the prescription of the Bishop."[14]

(13) Sess. 23, caps. 11 and 13. (14) Book VI, 801; Exam. Ord., n. 45.

1921. V. TITLE OF ORDINATION, or security by which provision is made for the Ordinand in sacred Orders concerning honest and perpetual sustenance. A title is required by the Councils, and especially by Trent,[15] both lest clerics, from lack of sustenance, be compelled to exercise some vile craft or to beg, and so that they may be able more freely to attend to spiritual things, without being distracted by solicitude for temporal things. And this law is so firm, that the Bishop granting Order or dimissorials without a title is himself bound, unless he was deceived, to feed the needy Ordained until he obtains a title for him.[16] And if he shall have ordained someone thus, with the pact that the Ordained not seek food from him, he incurs by the law itself a three-year suspension reserved to the Pope. From the Const. *Apostol. Sedis* (cf. n. 1362). But if after the Subdiaconate has been received the title perishes, one cannot ascend to a higher Order without a new title.[17] This is established from Trent.[18]

(15) Sess. 21, cap. 2, de ref. (16) Book VI, 813. (17) Loc. cit. (18) Book VI, 813.

1922. Especially a THREEFOLD TITLE is given, namely of Benefice, patrimony, and religious poverty.

1. The title of ECCLESIASTICAL BENEFICE is the most powerful title of Ordination. Concerning this the Council of Trent establishes thus: "Let no secular cleric hereafter... be promoted to sacred Orders, unless first it is legitimately established that he peacefully possesses an ecclesiastical benefice which honestly suffices for his living." - Therefore there is required 1) a Benefice, or a perpetual right of receiving fruits from the goods of the Church on account of some spiritual office constituted by ecclesiastical authority.[19] 2) Sufficient for living, that is, according to the tax of the diocese of origin; or of the diocese where the benefice is, if it is residential. But if the defect of the benefice is slight, someone is licitly ordained; otherwise, if it is notable, e.g., of a fifth part. It can nevertheless be supplied from other goods, provided another title, e.g., of origin or domicile, exists, conferring on the Bishop the right of ordaining (cf. n. 1907, 3). - 3) Peacefully possessed; whence, a benefice certain for the future does not suffice, nor a benefice whose possession is unjustly impeded; but that one suffices whose revenues can be received only after the priesthood has been received.

Moreover, no one initiated in sacred Orders can resign his benefice, "unless mention has been made that he was promoted to the title of that benefice; nor is that resignation to be admitted, unless it is established that he can live comfortably from elsewhere; and a resignation otherwise made is null." Thus Trent, in the cited place.[20]

2. The title of PATRIMONY "obtains, when the Ordinand is furnished with such goods, certain, stable, and fruitful, coming from elsewhere than from the Church, as are judged, in the judgment of the Bishop, to suffice for his congruous sustenance."[21] But that this title may be valid, from Trent, the

patrimony must be: 1) perpetual, e.g., a perpetual census, although it can be redeemable; 2) constituted over a certain and immovable thing, and one by its nature fruitful, peacefully possessed,[22] and not burdened by debt or mortgage; 3) approved in the episcopal Curia, and set out to the synodal tax by a legitimate instrument; 4) firm and inalienable unless, from a just cause, the license of the Bishop intervenes.[23] - It can be constituted under the clause: until the cleric is provided for or obtains other goods; but the prior title is not extinguished, unless a new one has been subrogated by the Bishop. Thus from the S. C. C., July 12, 1687. It can likewise be constituted in nominative bonds of public debt, provided they are supposed to mortgages, as commonly happens.[24]

To patrimonies are reckoned perpetual pensions, perpetual legacies of Masses; indeed also manual, or lay, Chaplaincies, provided they are conferred under the condition until the ordained one is provided for, and in legal form, recognized in the episcopal Curia.[25]

3. The title of POVERTY, instituted by St. Pius V, "is placed in religious profession, by virtue of which, those who have emitted solemn vows in an approved Religion; either from the revenues of goods, if the Religion itself possesses any; or from the pious largesses of the faithful, have all things in common, of which they need for sustaining life."[26] But Religious of simple vows, or not yet solemnly professed, cannot receive sacred Orders, unless they have a patrimony or another title. - Except the Religious of the Society of Jesus, who after simple vows can be ordained, from the concession of Gregory XIII; and if they are dismissed from the Society, it is not bound to the supplying of congruous sustenance, as Benedict XIII declared in perpetuity.[27]

(19) Instruction of the S. C. DE PROP. FIDE, April 27, 1871, n. 3 (apud Gury-Cretoni, II, p. 671), or apud Collect. S. Sed., n. 785, where April 17, 1871. (20) Book VI, 815, 816. (21) Cited Instruction, n. 2. (22) Cf. 1 Elench. qq. ref., n. 88. (23) C. Haine, De Ord., q. 16. (24) Book VI, 817; cf. Acta S. Sed., vol. I, p. 344. (25) Cf. Lucidi, cap. 3, n. 396-426. (26) Cited Instr. DE PROP. FID., n. 4. (27) Book VI, 814.

1923. Besides these titles, others are commonly admitted from Pontifical Indult, especially in regions where no benefices, or only slight ones, exist, or where civil law prevents sacred patrimonies from being constituted. Of this sort are:

1. The title of service of a Church. This title, formerly ordinary, but now extraordinary, is granted under this law, that the Ordinands be bound perpetually to some Church, from whose service they can be sustained. - We say perpetually; for they can never be removed from that church; but neither can they themselves depart from it, unless otherwise provision has been made for them.[28]

2. The title of common table, which is customarily granted to clerics living in a common discipline of life, although they emit only simple vows, or even none. - Akin to this is the title of a College, Seminary, etc. Nay more, in Germany, with the Holy See permitting or tolerating, the title of table is admitted, i.e., the promise of a pension to be paid to the ordained, if on account of old age or sickness they should become unable to undergo sacred duties.[29]

3. The title of Mission. This title is granted to alumni of the Congregation de Propaganda Fide and to others who devote themselves to apostolic Missions. - But it is granted under this pact, that the Ordinands promise with an oath that they will devote their labor to the Missions for which they have already been destined, or will afterwards be destined.[30]

Let the following things be NOTED, for practice: 1. The sin "is grave, unless a dispensation is obtained from the Holy See, to ordain or be ordained without a title, or with a false title (i.e., one which does not exist); or, if the matter is about patrimony, with a fictitious or fiduciary title, or with none, or an unjust one, or one liable to restitution or resolution.[31]"

2. "If, when the title generally has been lost, or even the title of Mission, another is not substituted for it, the Priest does not on that account remain suspended; but Ordinaries are bound to compel the Ordained to the subrogation of another title, as has been provided by the sacred Canons." - Thus the S. C. DE PROP. FIDE, September 1, 1856.

3. "Likewise Regular Priests, who have pronounced solemn vows, and by Apostolic indulgence are permitted to live in the world; or who have emitted simple vows, and have departed from their Congregations or Institutes, lest they be compelled, with disgrace to their proper grade, to beg, are bound to provide for themselves concerning a canonical title. - But in places of Missions they are at least bound to prove that means are supplied to them, by which, as is fitting, they may provide for their own sustenance.[32]"

(28) Cited Instr., n. 5. (29) Grandclaude, Jus. can., L. I, tit. XI, sect. 5, § 2. (30) Cf. Konings, n. 1522. (31) D'Annibale in Comment. Const. APOST. SEDIS (ed. 3), n. 183. (32) Cited Instr., n. 11 and 12.

Article II: On Those Things Which Regard The Mode Of Ordination

1924. As to the MODE, the following things are required:

It is required 1. That Ordination be done BY DEGREES, namely with their legitimate order preserved in the reception of Orders. If someone is ordained by leap,

he sins gravely, and is prohibited from the exercise of the Order received, as long as he has not received the Order omitted.[1] - Although an Ordination of this sort is gravely illicit, it is nevertheless valid, except in the case in which someone should receive the episcopate before the priesthood (cf. n. 1888, q. 2). - From legitimate cause, the Bishop can (from Trent, sess. 23, cap. 14) dispense in the suspension or incapacity with those promoted by leap, if they have not ministered; but if they have ministered, they now need an Apostolic dispensation (cf. n. 1372).

It is required 2. that Ordinations be received through the appointed INTERSTICES of times. On this matter many things are to be NOTED: 1) The Bishop can, when he pleases, confer first tonsure with some minor Order, because first tonsure is not an Order. 2) Between the minor Orders some interval is indeed required; but how great it ought to be, Trent did not determine, indeed it says: "Unless it should seem otherwise to the Bishop." 3) That someone ascend from minor Orders to the subdiaconate, the space of one year is required; unless necessity, or the utility of the Church to which the future subdeacon is to be assigned, in the judgment of the Bishop, demands otherwise. 4) Between the subdiaconate and the diaconate likewise the space of one year is required; but any reasonable cause excuses, according to the judgment of the Bishop. - 5) Between the diaconate and the presbyterate likewise the space of a year is required, unless on account of the utility and necessity (namely moral necessity) of the Church, it should seem otherwise to the Bishop. All these things are from Trent, sess. 23, caps. 11 and 13.[2]

"But if it is a question of Regulars, to whom the Apostolic See, after Trent, granted the privilege of exemption from interstices, the judgment does not pertain to Bishops, but to Regular Superiors."[3]

You will ask, whether several Orders can be conferred on the same person ON THE SAME DAY?

Resp. 1. Tonsure and minor Orders can licitly be conferred on the same day, where custom has obtained. 2. Major Orders cannot, without grave sin, be conferred on the same day, as is established from Trent, cited cap. 13; nor, by force of law, the subdiaconate with minor Orders. Indeed, the S. C. C., in a Cagliari case, February 21, 1728, denied that this could be introduced by custom, although Authors commonly affirmed it.[4]

It is required 3. that Orders be received ON DAYS ASSIGNED BY LAW. Now, by ordinary law, tonsure can be conferred on any day, place, and hour. - Minor Orders are legitimately conferred on one or two (or at least few), on Sundays and Feasts of precept (even those abrogated in favor of the faithful[5]), nevertheless in the morning time, provided a general Ordination does not seem to be made. From received custom they can also be conferred on Wednesday of Ember Days, or on Friday before the Saturday of general Ordination. Major Orders are to be conferred only (within the solemnities of Masses) on the Saturdays of Ember Days, the Saturday before Passion Sunday, and Holy Saturday. - The Consecration of a Bishop is made at any time of the year, yet on Sunday, or on the natal day of the Apostles.[6]

From special indult, or privilege (such as certain Institutes, missionary Bishops, etc. enjoy) sacred Orders can be conferred, outside the times, on Sundays and on Feasts of precept even abrogated:[7] provided the days are interpolated, or not continuous, as has been declared many times by the SS. Congregations.[8] Yet broader privileges, if certainly granted to anyone, do not seem to have been revoked[9] (cf. n. 2187, 5, concerning the privilege of Regulars).

It is required 4. That Ordination be had IN THE DUE PLACE, namely in the cathedral Church, or the worthier church of the diocese, as Trent speaks.[10] If nevertheless the Ordination is not general, but of a few, it can be done in a private chapel, as the S. C. C. declared November 20, 1592.[11] - By the name of due place is understood also the proper diocese; for it is not licit in another's territory, without the faculty of that Bishop, to exercise an act so solemn. Indeed from Trent,[12] one ordaining thus incurs suspension from the exercise of Pontificals, and the Ordained from the exercise of the Order received (cf. n. 1368). Yet they except Tonsure, since this is conferred without Pontificals.[13]

It is required 5. that the Ordinands, as the Pontifical prescribes, receive the EUCHARIST. This prescription nevertheless does not oblige under grave fault except priests alone who concelebrate with the Bishop. "Indeed those to be initiated to minor Orders are not bound to communicate even under light fault, as is commonly taught."[14]

It is required 6. that the same Bishop who ordains ALSO CELEBRATE MASS; otherwise the mystery of unity would be divided, as Innocent III[15] and Benedict XIV[16] say. Nevertheless, the Ordination would be valid if one celebrated and another ordained, as the S. C. C. declared, since Mass is not of the essence for the validity of Orders.[17]

Let it be noted besides: 1) "The newly ordained presbyters must, together with the ordaining Bishop, read Mass, beginning from the prayer *Suscipe sancte Pater*." Thus the Roman Pontifical.[18] They truly consecrate with the Bishop, although only one Sacrifice is made; wherefore they must attend to this,

that they pronounce the words of consecration at the same point of time as the Bishop, and, as far as can be done, complete the form together with him.[19] Thus the Roman Pontifical. 2) They must also say the Gospel with the same Bishop at the end of Mass (S. R. C., November 12, 1831, in a Marsi case, ad 12).[20] But if Ordination is made with chant, they are bound to read without chant the Preface and the other things which are chanted by the Bishop (S. R. C., ibid., ad 11). - 3) They must read Mass, not standing, but kneeling on the ground; and therefore they must not perform during the Sacrifice all the actions which the Bishop himself performs, for example make crosses with the hand over the Oblata, genuflect, etc. (S. R. C., September 20, 1749[21]). - See more among the expositors of the Rubrics.[22]

(1) Book VI, 793. (2) Ibid., 795; Examen Ord., n. 41. (3) De Angelis, lib. I, tit. XI, n. 7, fin. (4) Cf. Benedict XIV, Inst., 106, n. 12 and 13. (5) S. R. C., March 16, 1833 (Gardell., n. 4708). (6) Book VI, 794. (7) Book VI, 797, dub. 3 and 4; De Priv., 115-116. (8) Cf. Lucidi, cap. I, n. 113-124; Gardell., n. 4751, 2. (9) Cf. Ferraris, V. Ordo, art. 2, n. 13. (10) Sess. 23, cap. 8. (11) Cf. Lucidi, cap. II, n. 127. (12) Sess. 6, cap. 5, de Ref. (13) Book VI, 798; Exam. Ord., n. 43. (14) Book VI, 801. (15) In cap. Quod sicut, § 1, de Elect. (16) De Synod., L. 8, cap. 11, n. 5. (17) Ibid., n. 7. (18) Cf. Gardellini, n. 4205, 1. (19) Cf. Exam. Ord., n. 123. (20) Gardell., n. 4669. (21) Ibid., n. 4205, 3, ad 2 and 3. (22) Cf. de Herdt, Prax. Pontif., tom. 3, n. 360.

1925. Questions. Q. 1. How do the PRAYERS oblige, which the Bishop imposes on the Ordained by way of penance?

Resp. It is more probable that they oblige only under light fault, from the more common interpretation.[23] - Now 1) "The words of the Roman Pontifical: *Nocturnum talis diei*, understand of the single Nocturn on a ferial day, or of the first on Sunday, as in the Psalter (i.e., of twelve Psalms with their antiphons of the time), which the ordaining Bishop can designate, either of the day itself on which he has the Ordination, or of another at his discretion." Thus the S. R. C., August 11, 1860, in Granada.[24] But when the Bishop expresses nothing else than that which the words of the Pontifical report, it is to be said to be the Nocturn of the feria which corresponds to that day on which the Ordination was made.[25] 2) The three Masses imposed on new priests (under venial fault) are to be celebrated on the first days on which it is licit to celebrate votive Masses; yet they are not to be applied for the Bishop, since that is not expressed, and the Bishop adds: And also pray for me.[26]

Q. 2. To what are priests bound by force of the OBEDIENCE which they promised to the Bishop in Ordination?

Benedict XIV responded, writing in the Bull *Ex quo dilectus*: "We acknowledge that a presbyter, by force of this sort of promise, is held bound, among other things, by this law, that he cannot depart from the service of the Church to which he shall have been assigned without the license of the Bishop." Except, if he is an exempt Religious, or wishes to embrace the religious state, as will be said below (n. 2138). But in the Ordination of Regulars the disposition of the Roman Pontifical is to be observed as to the formula itself: *Promittis Ordinario tuo obedientiam* etc. Thus the S. R. C., July 22, 1848.[27]

(23) Book VI, 829. (24) Annal. juris Pontif., ser. 5, col. 351. (25) Konings, n. 1523, q. 8. (26) Book VI, 829; Exam. Ord., n. 124. (27) Cf. Gardellini, n. 5127.

1926. Note. The penalties which those badly Ordaining and those badly Ordained incur, we have sufficiently explained in the Treatise on Censures (n. 1362 sqq.). Yet it is helpful to collect

them here in a few words:

1. Those badly Ordaining are punished with penalties: on account of defect of title in the Ordained (nn. 1362 and 1364); on account of illicit Ordination of another's subject (nn. 1363, 1367, 1370, 1371, and 1372); on account of Ordination of one's own subject without due testimonial Letters (nn. 1363 and 1367); and finally on account of illicit exercise of Pontificals in another's diocese (n. 1368).

2. Those badly Ordained incur penalties: on account of the unworthiness of the one Ordaining (n. 1366); on account of dimissorial Letters, when the See is vacant, illegitimately accepted (n. 1369); on account of reception of Orders from a titular Bishop without dimissorials (n. 1370); on account of defect of testimonial Letters (n. 1371); and, if they have been in Rome for four months, on account of the special conditions omitted there (n. 1367). - Concerning those cooperating in an illicit Ordination, and concerning those Ordained by leap, see n. 1372, question.

Chapter IV: On The Impediments Of Order Or On Irregularities

Here it comes to be said: 1. On Irregularities in general; 2. On the diverse Irregularities.

Article I: On Irregularities In General

Four things are to be weighed: 1. what irregularity is, and of how many kinds; 2. what its effects are; 3. how it is incurred; 4. how it ceases.

§ 1. What Irregularity Is And Of How Many Kinds It Is

1927. DEFINITION. Irregularity is a canonical impediment prohibiting the reception of sacred Orders and the use of Orders received.[28]

It is called an impediment or a certain incapacity, but not a censure, because the latter always supposes fault and has the nature of a medicinal penalty; but irregularity does not always suppose fault; and if sometimes it is imposed by way of penalty, this is done primarily for preventing indecency in the sacred ministry, but secondarily for punishing the guilty one. Thus commonly.

DIVISION. There are various irregularities:

1. Irregularity is called from defect or from delict, according as it is imposed by law, either on account of defects alone bringing indecency to the sacred ministry, or on account of certain delicts, because of which the reception or exercise of Order is prohibited. But since irregularity from delict has been instituted principally for the decorum of the clerical state, it is resolved in a certain way into irregularity from defect; for one ensnared by it is destitute of that quality which the Apostle requires of those to be ordained, namely that they be without crime.

2. Irregularity is total or partial. - The former excludes from the reception of every Order and from every exercise of an Order received; the latter impedes some ministry of Order, or ascent to a higher Order.

3. Irregularity is perpetual or temporal. - Perpetual of itself always lasts, unless it is removed by dispensation. - Temporal lasts only to some time, which having elapsed, it ceases of itself: as

irregularity from defect of age, which, when the time required for Orders has been completed, vanishes.[29]

(28) H. A., XIX, 72. (29) Book VII, 341; VI, 799; H. A., ib., 74.

§ 2. What The Effects Of Irregularity Are

1928. The EFFECTS of irregularity are the following:

1. Incapacity for LICITLY RECEIVING Orders, even first Tonsure; for he prepares himself in vain for Orders, who is prohibited from Orders. - Hence both the irregular himself, who receives an Order, and the Bishop, who confers on him an Order or even tonsure alone, sin gravely.[30]

2. Incapacity for EXERCISING sacred Orders; whence, an irregular validly indeed, but illicitly, confects or administers the Sacraments. Nor indeed is he deprived "of those actions which do not require the exercise of Order, and which laymen also can exercise, for example to receive the Sacraments, and to sing the Offices, as also to confer Benefices; because these things pertain to the exercise of jurisdiction, not of Order; likewise to assist at Marriage, or to furnish another the license of assisting, to dispense in vows, to absolve from censures, to give the faculty of hearing confessions.[31]

3. Incapacity for receiving Benefices; for a Benefice is given on account of some office; but an irregular is incapable for the office; therefore also for Benefices, which require that office. - Trent agrees (sess. 22, cap. 4, *de ref.*). Except, if the Benefice had been received in good faith: in which case it would be licit, after dispensation has been obtained, to retain it. Hence "as to benefices obtained before irregularity, it is certain among all that an irregular is not deprived of them; nor is he to be deprived by a judge, if the irregularity supervened on him from the defect of infirmity. But if it is from delict, he must be deprived by sentence of the judge."[32] Indeed, meanwhile he must now resign, or obtain dispensation, because no one can retain a benefice whose burdens he cannot licitly exercise[33] (cf. n. 2239, 6).

You will ask. Whether the conferral of a benefice made to an irregular is null by the law itself?

Resp. It is controverted. Some, from the more common and therefore more probable interpretation of the Council of Trent (sess. 14, *de ref.*, cap. 7, and sess. 22, cap. 4), affirm. - But others deny with sufficient probability, saying that the conferral is indeed illicit and to be invalidated by a judge, but not invalid.

Hence it follows: 1. An irregular man and one incapable of the duties of a benefice cannot put himself into possession of it; for no one can with a probable (or little more probable) opinion begin possession of another's thing. - 2. If nevertheless he received the benefice in good faith, and satisfied the burdens through others, he is not bound (on account of the contrary probability) to restitution of the fruits received.[1]

(30) Book VII, 342. (31) Ibid., 342, 2. (32) Ibid., 342, Quaer. (33) Ibid.; cf. Book IV, 130; H. A., XIII, 55; XIX, 76-77.
(1) Book VII, 343; H. A. (more correctly Istruz.), XIX, 76.

§ 3. How Irregularity Is Incurred

1929. Principles. I. No irregularity is incurred unless it is EXPRESSED IN LAW, that is, in a decree of the Supreme Pontiff, or in a general Council. This is clearly established from cap. *Is qui*, 18, *de sent. excom.*, in 6.[2]

Hence: 1. Irregularity is incurred by the law itself or by the fact itself, before the sentence of a judge; and also, according to the truer opinion, on account of an occult defect, or occult crime.[3] 2. In this matter, an argument from similar to similar does not avail, nor from the greater to the lesser. "But IN DOUBT whether some irregularity is or is not expressed in law, one must stand by the common sense of the Doctors and by custom."[4]

II. Irregularity FROM DEFECT is always incurred, while the defect expressed in law stands. The reason is, because an irregularity of this sort does not have the nature of a penalty, but only of an impediment; and therefore ignorance and inculpability do not excuse from incurring it.[5]

III. Irregularity FROM DELICT is incurred only through grave, external, and consummated fault. - The reason is, both because a grave penalty requires grave fault; and because the Church does not punish merely internal acts, but only external ones, and these consummated, unless it is expressed otherwise in law. - Hence, if the act on account of some circumstance is excused from mortal sin, it is likewise excused from irregularity.[6] - Recall what was said in nn. 1263 and 1769.

(2) Book VII, 345. (3) Ibid., 349; H. A., XIX, 82. (4) H. A., ib., 78; Book VII, 345. (5) Ibid., 413 and 415. (6) Ibid., 348; H. A., ib., 81.

1930. Questions. Q. 1. Whether, for incurring irregularity FROM DELICT, KNOWLEDGE OF THE ecclesiastical LAW prohibiting is required?

Resp. "The more probable and very common opinion affirms:... because such an irregularity has the nature of a penalty; and since it is a penalty, knowledge at least of the prohibiting law is required. And this is proved from can. *Proposuisti*, dist. 82, where Innocent I decreed that certain incontinent Clerics were not to be deposed, because they were ignorant of the Constitution of Pope Siricius."[7] - Yet crass or supine ignorance does not excuse, as all admit (cf. nn. 219-220).

Q. 2. Whether knowledge OF THE PENALTY, or of the irregularity itself, is also required?

Resp. There is a twofold probable opinion. The first, very probable, denies; because irregularity is not a medicinal penalty, but is an incapacity, or a merely punitive penalty: wherefore, it suffices that such a penalty has been imposed by law on that forbidden act, which the guilty one now commits knowingly and culpably, although he is ignorant of the penalty. - The second, sufficiently probable, affirms; and the reason is, because irregularity from delict is a true penalty, and indeed extraordinary, which cannot be foreseen even confusedly, and therefore it is not judged to be incurred by one ignorant.[8] (Cf. n. 220.)

Hence however,

Q. 3. What is to be done IN DOUBT concerning contracted irregularity?

Resp. 1. If a positive doubt arises, or one resting on grave reasons, the doubter must apply prudent diligence to investigate the truth; and meanwhile conduct himself as if he were irregular, namely lest he expose himself to the danger of violating irregularity. - Except with the Salmanticenses,[9] "if grave necessity urges, namely if an occasion occurs of receiving Orders, or a Benefice."[10]

Resp. 2. If a negative doubt is given; or if, after sufficient diligence has been applied, a positive doubt on each side, or truly suspensive doubt, remains: then, whether the doubt is of law, namely if it is doubted whether an irregularity is or is not assigned by law for such a case; or of fact, that is, if it is doubted whether the crime designated in law was truly committed: from the common and truer opinion, no one ought to hold himself as irregular; both because odious things are to be restricted, and because in doubt no one is to be despoiled of his right.[11]

Except, if someone doubts whether he has perpetrated HOMICIDE; for this case is expressly declared in law,[12] where it is read: "Since it is more advisable in a doubt of this sort to abstain, than to celebrate rashly." But it must be noted 1) that this runs when someone is certain concerning the homicide, e.g., concerning the abortion of a certainly animated fetus (cf. n. 744, q. 4), and only doubts whether he himself by his action (of itself deadly) was its cause. But if he doubts concerning the homicide itself, whether it followed or not: in that case, according to a very probable opinion, he is not to be judged irregular.[13] - It must be noted 2) that this irregularity, which binds clerics alone, is not to be extended to all effects, but to the sole incapacity of celebrating, and to the obligation of seeking dispensation.[14]

(7) H. A., ib., 83; Book VII, 350. (8) Book VII, 351; H. A., ib., 84. (9) De Cens., cap. 7, n. 42. (10) Book VII, 346. (11) Ibid., 346-347; H. A., ib., 79; cf. the Authors cited by St. Alphonsus. (12) Cap. Petitio tua 24, de homicidio. (13) Cf. Bizzarri, p. 521. (14) Book VI, 347, dub. 3 and 4; H. A., XIX, 80.

§ 4. How Irregularity Ceases

1931. Irregularity is removed in four ways:

1. By CESSATION OF THE CAUSE, if it comes, e.g., from defect of age, knowledge, good fame, etc. - Concerning irregularity from defect of good fame it must be noted, that if the infamy is popular, it is removed by amendment; provided this, universally speaking, has lasted for at least three years. If it is of fact, it is removed by change of place; but if it is of law, or contracted through the sentence of a judge, dispensation is altogether required for removing it[15] (cf. n. 1199).

2. By BAPTISM, if the irregularity is from delict, although the delict were homicide; otherwise, if it is from defect, e.g., if it comes from bigamy. But also irregularity from defect of fame is removed by Baptism, namely if it is infamy of fact. But if the infamy is of law, dispensation is required, as was said; although Bonacina holds that this also is removed by Baptism, and the Salmanticenses hold this not improbable.[16]

3. By RELIGIOUS PROFESSION, if the irregularity is from defect of birth. But it is removed only to the effect that sacred Orders can be received, not however that prelacies can be obtained, unless dispensation intervenes[17] (cf. n. 2150, q. 2).

4. By DISPENSATION, which can be given by: - 1) THE SUPREME PONTIFF, in every irregularity induced by human law. To obtain a dispensation of this sort, recourse must be had, for the external forum, to the Datary, if the irregularity is public; and for the internal forum, to the S. Penitentiary, if it is occult. 2) THE BISHOP, either by himself, or through his Vicar specially deputed to this, in every irregularity coming from an occult delict, and not brought to the contentious forum; with the exception, however, of directly voluntary homicide. Thus from Trent, cap. *Liceat* (cf. n. 1280, 2). - Nor can the Bishop dispense in irregularity from defect, except with illegitimates, for minor Orders, or for

a simple Benefice, to which sacred Order is not annexed;[18] or with bigamists, in merely similitudinary bigamy, for Orders whether minor or major;[19] or finally if some defect is doubtful. If the Bishop can do anything else, he has it either from special privilege (e.g., from the quinquennial Faculties, in App. I, § I, n. 13); or from ancient custom, only in a case of urgent necessity, according to what was said n. 234, 2. 3) A REGULAR PRELATE, from the privilege of Martin V and Benedict XIII, can dispense, in many cases, with his subjects, as we shall see in the Treatise on the Religious State (n. 2187, 3).

(15) Ibid., 352, 364; H. A., ib., 85. (16) Ibid., 352, 364. (17) Ibid., 354. (18) Ibid., 428. (19) Ibid., 452; H. A., XX, 50 and 105.

1932. Concerning these things LET IT BE NOTED: 1. In seeking dispensation, all things must be declared which the rules established by the Holy See for this purpose require (cf. n. 236).

2. He who is compelled to seek dispensation of several irregularities must recount them all and individually in his supplicatory libellus. - "If nevertheless someone has contracted several irregularities of the same species, for example if he has ministered several times with a censure, it then suffices for obtaining dispensation, if he says that he has fallen into them several times; indeed (several Authors) teach that it suffices if he says only that he is irregular on account of such fault."[20]

3. In granting dispensation, no special FORMULA is prescribed; hence, indiscriminately, the following or any other can be used: "I dispense with you in the irregularity which (or in the irregularities which), on account of this or that cause, you have incurred."[21]

4. Absolution from censures and sins can be received, without a dispensation from irregularities being received at the same time; and conversely a dispensation from irregularities can be granted without absolution from censures and sins. But an irregular can never be absolved who with a pertinacious mind wishes to pursue the reception of Orders or the exercise of those already received, before he has obtained the dispensation which the law requires.[22]

See more among the Canonists.[23]

(20) Book VII, 353, Not. 2. (21) Ibid., Resp. 3; cf. also Rit. Rom. De S. Poenit., c. 5. (22) Gousset, II, n. 947, fin. (23) Cf. Craisson, nn. 1759-1781.

Article II: On Irregularities In Particular

Fourteen irregularities are recounted: of these, eight come from defect, and six from delict.

§ 1. On Irregularities From Defect

1933. These come from defect 1. of soul, 2. of body, 3. of birth, 4. of age, 5. of Sacrament, 6. of good fame, 7. of liberty, 8. of mildness.

I. From defect of SOUL the following are irregular:

1. Those who at times lack the use of reason: as the demented, lunatics, the insane, epileptics, and energumens; although they have lucid intervals. Nevertheless, the exercise of Orders already received is more easily permitted than the reception of new ones. Thus, e.g., a priest who rarely, say once in a month, is seized by epilepsy, can celebrate privately and with a fasting priest joined to him, provided

he is not accustomed suddenly to fall to the ground, nor to foam, nor to cry out. And this same thing must be said concerning energumens and lunatics.[1]

2. Those who lack necessary knowledge, either actually, because they are illiterate and lacking that erudition which the Order to be received requires; or radically, on account of weakness of mind, which prevents them from being imbued with sufficient doctrine. - This irregularity is not only of human law, but also of divine law, which evidently teaches that the office is to be denied to those by whom it cannot be sustained[2] (see n. 1914).

3. Those who lack sufficiently proved faith, that is, neophytes or those recently baptized in adult age. For those who have scarcely been made disciples would incongruously be constituted masters of the faith, as the Apostle intimates (1 Tim. 3:6). Therefore they remain irregular, until they are judged suitable by the Bishop. Toletus thinks that after ten years from conversion they are no longer irregular.[3]

(1) H. A., XIX, 112-113; cf. Book VII, 398-400, where the causes of dispensing are also recounted. (2) H. A., ib., 114; Book VI, 791-792; VII, 401. (3) H. A., XIX, 115; Book VII, 402.

1934. II. From defect of BODY those are held irregular who, on account of a bodily vice, either are incapable for the exercise of Order, or bear before themselves notable indecency and bring horror upon others.

1. FROM THE FIRST head the following are irregular: 1) The blind, totally lacking sight: likewise, those lacking the canonical eye, i.e., the left eye, unless with the right eye, without deformity, they can read the Canon: which is to be subjected to the judgment of the Bishop. But the blind, already initiated in the priesthood, can be dispensed by the Pontiff for celebrating, if it is established that they do not err in celebration, and if they also have an assisting priest.[4] 2) The deaf, who do not hear at all. If nevertheless deafness supervenes on a priest, celebration of Mass is permitted to him, since defects are more easily tolerated in one already promoted. - 3) The mute, who cannot speak, or only with great difficulty. But those who stammer, or lack teeth, are not irregular, unless they move the laughter or contempt of those standing by: which rarely happens.[5] - 4) The lame, who cannot stand without a staff, or who use a wooden foot. But the lame who do not need a staff, or who have only distorted legs, are not irregular, and can be ordained, unless there is in them great deformity, which cannot be covered. - And after Ordination, if the defect is slight, and in some way the indecency can be repaired, celebration can be permitted by the judgment of the Bishop.[6] - 5) Those lacking a hand, or all fingers, or the three posterior fingers, or the thumb.[7] One lacking the index finger can obtain dispensation.[8] 6) All who habitually labor under such a disease that they cannot celebrate without proximate danger of fainting, or of notably erring: of this sort are those who have hands so tremulous that there is danger of spilling the Blood; likewise, those who suffer so great a cough that danger is present in receiving Communion; likewise, abstainers who so abhor wine that, although they take little, they incur the danger of vomiting. With these, not even the Pope can dispense.[9]

2. FROM THE SECOND head the following are irregular: 1) Those lacking a nose, or some bodily member, so that they move laughter or horror. 2) Lepers, or those who have the face deformly marked by disease. (If they have already been ordained, scandal being removed, they can celebrate privately.) 3) Monstrous persons: such as the enormously or deformly hunchbacked are commonly held to be; pygmies and giants, of whom the former move laughter, the latter a certain terror;

Ethiopians, who in our regions would excite a certain horror if they habitually exercised the ministry; hermaphrodites, i.e., individuals who are of doubtful sex; and, although the male sex prevails in them, if their defect is known.[10]

Concerning defects of body it must be NOTED: 1. In doubt whether a defect induces irregularity, the matter is to be remitted to the Bishop, who can pronounce; and, if the vice seems slight, he can also dispense from custom. 2. If the defect supervenes before the reception of Order, it induces irregularity absolutely, not only for that Order whose exercise it impedes, but also for all other Orders. For since all refer themselves to the Priesthood, it follows that one excluded from the Priesthood is also excluded from the other Orders. - 3. But if the defect supervenes when Orders have already been received, a priest is not impeded from the acts of that Order which he can exercise without indecency: e.g., a blind or lame priest can hear confessions, sing the Gospel, etc.[11]

(4) Concerning one with dim sight, as to the rubrics, see n. 1642, q. 1. (5) Book VII, 404-406. (6) Book VII, 407. (7) Cf. Bizzarri, p. 491, as to dispensation. (8) Book VII, 408, fin. (9) Ibid., 409. (10) Ibid., 410-412; H. A., XIX, 122-124; cf. Haine, De Ord., q. 13. (11) Book VII, 413, 414.

1935. III. From defect of BIRTH all illegitimate sons are irregular, even occult ones. And this has been established by the Church, both on account of danger of incontinence from paternal imitation, and on account of hatred of the paternal crime, and so that the memory of paternal incontinence may be kept very far away from places consecrated to God.[12] Moreover, here illegitimates are reputed to be not only those who were born from fornication, incest, or adultery, but also those born from a marriage which, the proclamations having been omitted without dispensation, was celebrated with a diriment impediment, although unknown to the spouses.[13]

Nor indeed are irregular: 1. Those illegitimately born from a public marriage, but one invalid on account of an occult impediment, unknown at least to one party.[14] - 2. Those born from infidels, whose marriage was valid according to nature, although invalid according to canon law.[15] - 3. Exposed children, concerning whose parents there is no certainty.[16]

In doubt concerning the legitimacy of birth, no one is judged irregular. - Hence the S. C. of the Council, June 27, 1857, responded that a certain man did not need dispensation, who appeared to have arisen from a legitimate marriage both from the parish books and from the civil state, although a grave doubt concerning his legitimacy was pressing, because public fame, and his parents themselves, affirmed that he was adulterine, that is, born from a free father and a married mother.[17]

Irregularity from defect of birth IS REMOVED: 1. By legitimation, which is made either through a Rescript of the Pontiff, in every case and as to all effects of legitimation for the forum of the Church; or through the subsequent marriage of the parents, provided at the time of conception (or at least of birth, according to a very probable opinion) they could validly have contracted, and it is not a question of elevation to the Cardinalate. 2. By religious profession; and 3. by legitimate dispensation, namely of the Pontiff for sacred Orders and Dignities; of the Bishop for minor Orders and a simple Benefice; as was said n. 1931, 3 and 4.[18]

(12) Cf. Trent, sess. 25, cap. 15, de ref. (13) Book VII, 425; H. A., ib., 126-127. (14) Book VII, 424. (15) Konings, n. 1761. (16) Book VII, 432; H. A., ibid., 129. (17) Cf. Acta S. Sed., vol. I, 350. (18) Book VII, 421, 426, 427, 431.

1936. IV. From defect of AGE, those are held irregular who have not reached the canonical age for the individual Orders (cf. n. 1918). Those who knowingly receive an Order before the canonical age sin gravely; but today, from the Constitution *Apostolicae Sedis*, they no longer incur suspension, and therefore, if they exercise the Order, they do not incur another irregularity.[19]

(19) Book VI, 799.

1937. V. From defect of SACRAMENT, or from BIGAMY, irregularity arises, as is established from the title *De bigamis*, and is inferred from the words of the Apostle (1 Tim. 3:2): "A Bishop ought to be the husband of one wife." They assign as reason, that he who has married two wives cannot aptly signify the union of Christ with the Church, His one spouse.[20] - A threefold bigamy is DISTINGUISHED: true, similitudinary, and interpretative.

1. TRUE bigamy exists in him who has contracted valid marriage with two successively, and in each case has consummated it (cf. n. 2027).

2. SIMILITUDINARY bigamy exists in him who, after the emission of a solemn vow, whether of Religion or of sacred Order, has contracted and consummated marriage (although null, or even only civil). The reason is, because such a one, by the fiction of law, is judged to have contracted two marriages, one spiritual, the other carnal. But this irregularity seems to be from delict, and it matters nothing whether he contracted with a corrupted woman or with a virgin (cf. n. 1348).

3. INTERPRETATIVE bigamy exists in him who, by a certain interpretation of law, is judged to have had two wives, although in reality he has not had them.[21] This happens in four ways: 1) when someone has married and known a widow already known by her former husband, even if he married invalidly; - 2) when he has married and known a woman corrupted by another or a fornicator, even if he believed her to be a virgin, and although he contracted invalidly; - 3) when he has known his own wife after her adultery, although occult, or extorted, or unknown, because then he is judged as if he had married a corrupted woman; - 4) when he has contracted and consummated two invalid marriages, or one valid and another invalid: for then there is present an affection toward two marriages, at least outwardly entered. - Nor in all these things does good faith exempt from the law; for the present irregularity, according to the more common opinion, does not come from delict, but from defect of the signification of the Sacrament.[22]

St. Alphonsus denies that one is irregular who has married a woman previously corrupted by himself.[23] - But neither is the layman irregular who has entered marriage with a nun, even solemnly professed; and the reason is, because the laws speak only of one contracting after his own vow.[24] Nor similarly do betrothals with several induce irregularity, even if copulation followed; nor fornication, nor adultery, nor ratified marriage with several. - See more among the Canonists.[25]

(20) Book VII, 436; H. A., ib., 131. (21) H. A., ib., 138; Book VII, 448. (22) Book VII, 437-447; H. A., XIX, 132-137; 1 Elench. qq. ref., n. 99. (23) Book VII, 438. (24) Ibid., 449. (25) Cf. De Angelis, lib. I, tit. 21; J. d'Annibale, Summula, I, n. 418.

1938. VI. From defect of GOOD FAME irregularity is contracted, according to that saying of the law: "Let not the gates of dignities lie open to the infamous." Likewise from can. *Infames*, caus. 6, q. 1. - A twofold infamy is distinguished, namely of law and of fact.

Infamy of law is contracted in two ways: 1. from juridical confession of an enormous crime, which either ecclesiastical law or civil law has marked with infamy; 2. from a judge's sentence, whether declaratory of the crime or condemning to infamous penalties, e.g., to the galleys, although the sentence issued had rested on false testimonies. And this irregularity indeed impedes both the reception and the exercise of Order, until dispensation is granted in it, or until fame is restored to the guilty one through another sentence.

Infamy of fact is contracted before every sentence: 1. From the notoriety of some enormous crime, which has become known to the greater part of the neighborhood or college (where there are at least ten), so that it can now be concealed by no evasion; 2. from certain notorious and enormous crimes of parents. - This irregularity altogether impedes the reception of sacred Order; but as to the exercise of Order, the Bishop can dispense in it, if the crimes are less than adultery, and the guilty one has done penance. It is also removed through Baptism and through notorious amendment, e.g., of three years (cf. n. 1931).[26]

IT IS ASKED. What are the CRIMES to which infamy is annexed by law?

Resp. They are the following: "Homicide, perjury made in judgment, heresy, simony, the crime of lese-majesty, sodomy, adultery, pandering (base gain from the adultery of one's wife), treason, robbery, the exercise of usury, invasion of Cardinals or Bishops. Likewise, abduction of women, or cooperation in it, duel, preparation of arms against parents, etc. Likewise, the exercise of an actor with base representations;"[27] and other notorious crimes which, the circumstances being attended to, render a man of vile and abject estimation among the pious and prudent.[28] But the crimes of parents, whose infamy redounds upon children born after the delict, are the crime of lese-majesty, the prostitution of the mother, and notorious heresy, concerning which see nn. 1945 and 442.

(26) Book VII, 362-364; H. A., XIX, 92. (27) Book VII, 363. (28) Cf. Craisson, n. 1909 and seq.

1939. VII. From defect of LIBERTY, the following are declared irregular in various chapters of Law:

1. Slaves properly so called, or bondsmen, until they obtain full liberty.[29]

2. Married men, on account of the bond of marriage. Nevertheless, a man can be ordained: 1) if on account of the wife's adultery a juridical divorce has been made; for in this case, he has been withdrawn from her right in perpetuity; 2) if the wife expressly and freely consents, and at the same time vows perpetual chastity. Indeed, the wife is altogether bound to enter Religion: 1) if the husband is assumed to the Episcopate; 2) if he becomes a Religious, and she is young.[30]

3. Courtiers, or those who by obligation of oath or stipend serve the Courts of Princes: such as Judges, Advocates, soldiers, etc., as long as they discharge such office. - Except, if they have obtained at least tacit license from the Pontiff or from custom: as are certain clerics, occupied in the courts of princes in civil causes, not however criminal causes.[31]

4. Those bound to render accounts; as public treasurers, depositaries, magistrates, etc.: all of whom cannot be ordained unless their accounts have been rendered and their office laid down. - Nevertheless, administrators of pious places are not to be numbered among these, as is established from canon law.[32]

(29) Book VII, 455. (30) Book VI, 812, according to which H. A., XIX, 142, is to be interpreted. (31) Book VII, 456; H. A., ib., 143. (32) Ibid., 456 and III, 838, v. Valde.

1940. VIII. From defect of MILDNESS those are irregular who, after Baptism, voluntarily, actively, efficaciously, and proximately concur in the death or mutilation of someone, although justly and from public authority, through an action ordered by its nature to this. "This the Church has therefore established, because the priest bears the person of Christ, who, as most mild, never injured anyone."[33] If such concurrence were unjust, there would be irregularity from delict (cf. n. 1946).

This irregularity is contracted both in JUDGMENT, and in WAR, and in the exercise of the MEDICAL art.

1. In JUDGMENT they become irregular, the effect having followed: Judges pronouncing a sentence, although just, of death or mutilation (unless they have a privilege, as Inquisitors of the faith, and their Officials); Counselors and assessors, who cooperate by their counsel or vote; accusers or denouncers seeking vindication of a capital crime, although they protest that they do not wish the penalty of death, since the protestation is contrary to the fact; voluntary witnesses, although they preface the same or a similar protestation; voluntary advocates and procurators against the accused; notaries writing, subscribing, or dictating the sentence; executioners, lictors, and all ministers executing the same sentence of death or mutilation.[34] Whether jurors, e.g., in France, in Italy, become irregular is controverted; it is more probable that they are to be assimilated to compelled witnesses.[35]

2. IN AN UNJUST WAR (if nevertheless the injustice is established) all soldiers become irregular, even if only one man is killed; but that irregularity is from delict (see n. 1946). In a just merely defensive war no one becomes irregular, just as neither is he to be called irregular who mutilates or kills an aggressor in inculpable defense of life, chastity, or even of neighbor.[36] In a just offensive war all those become irregular who mutilate or kill by their own hand; likewise, clerics in Sacred Orders, or beneficiaries, who of their own accord have given their name to military service (in which they sin gravely), and at some time have used a gun in some conflict, although they should swear that no one was injured by themselves.[37]

Nor indeed do the following contract irregularity: the legislator establishing a capital law; a cleric exhorting men to fight bravely in a just war, to punish the guilty, etc.; a theologian resolving speculatively a case of war; a confessor exhorting the guilty one to ascend the ladder of punishment, or to submit his head to the blow; a cleric, assisting from curiosity at the punishment of the guilty one, although he sins venially, at least if he is in Sacred Orders; a compelled witness; an accuser civilly seeking compensation for damage to himself or to his relatives up to the fourth degree, even in a criminal cause, provided he protests, at least externally, that he wishes neither vindication nor death.[1]

3. In the exercise of the MEDICAL ART, clerics in Sacred Orders incur irregularity, as also monks, who heal (outside the case of true necessity) with burning or incision, if death is notably accelerated from this or mutilation follows; although they are skilled in the art and apply every diligence.[2]

Nevertheless, more truly, clerics constituted in minor Orders do not contract this irregularity, although they are beneficiaries; for penalties are not to be extended to cases not expressed in law.[3] - Nor do these things regard lay physicians or surgeons, if they operate according to the rules of their art, as Benedict XIV says.[4] Nevertheless, the usage is that, for caution, even as to these, dispensation

is sought, if perchance they at some time had culpably offended in their art.[5] - See other things n. 1946.

(33) Book VII, 457. (34) Book VII, 461, 468; cf. Scavini, III, n. 587, 3. (35) Cf. Craisson, n. 1945. (36) Book VII, 458. (37) Book VII, 459 (from the 6th ed.), 460. (1) Book VII, 460-468. (2) Book VII, 385; H. A., XIX, 107, v. fin. (3) Book VII, 385 and 387, v. Ad textum. (4) De Synodo, lib. 13, cap. 10, n. 4. (5) Scavini, III, 587, 2.

§ 2. On Irregularity From Delict

These Irregularities are contracted: 1. on account of Baptism badly received or repeated; 2. on account of violation of censure; 3. on account of usurpation of sacred Order; 4. on account of bad reception of Orders; 5. on account of the crime of heresy or apostasy; 6. on account of homicide and unjust mutilation.

1941. I. On account of BAD RECEPTION, or ITERATION OF BAPTISM, the following is irregular: 1. He who, in adult age, knowingly receives Baptism from a declared heretic, outside the case of necessity; for he seems to communicate in his error; - 2. He who defers it until the danger of death; for such delay is a sign of weak faith; - 3. An adult who knowingly and solemnly is rebaptized; - 4. He who publicly and solemnly rebaptizes; likewise a cleric who assists at rebaptization.[6]

"One rebaptizing or rebaptized from fear, without intention, or under condition (although it is done rashly and culpably), probably does not become irregular. - Nevertheless, culpable ignorance does not excuse these."[7]

(6) H. A., XIX, 88. (7) Book VII, 356; cf. Book VI, 122.

1942. II. On account of VIOLATION OF CENSURE, every cleric in Sacred Orders is irregular, who, bound by a censure properly so called and valid before God, knowingly, rashly, and solemnly exercises sacred Order.[8]

We said 1. bound by a censure properly so called, i.e., excommunication, suspension, or interdict, insofar as they are medicinal penalties, as is commonly taught; and valid before God, as is established from the decision of the S. C. of the Council, July 19, 1704, and September 11, 1717[9] (cf. n. 1272, fin.). Nevertheless, cases are not lacking in which the S. C. C. declared that someone had become irregular from violation of a merely penal suspension,[10] or one inflicted from informed conscience (cf. nn. 1301 and 1304, fin.).

We said 2. exercises KNOWINGLY, namely as if he contemned the censure; RASHLY, i.e., without being excused by reason of grave evil, scandal, infamy, etc.; for human laws do not oblige with grave inconvenience;... and SOLEMNLY, i.e., with the insignia of his proper Order: for example if a deacon sings the Gospel with stole, a subdeacon the Epistle with maniple, or if a Canon, discharging the office of hebdomadary, sings *Dominus vobiscum* in choir.

We said 3. sacred Order; for otherwise, if he exercises a minor Order, although solemnly and from office.

Hence, he is IRREGULAR: 1. A Priest who, entangled by censure, celebrates Mass, absolves penitents, or administers other Sacraments; likewise, he who celebrates in an interdicted place,

because he violates the interdict; 2. A censured Bishop or priest who compels another to celebrate before him, as is established from cap. *Illud, de cler. excomm.*

He does not become irregular who exercises acts of jurisdiction; e.g., who excommunicates, approves confessors, confers benefices, assists at marriage without solemn blessing, dispenses from vows, preaches, etc.; nor he who celebrates only in a polluted church, and not an interdicted one.[11]

(8) H. A., ibid., 89. (9) Cf. Craisson, n. 1795. (10) Cf. Thesaur. Resolut., tom. 108, p. 105; in Lucionen., April 8, 1848, ad IV. (11) H. A., ibid., 89; Book VII, 357-358.

1943. III. On account of USURPATION OF AN ACT OF SACRED ORDER a cleric is irregular, as to receiving higher Orders, who seriously and knowingly exercises a sacred Order which he does not have.[12] Whether a layman also incurs this irregularity is indeed disputed, but the more probable opinion denies.[13]

Hence the following is IRREGULAR: 1. A Presbyter who presumes solemnly to exercise Pontificals, namely sacred functions and blessings exclusively reserved to the Bishop, e.g., consecration of a Church, of a chalice, etc. 2. A Deacon who absolves sacramentally, or who confers solemn Baptism, even in a case of necessity, short of delegation (cf. n. 1462). - 3. A Subdeacon who solemnly carries the pyx containing the Most Holy Eucharist, or who sings the Gospel with stole, etc.[14]

But a simple priest, in hearing confessions, does not incur irregularity because he exercises an act of the Order which he has, although he lacks jurisdiction. Whence he sins and absolves invalidly, but he does not become irregular.[15]

(12) Ibid., 90; ibid., 359. (13) Book VI, 116, dub. 3. (14) Scavini, III, 577, 2. (15) Book VII, 359.

1944. IV. On account of ILLICIT RECEPTION OF ORDERS, the following becomes irregular: 1. he who is ordained in a furtive manner, without the approval of the Bishop, e.g., by falsely assuming the name of another who was examined; 2. he who, without dispensation of the Bishop, receives on the same day several Orders, of which one is sacred (unless a contrary custom should be in force somewhere); 3. he who receives sacred Order after ratified marriage, the wife resisting.[16]

But he who is ordained by an excommunicated, suspended, interdicted, heretical, schismatic, or simoniacal Bishop does not indeed incur irregularity from delict; nevertheless he must be dispensed by the Bishop, that he may be able to exercise the Order thus received (cf. n. 1366). - Nor does he become irregular who uses fraud to dissemble the defects which he has, or who, with dimissorial Letters fabricated deliberately, deceives the Bishop; because he is not judged furtively ordained.[17] Nevertheless he sins gravely.[18] - Nor finally is he irregular who, being excommunicated or suspended, or by leap, or before age, or by a Bishop not his own, receives Orders; provided that one so ordained does not exercise the Order[19] (cf. n. 1372, Qu.).

(16) Book VI, 361. (17) Ibid., 358, Not. 4; cf. Craisson, n. 1805. (18) Cf. Scavini, loc. cit. (19) H. A., XIX, 91.

1945. V. On account of the notorious crime of HERESY, or APOSTASY FROM THE FAITH, not only heretics themselves or apostates are irregular, but also their notorious receivers, defenders, and favorers (cf. n. 442, q. 2). But whether, on account of OCCULT heresy, irregularity is incurred, the matter is doubtful. In this case the Bishop dispenses, at least for caution.[20] - Besides, from

the declaration of the S. PENITENTIARY of April 1, 1829, if it is a question of a schismatic or heretic of a region where heresies rage, one converted to the Catholic faith needs no dispensation.[21]

(20) Cf. Konings, n. 1773. (21) Haine, Theologiae moralis elementa, vol. IV, p. 283.

1946. VI. On account of the crime of HOMICIDE or MUTILATION, whether public or occult, whether committed on one's own or another's body, anyone gravely culpable as author of the aforesaid crime contracts irregularity, the effect having followed.[22] But if his crime is notorious, he will also be irregular from defect of fame (cf. n. 1938, Quaer.). - HOMICIDE (in which is comprehended the abortion of a certainly animated fetus[23]) can be VOLUNTARY either DIRECTLY, or INDIRECTLY through a physical or moral action, or even through an imputable accident in the cause.

1. Therefore by reason of VOLUNTARY homicide through a physical action the following are irregular: 1) All who by their own action kill a man, even if they repent before the injured one dies, as the truer opinion holds.[24] - 2) All who by common counsel attack a man, although only one strikes. Likewise, if several have lethally wounded someone without mutual conspiracy, and it is not discerned who brought death, all are to be held irregular.[25]

2. By reason of VOLUNTARY homicide through moral action all are irregular who efficaciously concur in homicide, cooperating so that it may be perpetrated more quickly, more boldly, or more safely.[26] In their number are: 1) One commanding, unless he has revoked the mandate, and the revocation has become known to the mandatary before the killing. 2) One counseling, who efficaciously influences the crime by counsel (cf. nn. 978, 980, 981). - 3) All who efficaciously and proximately cooperate in the killing, by carrying a vote, furnishing arms, money; by unjustly accusing, testifying, judging, so that the man may be killed; likewise, he who by his presence renders the killer more bold, or the one to be killed more timid. For all these are judged to be one moral cause, and therefore all incur irregularity.

But he who approves homicide done for his sake is not judged irregular, as the common opinion holds; nor probably, he who does not impede homicide, even if he can impede it, indeed even if he ought from justice to impede it. The reason for each is that neither positively influences the crime.[27]

3. By reason of ACCIDENTAL homicide, he alone incurs irregularity who, knowing or doubting that a danger of killing a man is present in some action of his, neglects to guard against it with grave fault. We say with grave fault; for if the homicide is merely accidental, so that it happens without any fault, it does not induce irregularity.[28]

Hence, he is subject to irregularity: 1. He who applies himself to a thing illicit and at the same time so dangerous that death frequently follows from it (as would be to set fire to a cannon where there is a crowd of people, or to fight in war), although he applies every diligence, for this truly does not remove the danger of homicide.[29] 2. He who commands an unjust beating, if the mandatary accidentally kills; because such a one is expressly declared irregular in Law.[30]

But indeed he is not subject to irregularity: 1) He who applies himself to a licit thing, e.g., a skilled physician caring for a sick person, a teacher moderately striking a disciple, a worker repairing a roof, if he kills someone by an unexpected and altogether involuntary event; (otherwise in the case in

which, the circumstances being weighed, he could be reproached for grave and lethal negligence).[31] - 2) He who applies himself to a thing indeed illicit, but of itself not proximately dangerous, from which the death of a neighbor follows as from a simple occasion. And hence it is why the S. C. of the Council judged that a cleric was not irregular, on account of whose adultery the husband had killed his adulterous wife.

4. By reason of MUTILATION he becomes irregular who culpably cuts off from himself or another some principal member, i.e., some part of the body which has its proper office divided from others, whether an amputation of this sort is made by physical action, or by moral action, namely by mandate, or counsel, or any unjust, yet certain and efficacious cooperation. - Therefore he is irregular who castrates himself; likewise, he who, outside the case of infirmity or necessity, from a depraved will, as is had expressly in law,[32] amputates a finger or part of a finger; likewise he who castrates another, by cutting off both testicles; likewise, he who cuts off one breast from a woman.

Nor indeed does he become irregular who cuts off one or two fingers from another; nor who amputates one testicle only: nor who blinds a man by depriving him of sight alone, without extracting the eyes: nor who only weakens a member. - The reason is because amputation is not properly mutilation.[33]

(22) H. A., XIX, 93 sqq. (23) Book III, 396, and VII, 347, dub. 4. (24) Book VII, 368; cf. Vind. Alph., t. II, p. 511. (25) Book VII, 365-369. (26) Book VII, 370-374. (27) Ibid., 374-376. (28) Ibid., 377-383. (29) Ibid., 387-388. (30) Cap. ult. de homicid., in 6. (31) Book VII, 384. (32) Can. 6, dist. 55. (33) Book VII, 378-382.

1947. IT IS ASKED. Whether he incurs irregularity who, in DEFENSE of himself, or of an innocent person, or of his own goods, kills another?

Resp. Negatively, unless with grave fault he exceeds the moderation of inculpable defense. It is established from what was said in the Fifth Precept, n. 734 and following. - But very probably he incurs irregularity who, for defense of himself, kills an aggressor whom he had before provoked by words, or by deed, foreseeing that he would very easily be attacked. - And the same must be said of the adulterer who, foreseeing proximate danger of assault on the part of the husband, kills him in order to defend himself when caught in adultery; because adultery, no otherwise than provocation, is reputed an act including in itself the proximate danger of homicide.[34]

Note. Bishops, and Regular confessors, can dispense in irregularities from mutilation, from accidental homicide, or from exceeding the moderation of inculpable defense, when the crime is occult.[35]

(34) Ibid., 388-389. (35) Ibid., 381, 393, 396; de Privil., n. 51 and 105.

Treatise VIII: On Matrimony

1948. "Matrimony is so called from this, that a woman ought especially to wed for this reason, that she may become a mother; or because to conceive, bear, and educate offspring is the office of a mother. It is also called conjugal union from joining, because a lawful woman is bound to a man as if by one yoke. Furthermore it is called nuptials, because, as St. Ambrose says, for the sake of modesty maidens veiled themselves; by which it also seemed to be declared that they ought to be obedient and subject to men."[1]

Peculiar study must be applied to learning this Treatise. For ministers of the Church ought especially to understand "how great and how many advantages can come to Christian society, if the faithful have known the sanctity of matrimony and preserve it inviolate; but on the contrary, if it is ignored or neglected, very many and very great calamities and losses are brought into the Church."[2]

Therefore, that we may be occupied in this study with due order and clarity, we shall distribute the long argument into many chapters, treating namely: 1. of the preparation of matrimony or of betrothals; 2. of the nature and properties of matrimony; 3. of its impediments; 4. of dispensation from impediments; 5. of the celebration of matrimony; 6. of the revalidation of invalid matrimony; 7. of the rights and duties of spouses.

(1) Catech. Rom., p. 2, cap. 8, n. 2. (2) Ibid., n. 1.

Chapter I: On The Preparation Of Matrimony Or On Betrothals

1949. BETROTHALS are commonly premised to matrimony chiefly for three reasons, namely: 1. that matrimony can be entered more maturely; 2. that the spouses may dispose themselves more aptly and perfectly for the grace of the Sacrament; 3. that it can be known more safely whether some impediment is present.

It comes to be said: 1. of the nature of betrothals; 2. of their effects and obligation; 3. of their dissolution.

Article I: On The Nature Of Betrothals

1950. DEFINITION. "Betrothals are a voluntary, deliberate, and mutual promise, expressed by a sensible sign, of future matrimony between persons capable by law."[3]

It is said 1. A PROMISE, that is, not only a simple desire and purpose, although externally manifested, but an act of the will, by which someone sincerely, and with internal consent of the mind, obliges himself to future matrimony. - Hence he is not obliged who promises without the mind of contracting, or without the mind of obliging himself, although he knows the obligation. The reason is, because since obligation arises from one's own will, when the act of the will is lacking, the obligation also is lacking; and this, although the promise is confirmed by oath; for an oath follows the nature of the promise (cf. n. 615). - Therefore one promising fictitiously "is indeed bound by reason of deception to repair damages, but he is not bound by reason of the promise to put true consent and

contract matrimony."[4] But it must be said otherwise if defloration intervened; because then the deflowerer is altogether bound to matrimony, since he cannot repair the damage by another way sufficiently equivalently,[5] as was said n. 959.

It is said 2. VOLUNTARY AND DELIBERATE, i.e., made with that knowledge, advertence, and liberty which is required for mortal sin; namely, that the one promising attend both to what he is doing and to what he is binding himself, and add consent with due liberty. For to induce a grave obligation, such as is the obligation of betrothals, full deliberation and free consent are required.[6]

Hence Betrothals are invalid: 1. Contracted by those who either habitually, or at least while they contract, do not have perfect USE OF REASON, such as children, the insane, the drunk, the mentally seized. But disturbance of reason arising from concupiscence commonly does not impede the validity of betrothals, because, although it is opposed to prudence and counsel, nevertheless it does not exclude deliberation of mind. 2. Contracted FROM ERROR concerning the substance, or concerning a substantial condition, e.g., if someone should promise expressly under such a particular condition; but if the error concerns an accidental condition, the betrothals are valid, but sometimes they can be dissolved, according to what is to be said below (n. 1960).[7] - 3. Contracted THROUGH FEAR unjust, grave, and inflicted from without; for betrothals follow the nature of matrimony, which contracted by fear is certainly null. - It was said 1) through unjust fear; because if it were just, they would be valid no less than matrimony itself; 2) through grave fear; for if it were light, likewise they would be valid, according to the more probable and more common opinion, because he is judged to contract spontaneously who, when he could repel light fear, does not repel it: nevertheless in this case betrothals can be rescinded by sentence of the judge, on account of the greatest liberty which they require; 3) inflicted from without; for if fear arose from within, e.g., if someone promised in order to decline payment of debt, the promise would be valid.[8]

It is said 3. MUTUAL, i.e., made and accepted in turn by a man and a woman: whence, a promise of matrimony, even confirmed by oath, does not oblige as long as a return promise has not been made by the other party. But the acceptance of the promise and the return promise must be made immediately, and therefore, if the return promise has not been made, the one promising is not bound; nor can the promisee accept the promise alone and deliberate concerning making the return promise; because the promise is judged to have been made under the condition: if the promisee accepts it and returns the promise immediately; unless the contrary is expressly signified, e.g., if the one promising grants delay for acceptance and return promise, or at least for the return promise. If the promisee accepts a gratuitous and liberal promise, and does not yet return the promise, betrothals are not had; but only a promise which obliges, only under light fault, by reason of fidelity, unless the one promising wished to oblige himself under grave fault. If the promisee is silent while the promise is made, she is indeed judged to accept, because it is a question of a favor; nevertheless, her silence does not suffice for a return promise, because a return promise is a burden, and in onerous matters the axiom does not avail: "He who is silent seems to consent." But commonly a promise of matrimony is not judged to have been made gratis and liberally, but under the condition: if the other party also binds herself in turn. And this intention, in doubt, must be presumed.[9]

It is said 4. EXPRESSED BY A SENSIBLE SIGN; because a contract among men is made only by an external sign. - Hence, in betrothals, consent must be expressed:

a) Either BY WORDS, which, if they are doubtful, are to be interpreted according to the obvious sense and the custom of places, or also from the intention of the contracting parties. Certain words are these: I promise matrimony to you..., under my faith I will marry you, etc. But these are null, or very doubtful: "You will be mine..., to you I promise love, fidelity, etc...." He who should say: "I will marry no other than you," would indeed not be bound to marry her, but to marry no other, unless from the circumstances it is gathered that such a one truly wished to contract betrothals.[10]

b) Or BY SIGNS, e.g., by the extension of the right hand, namely when the circumstances are such that there can be no doubt concerning the value of the sign. But if there is doubt concerning this, liberty is to be favored;[11] nevertheless if copulation freely follows (not if it preceded), one must conclude in favor of betrothals. The mere handing over and acceptance of a ring is not a sufficient sign, unless such a custom is given somewhere. Betrothals can also, like matrimony itself, be contracted through a procurator, or through letters (cf. n. 1973).

c) Or BY THE WORK OF PARENTS, namely if a father or mother promised for a present and silent son or daughter: as is had from the law, saying thus: "Moreover, from betrothals, which parents commonly contract for their children whether pubescent or impubescent, the children themselves, if they expressly consented, or tacitly, or were present and did not contradict, are obliged."[12] - Yet it must be adverted: 1. that this is valid for the external forum; for, for the internal forum, the son is not bound, if he does not assent internally, or if he only has himself negatively: because positive consent is required for contracting some obligation; 2. that this proceeds only in the case in which the parents themselves promise; but not others, although they are guardians or curators, unless perhaps somewhere, as among the Indians, a custom is in force that consent is expressed through others; 3. that betrothals contracted by parents for an absent son are valid, if he, made more certain concerning the matter, ratifies them either expressly or tacitly.[13]

It is said 5. OF FUTURE MATRIMONY, namely to be entered in its own time. Therefore consent expressed through words concerning the present (since, the law standing in the way, it is not valid for matrimony) induces no obligation. Except the consent of impubescents, among whom words concerning the present have the force of betrothals: for in their case the rule is admitted, that an act which is not valid in the mode in which it is made, is nevertheless valid in the mode in which it could be made.[14]

It is said 6. BETWEEN PERSONS CAPABLE, namely between such as at some time are able validly and licitly to enter matrimony, since the promise of an illicit, or impossible, thing is of itself void. But if betrothals are contracted while some impediment stands in the way, it is to be distinguished thus: 1. If the impediment is perpetual and of such nature that it can be removed by no reason, the betrothals are invalid; 2. if it is temporary, e.g., a temporary vow of chastity, or if it can be removed by the industry of the contracting parties, e.g., if the non-Catholic party promises conversion, they are valid, and therefore matrimony, when now it can be contracted licitly, is to be contracted.[15]

(3) Book VI, 831; H. A., XVIII, 1. (4) Book VI, 832, 833. (5) Ibid., 833, in fin. (6) Ibid., 831. (7) Ibid., 835; H. A., ib., 2. (8) Book VI, 844; H. A., l. c., 3; cf. Vind. Alph., p. VII, q. 1. (9) Ibid., 836, 837. (10) Book VI, 838, 842. (11) Ibid., 840; H. A., l. c., 6. (12) Cap. un., § 2, de despons. impub., in 6. (13) Ibid., 838, 869; H. A., XVIII, 5. (14) Ibid., 841. (15) H. A., l. c., 7.

1951. Questions. Q. 1. Whether children under parental power need the CONSENT OF PARENTS for contracting betrothals?

Resp. 1. For contracting validly their consent is not required, since this is prescribed by no law. - Nevertheless, if the parents justly contradict, e.g., on account of dishonor or scandal of the family to arise from such a marriage, the son by not obeying and by contracting betrothals would sin gravely; and therefore the betrothals, although confirmed by oath, would not oblige, because the promise would be concerning an illicit thing, and an oath cannot be the bond of iniquity.

Resp. 2. For contracting licitly the consent of parents is ordinarily required. For the reverence by which they are to be pursued demands for itself that, in a matter of such moment, their counsel be sought. Therefore children, contracting while parents are ignorant or unwilling, sin more or less gravely, according to the diversity of circumstances. - It is said consent is ordinarily required; for a son is not bound to obey parents, if they contradict irrationally, e.g., if they prohibit marriage, or if they prescribe it with an unworthy person.[16] Consent reasonably presumed also suffices, e.g., if the father is so distant that he cannot conveniently be made more certain concerning the betrothals to be contracted, which are judged to have been going to have his approval.

Q. 2. Whether CLANDESTINE betrothals are valid?

Resp. Affirm.; for "the S. C. OF THE COUNCIL has often declared that the Council prescribed no form for contracting betrothals through words concerning the future, and therefore that they can be contracted in that mode in which they could be before the Council itself."[17] Now, before Trent betrothals of this sort were certainly valid, therefore they are also valid at present. - Therefore generally no determined form is required for contracting them, although it is to be advised that they never be contracted without a witness, so that thus, when circumstances demand it, they can also be proved in the external forum.[18] We said generally; for in Spain they are not valid if they are contracted without a public writing, on account of the Caroline Pragmatic, which, by legitimate customary law, has obtained for itself the authority of canonical discipline and the force of an ecclesiastical sanction. Thus from the decision of the S. C. C., January 31, 1880.[19]

Q. 3. Whether betrothals contracted between the ABDUCTED WOMAN and the ABDUCTOR are valid, at that time at which the woman was in the power of the abductor?

Resp. Affirm., according to the more probable opinion, provided that fear did not intervene, nor another impediment. For the disposition of law, by which matrimony is invalidated as long as the abducted woman remains under the power of the abductor, is not valid for betrothals, which, as rescindable, require lesser liberty.[20]

Q. 4. What concerning betrothals entered UNDER CONDITION?

Resp. That betrothals, like any other contract, can be made under condition is certain. Nevertheless, concerning the diverse conditions which can be added, one must speak diversely, according to their variety, and indeed: 1. If the condition is concerning the present, the betrothals are immediately either valid or invalid, according as the condition is verified or is not verified. 2. If the condition is concerning the impossible, the betrothals are null, because the addition of an impossible condition naturally denotes dissent rather than consent, nor is there had the favor of positive law, as happens for matrimony. 3. If the condition is concerning a future necessary thing, it is held for completed, and therefore the betrothals are immediately valid and obtain their effects. 4. If the condition is concerning a future contingent and honorable thing, the betrothals become absolute when the condition has been fulfilled, and new consent is not required; for the consent which was given from

the beginning suffices, provided it has remained. But from betrothals of this sort there arises an obligation of attending to the fulfillment of the condition; and indeed this obligation presses so much that any later betrothals, the prior ones not yet dissolved, are rendered invalid. The added condition is judged to have been renounced if the spouses, while it is still pending, have come together in venereal congress.[1] 5. If the condition concerning a future contingent thing is dishonorable, there does not arise from it an obligation of awaiting the event, since it induces to sin; but indeed, when the condition has been fulfilled, the betrothals are valid[2] (cf. n. 1057, 5).

Q. 5. Whether, some impediment standing in the way, betrothals contracted under the condition, IF THE POPE SHALL HAVE DISPENSED, are valid?

Resp. Dist. 1. If the impediment is such that the Pope never or rarely is accustomed to dispense in it, or if a just cause for obtaining the dispensation is lacking, the betrothals are not valid; because they are concerning an impossible thing. 2. But if it is a question of an impediment in which the Pontiff can and is accustomed to dispense, and at the same time sufficient reasons are had for seeking and obtaining the dispensation, the betrothals are valid, as we said concerning betrothals entered under a possible and honorable condition. Whence, although they are not absolute, nevertheless they induce an absolute obligation of seeking the dispensation and awaiting it; but when this has been obtained and signified to the parties, the betrothals are confirmed without new consent, provided the consent furnished from the beginning still perseveres.

But if the other party, before the verification of the condition, should enter new betrothals, these would be invalid, since it would be a promise concerning an unjust thing, which does not oblige. Thus the more common and truer opinion.[3] - Nor do the laws and decisions of the S. C. C. which the opposite opinion alleges seem to stand in the way of this opinion; because, as will easily be clear to the reader, they are to be understood of the case in which either the Pope is not accustomed to dispense, or a cause for dispensing is not present, or other special circumstances of things occur, which weaken that promise.[4]

Note. - Very often, promises of future matrimony, which are customarily made among adolescents mutually loving each other, are not true betrothals, since they bear before themselves the conditions of a purpose rather than of an onerous contract. And thus it is especially in those regions where it is placed in custom that betrothals be entered with some solemnity. In practice, let attention be given especially to the intention of those promising.

(16) Book VI, 849; H. A., l. c., 10. (17) S. C. C., December 19, 1596 (apud Benedict XIV, Inst., 46, n. 12). (18) Benedict XIV, ib., n. 15. (19) Cf. Acta S. Sed., XIII, 191. (20) Book VI, 1107, q. 1. (1) Cap. Per tuas, de condit. appos. (2) De Angelis, lib. 4, tit. 5, n. 4. (3) Book VI, 859 and III, 650. (4) Cf. Vecchiotti, Instit. can., l. 5, § 57; De Angelis, lib. 4, tit. 5, n. 4; Acta S. Sed., vol. I, p. 80.

Article II: On The Effects And On The Obligation Of Betrothals

1952. Principles. I. Betrothals OBLIGE under grave fault and from justice, to contracting matrimony either at the predefined time, or as soon as the other party shall reasonably have sought it. It is established from the nature of an onerous contract, which in a grave matter obliges under grave fault and from justice (cf. n. 1056 sq.). "But it must be noted, that if the other party from forgetfulness, fear, shame, or similar cause did not seek it, as chiefly happens in women: then the bridegroom is bound of himself, without petition, to contract matrimony, when he can

conveniently do so. Conversely, if the other party, when she can conveniently seek, is silent, then she seems to consent to the delay.[5] One receding can be compelled to matrimony, even by a judge through censures: which nevertheless is rarely expedient, on account of danger of an unhappy outcome.[6]" Recall what was said nn. 959-960.

(5) Book VI, 845; H. A., XVIII, 8. (6) Book VI, 846.

1953. II. Betrothals induce a PROHIBITING impediment of matrimony with any other person, unless the prior betrothals have been legitimately dissolved. But later betrothals, although sworn, are altogether invalid; for a thing owed to one cannot licitly be handed over to another.[7]

(7) Ibid., 848.

1954. III. Betrothals induce the DIRIMENT impediment called of public honesty, which endures even when the betrothals have been dissolved. Concerning this, more below (nn. 2032-2034).

But whether betrothals sometimes pass over into matrimony, see n. 1972 at the end.

1955. Questions. Q. 1. If the bridegroom, against the fidelity of the prior betrothals, has CONTRACTED NEW ones, and copulation has followed these, with which of the two brides is he bound to contract?

Resp. 1. "If the second bride was conscious of the prior betrothals, matrimony (certainly) must be contracted with the first; because then the second was not deceived, but she herself wished to be deceived. Thus commonly."

Resp. 2. If she was not conscious of the prior betrothals, IT IS CONTROVERTED; but "the more common and more probable opinion says, the bridegroom is bound to contract with the first, even if copulation was present with the second." The reason is, because the promise made to the second was null, as concerning an illicit thing, nor does an injury inflicted on her take away the right of the first. But whether the first ought to yield to her right, lest the other undergo a most grave damage? Some affirm that she is bound from charity; but others, and not improbably, deny this: because the second must impute it to her own crime that she suffers such damage.[8]

Q. 2. What is to be judged concerning BETROTHAL EARNESTS, and also concerning the addition of PENALTIES?

Resp. 1. By the name of EARNESTS come the things which one of the spouses, or each, hands over to the other as a token of the contracted betrothals and as a pledge of entering matrimony.[9] - The handing over of them is prohibited by no law. But when betrothals have been justly dissolved, they must be restored. But if the other party culpably recedes from the fidelity given, that party not only loses his or her own earnests, but is always bound to restore those accepted, and to repair all damages which arise from this receding.[10]

Resp. 2. A CONVENTIONAL PENALTY is an agreement added to betrothals, by which the spouses bind themselves mutually to a penalty, or to a certain sum of money to be paid, if they have not stood by their promises. It differs from an earnest in this, that the latter is actually handed over, and the penalty is promised; and that commonly an earnest is constituted in a small quantity, but a penalty in

a greater, since each one is readier to promise than to hand over.[11] Now then: 1. The addition of a penalty to be paid by one receding, whether he recedes justly or unjustly, is altogether ILLICIT and INVALID, since such a stipulation injures the liberty of matrimony, and therefore is reproved by law. "And so, in such a case, he who recedes justly is not bound to the payment of the aforesaid penalty, although he had confirmed the promise by oath. And if the penalty has ever been paid, he who exacted it is bound to restore, as the more probable opinion holds; because for him there is no title by which he may retain it for himself, while the law altogether irritates such a promise." 2. But the promise of a penalty to be paid by one receding unjustly, according to the more probable opinion, is LICIT, since it is prohibited neither by natural law nor by positive law. It is not prohibited by natural law, "since it is equitable that he who recedes unjustly be subjected to penalty; but the liberty which is required in matrimony is rational liberty, not irrational; otherwise a judge could never compel spouses to contracting by censures or prison." Nor is it prohibited by positive law; for the disposition of law must be understood of a just receding, but not of an unjust one.[12] But indeed since the opposite opinion is sufficiently probable, one receding unjustly cannot be compelled to the payment of the penalty; but when payment has been made, it is licit for the innocent party to retain the money received.

NB. Concerning the PREPARATION of spouses for matrimony, recall what was said nn. 827 and 1850.

(8) Book VI, 848; H. A., l. c., 9. (9) Vecchiotti, lib. 5, § 55. (10) Book VI, 852; H. A., XVIII, 11. (11) Vecchiotti, loc. cit. (12) H. A., l. c., 11; Book VI, 853.

Article III: On The Dissolution Of Betrothals

1956. Betrothals, which consist in a contract soluble by its nature, are dissolved not only by the death of the other party, as matrimony is, but by various other causes.

Principles. I. Betrothals are dissolved among the pubescent BY MUTUAL CONSENT. - For with no law standing in the way, the parties can mutually remit to each other the reciprocal obligation by which they are held. But the same consent which was required for contracting is required for dissolving: namely voluntary and free consent, such that it is extorted neither by fraud, nor force, nor fear. If this has been given on both sides, the betrothals are immediately dissolved, although they had been confirmed by oath; and this not only validly, but also licitly, if a reasonable cause is present; otherwise it would be at least venial. Thus commonly.[13]

It is said among the pubescent; for as to impubescents there is present a special disposition of law,[14] by which the dissolution of their betrothals is forbidden before they have arrived at the years of puberty, namely lest on account of unstable judgment, they easily and often rashly contract betrothals, and again dissolve them. But once the age of puberty has been reached, either spouse will be able, without waiting for the other, to recede from the betrothals, provided he protests before a judge or witnesses within three days, which begin not indeed from the time puberty is reached, but from the day when knowledge was obtained of the privilege of receding. But if the spouse dissents already before puberty, and perseveres in the manifested dissent, the betrothals are dissolved as soon as he arrives at the years of puberty.[15]

But mutual consent of receding is had: either 1. because a change of wills has intervened; or 2. because the betrothals had been entered under some resolutory condition, which was then verified; or 3. because they had been entered with the condition of contracting matrimony at a determined time, which has now elapsed. - But concerning this last cause of receding, some things are to be NOTED.

A term is added to betrothals either to urge the obligation of contracting matrimony, or to end it. "Then it is added to urge, when the parties therefore set a term, so that neither before it can compel the other to fulfill the contract. But then to end, when the term is added so that, when it has elapsed, no obligation remains."[16] Hence, if the term added for ending the obligation has elapsed by the fault of both or of neither, the betrothals are dissolved on both sides; if by the fault of either, the innocent party remains free; but not the other party, who was in cause why the matrimony was not contracted.[17]

(13) Ibid., 855. (14) Cap. De illis, de despons. impuberum (cf. Collect. S. Sedis, n. 843). (15) H. A., l. c., 14; Book VI, n. 856. (16) Book VI, 867. (17) Ibid., 868.

1957. II. Betrothals are dissolved BY ELECTION of a more perfect state. The reason is, because betrothals are judged to have been entered under the tacit condition: unless a more perfect state is chosen.[18] Wherefore one party can also choose this without the consent of the other.

But concerning this it must be NOTED: 1. Through religious profession or reception of sacred Order the obligation of betrothals is so totally extinguished that it no longer revives.[19]

2. Through entrance into Religion, likewise through a vow, and even through a simple purpose, but duly manifested, of entering Religion or receiving sacred Order, the obligation of betrothals is similarly extinguished, but only for the party dismissed. But for the other party, the obligation remains only suspended, until the more perfect state has been immutably entered. Whence, if he recedes from the purpose, the obligation so revives, that he is bound to stand by the betrothals, if the dismissed party demands this.[20]

3. Through reception of minor Orders, according to the more common and truer opinion, betrothals are not dissolved; "because in truth the state of minor Orders is not incompossible with matrimony, since someone can well become a married cleric."[21] Nevertheless, if the reception is made with the will of progressing further, the bride is freed; indeed it can happen that she is freed on account of only the minor Orders received by the bridegroom, namely if she were so averse to matrimony with a cleric that, the change of state having been foreseen, she never would have contracted.

4. Through a vow of chastity made by one party, the other party is released from every obligation; because the one vowing chastity yields his right. But the obligation of the one vowing is not altogether extinguished, but only suspended, as long as he remains bound by his vow. Wherefore, if he afterwards obtains dispensation of the vow, and no other cause of dissolution is present, the betrothals revive.[22]

(18) Ibid., 869; H. A., XVIII, 22-26. (19) Book VI, 869 and 871. (20) Ibid., 870, 873. (21) Ibid., 872. (22) Book VI, 873.

1958. III. Betrothals are dissolved THROUGH ANY IMPEDIMENT WHATEVER by which the promised matrimony is rendered ILLICIT or INVALID.[1]

For no obligation to contracting such a matrimony can be given. - Now, besides election of the more perfect state, concerning which we have already treated, FOUR impediments of this sort are commonly enumerated, namely: perpetual impotence, matrimony validly although illicitly contracted, affinity from illicit copulation, and dissent of parents.

1. Through perpetual impotence, which supervenes in either of the spouses, betrothals are altogether dissolved, since the promised matrimony becomes absolutely impossible.

2. Through a valid matrimony contracted by the other party, betrothals are dissolved as to the innocent party. But as to the guilty party, the opinion (St. Alphonsus judging) absolutely more probable teaches that the obligation is not extinguished, if the other party waits; but is only suspended, so that, when the marriage has been dissolved, he is bound to fulfill the prior betrothals. "The reason is, because it is proved by no law that betrothals are altogether irritated through a subsequent marriage: not by positive law, because this is nowhere had; not by natural law, because this only demands that while the marriage endures, the prior obligation does not bind."[2]

3. Through affinity from illicit copulation (concerning this impediment cf. below n. 2027) betrothals are dissolved on the part of the INNOCENT party, so that he or she is not bound to admit dispensation. But the mere fame of an impediment of this sort suffices, i.e., an opinion among the greater part of the neighborhood. But on the part of the GUILTY party, the more common and more probable opinion holds that the obligation of betrothals is not removed, but only suspended, until the impediment is removed; because it is not equitable that the delinquent derive advantage from his crime. Wherefore, he who placed the impediment is also bound, even setting aside the damage inflicted, to obtain dispensation, if this namely can easily be obtained; "otherwise, if great expenses and long delay would be required for it; because the obligation arising from betrothals presses the spouse to apply only ordinary and easy means, but not difficult and extraordinary means. Except nevertheless, unless damage of defloration or fame had to be repaired; because then he would be bound even to expend a great expense."[3]

4. Through the dissent of parents betrothals are sometimes dissolved, namely as often as they dissent justly: e.g., because the matrimony would verge to the dishonor of the family, since no one can be obliged to execute an unjust thing. - Indeed, they are dissolved through their unjust dissent, if a grave evil, e.g., disinheritance, were to be feared: "because all betrothals are understood to be contracted under this condition: if such a change does not occur, whence it is grave to contract matrimony. - Except, unless this disinheritance had already been foreseen; because then the one contracting is rightly judged to have yielded to his right."[4]

(1) H. A., XVIII, 13, 15, 17. (2) Book VI, 875; 1 Elench. qq. ref., n. 89; cf. Vind. Alph., P. VII, q. 2. (3) Ibid., 857, 858. (4) Book VI, 877.

1959. IV. Betrothals are dissolved on the part of the innocent one, through any act whatever by which the other party is judged to have BROKEN betrothal FIDELITY.[5] For fidelity must not be kept for one breaking fidelity. - Therefore the innocent party is altogether freed: 1. if the other party contracts new betrothals, although invalid (or civil marriage with another); 2. if he delays the celebration of marriage too much, e.g., for three years, or contrary to the judgment of a prudent man; 3. if he transfers his domicile elsewhere: for such things are opposed to betrothal fidelity.[6]

(5) Thus S. C. C., December 12, 1885 (cf. Mon. eccles., t. IV, p. 244). (6) Book VI, 866.

1960. V. Betrothals are dissolved through a NOTABLE CHANGE which supervenes when they have already been contracted, and which would have deterred from contracting them if it had been foreseen from the beginning. And the same must be said, IF THE STATE OF THINGS is found DIFFERENT from that which had been known. The universal reason is, because, as is handed down in law,[7] the promise of betrothals is understood to have been made while things remain in the same state; and this, as St. Thomas teaches,[8] lest conjugal union beget perpetual displeasure between the contracting parties, or obtain an unhappy outcome. But if ignorance of the change or defect was merely concomitant, and therefore not the cause of the contract, the betrothals are not dissolved. - But in doubt whether the defect (if it had been known) would have impeded the betrothals, it is presumed that it would have impeded them, if in reality, i.e., in the judgment of prudent men, it is grave in itself and notable.

Moreover, a notable CHANGE from which betrothals can licitly be dissolved can happen in a THREEFOLD way, namely:

1. In GOODS OF SOUL, e.g., when the spouse is discovered to be a drunkard, gambler, blasphemer, impious, a man harsh and hard in morals or savage; when he has committed an atrocious delict, e.g., homicide, grave theft, has fallen into heresy, etc. For the things which commonly suffice so that a marriage already contracted may be dissolved as to cohabitation, much more suffice so that it not be contracted; "for a guest is cast out more shamefully than he is not admitted."

But concerning supervening FORNICATION, or fornication newly detected, these things are to be noted. - If fornication follows betrothals, it effects two things: it breaks the fidelity given, and renders the party who has polluted himself or herself with it more base; if it preceded the betrothals, it produces only the latter effect. Commonly, this crime affects the bride with much greater baseness than the bridegroom. Wherefore it must be said: 1) on account of ANTECEDENT fornication the bridegroom can dismiss the bride; but not vice versa, unless perhaps the bridegroom has had offspring from another, or unless, on account of the frequency of the crime, he is known to be given over to this vice. - 2) On account of SUBSEQUENT fornication the innocent party (whether the bridegroom or bride) can similarly dismiss the guilty party, on account of betrothal fidelity not preserved. If each, by fornicating, has broken fidelity to the other, there is had compensation of delict, and neither can on that account recede. But the bridegroom (not the bride) can step back by another title, namely from this, that the bride has been rendered notably more base from fornication, and this even if she had been oppressed by force, or induced to consent from most grave fear. Likewise the bride can be dismissed who has permitted herself to be touched immodestly by another; but the bridegroom cannot on account of similar things, unless it can rightly be feared that he will not preserve fidelity to the bride.[9]

2. In GOODS OF BODY, e.g., if grave deformity, blindness, cutting off of a member, habitual and contagious disease supervenes on either party; provided at least a prudent suspicion concerning these is had.

3. In GOODS OF FORTUNE, e.g., if it is discovered that the bride does not have a dowry; if the bridegroom has made a loss of goods, or of the office by which he was sustained; if either tends

toward want, or is disinherited by parents: provided at least a prudent suspicion concerning these and similar things is had.

Therefore on account of a notable change of this sort in one party, the other party can recede; but if he does not wish to recede, neither is it licit for the party who has suffered the change to depart, unless perhaps the change would render the burden of matrimony notably more grave.[10]

These things concerning a change for the worse. - But if the CHANGE had been made FOR THE BETTER, for example if an abundant inheritance unexpectedly comes to either, the very common opinion teaches that this change precisely in itself is not a sufficient cause why the fortunate party may recede from the betrothals, since that party was not deceived in the condition of the other party. - Nevertheless, if a far better marriage, on account of the change made, is offered, the party who has obtained the change does not seem altogether to be condemned, if, the first betrothals being set aside, he should enter new ones; for just as he would not be bound to stand by the betrothals with great damage to himself, so neither does he seem to be bound with the loss of great gain; for such a loss is equated with grave damage.[11]

And generally it must be NOTED, that the obligation of betrothals CEASES when there is present a probable fear of an unhappy outcome. If the cause of fearing has arisen by the fault of one party, this party is bound to repair the damage inflicted on the other, e.g., on account of expenses already made.

IT IS ASKED. Whether the party laboring under an OCCULT DEFECT, sufficient for dissolving betrothals, is bound to MANIFEST it before betrothals, or when they have already been contracted, before matrimony?

Resp. Dist. 1. If the defect is pernicious, rendering matrimony odious and damaging to the other, such as a contagious, venereal disease, or infamy from delict, if e.g., the bride is pregnant from intercourse with another, if the bridegroom is burdened by debt: it must altogether be manifested, unless the other party also labors under the same defect. "The reason is, because just as he sins against justice who sells noxious wares to another believing them good, so *a fortiori* does he who wishes to contract matrimony with a pernicious defect." If therefore he does not wish to manifest the defect, he must abstain from contracting.[12]

2. If the defect does not render the nuptials noxious, but only less desirable, e.g., if the bride is falsely thought to be a virgin, rich, beautiful, it is indeed not licit for the bride to pretend that she is immune from defect, but neither is she bound to manifest it. "The reason is, both because it has already been received by custom, that there is no obligation of manifesting such defects to the other; and because no one is bound to reveal his own defect with his own infamy, if he does not injure the right of another." Thus commonly.[13]

Nevertheless St. Alphonsus adverts that the dissimulation of a defect, although it is not illicit, is not expedient, if it is prudently to be feared that after the marriage has been contracted it may be detected, and become a cause of discords.

(7) Cap. Quemadmodum, de jurejurando. (8) In 4, dist. 27, q. 2, a. 3, ad 3. (9) Book VI, 860-862; H. A., l. c., 18. (10) Ibid., 863; ibid., 19. (11) Ibid., 876; H. A., ib., 19; cf. Vind. Alph., P. VII, q. 3. (12) Book VI, 864. (13) Ibid., 865; H. A., 19.

1961. VI. Betrothals are dissolved THROUGH PONTIFICAL DISPENSATION. - For although through betrothals a strict right has been made for the other party, nevertheless the Supreme Pontiff can, on account of most grave reasons, prejudice this right. - Dispensation is customarily granted through the S. Congregation of the Council, after information has been received from the Ordinary, who, in this matter, from common law, possesses no authority.[14]

It must be noted: 1. The faculty of receding, concerning which we spoke, is to be taken in such a way that either spouse is able to renounce this right; wherefore, if the innocent party, having known his right, nonetheless ratifies the betrothals by words or deeds, and especially by carnal copulation, he cannot recede any more, because he is to be judged to have renounced his right. - 2. If the cause of receding is altogether certain, each can recede by his own right; but if a doubt either of law or of fact intervenes, the cause is to be referred to the ecclesiastical judge, i.e., to the Bishop.[15]

N. B. Concerning those things which regard the external forum, see the Canonists.[16]

(14) Cf. Acta S. Sed., vol. X, 185, 312, 319. (15) Book VI, 878; H. A., XVIII, 26-27. (16) Cf. Vecchiotti, L. 5, § 70; and Bangen, de Sponsal., § 8.

Chapter II: On The Nature Of Matrimony

We shall treat: 1. of the notion of matrimony; 2. of the matter, form, and minister; 3. of the properties of matrimony.

Article I: On The Notion Of Matrimony

1962. DEFINITION. Matrimony (instituted by God the Creator) is the marital conjunction of man and woman, between legitimate persons, retaining an undivided companionship of life.[1]

It is said 1. marital conjunction: by which words the very essence of matrimony is expressed, namely the mutual bond binding man and woman, from the fact that, through consent expressed concerning the present, they hand over to one another dominion of their bodies, in order to generation. - 2. Between legitimate persons: by which words are indicated the conditions of the subject, which ought to be such that the contracting parties are impeded by no law from contracting matrimony; - 3. retaining an undivided companionship of life, which words intimate the properties of matrimony, namely unity and indissolubility.

MATRIMONY, considered formally as a Sacrament, can be defined: the legitimate and indissoluble contract of baptized persons between a man and a woman, by which mutual power over bodies is handed over and accepted, in order to acts of themselves apt for the generation of offspring, elevated by Christ to the dignity of a Sacrament, and conferring grace *ex opere operato*. This definition will be made clear from what is to be said.

DIVISION. Matrimony is distinguished in many ways, namely:

1. Into legitimate, ratified, and consummated. - 1) Legitimate is that which is contracted by the non-baptized according to the norm of the natural law, and which lacks the power of a Sacrament; such is the matrimony of Jews and Infidels. - 2) Ratified, however, is that which has been contracted between baptized persons entangled by no natural or canonical impediment,

between whom, however, after the contract, conjugal intercourse has not yet intervened. It is called ratified, insofar as the Church holds it valid. - 3) Finally matrimony is called consummated when to legitimate or ratified matrimony there has been added carnal conjunction of itself sufficient for the generation of offspring.[2]

2. Into true, presumed, and putative. True is that whose conditions all objectively stand. - Presumed is called that which, in certain circumstances, is presumed by law, without proofs being brought. - Putative is that which is judged to have been validly contracted, when nevertheless on the side of reality, on account of some latent impediment, it is null.
3. Into canonical, political or civil, and of conscience. Canonical is called that in which all things concur which are required by the canons of the Church. Political or civil is that (which, unless canonical matrimony is added, is called matrimony by injury) in which those things also intervene which civil law requires, such as dotal pacts, consent of parents, and other solemnities, without which it is deprived of civil effect. Matrimony of conscience is that which is contracted in the usual form, the denunciations being omitted, under this law, that it should always be hidden (cf. n. 2080 Note).

Near to this is morganatic matrimony, when a noble man, after the death of a wife who left him children, marries another less noble woman under this law, that she herself and her children are excluded from the dignity of the husband and father and are content with some gift (*Morgengabe*) for their honorable support; and further that they abstain from the other goods, titles, and paternal insignia, and this especially in favor of the children begotten from the former wife.

(1) Catech. Rom., p. 2, c. 8, n. 3. (2) Book VI, 879, 958.

1963. Principles. I. The essence of matrimony considered *in fieri* consists in mutual consent duly expressed; considered *in facto esse*, in the permanent bond which arises from the aforesaid consent and has annexed to itself dominion or mutual right over the body of the other, without, however, the use of this right belonging to the essence of matrimony. The first part is clear from the decree to the Armenians, saying: "The efficient cause of matrimony is mutual consent regularly expressed by words concerning the present." From this the second part also is clear, both because from compact and consent there arise a mutual obligation and bond between the contracting parties;[3] and because every legitimate handing over confers a right in the thing handed over, which thing in the matrimonial contract is the use of bodies in order to generation. Hence the Apostle (1 Cor. 7:4): "The woman does not have power over her own body, but the man. Likewise also the man does not have power over his own body, but the woman." But the third part is manifest from this, that the first parents before sin, at which time no intercourse of the flesh had intervened between them, as the Fathers testify, were plainly joined in true matrimony.[4] It is confirmed also by the example of the Blessed Virgin Mary and St. Joseph, between whom it is altogether certain that true matrimony existed, yet no use intervened. Wherefore, in both laws the rule has been received: "Consent, not intercourse, makes nuptials."

(3) Catech. Rom., loc. cit., n. 4. (4) Ibid., n. 8.

1964. II. Matrimony of Christians, celebrated by legitimate rite, is a true Sacrament of the New Law. - It is of faith, from Trent (sess. 24, can. 1), defining: "If anyone shall have said that Matrimony is not truly and properly one of the seven Sacraments of the evangelical law, instituted by Christ the Lord, but invented by men in the Church, and that it does not confer grace: let him be anathema." Nor does Paul the Apostle obscurely intimate the truth of the proposition, saying (Eph. 5:25): "Men, love your wives, as Christ loved the Church and handed himself over for her," and soon adding (v. 32): "This is a great sacrament; but I speak in Christ and in the Church."[5] And 1. indeed, it is a sign of a sacred thing, namely of that most holy bond by which Christ the Lord is joined with the Church, or the divine Word with human nature. - But 2. that grace also is signified and bestowed by this Sacrament, in which especially the nature of a Sacrament exists, these words of the Holy Synod declare: "But the grace which would perfect that natural love, and confirm the indissoluble unity, and sanctify the spouses, Christ himself, the institutor and perfecter of the venerable Sacraments, merited for us by his Passion." Nor 3. can it be doubted that, from the institution of Christ, matrimony, which before was only a natural and religious contract, was elevated to that dignity that it is a sign of a sacred thing, productive of grace, although it is not established concerning the time at which this was done. Therefore it is clear that nothing is lacking to matrimony from those things which belong to the nature of a Sacrament.[6]

It was said: matrimony of Christians; for matrimony of infidels, although perfect in the nature of a contract, cannot be a Sacrament, since Baptism is the gate of all the Sacraments.

But concerning the matrimony of INFIDELS who afterward were converted to the Christian faith, as also concerning the matrimony of a faithful person with an infidel, which has been contracted with previous pontifical dispensation: there are various opinions of Authors, since nothing has been defined by the Church, which may be seen discussed among the Dogmaticians. - Those things which are more approved by us are the following: 1. Matrimony contracted in infidelity, according to the opinion by far more probable, is raised to the nature of a Sacrament by the conversion of both spouses, but not by the conversion of only one spouse. When both turn themselves to the Faith, an express renewal of matrimonial consent is not required; sufficient for the nature of a Sacrament is that virtual consent by which the spouses, approaching Baptism, determine to persist in the matrimony previously entered upon, but in a Christian manner. 2. Matrimony which a faithful person contracts with an infidel, after previous dispensation of the Pontiff has been obtained, has, according to the truer opinion, the nature of a Sacrament on the part of the faithful person.[7]

(5) Cf. Martin, De Matrim., p. I, n. 90-102. (6) Cf. St. Alphonsus, in Trent, sess. 24, n. 4-10. (7) Cf. Perrone, De Matrim., Lib. 2, sect. 1, cap. 7, art. 1.

1965. III. In Christian matrimony, the contract is NOT DISSOCIABLE from the Sacrament; and therefore a true and legitimate contract cannot stand without being by that very fact a Sacrament. - This is clear from the Encyclical *Arcanum divinae sapientiae* of Our Most Holy Lord Pope Leo XIII, in which the Pontiff speaks thus:[8] "For Christ the Lord increased matrimony by the dignity of a Sacrament; but matrimony is the contract itself, if only it has been made by right. To this is added that matrimony is a Sacrament on this account, because it is a sacred sign and effective of grace, and bearing the image of the mystical nuptials with the Church. But the form and figure of these is expressed by that very bond of the highest conjunction by which

man and woman are bound together among themselves, and which is nothing other than matrimony itself. And so it appears that every just union between Christians is in itself and through itself a Sacrament: and nothing is more abhorrent from truth than that the Sacrament is some adornment annexed, or a property having slipped on from without, which could be disjoined and separated from the contract by the will of men."[9]

From what has been said you will gather: 1. Matrimony is a contract *sui generis*, differing much from other contracts; and indeed: - 1) Matrimony has its origin and institution from natural and divine law; but other contracts from the law of nations, or from the special law of each nation. - 2) The object of matrimony has been determined by God in such a way that it cannot be modified by the stipulations of the contracting parties, while in other contracts many things are left to the judgment of the contracting parties. - 3) Matrimony, as regards validity, depends on divine, natural, and ecclesiastical law; but not, as civil contracts do, on civil law and the will of princes, who can do nothing in those things which pertain to the Sacraments (cf. n. 1994-1997).

2. Marriages entered into between HERETICS or SCHISMATICS, if no diriment impediment stands in the way, just as they are valid in the nature of a contract, so also truly have the nature of a Sacrament. But

IT IS ASKED. What is to be said of matrimony between BAPTIZED persons duly celebrated, with a positive will NOT TO RECEIVE the Sacrament?

Resp. Dist. 1. If the predominant intention was to exclude absolutely the nature of the Sacrament, and rather to omit matrimony than to receive the Sacrament, the matrimony is invalid in the nature of a Sacrament, and consequently also in the nature of a contract. - 2. If the predominant intention was to celebrate matrimony in the nature of a contract, and therefore to posit all things which are required for its validity, the matrimony is valid, both by reason of the contract and by reason of the Sacrament, although this has been received unworthily. - In doubt as to which was the predominant intention, judgment must be made in favor of matrimony; for everyone is presumed to will to exercise a valid contract, unless the opposite is proved.[10]

(8) 10 Feb. 1880 (cf. Acta S. Sed., vol. XII, 385). (9) Ibid., Acta, p. 394. (10) Lugo, De Sacram. in gen., disp. 8, n. 136.

1966. IV. The ENDS which can be considered in matrimony are of three kinds, namely: intrinsic essential ends, intrinsic accidental ends, and accidental extrinsic ends.

1. The INTRINSIC ESSENTIAL ends are two: 1) the mutual handing over of bodies with the obligation of rendering the debt; 2) the indissoluble bond. - Hence it is certain that, if someone should contract while positively excluding these ends, namely with the mind of not undertaking the obligation of rendering the debt, or of contracting for a time, he would not only sin, but would enter into no matrimony.
2. The INTRINSIC ACCIDENTAL ends likewise are two: 1. The procreation of offspring: for just as matrimony, as a natural conjunction, was instituted from the beginning for propagating the human race, so afterward, that a people might be procreated and educated for the worship and religion of the true God and of Christ our Savior, the dignity of a Sacrament was bestowed on it. 2. The remedy of concupiscence, namely that he who is conscious to himself of his

weakness, and does not wish to endure the battle of the flesh, may use the remedy of matrimony for avoiding sins of lust. Concerning which the Apostle (1 Cor. 7:2) writes: "On account of fornication let each man have his own wife, and let each woman have her own husband." And again (v. 9): "But if they do not contain themselves, let them marry; for it is better to marry than to burn." Wherefore neither does he sin in any way who marries principally on account of the remedy of concupiscence, provided he does not exclude the end of procreating offspring. For there is no disorder if, from two licit ends, the secondary is chosen before the primary, when the latter is not smothered by the former. - But if someone should exclude these two intrinsic accidental ends, he could contract not only validly but also sometimes licitly: for example, if he were an old man and married without hope of procreating offspring, nor intended the remedy of concupiscence; for it suffices that the substantial ends be saved.[11]

3. The ACCIDENTAL EXTRINSIC ends can be very many, such as peace to be reconciled, nobility to be acquired, etc. Ends of this sort, if in themselves honorable, are not to be condemned, since they are not repugnant to the holiness of matrimony; indeed they can even be intended primarily, because it is not a disorder, as we already said, to choose one of the secondary honorable ends before the primary end, provided this is not excluded.[12]

IT IS ASKED. Whether matrimony is commanded by SOME LAW?

Resp. Although matrimony is ordered to the conservation of society, and it is necessary that some embrace this state, nevertheless concerning this no precept has been given to individuals. "But what was said by the Lord: Increase and multiply, looks to this, that the cause for which matrimony had been instituted be declared: not that it impose necessity on individual men. For now, the human race having already been increased, not only does no law compel anyone to take a wife, but rather virginity is commended exceedingly, and it is advised to each one in Sacred Scripture, as being more excellent than the state of matrimony, and containing in itself greater perfection and holiness"[13] (cf. n. 764).

(11) Schmitt, Epitome, L. V, § 121. (12) Book VI, 882, 883. (13) Catech. Rom., p. 2, c. 8, n. 12.

1967. V. "There are three GOODS of matrimony: offspring, fidelity, and Sacrament; by compensation of which those inconveniences are lessened which the Apostle indicates by these words (1 Cor. 7:28): 'such persons will have tribulation of the flesh'; and it is effected that conjunctions of bodies, which outside matrimony would deservedly have to be condemned, are joined with honorableness.

"The first good therefore is OFFSPRING, that is, children, who are received from a just and legitimate wife. For the Apostle esteemed this so greatly that he said (1 Tim. 2:15): The woman will be saved through the generation of children. Nor indeed must this be understood only of procreation, but also of the education and discipline by which children are instructed unto piety."[14]

"FIDELITY follows, which is the second good of matrimony, namely a certain faithfulness by which mutually the man binds himself to the woman and the woman to the man in such a way that one hands over to the other power over his or her body, and promises that he or she will never violate that holy covenant of marriage... But this fidelity of matrimony demands that husband and wife be

joined by a certain singular, holy, and pure love; nor that they love each other as adulterers, but as Christ loved the Church."[15]

The third good is called SACRAMENT, and is found in the nature of a Sacrament.

(14) Ibid., n. 13. (15) Ibid., n. 14.

Article II: On Matter, Form, And Minister

1968. Among all Catholic authors it is certain that the MATTER of this Sacrament is the matrimonial contract; as regards the FORM and MINISTER, various opinions have been handed down. - Certain Theologians, led by Melchior Cano, taught that the minister is the priest, but that the form is had in these words: "I join you in matrimony." But the opinion which has always been more common, and has now become common, teaches that the ministers are the contracting parties themselves, and that the form consists in their mutual acceptance. - With these things briefly set forth beforehand, let the following be held.

1969. Principles. I. The REMOTE matter of this Sacrament is the bodies of the contracting parties, to be handed over mutually, or the mutual right over the body of the other. The PROXIMATE matter is the handing over itself of the right in the bodies, made through words or signs expressing consent. Thus commonly.

For this Sacrament has the nature of a contract; therefore just as in other contracts the things are the remote matter, and the handing over of the thing the proximate matter, so consequently it is in matrimony, where the right in the bodies is handed over.[1]

(1) Book VI, 880; H. A., XVIII, 28.

1970. II. The FORM consists in the mutual acceptance of the contracting parties, expressed by words or signs. Thus commonly, and it will be clear from what is soon to be said concerning the minister.[2]

(2) Ibid.

1971. III. The MINISTERS of the Sacrament of Matrimony are THE FAITHFUL THEMSELVES contracting. - This is the common opinion, and altogether certain. The evident reason is that in places where the impediment of clandestinity does not exist, matrimony is contracted validly without the presence of a priest. Therefore if a true Sacrament is effected even when the priest is absent, it must certainly be concluded that the contracting parties themselves, and not the priest, are the ministers.[3] Nevertheless the priest is the minister of the solemnity of matrimony, as will be explained below (n. 2073).

Hence, for the contracting parties there apply those things which were said in their places both concerning the administration and concerning the reception of the Sacraments (cf. n. 1416, 1433, 1434, 1436). But,

YOU WILL ASK: Whether it is licit to enter matrimony with a PUBLIC SINNER, and consequently to minister the Sacrament to him? - RESP. This is prohibited at least under venial sin, as many probably say; indeed according to St. Alphonsus, more probably under grave sin, on account of reverence due

to the Sacrament. A just cause EXCUSES from every sin, e.g. if someone cannot withdraw from matrimony without grave inconvenience. Except, however, if the other is an excommunicate to be avoided, with whom to communicate in a sacred matter is altogether illicit.[4]

(3) Ibid., 880 and 897 sqq. (4) Book VI, 55; H. A., XIV, 6.

1972. IV. The CONSENT by which matrimony is perfected and the Sacrament is administered must be personal, internal, deliberate, mutual, concerning the present, and externally manifested.

1. It must be PERSONAL; for "in matrimony consent cannot be supplied by any human power."[5]

2. TRUE and INTERNAL; for it is an act of one's own will, which freely imposes on itself a new obligation. - Hence, if both, or either one of the contracting parties, should consent not from the soul but FICTITIOUSLY, there is no matrimony. In the first case the matter is clear of itself; in the other, because, since the matrimonial contract cannot limp, the consent of the other being lacking, the contract is null. The one contracting fictitiously commits both the sin of sacrilege, because he renders the Sacrament null; and the sin of injustice, if the counterpart contracts in good faith, because he deceives that person and inflicts on him or her a grave injury, which he is bound to repair by removing the fiction and truly contracting (cf. n. 2083). If this cannot be done, or if the deceived party does not will it, he is bound at least to repair the other damages. Except, if the other party also deceived, or if the deception was done in order that the deceiver might decline fear unjustly inflicted. Nevertheless Authors commonly say that it is not illicit to simulate the celebration of nuptials, on account of a just cause, e.g. on account of a diriment impediment, when namely the celebration cannot be omitted without grave damage, as was said n. 1430, at the end.[6]

3. DELIBERATE, i.e. furnished with sufficient knowledge and due liberty. Force and error stand in the way of deliberation; but concerning these there will be discussion where impediments are treated.

4. MUTUAL; because a contract burdensome on both sides and transferring a mutual right in the bodies, as the matrimonial contract is, is not effected except through the reciprocal consent of the contracting parties. Wherefore it must also be noted: union and at least moral simultaneity are required between the consent of one and of the other, such as namely is required in civil contracts (cf. n. 1044, 3).

5. CONCERNING THE PRESENT, namely by which the contracting parties mutually accept each other here and now as true spouses; for in this matrimony differs from betrothals (cf. n. 1950, It is said 5).

6. EXTERNALLY MANIFESTED; otherwise mutual acceptance would not be possible. - It is not indeed required for the VALIDITY of matrimony that consent be expressed by words; it suffices that it be expressed by signs, which Innocent III declared,[7] saying: "The deaf and mute can contract matrimony through consent without words." A sufficiently adequate sign would be if the woman, after the man's consent has already been expressed, should extend her hand to him; but not if she should not withdraw her hand when it has been seized by him. Nor would the giving of a ring suffice, or the leading of the bride into the house of the man, unless by the custom of the place signs of this sort expressed consent. But as regards LICEITY, unless

modesty or another reasonable cause excused, it would be a venial sin to express consent by signs alone; because it would be against the rubric of the Ritual and against the custom of the Church.[8]

But sometimes explicit consent is not required. For, in places where the impediment of clandestinity does not prevail, BETROTHALS THEMSELVES, to which free and consummated intercourse is added, pass into true matrimony; provided the intercourse was had with marital affection: and this affection indeed is always presumed in the external forum; but in the internal forum, presumption yields to truth.[9]

(5) Pius VI in Letter to the Bishop of Eger, 11 July 1789 (cf. Roskovany, Matrim. in Eccl. cath., I, 292). (6) Book VI, 887, 1113, 62; H. A., XVIII, 29. (7) Cap. 23, de Sponsalibus. (8) Book VI, 887-889; H. A., ibid., 31. (9) Cf. Instruction of the S. C. de Propaganda Fide, 14 Jan. 1821 (Collect. S. Sed., n. 992).

1973. Questions. Q. 1. Whether matrimony can be contracted VALIDLY and LICITLY THROUGH A PROCURATOR?

Resp. 1. It can be contracted VALIDLY, as is clear from law. The reason is that Christ, in elevating matrimony to the being of a Sacrament, did not change the nature of the contract, which is such that it can be entered into among absent persons through a procurator. - But for this many things are REQUIRED, namely: 1) A special mandate, which can be given orally; for writing is not demanded. - 2) That the mandate be concerning contracting with a determinate person. - 3) That the procurator contract by himself; for he himself cannot delegate another, unless he has express and special permission from the mandator. - 4) That the mandate has not been revoked by the mandator, even mentally, before the matrimony is celebrated. And this runs even if the revocation is made tacitly, namely if someone gave a mandate of contracting with one woman, and afterward celebrates betrothals with another. - 5) That, in places where the impediment of clandestinity prevails, the procurator show the mandate to the pastor and witnesses, and before them contract matrimony according to the form of Trent. - 6) That he not exceed the limits of the mandate. But in this it must be adverted that, if the condition is required by the mandator, namely that contraction be made with such a dowry, at such a time, etc., if the condition is not observed, the matrimony will be null. But if the condition is required by law, namely that contraction be made after denunciations have been premised, after permission of the Bishop has been obtained, etc., then the matrimony entered without them will be valid.[10]

Resp. 2. It can also be contracted LICITLY, but only when a grave cause suffices, as, e.g., among Princes; for one must not easily recede from the ordinary practice of the Church. And hence it is why the pastor ought not, without consulting the Bishop, to assist at such a matrimony.[11]

Q. 2. Whether matrimony can be contracted through a LETTER?

Resp. Affirmatively, on account of the same reason as above. But it is contracted in the following manner: "The groom writes to the bride that he himself hands himself over to her as husband, and from that moment accepts her as wife. The bride writes the same in return to the man; this response is read before the pastor and witnesses. Moreover, it is also enough that the man write to the woman in the way related, and that the bride, without writing back to the groom, open the letters before the pastor and witnesses, and furnish her consent."[12] - But that this be done LICITLY, a grave cause is

required. Hence it is plainly to be advised that the pastor do nothing in this matter without the permission of the Bishop. Except, unless perhaps it is a question of revalidating matrimony, in which case one party would refuse to present himself before the pastor.[13]

Q. 3. Whether matrimony can be contracted UNDER CONDITION?

Resp. Affirmatively, because neither the sacred canons nor the very nature of matrimony altogether impede certain conditions from being added to matrimonial consent. - But according to the variety of conditions, various things must be DISTINGUISHED:

1. If the condition, even a base one, is concerning the past or concerning the present, the matrimony is valid if the condition stands; on the contrary, if it is lacking, it is not valid, because consent is lacking.
2. If the condition is concerning a necessary future thing, e.g. if the sun rises tomorrow, the matrimony is valid at once, unless the contracting parties intend to suspend consent until the time of the fulfilled condition. Thus commonly.
3. If the condition is against the substance of matrimonial obligation, e.g. if one says to the other: "I contract with you, if you avoid the generation of offspring; or until I find another more worthy in honor or wealth; or if you hand yourself over to be adulterated for gain:" thus it must be DISTINGUISHED: 1) if the condition is added with the intention of not undertaking the obligations which are essential to matrimony, which can easily happen in regions where divorce is permitted by laws and is in use, the matrimony is invalid; 2) if it is added with the intention indeed of undertaking them, but of not fulfilling them, it is valid, and the depraved will must be corrected.[14] - But here it is customary to ask whether the condition of not consummating matrimony is against the good of offspring? - The more common and more probable opinion denies it; wherefore matrimony entered into under this condition is valid, provided the contracting parties intend to hand over to each other the mutual right in the body and to bind only the use of it (cf. n. 1963).
4. If the condition is concerning an impossible or base thing, which nevertheless is not repugnant to the substance of matrimony, again it must be DISTINGUISHED: 1) if there is evidence of a serious will not to contract unless the added condition has been fulfilled, matrimony entered into under an impossible condition is null; but one entered into under a base condition is not null by that very fact, but before the condition has been fulfilled, it obliges to nothing; when it has been fulfilled, however, it becomes absolute matrimony. - 2) But if there is no evidence of that serious will, the base or impossible condition is held as not added, and the matrimony is immediately valid.
5. Finally, if the condition is concerning a future contingent and honorable thing, the matrimony remains suspended until the condition is fulfilled; but when this has been fulfilled, it becomes absolute. While the condition is pending, it is not licit for one, against the will of the other, to revoke consent.[15]

But note as regards LICEITY, that the pastor cannot, without a most urgent cause, admit conditional marriages of this sort; namely on account of the many inconveniences and difficulties which afterward can occur and be moved against their validity.[16]

Q. 4. Whether, when the condition has been fulfilled, NEW CONSENT is required for matrimony?

Resp. Some indeed affirm, because matrimony is not only a contract, but also a Sacrament, whose validity cannot be pending.

But others, more truly and commonly, deny it, because the condition having been fulfilled, the contract becomes absolute, and consequently by that very fact also is constituted in the nature of a Sacrament.[1]

Q. 5. What if a demonstration, cause, or mode is added to consent?

Resp. DEMONSTRATION, e.g. I marry you, who are noble; CAUSE, e.g. I marry you, because you are a virgin; MODE, e.g. I marry you, that you may serve me, differ altogether from condition in this, that they do not suspend consent; wherefore matrimony becomes immediately absolute, unless perhaps the demonstration, cause, or mode have, in the mind of the contracting parties, the nature of a condition, or unless substantial error lies hidden in them.[2]

Q. 6. Whether the CONSENT OF PARENTS is required for the matrimony of children-of-the-family?

Resp. 1. Negatively, as regards validity: and this is of faith against the Lutherans and Calvinists. For Trent (sess. 24, cap. 1) "condemns with anathema those who falsely affirm that marriages contracted by children-of-the-family without the consent of parents are invalid, and that parents can make them ratified or invalid." Reason is added: for the contracting parties have power over their own body, nor do parents have power over the body of their children in order to matrimony. - But if CIVIL LAW requires the consent of parents for the validity of matrimony, its force extends only to merely civil effects.

Resp. 2. It is required, at least speaking regularly, for liceity; so that children-of-the-family sin gravely if parents justly contradict, or if they are judged to be reasonably unwilling. We said speaking regularly; for when a just cause intervenes, it is certain that children can, while parents are ignorant of it or even unwilling, enter matrimony[3] (see n. 1951, query 1).

But when parents contradict justly, and when unjustly, cannot easily be defined: wherefore a prudent confessor will indeed persuade children that, in a matter of so great moment, they should not stand against the will of parents; but very rarely will he impose on them an obligation of withdrawing from entering matrimony, especially because greater evils, for the most part, are to be feared from this.

(10) Book VI, 885. (11) Cf. Bangen, de Matrim., II, 33, v. Hinc elucet. (12) H. A., XVIII, 32; Book VI, 886. (13) Cf. Bangen, loc. cit., p. 32, end; and Craisson, n. 4096. (14) Book VI, 890. (15) Ibid., 891, 892. (16) Book VI, 893. (1) Ibid., 894. (2) Book VI, 896. (3) Book VI, 849.

Article III: On The Properties Of Matrimony

1974. Matrimony, "that it might respond more aptly to the most wise counsels of God, either from the beginning bore before itself chiefly two properties, and these especially noble, as though deeply impressed and engraved, namely unity and perpetuity."[4] Concerning these two properties one must now treat.

(4) Const. Arcanum of Leo XIII; cf. Martin, de Matrim., P. I, n. 59-82.

§ 1. On The Unity Of Matrimony

The UNITY of matrimony, which is also called monogamy, is situated in the conjunction of one man with one woman. To unity is opposed polygamy, which is twofold: 1. simultaneous, when one man joins several wives to himself in matrimony at the same time, and this is called simply polygamy; or when one woman marries several men at the same time, and it is commonly called polyandry or polyviry; 2. successive, when after the death of the spouse, the surviving party hastens to new nuptials.

1975. Principles. I. SIMULTANEOUS POLYANDRY is prohibited, by the consent of all, by the NATURAL law itself. - For it is directly opposed to the generation and education of offspring: to generation indeed, since a woman knowing several men at the same time generally remains barren; but to education, since the father of such offspring, if perhaps it is born, is uncertain. And hence it is that prostitution, to which polyandry is reduced, has at every time been held as infamous and flagitious.[5]

(5) St. Alphonsus, in Trent, sess. 24, n. 11.

1976. II. SIMULTANEOUS POLYGAMY is prohibited in the New Law by DIVINE right. - For Christ expressly taught: "Whoever shall have put away his wife and married another, commits adultery against her" (Mark 10:11). But now, if he is an adulterer who, having put away his wife, marries another, much more will he be an adulterer who does this while retaining the former. Hence Trent (sess. 24, can. 2): "If anyone shall have said that it is licit for Christians to have several wives at the same time, and that this is prohibited by no divine law: let him be anathema." - Wherefore, if some infidel, having several wives, is admitted to Baptism, he must retain only one, namely her whom he validly joined to himself in the first place, or any one of the others who is willing to embrace the Christian faith; unless the Pope has otherwise determined or permitted, according to what is to be said n. 1980.[6]

As regards the natural law, Theologians, led by St. Thomas,[7] hold that polygamy is not contrary to the primary end of matrimony; and therefore that it is not intrinsically evil, nor absolutely prohibited by the precepts of nature; yet that it is opposed to the secondary ends of marriage, of which sort are peace, tranquility, mutual services, etc.; and therefore that it is contrary to the secondary law of nature, in which God alone can dispense. And indeed, after the flood, for just causes, moderate polygamy was granted to the Patriarchs and to the Israelite people. Indeed the more common opinion teaches that the same dispensation was extended to the Gentiles. But from the beginning it was not so (Matt. 19:8); and Christ the Lord restored the law of matrimony, whether for Christians or for Gentiles, to its primeval integrity.

(6) Cf. Collect. S. Sed., n. 919, 921, 924 ad 5, 928 ad 1. (7) Suppl., q. 65, a. 1.

1977. III. SUCCESSIVE polygamy has never been prohibited; and therefore second and later nuptials 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 the words of Paul the Apostle (1 Cor. 7:39): "The woman is bound by the law as long as her husband lives; but if her husband sleeps, she is freed; let her marry whom she will, only in the Lord." Recalling these words,

Eugene IV in the decree for the Jacobites declared: "not only second, but third and fourth and further nuptials, if some impediment does not stand in the way, can be contracted licitly."

Nevertheless, the Church of God has always followed widowhood with special honor, nor has she ever held second nuptials as honorable as first nuptials, since the union of Christ with the one Church is represented less perfectly through them (cf. n. 1937).

Note. From the modern Codes, a WIDOW cannot enter matrimony unless ten months have elapsed from the death of the prior husband, or she has given birth: nevertheless this prohibition does not have the force of invalidating civil matrimony.[8]

(8) French Code, art. 228; Italian Code, art. 57 (cf. Craisson, n. 4100).

§ 2. On The Perpetuity Of Matrimony, Or On Indissolubility

1978. The INDISSOLUBILITY of matrimony is one thing as regards the bond, another as regards bed and cohabitation. The former belongs to the essence of matrimony, the latter to the offices of spouses. Here only the former must be treated.

Principles. I. Matrimony duly entered into is so indissoluble that it can NEVER be DISSOLVED through divorce as regards the bond. It is of faith from Trent (sess. 24, can. 5 and 7). For "the perpetual and indissoluble bond of matrimony the first parent of the human race, by the instinct of the divine Spirit, pronounced, when he said: This now is bone of my bones and flesh of my flesh: wherefore a man shall leave his father and mother, and shall adhere to his wife, and they shall be two in one flesh."[9] But the "firmness" of this bond, "pronounced by Adam so long before, Christ the Lord confirmed by these words: What therefore God has joined, let not man separate."[10]

To the Hebrews indeed, by divine dispensation, the faculty of a bill of repudiation was made, by which the bond of matrimony, in certain circumstances, could be dissolved (Deut. c. 24); but "Jesus Christ restored it to its primeval state, namely to indissolubility, not by establishing a new law, but only by removing the old indulgence, or dispensation conceded over the aforesaid indissolubility."[11]

But this indissolubility arises from NATURAL LAW itself, at least secondary, because it is necessary for the education of offspring that parents perpetually devote themselves to its good. Thus most commonly the Authors, led by St. Thomas.[12] It is also clear from condemned proposition 67 of the Syllabus: "By the law of nature the bond of matrimony is not indissoluble, and in various cases divorce properly so called can be sanctioned by civil authority." - Hence, "what a mass of evil DIVORCES contain in themselves, it scarcely needs to be said. For by reason of them marital covenants are made changeable, mutual benevolence is weakened, pernicious incentives are supplied to infidelity; harm is done to the protection and instruction of children; occasion is furnished for tearing apart domestic societies; seeds of discords among families are scattered; the dignity of women is diminished and depressed, who come into danger lest, after they have served the lust of men, they be held as abandoned."[13]

But, although matrimony of itself is indissoluble, nevertheless in certain cases it admits dissolution of the bond; wherefore diverse degrees of indissolubility can be distinguished, as will be clear from what is soon to be said.

(9) Trent, sess. 24, in the beginning. (10) Ibid. (11) Benedict XIV, Const. Apostolici ministerii, 16 September 1747. (12) Book VI, 956. (13) Leo XIII, Const. Arcanum.

1979. II. Matrimony of the faithful RATIFIED and CONSUMMATED can never by any reason be dissolved as regards the bond, except THROUGH THE DEATH of either spouse. - Concerning this especially that word of the Apostle avails: "The woman is bound by the law as long as her husband lives." And Our Most Holy Lord Pope LEO XIII defined: "To dissolve the bond of marriage between Christians ratified and consummated is in the power of no one."[14] The practice of the Church is added, which has never dispensed in matrimony of this sort.

(14) Ibid.

1980. III. Legitimate matrimony of INFIDELS, even if it has been consummated, CAN BE DISSOLVED as regards the bond, in the case which they call that of the Apostle: namely if, with one spouse converted to the faith, the other refuses to be converted, or at least does not wish to cohabit without contumely of the Creator. - It is a privilege conceded by Christ the Lord in favor of the faith, as is clear from the testimony of Paul saying: "But if the infidel departs, let him depart; for the brother or sister is not subject to servitude in such cases" (1 Cor. 7:15).

Various things on this point occur to be OBSERVED:

1. From a threefold cause the convert can pass to other nuptials: 1) if the infidel refuses to dwell with him; 2) if he wishes to dwell, but not except with injury of the Creator, e.g. by retaining concubines;[15] 3) if he wishes to draw him into mortal sin.[16] But the convert can enjoy this privilege, even if the infidel spouse consented to cohabit peacefully for some time, indeed for many years, and afterward, with will changed, no longer wishes to do this. Thus from the Decree of the Holy Office, 5 Aug. 1759.[17]
2. The convert to the faith cannot use the aforesaid privilege unless there precedes an interpellation of the infidel spouse, whether he wishes to be converted to the faith, or at least to cohabit without contumely of the Creator.[18] - This twofold interpellation, which must be made after Baptism, is required not only that new nuptials can be entered into licitly, but also validly: thus from the declaration of the S. C. de Propaganda Fide, 5 March 1816.[19] But if interpellation is impossible or of the greatest difficulty, the Supreme Pontiff customarily grants an Indult, so that, it having been omitted, the convert can contract a new matrimony.[20] But indults of this sort, conceded either for various infidel regions or to Apostolic Vicars for a certain number of cases, cannot be extended to other regions or to other cases, unless recourse has been made to the Holy See.[21] The Church then dispenses from the rigor of the interpellation, so that the convert is bound only to interpellate the infidel spouse whether he wishes to be converted to the faith; the other being omitted, namely whether at least he wishes to cohabit peacefully.[22] This dispensation is more easily conceded in those places where a law prevails forbidding the faithful to cohabit with infidels, since then there is given a presumption of law concerning the danger of perversion to be undergone (cf. n. 448).
3. The bond of marriage is dissolved only then when the convert contracts a new matrimony. This is clear from the Decree of the Holy Office, 5 Aug. 1759.[23] Hence 1) if the infidel, after hearing

the interpellation and giving a negative response, afterward embraces the faith before the other converted spouse has contracted new nuptials, the matrimony can no longer be dissolved by force of the Pauline privilege, but becomes altogether ratified. 2) If the first convert meanwhile has received sacred Orders, he cannot return to the spouse now converted, because the use of matrimony is no longer licit to him; for, after the negative response was received, he used his right by choosing a new state. But neither can the second convert enter a new marriage, because the first matrimony endures: unless the spouse has emitted solemn vows, as will be said below (n. 1981).

IT IS ASKED. Whether the Supreme Pontiff CAN DISPENSE over matrimony entered in infidelity, when ONE PARTY or BOTH are converted to the faith?

Resp. Dist. 1. If the matrimony after the Baptism of both has been consummated, it has become altogether indissoluble, and therefore a dispensation cannot be given.

2. If the matrimony has never been consummated, the Pope can dispense, as in ratified matrimony of Christians, concerning which we shall speak soon. - 3. If the matrimony was consummated only in infidelity, it is disputed. Some, among whom is St. Alphonsus,[1] whom we follow, affirm it, and they seek the reason from the Constitution *Romani Pontificis* issued by St. Pius V,[2] and from the Constitution *Quoniam saepe contingit* of Gregory XIII;[3] through which Constitutions the aforesaid Pontiffs are said to have dispensed over such a matrimony.[4] Others, however, deny it, from the fact that they judge the said Constitutions must be understood of dispensation from interpellation to be made, but not from the bond of marriage.[5]

Note. Only the baptized can enjoy the Pauline privilege, but not catechumens.[6] Nor can that faithful person enjoy it who, after obtaining pontifical dispensation over the impediment of disparity of cult, contracted matrimony with an infidel, even if this one does not wish to cohabit peacefully. S. C. Off., 4 July 1855.[7] But whether the privilege is to be extended to those who, by receiving Baptism validly, pass to some Christian sect, but not to the Catholic Church, is freely disputed.

(15) Cf. Collect. S. Sed., n. 950, S. Offic. resp. (16) Book VI, 956, end. (17) Cf. Collect. S. Sed., n. 924. (18) Cap. Quanto 7, de divortiis; and S. C. C., 23 Jan. 1603 (ap. Benedict XIV, de Synodo, lib. 13, c. 21, n. 1). (19) Collect. S. Sed., n. 934. (20) Ibid., n. 920, 956. (21) Benedict XIV, loc. cit., lib. 13, c. 21, n. 6 (cf. Collect. S. Sed., n. 926). (22) Cf. Faculties of Apostolic Vicars, Collect. S. Sed., n. 31, 11; cf. Book VI, 957, 3rd sent. (23) Collect. S. Sed., n. 924, ad 2. (1) Book VI, 897, prob. 1; 956. (2) Cf. Collect. S. Sed., n. 919. (3) Ibid., n. 920 and 922. (4) Mansella, De imp. matrim. dir., cap. IV, art. III, 19, 20. (5) Giovine, I, § 276, 3; Feije, 602; cf. Benedict XIV, de Syn., L. 13, c. 21, and L. 6, c. 4, n. 5. (6) Collect. S. Sed., n. 921 (S. C. de Prop. Fide, 16 Jan. 1806). (7) Collect. S. Sed., n. 950, v. Generatim.

1981. IV. Matrimony RATIFIED, but NOT CONSUMMATED, is dissolved by the very fact THROUGH SOLEMN PROFESSION of Religion by either spouse. - It is of faith from Trent (sess. 24, can. 6), affirming that this privilege was conceded by Christ the Lord in favor of the Religious State. Nevertheless Profession would be illicit "if matrimony were necessary for legitimating offspring, or for repairing scandal or the honor of the bride; for then the man could not become a Religious by leaving the bride, who on account of infamy would no longer be able to enter nuptials."[8]

But that the spouses may be able to use the aforesaid privilege, there is conceded to them a two-month period from the celebration of matrimony, within which time they are not bound to render the conjugal debt. And indeed each spouse can enjoy this concession, although he does not have the mind of entering Religion: for he uses his own right. But if, after the two-month period has already passed and the matrimony has not been consummated, one, with the other contradicting, embraces the religious state and emits vows: his profession is indeed illicit, but not invalid; wherefore in this case also the bond of matrimony is dissolved. - Nevertheless he would sin who, the counterpart not having been forewarned, should enter matrimony wishing to enter Religion; for besides other inconveniences which can most easily arise from such a manner of acting, the abandoned spouse would be bound to wait for his solemn profession until she should again enjoy the liberty of marrying.[9]

For the rest, this case is very rare, especially because civil laws, in many places, impede spouses from having recourse to the use of the privilege.

(8) Book VI, 958 (cf. also n. 870, end). (9) Book VI, 858; H. A., ibid., 90.

1982. V. Matrimony RATIFIED, but NOT CONSUMMATED, can, on account of a most grave cause, be dissolved through Pontifical DISPENSATION. - Thus commonly today Theologians and Canonists. This is clear especially from the continued practice of several centuries, at least after Martin V;[10] nor in our times are examples of a dispensation of this sort rare.[11]

The Supreme Pontiff remits the cause for dispensing to the S. Congregation of the Council to be weighed; and for the most part a cause is judged to be present, if the matrimony is likely invalid, without however its nullity being able to be sufficiently proved, and if otherwise it is plainly established that it was not consummated.[12]

(10) Ibid., 859; cf. Op. dogm. in Trent, sess. 24, n. 20. (11) Cf. Giovine, de Disp. matrim., § 251 and § 264 sqq.; and Feije, De imped. matr., in Appendix n. VII, where there are many examples. (12) Cf. Rev. des sc. eccles., t. 52, p. 126 (Instr. S. C. Prop. Fid., De Processu matrim.).

Chapter III: On The Impediments Of Matrimony

1983. By IMPEDIMENT OF MATRIMONY is understood that which stands in the way so that matrimony is not entered into duly.

Impediments are of a twofold kind: some render matrimony only illicit, others render it moreover invalid. The former are called IMPEDIENT, or prohibiting, the latter DIRIMENT.[13]

(13) Book VI, 978.

Article I: On Prohibiting Impediments

1984. Besides mortal sin and excommunication, which render matrimony illicit, FOUR prohibiting impediments are numbered, comprehended in these little verses:

Prohibition of the Church, time, betrothals, vow,
Impede it from being made, permit what is made to stand.

To these impediments TWO others were formerly numbered, namely: - 1. The impediment of Catechism, which was contracted by him who answered for an infant, when the ceremonies were supplied after Baptism conferred in necessity; or, according to others, by him who recited the profession of faith in the name of the one to be baptized before Baptism. This impediment was removed by the Council of Trent (sess. 24, *de reform. Matrim.*, cap. 2). - 2. The impediment of Crime, under which name were comprehended certain delicts, e.g. incest with one's own mother or daughter, abduction of another's bride, wife-murder, priest-murder, public penance as long as it endured, etc.; but this impediment has become obsolete by desuetude.[14] - By others also the dissent of parents is reckoned among prohibiting impediments. See what was said n. 1951 and 1973, qu. 6.

(14) Book VI, 985; H. A., XVIII, 53.

I. Prohibition Of The Church

1985. By PROHIBITION OF THE CHURCH, in the strict sense, is understood an interdict from man, and it is defined: A prohibition by which an ecclesiastical Superior forbids, for a just cause, matrimony to be contracted between certain persons, until that cause or reason has been removed. But under the name of ecclesiastical Superior here comes not only the Pontiff for the universal Church, and the Bishop for his diocese, or the vicar general; but also the pastor, who, although he does not judicially see to matrimonial causes as to other causes, nevertheless can place an INTERDICT as pastor, until namely the cause is discussed and decided by the ordinary judge.

The CAUSES of the prohibition can be: either betrothals entered with another, or suspicion of a latent impediment, or fear of disturbances, ignorance of the elements of faith, or another thing of this sort.[15] If the prohibition was made on account of a grave cause, the contracting parties sin gravely in contracting matrimony; but lightly, if the prohibition is on account of a light cause, e.g. on account of the veneration of some feast.[16]

In a broader sense, PROHIBITION OF THE CHURCH comprehends moreover certain general prohibitions noted in law, such as: that matrimony not be celebrated when proclamations have been omitted; that it not be entered into clandestinely, which prohibition everywhere constitutes an impedient impediment, but where Trent has been promulgated, is a diriment impediment. Concerning these it will more conveniently be said below, where proclamations and clandestinity are treated (n. 2056 and 2040).

Among these prohibitions noted by law, the first place must be assigned to that by which MIXED MARRIAGES are forbidden, concerning which one must speak more fully.

(15) De Angelis, lib. 4, tit. 16, n. 3. (16) Book VI, 982.

On Mixed Marriages

1986. MIXED matrimony, or matrimony of mixed religion, is called that which is contracted between baptized persons, of whom one is Catholic, but the other non-Catholic.

Principles. I. "MIXED marriages are detestable unions, which Holy Mother Church has perpetually CONDEMNED and interdicted." - Thus Benedict XIV, in the Decree concerning marriages of heretics

in Holland.[17]

But why they are to be detested Our Most Holy Lord Pope LEO XIII explains in a few words in the Encyclical *Arcanum*, saying: "This also must be guarded against, namely that marriages not easily be desired with those alien to the Catholic name: for it can scarcely be hoped that souls dissenting about the discipline of religion will be otherwise concordant in other things. Indeed, it is chiefly from this that one perceives that marriages of this sort must be abhorred, because they furnish occasion for forbidden association and communication in sacred things, create danger to the religion of the Catholic spouse, are an impediment to the good instruction of children, and very often impel souls to become accustomed to having equal regard for all religions, the distinction between true and false having been removed."

(17) Cf. Book VI, 1044 and H. A., XIV, 6, end.

1987. II. Mixed marriages sometimes CAN BECOME LICIT, namely from pontifical dispensation conceded on account of a grave cause, with due cautions moreover being employed and certain conditions being observed. Thus it has been declared many times by the Supreme Pontiffs, and by name by Pius IX in the Instruction promulgated on 15 Nov. 1858.[18]

1. PONTIFICAL DISPENSATION is required, since it pertains to the Apostolic See alone to dispense in the general law of the Church.[19] - This dispensation, if at times it concedes it through the Congregation of the Holy Office, it concedes only unwillingly, and solely for grave causes, e.g. on account of hope of gaining the non-Catholic family for the faith, or for avoiding scandals.

2. DUE CAUTIONS must be employed, "namely that a) not only can the Catholic spouse not be perverted by the non-Catholic;[20] indeed b) the Catholic spouse himself knows that he is bound, according to his powers, to draw the non-Catholic back from error; but also c) that all offspring of either sex to be procreated from these mixed marriages must altogether be educated in the holiness of the Catholic religion. These cautions indeed can never be remitted or dispensed, since they are founded in the natural and divine law itself, which the Church and the Holy See strive with every zeal to guard whole and intact."[21] The required cautions formerly had to be confirmed in writing or even by oath; but today it suffices that there be "such a promise, reduced to an agreement, as furnishes a moral foundation concerning the truth of the execution, so that such execution can prudently be expected;" from the decision of the Holy Office, 30 June 1842.[22] - But if, in some places, diocesan Statutes prescribe writing or oath, or even other cautions besides those enumerated, they must be obeyed.

3. CERTAIN CONDITIONS must be observed, which regard the celebration of matrimony, namely "that these mixed unions be celebrated outside the church, and without the blessing of the pastor, and without any other ecclesiastical rite." - Hence, only passive presence of the pastor is permitted; which ought to be such that he does not assist at the matrimony in a sacred place, nor with vestments which display a sacred rite. Moreover, he ought not recite liturgical prayers over the contracting parties, nor bless them in any way. - Yet it is right for him to question them concerning the will of entering matrimony. But it is not licit to make proclamations of such marriages, as is clear from the Letter of Pius VI to Cardinal de Frankenberg, 13 July 1782.[23]

But the Church does not urge the observance of these conditions with the highest rigor; for, "if in some places the sacred Prelates know that the same CONDITIONS cannot be fulfilled without graver damages and evils arising from it: in this case only His Holiness commits it to the prudent judgment of the same sacred Prelates, for avoiding greater damages and evils of this sort, that they themselves, with the cautions always saved and firm and most diligently observed..., judge when the commemorated conditions concerning these mixed nuptials to be contracted outside the church and without the blessing of the pastor can in no way be fulfilled; and when, in entering these promiscuous marriages, the custom of employing the rite legitimately prescribed in the diocesan Ritual for marriages to be contracted can be tolerated; yet with the celebration of Mass always excluded, and all the circumstances of things, places, and persons most diligently weighed, and with the conscience of the Prelates themselves burdened concerning the truth and gravity of all the circumstances."[24]

If ACTIVE assistance of the pastor is judged to be permitted, it can also be tolerated, when circumstances advise it, that the customary PROCLAMATIONS be made, with mention of the religion of the parties to be married being omitted, and that TESTIMONIAL LETTERS be conceded concerning the facts, which state only that nothing, besides the prohibition of the Church, stands in the way of arranging the matrimony, all words being omitted from which suspicion of consent or of any approval could arise.[25]

And let these things have been said concerning MIXED marriages which have become licit. But since pastors are accustomed to be especially anxious concerning illicit mixed marriages, it comes aptly here to be inquired what must be done in such circumstances.

(18) Acta S. Sedis, vol. VI, 456; and Collect. S. Sed., n. 907. (19) When danger of life is urgent, the Bishop probably can dispense. Cf. Resp. S. Off., 3 Aug. 1873 (Nouvelle Revue theol., XV, 400). (20) Cf. St. Alphonsus, in Trent, sess. 24, n. 18; and Book VI, 56. (21) Cited Instruction of Pius IX. (22) Cf. Feije, n. 568, p. 439, Note. (23) Cf. Bangen, IV, 21; Text ap. Roskovany, de matr. mixt., tom. II, p. 61, docum. 66. (24) Cited Instruction of Pius IX. (25) De Angelis, lib. 4, tit. 1, n. 22.

1988. Questions. Q. 1. Whether the pastor CAN ASSIST at a mixed matrimony which, on account of defect of dispensation, remains illicit?

Resp. Negatively, speaking regularly: because such assistance is material cooperation toward an illicit act, and therefore prohibited of itself.[26] "Nevertheless, if it is recognized that it can yield to the utility of the Church and the common good of souls that nuptials of this sort, however illicit and forbidden, be celebrated before a Catholic pastor rather than before a heretical minister, to whom the parties could easily flee: then the Catholic pastor himself, or another priest acting in his place, will be able to be present at the same nuptials only by material presence, every ecclesiastical rite being excluded, just as if he performed only the parts of a merely qualified witness, as it is commonly called, or one able to authorize."

That is, so that, after hearing the consent of each spouse, afterward according to his office he may record the act validly performed in the book of marriages.[1] Likewise, proclamations can be made and testimonial letters conceded, in the manner in which it was said above.[2] But the pastor, in this matter, should do nothing without consulting the Bishop.[3]

Q. 2. What if the spouses also wish to contract before a HERETICAL MINISTER?

Resp. 1. "When civil law commands it, it is not disapproved that the Catholic party together with the heretical party present themselves, before or after matrimony contracted according to the form of Trent, also before a minister addicted to heresy, only to fulfill the civil act, namely that they may be held civilly as honorable spouses, and that the offspring may be judged legitimate."[4]

2. "But truly, whenever the heretical minister is regarded as one devoted to sacred things and as performing the office of a pastor, it is NOT LICIT for the Catholic party together with the heretical party to furnish matrimonial consent before such a little minister; because he would be employed to complete a certain religious ceremony, and the Catholic party would associate himself with a heretical rite: whence there would arise a certain implicit adherence to heresy, and consequently an altogether illicit communication in divine things with heretics."[5] Wherefore the PASTOR, if the spouses nevertheless wish to express consent before a heretical minister, should abstain from every intervention. - But in these most miserable circumstances, if every scandal can be removed, and a most grave cause accedes, e.g. the danger of concubinage, in those places where the impediment of clandestinity prevails, it seems that passive assistance of the pastor can be permitted.[6]

3. "Pastors should know moreover that, if they are questioned by the contracting parties, or if they know certainly that these are going to a heretical minister devoted to sacred things, to furnish matrimonial consent, they cannot be silent; but they are bound to admonish the same spouses concerning the most grave sin which they commit, and concerning the censures which they incur"[7] (see n. 1314, 3). - "Nevertheless, for preventing grave evils, if, in some particular case, the pastor has not been questioned by the spouses whether it is licit now to go to the heretical minister; and no explicit declaration is made by the same spouses concerning going to the heretical minister; yet he foresees that they perhaps are going there to renew matrimonial consent, and moreover from the circumstances occurring in the case he foresees that admonition certainly will not be profitable, indeed that it will be harmful, and from this that a material sin is to be turned into formal fault: then LET HIM BE SILENT, scandal however being removed, and provided the other conditions and cautions required by the Church have been duly placed, especially concerning the free exercise of religion to be conceded to the Catholic party, and also concerning all offspring to be educated in the Catholic religion."[8] Matrimony in such a case becomes licit, and the spouses, on account of good faith, sin only materially by going to the heretical minister.

4. "But if finally consent wishes TO BE RENEWED before the pastor after it has already been furnished before a heretical minister, and this is publicly known, or is notified to the pastor by the spouses themselves: the pastor will not be present at this matrimony unless, other things to be observed having been observed as is supposed, the Catholic party, repentant of the deed, after salutary penances have been premised, has first duly obtained absolution from the censures contracted."[9] But cautions must be furnished by the spouses also in the external forum, and for this end recourse to the Bishop is required.[10]

5. Finally, when the spouses refuse to stand by the prescriptions of the Church, it must be said as concerning the case in which they pertinaciously intend to contract before a heretical minister (see above n. 2).

Note. In certain regions, Bishops obtain the faculty of dispensing their subjects over the said impediment of mixed religion, except Italians, concerning whom it is not established that they have altogether abandoned an Italian domicile.[11]

(26) Cf. Decr. S. Off., 17 June 1829 (apud Roskovany, IV, p. 87, n. 734). (1) Instruction to the Bishops of Bavaria, 12 Sept. 1834 (ap. Roskovany, de matrim. mixtis, tom. II, p. 291, docum. 205). (2) Konings, II, p. 395. (3) Cf. Council of Prague, year 1860, tit. IV, cap. 12 (Coll. Lacen., V, col. 522). (4) Instr. S. Off. to the Bishop of Hannover, 17 Feb. 1863 (apud Vecchiotti, III, p. 174). (5) Ibid. (6) Feije, de imped. matr., n. 574. (7) Cf. Nouv. Rev. theol., XV, 595. (8) Cited Instr. to the Bishop of Hannover. (9) Ibid.; cf. also Collect. S. Sed., n. 908. (10) Congr. S. Off., 9 March 1881 (apud Konings, edit. 5, tom. 2, p. 425, note 39). (11) Instr. S. C. de Prop. Fide, 30 April 1865 (Acta S. Sed., vol. 2, p. 672).

II. Forbidden Time

1989. FORBIDDEN or closed TIME, as they say, is an impediment by which "from the first Sunday of Advent up to the day of Epiphany, and from Ash Wednesday up to the Octave of Easter inclusive, the solemnities of nuptials are prohibited."[12] The reason of the prohibition is that these solemnities vehemently draw souls away from spiritual things, to which the Christian faithful ought to attend especially in this sacred time: whence it obliges under grave sin of itself (cf. n. 1217, 5).[13]

But under the name of solemnities are understood: - 1) The blessing of nuptials, which is had in the Mass *For the groom and bride*: this solemn blessing is prohibited under grave sin. - 2) The solemn leading of the bride into the house of the groom, which namely is done with great pomp and great preparation: in this matter one can also sin gravely, if the solemnities are too immoderate: which is to be judged according to the customs of places, from common sense. - 3) More solemn banquets; but "these are not prohibited under grave sin, unless the excess is great: indeed, if they are done moderately, there will be no fault."[14]

Therefore by universal law there are NOT PROHIBITED either betrothals, or proclamations, or the celebration of matrimony, with only that blessing employed which is had in the Ritual; nor the leading of the bride itself without solemnities.[15] Nevertheless, in some places, the celebration of matrimony, although not solemn, is prohibited by customary law or diocesan law, by which one must stand under grave sin, unless a dispensation of the Bishop intervenes.[16] But it is not licit for him, without a special faculty, to permit the solemnities of nuptials, because he cannot dispense, by his own authority, in the universal law of the Church.[17]

(12) Rit. Rom.; cf. Trent, sess. 24, de ref. matr., cap. 10. (13) Sanchez, De Matrim., L. VII, disp. 7, n. 1. (14) Book VI, 983; H. A., XVIII, 53. (15) Ibid., 984. (16) S. R. C., 14 Aug. 1858 (cf. Gardellini, n. 5275 ad 3). (17) Cf. Benedict XIV, Instit. 80, n. 14, 15.

III. Betrothals

1990. BETROTHALS validly entered and not legitimately dissolved induce a true and mutual obligation, so that it is no longer licit for either party, against the faith given, to enter another matrimony; although once celebrated, this would be valid. - Recall what was said n. 1952 and 1953.

IV. Simple Vow

1991. Under the name of VOW, which constitutes a prohibiting impediment of matrimony, comes a simple vow, whether of not marrying, or of preserving chastity, or of entering Religion, or of receiving sacred Orders.

Principles. I. A simple vow is an impediment prohibiting the celebration of matrimony UNDER GRAVE SIN. - The reason is that one contracting with such a vow either directly transgresses it, namely if it is a vow of not marrying, or exposes himself to the proximate danger of transgressing, as is evident: and therefore, since it is a question of a grave obligation, without doubt he sins gravely against the vow. Besides, he sins against justice, because the counterpart not admonished is gravely deceived. To these there is also added the positive declaration of law.[18]

(18) Cap. Rursus, Qui Clerici vel voventes.

1992. II. The OBLIGATION of the vow, after matrimony has been illicitly celebrated, IS NOT REMOVED, except insofar as its fulfillment has been made morally impossible. - The reason: because on the one hand no one ought to report advantage from his own malice, but on the other no one can be held to the impossible.

Hence: 1. He who enters matrimony, disregarding a vow of NOT MARRYING, or consummates matrimony, disregarding a vow of virginity alone, indeed sins gravely; but now he is held to nothing further, since the vow has been made simply impossible.

2. He who, after spurning a vow of CHASTITY, contracts matrimony, is held to all those things which can be observed in the conjugal state, namely: - 1) He cannot ask the debt, unless charity toward the counterpart placed in danger of incontinence advises it; but generally he can render it, because the right of the spouse asking prevails. But - 2) He cannot render when the counterpart does not have the right of asking, namely in the first two-month period, unless the matrimony has already been consummated: for once it has been consummated, he is bound to render, provided the spouse has not lost the right of asking for another cause, e.g. on account of adultery or incest. - 3) When the counterpart has died, he cannot hasten to new nuptials. But if, during matrimony, he commits adultery, by this very fact he also becomes guilty of violation of the vow.[19]
3. He who after emitting a vow of ENTERING RELIGION contracts matrimony, is held to the following: - 1) Within the first two-month period conceded for deliberating, he cannot consummate the matrimony, either by asking or by rendering the debt, but is bound to enter Religion. - 2) After the two-month period has elapsed, the obligation of the vow still endures, if the counterpart, whose will must be seriously explored, is willing to consent to its execution; but if the counterpart does not consent, he can not only render the debt, but also ask it. - 3) If the counterpart loses the right of asking perpetually, or consents to the observance of the vow, or has died, the obligation of the vow revives, unless perhaps the circumstances have been so changed that the vow now ceases intrinsically, e.g. if the one vowing has now grown old. If the vow had been of entrance into an Institute where simple vows are emitted, the obligation would comprehend only those things which we have just said under 3).
4. He who enters matrimony after emitting a vow of RECEIVING SACRED ORDERS can use matrimony, both by asking and by rendering the debt; but he is bound to fulfill the vow, if the

counterpart consents, or if she has died, or if she has lost the right of asking perpetually.

Note. The things said concerning the fulfillment of a vow after contracted matrimony indeed hold of themselves, and in the rigor of law; but IN PRACTICE, for the most part, it will be more advisable that recourse be had to DISPENSATION.

(19) Feije, n. 559.

1993. IT IS ASKED. Who can DISPENSE from the aforesaid vows?

Resp. 1. If the vow is not reserved to the Pope, e.g. a vow of not marrying or of receiving sacred Orders, the Bishop, by ordinary right, can dispense for a just cause.

Resp. 2. If the vow is reserved to the Pope, as is a vow of perfect chastity and a vow of entering Religion strictly so called, provided all the conditions for reservation are verified, one must distinguish: - 1) Before matrimony, the Bishop cannot dispense by ordinary right, unless there is danger in delay, and easy recourse to the Pontiff is not open (cf. n. 645, q. 2). - 2) After matrimony has been contracted, he can dispense from a vow of chastity, in order to asking the debt, since this faculty is conferred on Bishops by force of custom, which furnishes jurisdiction, from cap. *Cum contingat, de foro competenti*.[20] - Nevertheless, in a vow of chastity which spouses have emitted by mutual consent, the Pope alone can dispense, as Authors commonly teach.[21]

What Regular Confessors can do from privilege, see n. 2191, 2.

Note. There is a sufficient CAUSE for obtaining dispensation or commutation in a vow of chastity, or in a vow of entering religion, "if someone on account of grave temptation is in probable danger even of one fall, because through one fall chastity is already lost."[22] - Likewise, if someone has violated a girl by force, or seduced a woman by promise of matrimony; if a girl, bereft of her father, has been left with a very poor mother, and can lead life only from her own labor and with difficulty; if the same, bereft of her mother, has a father who vehemently presses, grows angry, and impels her to nuptials, so that to live with him, unless she obeys, becomes most hard; if the one vowing labors under a disease which, by the counsel of physicians, cannot be met by other medicines, and it is more certain to use the remedy of matrimony, etc.[23]

(20) Book VI, 987; H. A., XVIII, 54. (21) Ibid., 986. (22) Ibid., 1143. (23) Planchard, Disp. matrim., n. 429.

Article II: On Diriment Impediments

DIRIMENT IMPEDIMENTS, which namely stand in the way so that matrimony is not entered validly, have not all been constituted by the same authority: for some have their origin from natural law, others from positive divine law, and finally others from positive human law, i.e. ecclesiastical law, as we shall see in their places. But before we enumerate them, it must briefly be said both of the POWER by which they are constituted, and of the PERSONS whom their bond constrains. - Hence the following:

1994. Principles. I. The CHURCH, by proper and original right, CAN ESTABLISH diriment impediments of matrimony. - It is of faith, from Trent (sess. 24, can. 4), thus defining: "If anyone shall have said that the Church could not establish diriment impediments of matrimony, or that she erred in establishing them: let him be anathema." - For Christ, when he

had renewed marriages to their primary excellence, "entrusted and commended the whole discipline of them to the Church. Which power she exercised in the marriages of Christians at every time and in every place in such a way that it appeared to be proper to her, and not sought by the concession of men, but obtained divinely by the will of its Author."[1]

(1) Leo XIII, Encycl. Arcanum; cf. Syllabus n. 69, 70; cf. also Book VI, 979; H. A., XVIII, 52.

1995. II. The CHURCH ALONE can establish diriment impediments, as regards marriages OF CHRISTIANS. - For "since matrimony is sacred by its own force, its own nature, and of its own accord, it is fitting that it be ruled and governed not by the command of princes, but by the divine authority of the Church, which alone has the magisterium of sacred things. Then, the dignity of the Sacrament must be considered, by whose accession the marriages of Christians have become by far most noble. But concerning a Sacrament the Church alone, from the will of Christ, can and ought so to establish and command, that it is plainly absurd to wish even the smallest part of her power to have been transferred to the governors of the civil commonwealth."[2]

From today's discipline, and already for several centuries, the FACULTY of establishing diriment impediments has been made a greater cause reserved to the supreme authority, namely to the Roman Pontiff or to a general Council; and this seems to have been done for preserving uniformity in so arduous a business, in which difficulties can easily arise.[3]

(2) Ibid., Encycl. Arcanum (cf. Martin, de Matrim., P. 2 throughout). (3) Book VI, 980; De Angelis, lib. 4, tit. 1, n. 15; cf. also Benedict XIV, de Synod., lib. 12, c. 5, n. 2.

1996. III. By diriment impediments of natural law, or of positive divine law, ALL MEN are bound; but by impediments of ecclesiastical law, ONLY CHRISTIANS. - And in very truth: 1. as regards impediments of the law of nature, the matter is evident, since the natural law extends itself to the whole human race. The same must be said as regards impediments of positive divine law; for the things which pertain to it were established in the marriage of our first parents, and therefore are valid for all their children.[4] - 2. But that only Christians, and not infidels, are bound by impediments of ecclesiastical law is certain, since these are not subject to the Church. It is equally certain that all Catholics, in this matter, are held by the laws of the Church. But whether also non-Catholics are held by the same was more disputed; yet the common opinion now affirms it. The reason: because non-Catholics through Baptism have been made subjects of the Church; but she intends to oblige them, since she holds as invalid marriages contracted in heresy, to which nothing stood in the way except an impediment of ecclesiastical law (cf. n. 198). - An exception mercifully made by the Church, in certain cases, as regards the impediment of clandestinity, will be commemorated below, where the Celebration of matrimony is treated (cf. n. 2071).[5]

(4) De Angelis, loc. cit., n. 16. (5) Cf. Benedict XIV, Constit. Singulare nobis.

1997. Questions. Q. 1. Whether the CIVIL LEGISLATOR can establish impediments diriment of matrimony?

Resp. 1. Negatively, as regards marriages of Christians, since power over sacred and divine things belongs exclusively to the Church (cf. n. 149 and 2089). - 2. As regards marriages of infidels, it is disputed. Among the older Theologians the opinion which adjudicated such power to the civil legislator was indeed more received;[6] but among more recent authors the denying opinion has become more common;[7] and this pleases us more, since "matrimony is sacred by its own force, its own nature, and of its own accord," as Our Most Holy Lord Pope LEO XIII says[8] (n. 1995).

Q. 2. Whether an INVINCIBLY UNKNOWN impediment renders matrimony invalid?

Resp. Affirmatively; because it induces inability, for contracting which knowledge is not required. And this is valid, according to the more common opinion, even concerning those impediments which seem to have the nature of a penalty, such as the impediment of crime seems to have.[9] See what is to be said concerning this impediment (n. 2035 sqq.).

Q. 3. Whether an impediment invalidates matrimony, if this is entered FOR AVOIDING a most grave inconvenience?

Resp. Affirmatively; because the common good stands against the cessation of impediments on account of private convenience. For, after some grave fear had been inflicted, too easy a way to contemn them would lie open. Add that marriages would be rendered very uncertain, because it would not always be established concerning a sufficient inconvenience. Thus commonly the Doctors hold it as most certain.[10]

Q. 4. Whether it is licit to contract matrimony with a DOUBTFUL or PROBABLE impediment?

Resp. 1. Affirmatively, if the diriment impediment is of ecclesiastical law, and after diligence has been employed, there is had an opinion probable by probability of law concerning the absence of the impediment, provided that opinion is universally, or certainly by Authors, received as probable. Nor does it stand in the way that, in the confection of the Sacraments, it is not licit to use a probable opinion; "for it is answered that in this case the Sacrament of matrimony is not ministered with a merely probable opinion, but with moral certitude:" because, as the Doctors commonly hand down, when a probable opinion of law stands, that an impediment is not present, from most ancient custom the Church is judged to dispense in it, if perhaps it is present.[11] But this does not hold, if the probability is of fact: for example, if it is believed only probably that intercourse was not perfect, and therefore that affinity is not present; or that betrothals were not valid, and therefore that the impediment of public honesty is not present. - The reason is that in probability of this sort the Church is no longer presumed to dispense, and the opposite opinion is not commonly received as probable; and from another side too many inconveniences would follow if, after matrimony had been contracted, the error were discovered.[12]

Resp. 2. Negatively, speaking of itself, if the impediment is of divine law, whether natural or positive; and the reason is that it is illicit to minister a Sacrament with an opinion only probable concerning its validity; but the Church, in this case, cannot supply the probable defect, since the impediment does not depend on her. - "We said speaking of itself; for, when a most grave cause is urgent, matrimony can be contracted, provided there accedes a declaration of the Supreme Pontiff as the sole interpreter of divine law"[13] (cf. n. 135).

(6) Sanchez, de Matr., L. 7, disp. 3, n. 5. (7) Perrone, de Matrim., Lib. 2, sect. 2, cap. 3. (8) Encycl. Arcanum. (9) Book VI, 1079, v. middle; cf. Vind. Alph., vol. II, p. 452. (10) Sanchez, loc. cit., Lib. 7, disp. 5, n. 4. (11) Book VI, 901; H. A.,

XVIII, 35. (12) Book VI, 902; H. A., ibid.; cf. Vindic. Alph., P. VIII, Qu. 1. (13) Ibid., 902; H. A., ibid., 35.

1998. With these things generally said, one must now treat specifically of the individual impediments.

FIFTEEN are numbered, comprehended in these little verses:

Error, condition, vow, cognation, crime,
Disparity of cult, force, order, bond, honesty,
Age, related by affinity, if clandestine, and impotent,
Or if the woman has been abducted, and not restored to a safe party:
These forbid unions to be joined, retract those made.

These impediments draw their origin, some from defect of valid consent, others from defect of ability of the contracting parties, but one from defect of the form prescribed by the Church. Therefore under a diverse title, according to the variety of origin, we shall treat of each.

§ 1. On Diriment Impediments On Account Of Defect Of Valid Consent

FOUR impediments are opposed to the validity of consent: on the part of the intellect, error and unknown servile condition; on the part of the will, force and abduction.

I. Error

1999. A twofold ERROR is distinguished: substantial, which is concerned with the contracting person, or the nature of matrimony; and accidental, which is concerned with the qualities of the person.

Principles. I. Error CONCERNING THE PERSON invalidates matrimony by the law of nature; whether the error is antecedent, or giving cause to the contract, or merely concomitant, and this even if it is vincible and very crass. - The reason is that, since the persons of the contracting parties are the substantial object of matrimony, if the person is varied, there is error concerning the very substance of the contract. Nor does it matter that matrimony would have been contracted even after the error was known; since not even in this case does the one erring consent into the present person, but into the one whom he judged the person to be.[14]

II. Error CONCERNING THE NATURE OF MATRIMONY, e.g. concerning the mutual right in the body, concerning perpetuity, etc., sometimes invalidates, sometimes does not invalidate matrimony. It INVALIDATES, if the one erring positively intends to contract according to his erroneous concept, e.g. not to confer a right in the body, to reserve to himself the faculty of repudiation; for consent to true matrimony is lacking.[15] It DOES NOT INVALIDATE matrimony, if that positive intention is lacking, since the one erring in such a case, by a certain general will, desires matrimony such as it has been instituted by Christ or ordered by divine law: wherefore this general will, as Benedict XIV says,[16] in some way absorbs the private error. And this is the constant tradition of the Roman Congregations in judging causes of this sort.[17]

(14) Book VI, 1010; H. A., XVIII, 61. (15) Book VI, 24. (16) De Synodo, lib. 13, cap. 22, n. 7. (17) Cf. the same, ibid., n. 8-10.

2000. III. Error CONCERNING THE QUALITIES or FORTUNE of the person does not invalidate matrimony, unless it is concerning a quality which redounds into the substance or into the person. - And this must be held, according to the common and truer opinion, even if the error gave cause to the contract. "The reason: both because then there is already simply voluntary consent concerning the substance of matrimony, namely concerning the person, although voluntary consent in a certain respect is lacking concerning the accidents, which are the qualities of the person; and because otherwise innumerable marriages would become doubtful and exposed to lawsuits."[18]

We said: unless the error is concerning a quality which redounds into the substance; because then, as the Doctors commonly and rightly teach, true consent is lacking, and therefore the matrimony is invalid.[19] - But that it may become known when a quality passes into the substance, the following RULES are handed down:

A quality passes into the substance - 1): If someone actually intends not to contract, or if previously, his will not afterward having been changed, he had intended not to contract, except under the condition of that quality. - 2) If the quality is proper and individual to some determinate person, e.g. that she is the firstborn daughter of the king; but otherwise, if he intended to contract with one of the daughters of the king: because then the quality is not individual, but common to several; in which case, however, the following rule must also be kept before the eyes. - 3) If the contracting party principally intends the quality and less principally the person, for example if he wishes to contract with a noble woman, such as he judges Julia to be; otherwise, if he intended to contract with Julia, whom he believes to be noble.[20]

Note. In the external forum, it does not suffice if the contracting party affirms that he has erred; due proof of the matter is required before a judge (cf. n. 2081).

(18) Book VI, 1011, 1012. (19) Ibid., 1013. (20) Ibid.

II. Condition

2001. By the name of condition here is understood servitude strictly so called.

SERVILE CONDITION invalidates matrimony, if these two things are present at the same time: 1. if the other party is free; 2. if that party is ignorant of the servile condition of the counterpart.[21]

It is an impediment of ecclesiastical law introduced for this end, that the free party should not ignorantly enter a marriage in which, on account of the very disparity of conditions, innumerable inconveniences would be had.[22] - But there is no reason that we should speak more fully of this argument, since slavery properly so called prevails today in very few regions, e.g. in the Turkish empire.

(21) Book VI, 987; H. A., XVIII, 54. (22) Ibid., 986.

III. Force

2002. By FORCE here is signified not absolute coercion, which altogether removes the voluntary; but fear, which does not remove it, but diminishes it. - Coercion can be inflicted only on external

acts, and renders matrimony null on account of defect of consent; but fear affects the will, and vitiates consent really given.

Principles. I. FORCE, or GRAVE FEAR, invalidates matrimony. - That it invalidates it by ecclesiastical law, all acknowledge, and it is clear from the most open definition of law.[1] But whether it invalidates it also by natural law is disputed. Some deny it, because consent remains voluntary, nor are other contracts entered into from fear held invalid. Others, however, no less probably and perhaps more probably, affirm it, and bring forward the following reasons: 1. The law of nature ought to furnish a remedy against injury inflicted through fear: in other contracts, that remedy consists in the faculty of rescinding; but matrimony once valid cannot be rescinded. Therefore another remedy is required, namely that it be invalid from the beginning; otherwise the innocent person would often be compelled to lead a hard life, and the guilty person would report advantage from his iniquity: which things are not consonant with natural reason. - 2. Matrimony is a perpetual bond of mutual love between spouses; but mutual love cannot stand with force and fear, since no one is accustomed to adhere to a thing which he holds unwillingly; therefore matrimony which is contracted on account of fear must be null of itself.[2]

It was said: GRAVE FEAR, namely such as is described in the Treatise on Human Acts (cf. n. 285). For "matrimony entered from LIGHT FEAR is null neither by natural law nor by positive law. - Not by natural law, because he who contracted from light fear, which he could easily repel, is not judged to have contracted unwillingly. - Nor by positive law, for by this only marriages entered from grave fear are declared invalid, and deservedly: for otherwise, if they were rendered null even from light fear, innumerable marriages would be dissolved."[3] As regards reverential fear, this itself does not invalidate matrimony unless it has conjoined with itself danger of grave evil.[4]

(1) Cf. Book VI, 1045; H. A., n. 64. (2) Book VI, 1054; Book III, 716, end. (3) Book VI, 1055. (4) Ibid., 1056.

2003. II. That fear may invalidate matrimony, it is REQUIRED that it be inflicted FROM WITHOUT and UNJUSTLY, for EXTORTING matrimony. - Thus commonly, and it will be clear from what is to be said concerning each condition.

1. It is required that it be from without, i.e. inflicted by man; whence fear inflicted from within, or from a natural cause, does not invalidate matrimony. Nor does it matter for the thing whether it was inflicted by the counterpart herself, or by some third party.[5]
2. It is required that it be unjustly inflicted: for if it is justly inflicted, the one who suffered fear himself gave the cause, nor can he complain that another vindicates his right for himself. But fear must be called justly inflicted when he who inflicted it has a right both of demanding matrimony, and of threatening, and of executing what he threatens: on the contrary, it is inflicted unjustly whenever one of the said things is lacking.[6]
3. It is required that it be inflicted for extorting matrimony; for otherwise "matrimony is not so much contracted through fear, as a means is chosen for evading danger, and matrimony is simply voluntary."[7] - Hence, if a father should find the violator of his daughter and should inflict threats of death on him for extorting matrimony, this indeed would be null, because the violator is not bound absolutely to marry the corrupted woman, but either to marry or to

furnish a dowry. But the matrimony would be valid, if the father threatened death for avenging the injury, and the other entered nuptials in order to free himself.[8]

IT IS ASKED. Whether the COUNTERPART who induced the other party to matrimony by fear CAN WITHDRAW from that matrimony?

Resp. Negatively, from the more probable opinion, because no one ought to report advantage from his own crime. And this especially holds, "if fear cannot be proved; because then, since the Church compels the one who suffered fear to cohabit, such a most grave inconvenience is not reparable except through true matrimony; and so much the more, if the party who suffered fear was a woman, who otherwise, the matrimony being dissolved, would always remain marked with some infamy."[9]

Note. The penalty of excommunication was laid by Trent on lords and civil magistrates violating the liberty of matrimony (cf. n. 1358).

(5) Ibid., 1049. (6) Ibid.; Feije, n. 133. (7) Book VI, 1045. (8) Ibid., 1049 (cf. Acta S. Sed., vol. XI, p. 345). (9) Book VI, 1057; cf. Instr. S. C. Prop. Fid., De Processu matrim., p. 2, art. 3 (Rev. des sc. eccles., t. 52, p. 141).

IV. Abduction

2004. ABDUCTION, insofar as it is a diriment impediment of matrimony, is defined: the abduction of an unwilling woman for the sake of entering matrimony. - It is an impediment of ecclesiastical law, introduced by Trent, for protecting the liberty of matrimony.[10]

Principles. I. ABDUCTION invalidates matrimony, provided that it truly is a violent abduction of a woman for the sake of entering matrimony. - Therefore it is REQUIRED: 1. that it be the abduction of a woman, not of a man; but it is all the same what kind of woman she is, honorable or corrupted, virgin, widow, or even the bride of the abductor. - 2. Abduction: under which name properly comes the deed which places the woman in a separated place under the power of the man; wherefore it also comprehends detention, namely if the woman of her own accord received herself into a place from which she is not permitted to depart. Nor does it matter whether the abductor perpetrated the crime by himself or through others; for he who acts through others is judged to act by himself. - 3. Violent abduction, i.e. which was done while the woman was resisting, whether through absolute coercion or grave fear, or through deceit by which she is retained in the place to which she has been enticed; for in this case deceit is equated with force.[11] But if the abducted woman consented to the abduction, with parents or tutor contradicting, it is ABDUCTION OF SEDUCTION, which, although it induces other penalties established against abductors of this sort, nevertheless does not induce, according to the more probable and common opinion, a diriment impediment[12] (cf. n. 780). - 4. For the sake of entering matrimony: whence, if the abducted woman is abducted for another cause, even for the end of fulfilling lust, the impediment is not incurred, since Trent intended by this impediment nothing other than to favor the liberty of matrimony.[13]

(10) Sess. 24, cap. 6. (11) Feije, n. 157-159. (12) Ibid., n. 171, 185. (13) Book VI, 1107 and 1108.

2005. II. Abduction invalidates matrimony between the ABDUCTOR and the ABDUCTED WOMAN, as long as she HAS REMAINED in the power of the abductor. - Nor does it suffice if the abducted woman, from unwilling, has become willing; but it is altogether required that she be constituted outside the power of the abductor, because otherwise it would not be sufficiently

clear concerning consent free from every side. "But if the abducted woman, separated from the abductor and constituted in a safe and free place, shall have consented to have him as husband, let the abductor have her as wife."[14]

IT IS ASKED. What are the PENALTIES established against abductors?

Resp. "Let the abductor himself, and all those furnishing counsel, help, and favor to him, be by the law itself excommunicated, and perpetually infamous, and incapable of all dignities; and, if they are Clerics, let them fall from their own grade. Moreover let the abductor be bound decently to endow the abducted woman, whether he has married her or has not married her, according to the judgment of the judge." Thus the Council of Trent.[15] The excommunication is incurred by the very fact (cf. n. 1357); the other penalties only after the sentence of the judge.[16]

(14) Trent, sess. 24, cap. 6. (15) Loc. cit. (16) Book VI, 1107, v. Note here.

§ 2. On Impediments Diriment Of Matrimony On Account Of The Inability Of The Contracting Parties

2006. These impediments refer, some to DEFECT OF NATURE, and these are age and impotence; others to defect of FREE STATE, and these are vow, Order, and bond; others to the REVERENCE DUE to connected persons, and these are cognation, affinity, and public honesty; others finally to DANGER both of CONJUGAL FIDELITY and of CHRISTIAN FAITH, and these are crime and disparity of cult.

To one considering it, it is clear that the FIVE FORMER are absolute impediments, which invalidate matrimony with any person whatever as long as they subsist; but the FIVE LATTER are relative impediments, which invalidate matrimony with certain persons, by reason of whom the impediment exists.

On The Impediments Which Refer To Defect Of NATURE

I. Age

2007. DEFINITION. The impediment of AGE consists in this, that both or at least one of the contracting parties has not yet attained the age of puberty; namely, if the MAN has not yet completed the fourteenth year, but the WOMAN the twelfth year.

DIVISION. A twofold puberty is DISTINGUISHED: natural, which consists in an expedited faculty of generating; and legal, which consists in the age determined by law, and which has just been defined. But the definition of law is founded on the presumption that at that age both sufficient discretion and the power of generating are had.

Principle. Defect of the age OF PUBERTY invalidates matrimony by ecclesiastical law, unless malice supplies for age. That matrimony is invalidated by this impediment has been defined many times in law; but that it is invalidated from ecclesiastical law, Benedict XIV declared in the Bull *Magnae Nobis*. The reason is that, by the law of nature, there is required only deliberate consent, and radical ability for the work of marriage, which at some time will be expedited. Moreover, the matrimony of the

impubes is of itself null, as is had in law: and this, even if few days were lacking to the age of puberty, as is commonly taught.[17]

It was said: unless malice supplies for age, i.e. unless there is present, before the established age, sufficient discretion, and it is established concerning actual power of generating. But this is established with the greatest difficulty, apart from the case in which a girl, not yet having attained legal puberty, has already conceived: wherefore, that matrimony can be entered licitly, the declaration of an ecclesiastical judge is required. - But if it is established concerning discretion indeed, but there is doubt concerning expedited bodily ability, there is need of Pontifical dispensation, which is conceded so rarely that the impediment can be held as almost indispensable.[18]

IT IS ASKED. Whether matrimony is valid, if the contracting parties have attained LEGAL puberty indeed, BUT NOT NATURAL?

Resp. Affirmatively; because natural puberty is required by no law: not by natural law, which demands only radical ability; nor by positive law, which asks only the established age. - From what has been said it is easy to conclude that matrimony is valid, if the contracting parties, besides necessary discretion, have attained either puberty, namely legal or natural.[19]

(17) Book VI, 1066. (18) Ibid.; H. A., XVIII, 66. (19) Ibid., 1067; De Angelis, lib. 4, tit. 2, n. 5.

II. Impotence

2008. DEFINITION. Impotence, as regards matrimony, is inability for conjugal intercourse of itself apt for generation.[20]

Whence, the impotent are not the sterile, or old persons, nor women who do not retain the seed received, provided they can perform the act of matrimony; for if they cannot generate, this is by accident. On the contrary, the impotent are perfect eunuchs, who namely lack both testicles, as Sixtus V declared in the year 1587 in the Bull *Cum frequenter*; likewise those who have testicles so crushed that they do not emit true seed; or those who labor under so great bodily debility that they cannot attend to the work of marriage. For all these are incapable of that act "by which generation would be possible of itself."[21] Likewise women are impotent who lack uterus and vagina,[22] or on account of another infirmity or surgical operation do not suffer the congress of a man.

DIVISION. Manifold impotence is distinguished:[23]

1. One is natural, which comes from a natural defect, for example from excessive frigidity in the man, or from excessive narrowing of the vessel in the woman. Another is accidental, which comes from an extrinsic eventual vice, e.g. from disease, malefice, a violent act.
2. One is perpetual, which cannot be removed by natural and licit means, but only through a miracle, or through sin, or with danger of death. Another is temporary, which can be removed by licit and ordinary means, e.g. by surgical art, or even by the lapse of time.
3. One is absolute, which is with respect to any persons whatever: with this labors the man lacking both testicles. Another is respective, which is only with such a person: thus a woman can be apt for one man, but not another.
4. One is antecedent, which preceded matrimony; another subsequent, which followed it.

(20) Book VI, 1095. (21) Ibid. (22) Cf. Thesaur. Resol., year 1863, p. 108, in one Salernitana. (23) Book VI, 1095; H. A., loc. cit., 74.

2009. Principles. I. ANTECEDENT and PERPETUAL impotence, whether natural or accidental, INVALIDATES matrimony with respect to all persons, if it is absolute; but if it is relative, with respect only to that person with whom conjugal intercourse is impossible. - This is clear both from canon law and from natural law: "the reason is that matrimony consists in the mutual handing over of bodies physically apt for generation, or in the handing over of the power of the body for conjugal intercourse: but this power the impotent person cannot hand over, since he does not have it."[24] Wherefore it must be adverted that, although intercourse is not of the essence of matrimony, nevertheless power for it is of the essence.[25]

Hence, when impotence of this sort is CERTAIN, the trial of three years is not conceded, but the unimpeded party can immediately depart from the other; indeed he or she is bound, if there is danger of incontinence. Likewise, that party can pass to other nuptials, if scandal is not present; but if it is present, as commonly happens, that party must altogether recur to the ecclesiastical judge, and prove the impediment.[26]

(24) Book VI, 1095. (25) Ibid., 1101. (26) H. A., ibid., 75; cf. Instr. S. C. Prop. Fid., De Processu matrim., p. 22, art. 5 (Rev. des sc. eccles., t. 52, p. 154).

2010. II. SUBSEQUENT impotence, and TEMPORARY ANTECEDENT impotence, DO NOT invalidate matrimony. - The reason for the first is that subsequent impotence finds matrimony already valid, and therefore indissoluble. The reason for the second is that one laboring under only temporary impotence is, speaking absolutely and of himself, suitable for the conjugal act.[27] Nevertheless this impotence, if it is certain, makes the use of matrimony ILLICIT during that whole time in which there is no probable hope that the act can be legitimately completed. Yet touches and kisses are not forbidden, provided they do not induce danger of pollution (cf. n. 817).[28]

(27) Book VI, 1095. (28) Ibid.

2011. IT IS ASKED. What must be done IN DOUBT concerning impotence?

Resp. 1. Before nuptials have been entered, the party doubting concerning his potency, understand positively from some probable indication, but not negatively, since ordinarily each person is presumed able, cannot contract; unless he has manifested the doubt to the other party and is at least probably potent, from the judgment of physicians.

The reason of the exception is that even then presumption favors him, and therefore he can marry under condition: if I am able, namely from a just cause, lest he be compelled perpetually to remain celibate.[1]

Resp. 2. After nuptials have been entered, whether the doubt supervenes or preceded, there is conceded to the spouses an experience of three years, which, according to the truer opinion, begins from attempted intercourse; the faculty being made for them, within this time, of rendering and asking the debt, even if they pour out the seminal humor, beyond intention, outside the vessel; remedies also being employed which, from the counsel of physicians, are judged suitable, and which

can be employed without grave danger of life, harm to health, or extraordinary troubles. But if impotence still perseveres after the three years, it is judged perpetual, and therefore every experiment of conjugal intercourse is interdicted, since such spouses from that moment are held as released[2] (cf. n. 2009, end). Wherefore separation of bed must be made immediately, even by one's own authority.

Putative spouses can cohabit as brother and sister. But if this cannot be done without danger of sin, or scandal, let them be altogether separated.[3]

Note. "A prudent and discreet Confessor will not ask concerning the impotence of a spouse; nor also will he forewarn those whom he believes impotent; - nor finally will he respond to those consulting him about that matter, unless he himself has first consulted the Bishop." Thus C. Gousset.[4]

(1) H. A., XVIII, 75; Book VI, 1102. (2) Ibid., 1103. (3) S. C. Conc., 15 Dec. 1877 (apud causes per sum. prec., n. II). (4) Th. mor., n. 791.

On The Impediments Which Refer To Defect Of FREE STATE

III. Solemn Vow

2012. Under the name of VOW here comes a solemn vow of chastity, emitted in an approved Religion.[5]

Principle. A SOLEMN vow of chastity freely and spontaneously emitted through profession legitimately made in an approved Religion INVALIDATES matrimony. - This is clear from various places of canon law, and is held as defined in Trent (sess. 24, can. 9): "If anyone shall have said that Clerics constituted in sacred Orders, or Regulars solemnly professed in chastity, can contract matrimony, and that what has been contracted is valid, notwithstanding ecclesiastical law or vow: let him be anathema." Moreover, the Constitution *Apostolicae Sedis* declares that there lie under excommunication *latae sententiae* reserved to Bishops or Ordinaries: "Clerics constituted in sacred things, 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" (cf. n. 1348).

It was said: vow freely emitted; for otherwise the profession would be invalid, nor would there be present a diriment impediment (cf. n. 2147).

IT IS ASKED. By what LAW does a solemn vow of chastity invalidate matrimony?

Resp. It is disputed. The first opinion says that this is done only by ecclesiastical law, "because a solemn vow does not invalidate matrimony by reason of the vow, otherwise also a simple vow would diriment it, but by reason of solemnity; but since solemnity is from ecclesiastical law, therefore matrimony is dirimented by ecclesiastical law alone."[6] This opinion among more recent authors has become more common. The second opinion, more probable to St. Alphonsus, says that matrimony is invalidated by divine law. "The reason: because in a simple vow the body is only promised to God; but in a solemn vow, through the legitimate acceptance of Prelates, the body is moreover HANDED OVER to God."[7]

Note. From the Bull *Ascendente Domino* of Gregory XIII, a simple vow of chastity in the Society of Jesus, after two years of novitiate, does not dissolve ratified matrimony; but it is to be equated with a

solemn vow insofar as it invalidates matrimony to be contracted, unless the General of the Order has dispensed.[8]

(5) Book VI, 1024. (6) Book VI, 1025. (7) Ibid. (8) Cf. Feije, n. 516.

IV. Sacred Order

2013. Which ORDER must be called SACRED is clear from what was said in the Treatise on Order (cf. n. 1886).

Principle. SACRED ORDER, freely received, impedes matrimony from being able to be validly contracted. - This is clear from Trent, in the place cited above (n. 2012). - Similarly, they are subjected to excommunication who, with this impediment standing in the way, presume to contract matrimony, just as was said above concerning those bound by solemn vow.

We said: Sacred Order freely received; for if it was received from grave fear, it does not invalidate matrimony: nevertheless, that this may be contracted licitly, there is required a Rescript of grace, or declaration of the Holy See.[9]

IT IS ASKED. By what LAW does Sacred Order invalidate matrimony?

Resp. It is disputed; but the more common and more probable opinion, with St. Thomas, teaches that this is done only by ecclesiastical law. The reason: because the state of Order of itself is not repugnant to the conjugal state, as is clear from the discipline of the Eastern Church[10] (cf. n. 2200).

Note. If some woman spontaneously and freely consented that her husband receive sacred Orders, she cannot, according to the more common and very probable opinion, after her husband initiated in sacred things has died, validly enter a new matrimony. The reason is that the Church, on account of reverence for the Order assumed by the deceased with her permission, renders her unable for a subsequent matrimony. Nevertheless the opinion that such a matrimony is valid, although illicit, "is sufficiently probable"[11] (cf. n. 1939, 2).

(9) Cf. ibid., n. 507. (10) Book VI, 1059; H. A., XVIII, 65; cf. Haine, De Matr., q. 125. (11) Book VI, 812; cf. Feije, n. 513; De Angelis, lib. 3, tit. 32, n. 6.

V. Bond

2014. By this impediment is understood the bond of matrimony by which one spouse is so obligated to the other that, while the latter lives, he or she cannot contract valid matrimony with anyone else. - It is an impediment of divine law; but it is rooted also in natural law, as is clear from what was said concerning the unity and indissolubility of matrimony (cf. n. 1978).[12]

Hence: 1. Second nuptials are prohibited until it has been established certainly concerning the death of the prior spouse.[13] For in DOUBT, whether positive or negative, the prior marriage possesses. Nevertheless, the matrimony celebrated in such doubt would be valid, if the spouse concerning whose death there is doubt were truly dead, provided true consent is present, although it would be gravely illicit.[14]

2. For the moral certitude which law requires, the long absence of one spouse does not suffice, since this alone does not certainly prove that person's death; likewise, mere fame from

uncertain rumor does not suffice, since a multitude is accustomed easily to receive all rumors; nor does the affirmation of one witness, since in a matter of so great moment the voice of one is the voice of none. - Nevertheless those indications which, taken singly, do not suffice for furnishing moral certitude, can furnish it if they are taken conjointly.[15] - The cause must be remitted to the Ordinary.

3. If, after matrimony contracted in good faith, doubt supervenes, the doubting party should inquire diligently, so that he or she may thus come to certain knowledge of the matter, and meanwhile abstain from exacting the use of matrimony; although the debt must be rendered to the counterpart asking in good faith. But if afterward it is established concerning the life of the prior spouse, he or she is bound immediately to return to this spouse, leaving the later one. - But if on account of distance that party cannot return, and the impediment is occult, let him or her at least be separated from the putative spouse as regards bed. Then when the prior spouse has died, he or she will be able, through renewal of mutual consent, which must be given in the state of grace, secretly to enter matrimony with the second. But if knowledge of the impediment was public, or could easily become public, the matrimony must be repeated publicly (cf. n. 2081, III).[16]

(12) Book VI, 1060. (13) What must be observed in proving the death of some spouse is had in the Instruction of S. C. S. Off., 1868, Matrimonii vinculo (apud Collect. S. Sed., n. 975, or apud Acta S. Sed., VI, 436). (14) Book VI, 901, 903. (15) Cf. Feije, n. 444 sqq. (16) Book VI, 904; cf. also Benedict XIV, de Synodo, lib. 13, c. 21, n. 7.

On The Impediments Which Refer To The REVERENCE DUE TO CONNECTED PERSONS

VI. Cognation

2015. Cognation generally is nearness from generation.

It is distinguished threefold: natural, spiritual, and legal. Each must be treated separately.

1. On Natural Cognation

DEFINITION. Natural cognation, or CONSANGUINITY, is the nearness of persons, of whom one descends from the other, or all descend from the same near stock, through carnal generation. But it does not matter whether the generation comes from licit or illicit intercourse; nor whether it arises from father and mother at the same time, or from either one alone, as was expressly declared by Innocent I;[17] for matrimony is equally prohibited among cognates and agnates, uterine, consanguine, and full siblings.

That this impediment may be rightly understood, three things in consanguinity must be DISTINGUISHED, namely: 1) STOCK, or the person from whom others descend; 2) LINE, or the series of persons descending from the same stock; 3) DEGREE, or the distance of one person from another in the same line of consanguinity. Moreover the LINE is either direct, in which are placed those persons of whom one descends from the other, as father, son, grandson; or transverse or collateral, by which are comprehended those who are united by conjunction of blood, not because some descend from others, but because they have a common stock; namely mediately, as cousins, or immediately, as brothers. If collaterals are distant from the stock by equal degree, the transverse line

is equal; but it is called unequal, if they are distant by unequal degree, i.e. if one is more remote from the common stock. - See the SCHEMA of Consanguinity described below (n. 2020).[18]

(17) Can. 2, caus. 35, q. 10. (18) Cf. Ferraris, v. Matrim., art. 5.

2016. That degrees of consanguinity may be duly recognized, from canon law the THREE following RULES are established.[19]

Rule 1. In the DIRECT line one person is distant from another by as many degrees as there are persons, the common stock being subtracted; or in other words: there are as many degrees as there are generations: e.g. father, son, grandson, and great-grandson are four persons; but only three degrees are numbered, because there are three generations and three persons, the stock being subtracted, namely the father.

Rule 2. In the equal COLLATERAL line, by however many degrees the individual persons are distant from the common stock, by just so many they are distant among themselves. Therefore there are as many degrees as there are generations, or persons on one side, the stock being subtracted. - Hence, brother and sister are in the first degree, paternal cousins and maternal cousins in the second, their children in the third.

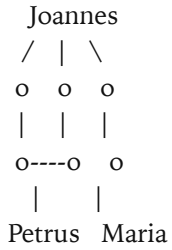
Rule 3. In the unequal COLLATERAL line, by however many degrees the more remote person is distant from the stock, by so many degrees they are distant among themselves. - Therefore there are as many degrees as there are generations, or persons with the stock subtracted, in the more remote side.

Note. In civil law, likewise in the Greek Church, both for marriages and for successions, another rule prevails, namely: in the collateral line, there are as many degrees as there are generations from either side; or as many as persons are similarly numbered from either side, with the common stock subtracted. - See, in the SCHEMA, the numbers placed in the lower part of the cells.

(19) Book VI, 1029; H. A., XVIII, 62.

2017. Persons can be joined among themselves not only by one bond of consanguinity, but by a MULTIPLE bond, whether from one or from several stocks, according as there is given a single or multiple foundation of consanguinity. But there are THREE CAUSES why the bond of consanguinity is multiplied.[20]

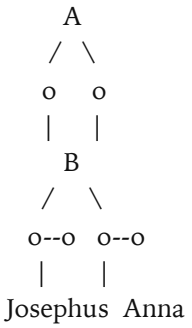
The first cause of multiplicity is when parents are consanguineous, since their children descend, both through the paternal line and through the maternal line, from a common stock.



Thus, in the appended figure, Peter and Mary are consanguineous in the third equal degree, and this by a double degree of the collateral line, from the stock, which is John, from whom Peter descends by

a double way.

The second cause of multiplicity is when persons consanguineous among themselves, e.g. brothers, have procreated offspring from persons consanguineous among themselves, e.g. from sisters, or cousins. - Hence, if two brothers marry two sisters, their children are consanguineous in a double second equal degree, as the annexed figure demonstrates concerning Joseph and Anna.



The third cause of multiplicity is when someone has offspring from several persons consanguineous among themselves. - Thus, e.g. if someone procreated sons from two sisters, these are consanguineous by reason of the father in the first degree, by reason of the mothers in the second.

The nature of cognation having been known, it must now be investigated how it impedes matrimony. - Wherefore let the following be held:

(20) Cf. Feije, n. 356 sqq.; and Benger, Pastoral. Theol., § 187, n. 4.

2018. Principles. I. Consanguinity in the DIRECT line invalidates matrimony INDEFINITELY, in whatever degree. - This is clear from the Response of Nicholas I to the Bulgarians, cap. 39.[21]

But by what law it invalidates it has not likewise been defined. That it invalidates it by the law of nature, if consanguinity is in the first degree, all acknowledge, since the relation of subjection by which children are held toward parents cannot be associated with the relation of equality which ought to exist between spouses. Concerning more remote degrees it is disputed: some derive the force of invalidating from the law of nature, others from positive divine law, others finally from merely ecclesiastical law. For the rest, the question, as anyone sees, little regards practice.[22]

(21) Cf. Giovine, § 205, n. 6. (22) Cf. Book VI, 470 and 1029.

2019. II. Consanguinity in the COLLATERAL line invalidates matrimony up to the fourth degree inclusive, and no further. Thus it was defined in the Fourth Lateran Council by Innocent III, who restricted this impediment, which formerly was extended up to the seventh degree, to the fourth.[23] But the reason of this law is both the protecting of modesty, "because great access to concupiscence would be furnished, unless carnal intercourse were interdicted among persons who ought to dwell in the same house;"[24] and the multiplying of friendship, while the spouse follows the consanguine relatives of the spouse with nearly the same benevolence as his or her own consanguine relatives. Add that through frequent conjunctions from the same cognation, families are weakened.

But concerning the law by which matrimony, on account of the aforesaid impediment, is invalidated, these things must be NOTED: It is certain that in the second and more remote degree, it is invalidated only by ecclesiastical law: whence, if infidels consanguineous in that degree enter nuptials, their nuptials are not, from this title, invalid, as is clear from canon law.[25] Concerning the first degree it is not established among Theologians: for some affirm merely ecclesiastical law, others natural law, others finally positive divine law, which last opinion seems more probable.[26] Whatever may be the case, it is certain that the Church has never dispensed in that degree, and never is going to dispense; but very rarely does she dispense in the second degree mixed with the first, as is clear from the Letters of Gregory XVI, issued on 22 Nov. 1836.[27] See n. 2042, 3.

N. B. Formerly, persons knowingly and freely contracting marriages in prohibited degrees of consanguinity, or affinity, incurred excommunication *latae sententiae* reserved to no one. From Clementine *un. de Consang. et affin.* This penalty, through the Constitution *Apostolicae Sedis*, has been removed (cf. n. 1348).

2020.

(23) Cap. Non debet 8, de consanguinitate. (24) St. Thomas, Suppl., q. 54, a. 3. (25) Cap. Gaudemus 8, de divortiis. (26) St. Thomas, ibid.; cf. De Angelis, lib. 4, tit. 14, n. 2. (27) Benedict XIV, Epist. Aestas anni, n. 13 (11 Oct. 1757); cf. Giovine, § 209, n. 3.

Schema of Consanguinity

Consanguines on the father's side and on the mother's side.

The printed tree places the person marked **N.** in the center. The Roman numeral in each cell gives the canonical degree; the Arabic number beneath gives the civil degree.

Schematic transcription of the printed tree:

Position in the printed tree	Canonical degree	Civil degree	Names printed
Direct ascendant, fourth	IV	4	Abavus, Abavia
Direct ascendant, third	III	3	Proavus, Proavia
Direct ascendant, second	II	2	Avus, Avia
Direct ascendant, first	I	1	Pater, Mater
Center			N.
Direct descendant, first	I	1	Filius, Filia
Direct descendant, second	II	2	Nepos, Neptis
Direct descendant, third	III	3	Pronepos, Proneptis
Direct descendant, fourth	IV	4	Abnepos, Abneptis
Father's side, upper fourth	IV	5	Propatruus, Proamita
Mother's side, upper fourth	IV	5	Proavunculus, Promatertera
Father's side, third	III	4	Patruus, Amita magna
Mother's side, third	III	4	Avunculus, Matertera magna
Father's side, second	II	3	Patruus, Amita
Mother's side, second	II	3	Avunculus, Matertera

Position in the printed tree	Canonical degree	Civil degree	Names printed
Brother's side, first	I	2	Frater
Sister's side, first	I	2	Soror
Father's side, second collateral	II	4	Patruelis, Amitinus, Amitina
Mother's side, second collateral	II	4	Consobrinus, Sobrina
Brother's descendants, second	II	3	Fratris filius, filia
Sister's descendants, second	II	3	Sororis filius, filia
Brother's descendants, third	III	4	Fratris nepos, neptis
Sister's descendants, third	III	4	Sororis nepos, neptis
Brother's descendants, fourth	IV	5	Fratris pronepos, proneptis
Sister's descendants, fourth	IV	5	Sororis pronepos, proneptis
Further collateral descendants	III	5	Horum filius, filia
Further collateral descendants	IV	6	Horum nepos, neptis
Further collateral descendants	IV	7	Eorum nepos, neptis
Further collateral descendants	IV	8	Horum pronepos, proneptis

Names of Consanguines

(in the language: 1 Italian, 2 Spanish, 3 French, 4 German, 5 English.)

A. Direct Line.

Ascendants. - Fourth Degree. - **Abavus, Abavia**: 1 Trisnonno (trisavolo) - trisnonna (...avola); 2 Tatarabuelo - ...abuela; 3 Trisaieul - ...aieule; 4 Urgrossvater - ...mutter; 5 Great-great-grand-father - ...mother.

Third Degree. - **Proavus, Proavia**: 1 Bisnonno (bisavolo) - bisnonna (bisavola); 2 Bisabuelo - ...abuela; 3 Bisaieul - ...ie; 4 Urgrossvater - ...mutter; 5 Great-grand-father - ...mother.

Second Degree. - **Avus, Avia**: 1 Nonno (Avolo) - ...na (...la); 2 Abuelo - ...la; 3 Aieul (Grand-pere) - Aieule (gr. mere); 4 Grossvater - ...mutter; 5 Grand-father - ...mother.

First Degree. - **Pater, Mater...**

Descendants. - First Degree. - **Filius, Filia**: 1 Figlio - figliuola; 2 Hijos - hijas; 3 Fils - fille; 4 Sohn - Tochter; 5 Son - Daughter.

Second Degree. - **Nepos, Neptis**: 1 Nipotino - ...tina; 2 Nietos - nietas; 3 Petit-fils - petite-fille; 4 Enkel - Enkelin; 5 Grandson - ...daughter.

Third Degree. - **Pronepos, Proneptis**: 1 Pronepotino - ...tina; 2 Bisnietos - ...tas; 3 Arriere-petit-fils - arr.-petite-fille; 4 Urenkel - ...lin; 5 Great-grandson, ...daughter.

Fourth Degree. - **Abnepos, Abneptis**: 1 Abnepotino - ...tina; 2 Tartaranietos - ...as; 3 Bisarriere-petit-fils - ...fille; 4 Ururenkel - ...lin; 5 Great-Great-grandson - ...daughter.

B. Collateral Line.

Paternal line. - First Degree. - **Frater, Soror.**

Second Degree. - **Patruus** (father's brother), **Amita** (father's sister): 1 Zio, zia; 2 Tio, Tia; 3 Oncle paternel, tante paternelle; 4 Oheim (Vaters Bruder), Tante (Vaters Schwester); 5 Paternal uncle, ...aunt.

Patrueles, or **Amitini, ...ae**: sons (daughters) of the father's brother or sister.

Third Degree. - **Patruus magnus** (grandfather's brother), **Amita magna** (grandfather's sister): 1 Fratello dell'avolo, sorella dell'av.; 2 Hermano del abuelo, hermana del ab.; 3 Frere, soeur de l'aieul; 4 Grossoheim, ...Tante; 5 Great-uncle, great-aunt.

Sobrini, ae: sons, daughters of the grandfather's brother or sister, that is, the father's nephews, nieces.

Fourth Degree. - **Propatruus** (great-grandfather's brother), **Proamita** (great-grandfather's sister): 1 Fratello, Sorella del bisavolo; 2 Hermano, ...na, del bisabuelo; 3 Grand oncle, grande Tante; 4 Urgrossoheim (Urgrossvaters Bruder), Urgrosstante (Urgrossvaters Schwester); 5 Great-grand-uncle, ...aunt (Great-grandfather's brother, ...sister).

Maternal line. - First Degree. - **Frater, Soror.**

Second Degree. - **Avunculus** (mother's brother), **Matertera** (mother's sister): 1 Zio, zia; 2 Tio, tia; 3 Oncle maternel, tante maternelle; 4 Oheim, Tante; 5 maternal uncle, ...aunt.

Consobrini, ae, sons (daughters) of the mother's brother or sister.

Third Degree. - **Avunculus magnus** (grandmother's brother), **Matertera magna** (grandmother's sister): 1 Fratello, Sorella dell'avola; 2 Hermano, ...na de la abuela; 3 Grand oncle maternel, grande tante maternelle; 4 Grossoheim, ...Tante; 5 Grand mother's brother, ...sister.

Sobrini, ae: sons, (daughters) of the grandmother's brother or sister, that is, the mother's nephews, nieces.

Fourth Degree. - **Proavunculus** (great-grandmother's brother), **Promatertera** (grandmother's sister): 1 Fratello, Sorella della bisavola; 2 Hermano, ...na de la bisabuela; 3 Grand oncle, soeur de la bisaieule; 4 Bruder, Schwester der Urgrossmutter; 5 Great-grand mother's brother, ...sister.

More remote **Sobrini**...

2. On Spiritual Cognation

2021. SPIRITUAL cognation is a certain nearness of persons arising from the conferring or receiving of Baptism, or Confirmation. - The reason of nearness is that in both Sacraments there is a spiritual generation, in which he who confers the Sacrament bears the person of God, as of a father; and he who receives the baptized person from the sacred font, or holds the one to be confirmed, bears the person of the Church, as of a mother.[1]

I. SPIRITUAL COGNATION is an impediment invalidating matrimony by ecclesiastical law: 1) between the minister of the Sacrament, Baptism or Confirmation, and the subject, and this subject's father and mother; 2) between those lifting up, godfather and godmother, and the subject, and this subject's parents. Thus Trent.[2] But no cognation is contracted between the minister and those lifting up, nor between the godfather and godmother.[3]

The persons to whom the impediment extends are stated in the following manner:

The one baptizing, the one baptized, and the parents of the baptized;
The one lifting, the one lifted, and the parents of the lifted.

II. SPIRITUAL COGNATION arises from the office of sponsor validly performed, both in the conferring of Baptism and in the conferring of Confirmation (n. 1484 and 1504). Wherefore two things come to be noted:

1. If someone, from error, receives one infant for another, he more probably contracts cognation, because he is presumed to have wished to receive the one present, whoever he may be, unless he intended another exclusively.[4]
2. If the office of sponsor is exercised by procuration, the one mandating, not the mandatary, contracts cognation, as is clear from the following declaration: "The Sacred Congregation judged that a procurator who receives in the name of another, or has held for Confirmation, does not contract cognation for himself, but for the one mandating." Thus S. C. of the Council, 15 March 1631[5] and 11 June 1881.[6]

(1) St. Thomas, Suppl., q. 56, a. 3. (2) Sess. 24, cap. 2, de ref. (3) Book VI, 146 sqq. and 1028; H. A., XIV, 33, 53. (4) Book VI, 152. (5) Cf. Analecta J. P., series 8a, col. 1786. (6) Acta S. Sedis, vol. XIV, p. 416.

2022. Questions. IT IS ASKED 1. Whether one receiving someone in Baptism conferred under condition CONTRACTS cognation?

Resp. If concerning the first Baptism there is present only a negative doubt, it is certain that cognation is contracted, because no reason stands for the value of the earlier Baptism; and therefore the presumption stands for the value of the later. But otherwise, if concerning the prior Baptism there is had a positive doubt, namely a probable reason concerning its validity.[7]

IT IS ASKED 2. Whether spiritual cognation is contracted from PRIVATE Baptism?

Resp. 1. The Doctors commonly teach that it is contracted by the one baptizing.[8]

2. Concerning the one receiving or lifting there was a place for doubting; but to the question: "Whether the disposition of the Council, cap. 2, sess. 24 *de reform. matrim.*, 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 following without solemnities because of necessity?" - S. C. C. judged that the response was to be: Affirmative, on 5 March 1678.[9] And by this decree indeed the question was solved, but the controversy had not yet been ended, because the decree had not been sufficiently published.[10]

IT IS ASKED 3. Whether cognation is contracted from the SOLEMNITIES completed in church after Baptism privately conferred at home?

Resp. Negatively. The reason is that cognation is contracted only from spiritual generation, which is wholly accomplished through Baptism, not through the solemnity of ceremonies. - Thus S. C. of the Council declared many times (13 April 1669 and 2 October 1687).[11]

IT IS ASKED 4. Whether PARENTS baptizing or receiving their own CHILDREN in Baptism contract the impediment of asking the debt?

Resp. If parents baptize from necessity or from ignorance, it is certain that the impediment is not contracted; indeed, it is sufficiently probable that it is not contracted if they baptize deliberately and apart from necessity, although in this case they sin gravely. The reason for the first is that the prohibition from the use of marriage has the nature of a penalty; but this is not incurred without fault. The reason for the second is that such a penalty is not found expressed in law; whence it is not certainly established concerning it. But in doubt no one is to be despoiled of a right otherwise certain.[12]

Note. 1. Parents baptizing their own illegitimate offspring, even in a case of necessity, certainly contract cognation in order to matrimony to be entered, so that a mother, for example, who baptized an illegitimate son cannot enter nuptials with the father of the son, unless she has obtained a dispensation.

2. Sponsors are accustomed to be chosen from consanguines or from affines; whence, to this impediment very great attention must be paid when the betrothed are consanguineous or affined. And it must be noted that multiple spiritual cognation can exist between them, for example if each has reciprocally received the other's offspring in Baptism, or has held the other's offspring in Confirmation: which must be expressed in the petition for dispensation.[13]

(7) H. A., XIV, 33; Book VI, 151; cf. also n. 902. (8) Book VI, 149. (9) Cf. Analecta J. P., series 8a, col. 1731. (10) Cf. Feije, n. 413. (11) Analecta J. P., series 8a, col. 1732. (12) Book VI, 150. (13) Feije, n. 424.

3. On Legal Cognation

2023. LEGAL cognation is a nearness of persons proceeding from adoption. By reason of this civil nearness, matrimony between certain persons was prohibited by Roman law, on account of modesty and public honesty. The Church rightly preserved this discipline once constituted, and added to it the force of invalidating matrimony, and from this it came about that legal cognation became a canonical impediment.[1]

The foundation of legal cognation is adoption made according to the norm of civil law. In Roman law a TWOFOLD adoption is distinguished, namely perfect and imperfect. "Perfect adoption is that by which, by rescript of the Prince, a person *sui juris* passes into the power and family of the adopter, just as also his children. Imperfect adoption is when it is made without rescript of the supreme Prince, but by the authority of an inferior magistrate; nor does the adopted person pass with his children into the power of the adopter."[2] But adoption, as it is admitted among modern nations, departs more or less from Roman law, and participates in both, namely perfect and imperfect. Concerning this matter let the following be:

(1) Cf. Can. 1, caus. 30, q. 3. (2) Book VI, 1027, Note 1.

2024. Principles. I. From PERFECT adoption there arises legal cognation invalidating matrimony. Thus all, and it is clear from the response of Nicholas I to the Bulgarians.[3] It is said from perfect adoption; for the more probable opinion denies that it also arises from imperfect

adoption, since this is rather a way to adoption than true adoption.[4] But if no public authority intervenes in the adoption, it is certain among all that no impediment arises from it.

(3) Cf. Can. 1, caus. 30, q. 3. (4) Book VI, 1027; cf. Ferraris, v. Matrimonium, art. 2, addit., where Resp. S. Off., 16 Apr. 1761.

2025. II. Legal cognation bears before itself a THREEFOLD SPECIES, namely: of paternity, of fraternity, and of affinity, by reason of which matrimony is INVALIDATED in a diverse manner.

1. By reason of PATERNITY, matrimony is invalidated between the adopter and the adopted person and this person's descendants existing under his power at the time of adoption; and this perpetually, even when the adoption has been dissolved (cf. n. 698).
2. By reason of FRATERNITY, matrimony is invalidated between the adopted person and the children of the adopter; but only for a time, namely so long as the children are under the power of the father, and so long as the adoption has not been dissolved.
3. By reason of legal AFFINITY, matrimony is invalidated between the adopted person and the wife of the adopter, and similarly between the adopter and the wife of the adopted person; and this in perpetuity.[5]

(5) Book VI, 1027, Note 2.

2026. IT IS ASKED. Whether legal cognation arises from adoption, as it is accustomed to be done NOW among diverse peoples, namely without the form of Roman law being observed?

Resp. Affirmatively, if at least the essentials are observed, namely: 1) if the civil laws admit adoption, and 2) if the adoption has been performed according to the manner prescribed by the civil laws. - This is clear from various decisions of the S. Penitentiary: thus, on 17 May 1826, the S. Tribunal declared that through the adoption prevailing in France and legitimately performed, an impediment is induced. And to the DOUBT: Whether adoption celebrated in the form prescribed by the civil Code of the Neapolitan kingdom produces or does not produce the canonical impediment of legal cognation invalidating matrimony? The Congregation of the Holy Office itself, on 23 February 1853, responded: Affirmatively. Yet the persons to whom this impediment extends are always to be computed from the dispositions of Roman law, since this alone is the norm received in the Church.[6]

(6) De Angelis, lib. 4, tit. 12, n. 3.

VII. Affinity

2027. AFFINITY is the nearness which one contracts with the consanguines of that person with whom he has carnal intercourse so perfect that, of itself, it is apt for generation.

The foundation of this nearness is carnal commingling, through which man and woman become one flesh, and each part is inserted into the cognation of the other part. Hence: 1. Affinity is NOT CONTRACTED from betrothals, nor from ratified but not consummated matrimony, nor from imperfect intercourse, or from other acts however immodest; indeed, it is not contracted "unless the intercourse is consummated on both sides with semination, as they probably teach, with St. Bonaventure and St. Thomas, who says: man and woman are made one flesh through the

commingling of seeds: whence... unless the mingling of seeds follows, affinity is not contracted."[7] 2. But it IS CONTRACTED from perfect intercourse, whether licit or illicit, whether free or coerced, whether had by an infidel or by a faithful person.[8] Nor does it stand in the way if the persons were sterile or old; provided both have reached puberty. - If it is established concerning intercourse, but there is doubt whether it was perfect or not, it is judged to have been perfect.[9] Likewise, if it is established concerning conception of offspring having followed, the impediment is certainly present, "however something is said to have been lacking in the very act of conjunction of the man and woman: for, in reality, they have become one flesh, since offspring is conceived from the flesh of the man and woman."[10]

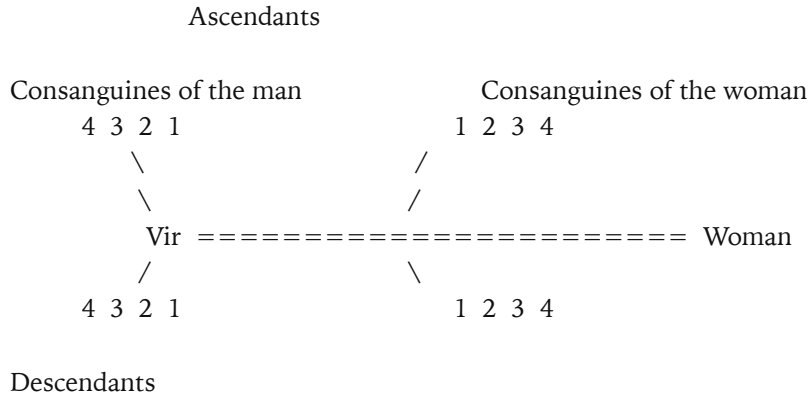
(7) H. A., XVIII, 68. (8) Book VI, 1069. (9) Ibid., 1075. (10) Lehmkuhl, II, n. 762, ad II, 1.

2028. Let the following be NOTED concerning these things:

1. The bond of affinity, not otherwise than the bond of consanguinity, can be MULTIPLE; and much attention must be paid to this multiplicity when a dispensation is to be sought. - But this multiplicity arises from a FOURFOLD head, namely: 1) if intercourse has been had with several consanguines of the counterpart; 2) if it has been had with a person joined to the counterpart by a multiple bond of consanguinity; 3) if it has been had on each side with a person consanguineous to the counterpart; 4) if, with a person consanguineous to the counterpart, intercourse has been had both licit and illicit. But see n. 2051, 5.
2. Affinity is CONTRACTED by the man alone with the consanguines of the woman known by him, and by the woman alone with the consanguines of the man with whom she came together; but by no means by the consanguines of one with the consanguines of the other; for affinity does not beget affinity. Nor are the man and woman knowing one another bound by the bond of affinity, but they themselves are the root or stock from which affinity arises. Hence: 1) "two brothers can marry two sisters; indeed father and son can marry mother and daughter." 2) "Titius can successively marry Titia and Berta, who were wives of Caius and Sempronius, brothers;" 3) "Titius, who had married the sister of Caius, can, after the death of Caius and of his sister, marry Berta the wife of Caius."[11] 4) Any consanguine of a husband validly and licitly contracts with a consanguine of the wife, and conversely a consanguine of the wife with any consanguine of the husband.
3. Affinity, of itself, does not have LINES NOR DEGREES; but only by reason of consanguinity, after the likeness of which it proceeds; so that, in that line, and in that degree, in which one is consanguineous to one party, in the same line and in the same degree he is affine to the counterpart.
4. Affinity is distinguished as antecedent, which precedes matrimony, and supervening, which follows it, from the fact that the man knows a consanguine of the woman, or from the fact that the woman permits herself to be known by a consanguine of the man. Antecedent affinity alone can be a diriment impediment, since matrimony once rightly entered cannot now be dissolved; yet supervening affinity has its effects, concerning which below (n. 2031, qu. 3).

(11) Book VI, 1069.

Schema of Affinity



Affines in the first and in the second degree.

(1 Italian, 2 Spanish, 3 French, 4 German, 5 English.)

a) Ascendants.

2. **Prosocer** (grandfather by affinity): 1 Avolo per affinita; 2 Abuelo por afinidad; 3 Aieul par affinite; 4 Grosschwiegervater; 5 Wife's grand-father.

2. **Prosocrus** (grandmother by affinity): 1 Avola per affinita; 2 Abuela por afinidad; 3 Aieule par affinite; 4 Grosschwiegermutter; 5 Wifes' grandmother.

1. **Socer** (father of the husband or wife): 1 Suocero; 2 Suegro; 3 Beau-pere; 4 Schwiegervater; 5 Father-in-law.

1. **Socrus** (mother of the wife or husband): 1 Suocera; 2 Suegra; 3 Belle-mere; 4 Schwiegermutter; 5 Mother-in-law.

1. **Vitricus** (mother's husband): 1 Padrigno; 2 Padrastro; 3 Beau-pere; 4 Stiefvater; 5 Step-father.

1. **Noverca** (father's wife): 1 Matrigna; 2 Madrastra; 3 Belle-mere; 4 Stiefmutter; 5 Step-mother.

b) Descendants.

1. **Privignus, ...a** (son, daughter from the first matrimony of the father or mother): 1 Figliastro, ...a; 2 Hijastro ...a; Entenado, ...da; 3 Beau-fils, Belle-fille; 4 Stiefsohn, ...tochter; 5 Step-son, Step-daughter.

1. **Gener** (daughter's husband): 1 Genero; 2 Yerno; 3 Gendre; 4 Schwiegersohn (Tochtermann, Eidam); 5 Son-in-law.

1. **Nurus** (son's wife): 1 Nuora; 2 Nuera; 3 Bru, Belle-fille; 4 Schwiegertochter (Schnur); 5 Daughter-in-law.

2. **Progener** (granddaughter's husband): 1 Progenero; 2 Proyerno, marido de la nieta; 3 Mari de la petite-fille; 4 Kindestochtermann; 5 Grand-daughters' husband.

2. **Pronurus** (grandson's wife): 1 Pronuora; 2 Pronuera; 3 Femme du petit-fils; 4 Gross-Schwiegertochter; 5 Grandson's wife.

c) Collaterals.

1. **Levir** (brother of the husband or wife): 1 Cognato; 2 Cunado; 3 Beau-frere; 4 Schwager; 5 Brother-in-law.

1. **Glos** (husband's sister): 1 Cognata; 2 Cunada; 3 Belle-soeur; 4 Schwagerin; 5 Sister-in-law.

1. **Fratria** (brother's wife): 1 Cognata; 2 Cunada; 3 Belle-soeur; 4 Schwagerin; 5 Sister-in-law (a brother's wife).

1. **Sororius** (sister's husband): 1 Cognato; 2 Cunado; 3 Beau-frere; 4 Schwager; 5 Brother-in-law (a sister's husband).

2029. Principles. I. Affinity from CONJUGAL intercourse invalidates matrimony up to the FOURTH DEGREE inclusive. - Thus from the Fourth Lateran Council, by which this impediment, formerly extending itself up to the seventh degree, was restricted to the fourth: "since," says Innocent III, "in further degrees a prohibition of this kind now cannot generally be observed without grave detriment."

2030. II. Affinity from FORNICARIOUS intercourse, that is, non-conjugal, invalidates matrimony up to the SECOND DEGREE inclusive, and no further. - Thus from Trent, sess. 24, cap. 4. - Hence: 1) he who has sinned with two sisters or with first cousins by blood, or with a mother and daughter, cannot marry any one of these; 2) he who has sinned with a consanguine of his betrothed in the first or second degree cannot, without dispensation, marry the aforesaid betrothed. - Concerning other things see n. 2032.

2031. Questions. IT IS ASKED 1. To what DEGREE the impediment of affinity extends from INVALID matrimony, but consummated?

Resp. 1. If the matrimony has been consummated in good faith on both sides, the intercourse is to be called materially only fornicary, but formally conjugal: wherefore the impediment is drawn out up to the fourth degree, as is clear from the declaration of S. C. C. in Brixien., 3 December 1667.[12]

Resp. 2. If the matrimony has been consummated in bad faith on both sides, or at least on one side, it is CONTROVERTED: wherefore, in an occurring case, the Holy See must be asked.[13] But if there is question of a merely civil matrimony, the intercourse is to be held simply as fornicary, so that affinity extends itself only to the second degree. See the Decree of S. C. C. of 13 March 1879, approved by His Holiness Pope Leo XIII on 17 March, and pertaining to the impediment of PUBLIC HONESTY (n. 2034).[14]

IT IS ASKED 2. By what LAW does affinity invalidate matrimony?

Resp. By ecclesiastical law, in whatever degree, according to the common opinion.[15] The reason is that the Church dispenses in whatever degree of the collateral line, and even of the direct line, if affinity arises from illicit intercourse.[16] Some formerly taught that matrimony is invalidated by natural law in the first degree of the direct line, if affinity arises from conjugal intercourse. But this today is commonly denied, since the nature of affinity is the same, whether it comes from licit or from illicit intercourse. Nor does it stand in the way that in the first degree of the direct line from conjugal intercourse, the Church does not dispense; for, as St. Thomas says,[17] "Matrimony causes

affinity, not only by reason of carnal intercourse, but also by reason of conjugal society, according to which matrimony also is natural" (cf. n. 2042, 4).

Thence it follows that affinity does not obstruct the validity of matrimony among infidels: nor for that reason, without consulting the Holy See, can converts to the faith be separated who, with such an impediment, entered nuptials in infidelity. But affinity contracted in infidelity invalidates the matrimony which affines of this kind would wish to enter after the conversion of either one or of both to the true Faith: because the converted are subject to the laws of the Church, and this is clear from the declaration of the S. Congregation de Propaganda Fide, 23 August 1852.[18]

IT IS ASKED 3. What concerning SUPERVENING affinity between spouses AFTER matrimony has been contracted?

Resp. 1. Supervening affinity DEPRIVES the guilty party of the right of asking the debt, when the intercourse was consummated with a person consanguineous to the other spouse in the first or second degree. - But if the innocent spouse asks the debt, at least tacitly, or if he or she is in danger of incontinence, the guilty party is bound to render. But although the obligation of not asking is grave, nevertheless it does not seem to subsist in the case in which the incestuous person himself or herself should be in great danger of incontinence, nor could immediately seek dispensation; because, since the law is only ecclesiastical, it does not oblige with so great an inconvenience.[19] But as regards DISPENSATION, the Bishop can grant it, and indeed by ordinary right, which belongs to him, if not from an express disposition of law, at least from legitimately prescribed custom. And hence it is that he can also delegate this faculty of his in general.

Resp. 2. This impediment of asking the debt does not have the nature of inability, but the nature of a PENALTY; whence from it there EXCUSE both force or grave fear, and ignorance, whether of fact, namely that the person carnally known is consanguineous to the other spouse; or of law, namely that there exists a human law which peculiarly prohibits such incest; or of penalty, which, since it is extraordinary, and therefore cannot be foreseen even confusedly, probably is not incurred. But with this probability standing, the spouse ought not to be deprived of his or her certain right.[20] For the rest, in practice, spouses for the most part are ignorant of the penalty incurred, until, after an incest of this kind has been confessed, they have been taught about it by the confessor, as is fitting.

(12) Cf. Thesaur. Resol., tom. 2, d. 241-242; cf. also Giovine, § 285, 6. (13) Cf. Feije, n. 378. (14) Cf. Thesaur. Resol., t. 138, p. 182. (15) Book VI, 1068. (16) Cf. Feije, n. 379, and Giovine, § 305 and 306. (17) In 4, dist. 41, a. 1, q. 3. (18) Collect. S. Sed., n. 867. (19) Book VI, 1070-1076; H. A., XVIII, 68, 69. (20) Ibid., 1052 sqq.

VIII. Public Honesty

2032. PUBLIC HONESTY is a certain nearness, or quasi-affinity, contracted from betrothals or ratified matrimony with the consanguines of the counterpart. It is an impediment only of ecclesiastical law, but deriving its origin from Roman law, and induced for this reason, because it is congruous to public honesty, especially among Christ's faithful, that, just as from the union of bodies affinity arises, so from the union of souls there should arise quasi-affinity.[1]

Principles. I. FROM valid and absolute BETROTHALS public honesty is contracted, invalidating matrimony in the first degree of consanguinity. Thus from Trent, sess. 24, cap. 3, *de reform. matrim.*

It is said 1. from valid betrothals; for the impediment from betrothals invalid for whatever reason was altogether removed by Trent; it is said 2. and absolute, because a condition appended, so long as it has not been verified, suspends the effect of the betrothals, and imposes only the obligation of awaiting the event (cf. n. 1951, q. 4). The impediment was restricted to the first degree alone, "since in further degrees," says Trent in the cited place, "a prohibition of this kind now cannot be observed without detriment."

Moreover, this impediment is contracted also from occult betrothals, as is clear from the response of the S. Penitentiary, which, being asked "whether from clandestine betrothals the impediment of PUBLIC HONESTY is contracted," responded on 10 September 1834: Affirmatively (cf. n. 2043, Hence 1).

And here it must be noted that an impediment once contracted always endures, even though the betrothals had been dissolved by mutual consent. This is clear from the declaration of S. C. C., 6 July 1658, approved by Alexander VII.[2]

(1) Feije, n. 334. (2) Book VI, 1063.

2033. II. FROM RATIFIED MATRIMONY public honesty is similarly contracted, invalidating matrimony up to the FOURTH degree of consanguinity, inclusive; although, on account of whatever cause, except only defect of consent, the matrimony was INVALID. The reason is that, if from betrothals there arises some nearness, or quasi-affinity, *a fortiori* it ought to arise from ratified matrimony. But then it extends up to the fourth degree, because the ancient law, in this matter, was not changed by Trent, as St. Pius V declared in the Constitution *Ad Romanum*, 1 July 1568.

Hence, no impediment is induced from matrimony entered with an insane person, with a drunk person, or entered with error of person, with grave fear, or with fictitious consent, as S. C. C. declared on 28 March 1664.[3] Otherwise in other cases. But whether it is induced from matrimony null because of clandestinity is controverted; but the truer and more common opinion, which must be stood by in practice, affirms.[4]

"Here must be NOTED what is had in cap. *un. de sponsal.* in 6, namely that invalid ratified matrimony does not induce an impediment to the prejudice of prior betrothals. Whence, if someone, after betrothals validly contracted with one woman, marries her sister, before he has intercourse with the second, he can and is bound to contract with the first, since the matrimony was null."[5]

(3) Haehnlein, de Matrim., n. 152; cf. also Giovine, § 285, 8. (4) Book VI, 1064; cf. Feije, ed. 3, 1885, n. 400 sqq., where more fully for and against. (5) Book VI, 1064, end; H. A., XVIII, 65.

2034. IT IS ASKED. Whether the act which is accustomed to be called CIVIL MATRIMONY produces the impediment of PUBLIC HONESTY?

Resp. Negatively, as is clear from the decree of 17 March 1879, by which Our Most Holy Lord LEO XIII "declares and establishes that the aforementioned act, which is commonly called civil matrimony, in places where the decree of the Council of Trent, sess. 24, cap. 1, *de reform. matrim.*, has been promulgated, whether the faithful fulfilling that act intend, as is fitting, to perform a merely civil ceremony, ecclesiastical matrimony already having been duly celebrated, or with the intention of

celebrating it as soon as possible; 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, does not produce the impediment of public honesty."[6]

Note. Since the aforesaid impediment is only of ecclesiastical law, it is not contracted by infidels. Whence, for example, Titius, converted from infidelity to the true faith, can enter matrimony with the sister of Maevia, with whom, while both were infidels, he had contracted matrimony, which nevertheless was not consummated, and was legitimately dissolved, for example by death. Thus the Congregation of the Holy Office, 9 April 1837.[7]

(6) Thesaur. Resol., cited place, tom. 138, p. 182. (7) Collect. S. Sed., n. 875.

On The Impediments Which Refer To Danger Either Of CONJUGAL FAITH Or Of CHRISTIAN FAITH

IX. Crime

2035. The impediment of CRIME is an inability to contract matrimony, induced by ecclesiastical law, between persons who by nefarious complicity have perpetrated certain crimes determined in law. But there are two crimes, namely adultery and homicide, from which this impediment is contracted, and this in a THREEFOLD case: namely 1) from adultery alone; 2) from homicide alone; 3) from both together. - This threefold case frequently receives its denomination from homicide alone, in these words: 1. neither party perpetrating homicide; 2. both perpetrating; 3. one perpetrating.[8] But since each case claims peculiar conditions for itself, concerning each in particular we must speak.

(8) Book VI, 1033.

2036. Principles. I. By adultery alone, NEITHER PARTY PERPETRATING homicide, a diriment impediment is contracted, if adultery CONCURS with either a promise or an attempted celebration of matrimony. Thus from the title of law *De eo qui duxit*, cap. 1, 2, 4, 5, 6, 8. But it is REQUIRED that the adultery and the promise or attempted celebration of matrimony should have intervened while the spouse of either adulterer was living, and thus should yield to the injury of matrimony. But it makes no difference whether the promise or attempted celebration of matrimony preceded adultery or followed it, provided that, if it preceded, it was not retracted before the adultery.[9] Besides, peculiar CONDITIONS are required, both on the part of the adultery and on the part either of the promise or of the attempted celebration.

On the part of the ADULTERY it is required: 1) that it was true, and therefore that the prior matrimony was valid, although it was not consummated, or divorce was made; 2) that it be formal on both sides, namely perpetrated by each party with knowledge of the prior matrimony: wherefore, probably, even culpable ignorance excuses, if it is not affected; 3) that it be perfectly consummated, that is, of itself apt for generation: but this is always supposed in doubt.[10]

On the part of the PROMISE, besides the aforementioned connection with adultery, it is required that it was manifested and accepted; whence, it does not suffice if the adulteress held herself merely negatively.[11] The more probable and also the more common opinion teaches that it is required that the promise be true, not fictitious; absolute, not conditioned; accepted by some external sign, and not

by silence alone, although a re-promise is not required. - But whether a conditioned promise suffices if the condition is verified while the first matrimony is still standing, is indeed commonly affirmed; but St. Alphonsus did not dare to solve the question.[12] "But he who, while his spouse is living, promises matrimony to another, but without adultery and without attempted matrimony, although he does not incur the impediment, nevertheless is not excused from mortal sin."[13]

On the part of the ATTEMPTED CELEBRATION of matrimony it is required that it be made with the consent of both; otherwise it would not be a true attempted celebration. - But it is the same whether it is made in Tridentine form or clandestinely; that civil matrimony also suffices is clear from various decisions of the S. Penitentiary.[14]

(9) Ibid., 1037. (10) Book VI, 1036. (11) Ibid., 1037. (12) Ibid., 1038 sqq. (13) Ibid., 1043. (14) Cf. De Angelis, lib. 4, tit. 4, n. 11.

2037. II. By homicide alone, BOTH PERPETRATING, there arises a diriment impediment when a man and woman HAVE CONTRIVED THE DEATH of the spouse of either, for the end that they may contract matrimony between themselves. This is clear from can. *Si quis vivente*, 31, qu. 1.

Moreover, to constitute the impediment from conjugicide alone, without formal and complete adultery, it is REQUIRED: 1. That the killing really followed from the physical or moral action, for example from counsel or mandate, of either accomplice; 2. That it followed from mutual conspiracy, or from the common plan of the man and woman; nor does it suffice if someone, hearing of the killing of the spouse, ratifies it; 3. That it was done with the intention of entering matrimony with the accomplice of the homicide; for thus it is most commonly taught, although it is not expressed in law. It indeed suffices that this intention be on the part of one; but it is more probably required that it had first been manifested to the other in some way, at least through certain indications, for example through amorous letters, or familiarities.[15]

(15) Book VI, 1034 and 1035.

2038. III. By homicide and adultery together, ONE PERPETRATING homicide, an impediment is contracted when, ADULTERY HAVING BEEN COMMITTED, the man KILLS his own wife, or the wife her own husband, with the intention of marrying the accomplice of the adultery. Thus from the title of law *De eo qui duxit*, in the cited place.

But for this it is REQUIRED: 1. On the part of the ADULTERY, that it be true, formal on both sides, and perfectly consummated, as was declared above. 2. On the part of the HOMICIDE: 1) that it be consummated, that is, that death truly followed from a blow, poison, etc., given by the spouse or by that spouse's mandate; 2) perpetrated with the intention of marrying the accomplice of the adultery, and that this intention of marrying was in some way manifested to the accomplice. But it is not required that it was committed by common plan: it suffices if one party, the other not knowing, inflicted death.[16]

"Hence it is inferred that if a man kills his wife, that he may more freely enjoy an adulteress, or for another cause, even if that woman consented to the homicide, but without intention of matrimony, the impediment is not contracted. - Indeed, if a man kills his wife, that he may marry another

indeterminate woman, he can thereafter marry the adulteress. But otherwise, if he kills that he may marry some one of the adulteresses."[17]

Concerning the third case, however, it occurs that it must be NOTED that the impediment is incurred directly and principally by the adulterous party who inflicted death upon the spouse. Wherefore, if this party does not contract the impediment, for example because he or she is an infidel, neither is the other party entangled by it. But in the other cases the impediment is incurred directly by the faithful party: whence also the infidel is bound by it indirectly, since matrimony cannot limp.[18]

IT IS ASKED whether the impediment of crime is incurred by those who are IGNORANT that it is annexed by law to their delict?

Resp. Some deny, bringing forward this reason: this impediment was induced by way of penalty, and indeed an extraordinary one; but ignorance excuses from incurring such a penalty; therefore it also excuses from contracting the impediment.[19] - But the common and far more probable opinion affirms. The distinguished Giovine brings forward the reason,[20] writing: "the impediment of crime was established by the Church not only as a penalty, but especially because it is publicly dishonest and pernicious that matrimony be contracted between those who are guilty of such great crimes." And the most learned De Angelis adds: "With this opinion the practice of the Penitentiary and of the Apostolic Datary especially coheres,... which sufficiently indicates that those Tribunals do not wish to recognize the reasonableness of the aforesaid negative opinion."[21]

To be noted FOR PRACTICE: 1. The impediment of crime can be multiple, and indeed from a TWOFOLD source: 1) because several cases are verified with regard to the same matrimony, for example if adultery and homicide have their own proper conditions separately; 2) because the delicts bring injury to diverse marriages, for example if, in the case of adultery alone, each accomplice is joined in matrimony, and if, with respect to each matrimony, the adultery was formal on both sides. Then a double impediment arises, necessarily to be expressed in the supplicatory libellus, for obtaining dispensation.[22]

2. The confessor ought prudently to question those spouses whom he suspects to be guilty of this crime. - Now, those are suspect both who confess that, in the time of a prior matrimony, they fell into adultery; and those who, after the death of the prior spouse, without delay, eagerly flew to new nuptials with some person belonging to the house or family. But that he may prudently question, let him inquire: whether he lived very familiarly with the present spouse, whether he greatly desired that person's nuptials, whether he was wearied of the prior spouse, whether he wished for that spouse's death, whether he believes himself to be in cause why she died, etc.

(16) Book VI, 1035 and 1036. (17) Ibid., 1036, end. (18) De Angelis, lib. 4, tit. 7, n. 4. (19) See d'Annibale, Summ., III, 312, 2nd ed.; Lehmkuhl, II, n. 770. (20) De disp. matrim., I, § 228. (21) Lib. 4, tit. 7, n. 5; cf. Nouv. rev. theol., t. XIII, p. 382. (22) Cf. Feije, n. 455.

X. Disparity Of Cult

2039. DISPARITY OF CULT is that disparity of religion which exists between a baptized person and a non-baptized person, even a catechumen.

Principles. I. Disparity of cult INVALIDATES matrimony BY CUSTOMARY ECCLESIASTICAL LAW.[23] Thus all, and it is certain from the Constitution of Benedict XIV *Singulari Nobis*, issued on 9 February 1749, § 10. But it makes no difference whether the faithful party is Catholic or non-Catholic; whether the infidel party is Jewish, Pagan, or devoted to another sect.

II. Matrimonies of the faithful with infidels, outside the case of urgent cause, are FORBIDDEN by divine law. - This is clear: 1. from the positive prohibition made to the Hebrews, Deut. 7:7; and from the words of the Apostle, 2 Cor. 6:14: "do not draw the yoke with infidels." 2. From reason: for natural law dictates that the danger of sinning must be avoided; but from the aforesaid marriages danger of perversion threatens both the faithful spouse and the offspring to be born; therefore.

It was said: outside the case of urgent cause; for when this exists, and the danger of perversion has been removed, they can be rendered licit, as is clear from various examples of sacred history. Hence it is that the Holy See, when in this impediment it dispenses from grave cause, is accustomed to impose nearly the same conditions which it requires for mixed marriages.[24] Recall what was said in n. 1986.

Note. Since Baptism among non-Catholic sects is sometimes doubtful, and therefore great difficulty arises with regard to the validity of matrimony, the following question was proposed to the Congregation of the Holy Office: "Whether Calvinists and Lutherans living in those parts, whose Baptism is doubtful and suspect, are to be held as infidels, so that between them and Catholics the diriment impediment of disparity of cult is to be judged present?

And the S. Tribunal responded on 17 November 1830: "1. As regards heretics whose sects' Rituals prescribe the conferral of Baptism without the necessary use of essential matter and form, the particular case must be examined. 2. As regards others, who according to their Rituals baptize validly, Baptism is to be judged valid. But if doubt persists even in the first case, Baptism is to be judged valid in order to the validity of matrimony. 3. But if it is known certainly that according to the actual custom of that sect there is no Baptism, the matrimony is null."[25] This is confirmed from another response of the Holy Office given on 1 August 1883[26] (cf. n. 1477, Note).

(23) Book VI, 1044. (24) Cf. Vecchiotti, lib. V, § 97. (25) Collect. S. Sed., n. 897; cf. n. 885, Instr. S. C. de Propag. Fide, 13 Sept. 1760, and n. 887. (26) Monitore ecclesiastico, vol. IV, p. 2, p. 82.

§ 3. On The Diriment Impediment On Account Of Defect Of The Prescribed Form, Or On Clandestinity

2040. Matrimonies are called CLANDESTINE which are not contracted in the face of the Church. - These, indeed, were odious to the Holy Church in every age, until finally the Council of Trent, through the celebrated Decree *Tametsi*,[27] proscribed them under penalty of nullity: by which namely "it invalidates the matrimony of those who contract otherwise than before the parish priest, or another priest with the license of the parish priest or of the Ordinary, and at least two witnesses, and wills that those who have contracted against this, or even were present, be gravely punished."[28]

Therefore CLANDESTINITY is an impediment of ecclesiastical law consisting in this, that matrimony is contracted without the assistance of the parish priest and witnesses: by which it happens that the parties are rendered unable to contract, and that the nuptials entered are invalid.

In another sense also, a matrimony is called clandestine, namely when it is contracted maliciously without denunciations; but in this case it is not invalid, but only illicit.[29]

What things are required, however, that satisfaction be made to the PRECEPT both of premising denunciations and of observing the Tridentine form, we shall say below, where we treat of the celebration of Matrimony (n. 2056 sqq. and 2068 sqq.).

(27) Sess. 24, de ref. matrim., cap. 1. (28) Book VI, 1078. (29) Ibid., 1079.

Chapter IV: On Dispensation From Diriment Impediments Of Matrimony

2041. Before all things we judge it opportune to premise the genuine signification of words which frequently occur in the matter of dispensations.[31]

1. ORATOR, ORATRIX, EXPONENT, EXPONENTS are called those who seek a dispensation for themselves. - A supplicatory libellus or supplication are the letters by which a dispensation is sought.

The STYLE OF THE CURIA, in this matter, denotes the complex of those things which must be observed in the supplicatory libellus, from the will and practice of the Roman Congregation before which the matter is transacted.

SUBREPTION is the reticence of the true, namely of some circumstance necessarily to be opened. OBREPTION is the expression of the false, for example in the causes alleged which persuade that the dispensation should be granted.

A RESCRIPT of dispensation is called the epistle or letters by which the sought dispensation is granted. CLAUSES are the conditions appended to rescripts, referring both to the executor of the dispensation and to the nupturients themselves; some occur uniformly in all dispensations, others are diverse according to the diversity of impediments.

2. A 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 validly contracted; but it does not suffice for proving the celebration of the nuptials before an ecclesiastical judge. The 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 be proved to have been validly contracted, before an ecclesiastical judge.
3. A dispensation is said to be given in GRATUITOUS FORM, when the ecclesiastical Superior, having been asked to grant the dispensation, applies it directly to the orators by himself. - It is said to be granted in COMMISSORY FORM, when the Superior commits to another the faculty of dispensing with the orators, for example to a parish priest or confessor. A dispensation is given in ordinary form when, on the occasion of the dispensation, a certain sum of money, tax or composition, is to be paid. - It is given in the form of the poor when a money tax is not required; in which case, to the Rescript this clause is customarily added: "provided that the

orators are poor and miserable, and live only from labor and industry." For, if they are not poor, they ought to satisfy the established tax.

4. The FULMINATION of a dispensation is called the act by which the impediment is removed. By another name it is also called the application or execution of the dispensation, although this last word also admits a broader signification, according to which it comprehends all things which must be done on the occasion of the fulmination.

5. One impediment is called OCCULT, another PUBLIC; and this distinction indeed is, in the present matter, of the greatest moment.

OCCULT is sometimes taken more strictly, sometimes more broadly:[1] Occult strictly so called, or altogether occult, is that which cannot be proved by two witnesses. Occult broadly so called, or quasi-occult, or occult simply, is that which can be hidden by some tergiversation, even if it can be proved by some witnesses. - But to how many persons an impediment can be known, without thereby ceasing to be OCCULT, must be left to the judgment and sentence of a prudent judge. Especially in this matter, attention must be paid to the circumstances of place and of persons. That is still judged occult which in a town has become known to six persons, in a city to seven or eight. Indeed the S. PENITENTIARY has sometimes held as occult an impediment known to about ten persons. - "Therefore attention must be paid not only to how many persons, but to what sort of persons, the impediment is known: because it can well happen that with respect to five prudent and God-fearing persons who know the impediment, there is altogether no danger of further divulging; and, on the contrary, with respect to two or three, for example talkative persons, or enemies, etc., the danger of divulging may seem truly present, especially if other circumstances also threaten such danger."[2] But when true danger of divulging is present, the impediment can no longer be held as occult.[3]

A PUBLIC impediment is that which has so become known that it can no longer be hidden by any tergiversation.

6. Let it be noted: 1) The fact which induces the impediment can be public materially and occult formally: for instance if the fact of killing is known, but culpability lies hidden, because the killing is believed to have happened by chance. And in such a case indeed the impediment is still judged occult. Likewise, if the thing itself is known, but is unknown according to the reason of impediment, that is, if the impediment is not public insofar as it is an impediment, although it is known by two or three persons.[4] 2) Other impediments by their nature are PUBLIC, such as consanguinity, affinity from licit intercourse, public honesty, spiritual cognation. And although by accident they lie hidden, in order to matrimony to be contracted they must be held as public.

7. CAUSES of dispensation are called some infamous or dishonest, namely those which have origin from the delict of the orators, or which lean upon their defamation; others not infamous or honest, namely those which have no note of either delict or defamation attached to themselves. - These things premised,

We shall treat: 1. of the power of dispensing; 2. of the causes of legitimate dispensation; 3. of the manner of obtaining dispensation; 4. of the things to be observed in executing the same.

(30) Concerning dispensation from impedient impediments we have already spoken where the individual impediments were set forth. (31) See Van de Burgt, de dispens. matrim., n. 6 sqq. (1) Cf. Book VI, 1111, and 593, v. Hic autem. (2) Reiffenstuel, Append. de Dispensat. super Impedim., n. 46. (3) Book VI, 1111. (4) Book VI, 1111; cf. Acta S. Sed., XIV, 155 sqq.; Bonacina, de Legib., qu. 2, punct. 2, n. 7.

Article I: On The Power Of Dispensing

The power of dispensing in the Church is with those to whom legislative power belongs, namely with the Pope and the Bishop. - What, therefore, in this matter, both the Roman Pontiff and the Bishop are able to do must be briefly investigated.

§ 1. What The Roman Pontiff Can Do

2042. I. The SUPREME PONTIFF can DISPENSE in all impediments of ecclesiastical law, but not in impediments of natural and divine law; but concerning these also he can DECLARE that they do not oblige in certain circumstances. Declarations of this kind indeed are accustomed to be called dispensations; but such an appellation is improper. All these things are clear from what was said in the Treatise on Laws (cf. n. 135 and 234).

But that dispensation be licit, a just cause is REQUIRED, namely a cause proportioned to the gravity of the impediment. Besides, there are certain impediments in which, although they are of ecclesiastical law, the Pope is not accustomed to dispense.

From these things it is easily gathered what must be thought concerning dispensation from individual impediments.

1. Error and force are altogether indispensable. - Condition and abduction are indeed absolutely dispensable, but dispensation is never granted. - Similarly age is a dispensable impediment; but the Pontiff dispenses in it very rarely, and only on account of a public cause. Impotence and Bond are indispensable. The Church sometimes dissolves a ratified matrimony, so that it does not stand in the way of new nuptials (cf. n. 1982); but while a valid matrimony stands, even if only ratified, she has never tolerated another, nor can she tolerate it. - In Vow and Order, only on account of a most grave cause, and therefore very rarely, is dispensation granted.
2. Concerning crime a dispensation is obtained; but if both or either have contrived murder, it is granted only rarely, and only from a most grave cause; but never, if the contrivance is public.[5] - In disparity of cult a dispensation is likewise granted, but with greatest difficulty in Christian regions.[6] - Finally, in clandestinity a dispensation is never given for contracting matrimony; the law ceases, however, if there is in the place a general impossibility, whether physical or moral, of observing it;[7] but it is given, although most rarely, after matrimony has already been contracted, and this through sanation in the root.[8]
3. Cognation, according to the diversity of cases, is an impediment either dispensable or indispensable. For dispensation cannot be given concerning consanguinity in the direct line; but neither in the first degree of the collateral line has the Church ever dispensed (cf. n. 2019, end). But in more remote degrees dispensation can be had. - The Church dispenses in spiritual cognation; but more easily between the one lifting and the father or mother of the one lifted,

than between the one lifting and the one lifted. - She likewise dispenses in legal cognation, yet with greatest difficulty in paternity.

4. In affinity which is in the collateral line, dispensation is granted, whether the affinity comes from licit intercourse or from illicit; indeed, if it comes from illicit intercourse, it is granted in the first degree of the direct line, although with more difficulty, and "provided that no doubt underlies that the spouse is offspring begotten by the other of the contracting parties." But if it comes from licit intercourse, the Church has never dispensed in the direct line[9] (cf. n. 2031, qu. 2). - In the impediment of public honesty dispensation is granted more easily, other things equal, than in the preceding impediment.

From what has been said it is clear that the impediments in which dispensation is more frequently had are cognation, affinity, and public honesty.

(5) Cf. Giovine, § 229. (6) Id., § 235. (7) Cf. id., § 318. (8) Cf. id., § 317. (9) Cf. Mansella, de Impedim. matr., cap. 3, a. 2, n. 12 and 13.

2043. II. The Roman Pontiff is accustomed to exercise his power of dispensing through the tribunals of the DATARY and of the S. PENITENTIARY. Thus from various documents pertaining to the erection and jurisdiction of the said tribunals, and first of all from the Constitutions of Benedict XIV, *Pastor bonus*, 13 April 1744, and *Gravissimum Ecclesiae*, 26 November 1745. It is said: is accustomed to exercise, because dispensations concerning disparity of cult, and mixed religion, are granted through the Holy Office; dispensations for supreme princes through the Secretariat of Briefs; and for regions which are subject to the S. Congregation de Propaganda Fide, all affairs are treated through this same Congregation. Besides, the Supreme Pontiff sometimes uses, on account of peculiar circumstances, the work of some determinate Congregation.

The DATARY dispenses for the EXTERNAL FORUM, namely in public impediments, and also in those which are foreseen soon to become public: of this kind are consanguinity, affinity from licit intercourse, spiritual cognation, public honesty. Wherefore, recourse is made more safely and efficaciously to this Sacred Tribunal through the Ordinaries of places.

But the SACRED PENITENTIARY dispenses for the INTERNAL FORUM, or in occult impediments: such as often are those which come from crime, and especially from illicit intercourse. Likewise, it convalidates a dispensation granted by the Datary, but invalidly because of an occult delict, necessarily to be declared, having been kept back, if this is still secret (cf. n. 2051, 6).

It also sometimes dispenses in impediments which indeed by their nature are public, but which still lie hidden. Hence: 1) It dispenses concerning the impediment of public honesty from occult betrothals. - 2) As regards marriages already contracted and to be revalidated, it dispenses concerning occult impediments of spiritual cognation, of consanguinity and of affinity in the third and fourth degree; indeed also in the second degree, if the impediment remained occult through a decade, and those joined contracted publicly and were reputed as legitimate spouses. 3) It can besides in the same third and fourth public degrees, revalidate marriages contracted invalidly from the cause of subreption and occult obreption of Apostolic Letters; except if the falsity consists in the narration of preceding intercourse, which in reality had not previously intervened.[10]

For the EXTERNAL forum also, or in strictly public impediments, the S. PENITENTIARY dispenses as regards poor supplicants, concerning whose poverty there is certainty from testimonial Letters of the Ordinary. But if there is given an extraordinary and urgent case, recourse can also be made to the S. Penitentiary for those not poor, all things pertaining to the matter being set forth clearly: if the S. Tribunal cannot provide for the prayers set forth by its ordinary faculties, nevertheless it looks after the same by the force of faculties which it implores from the Supreme Pontiff in the customary audience which the Cardinal Major Penitentiary has every week.[11]

(10) Const. Pastor bonus, § 40. (11) Cf. Acta S. Sed., I, 63.

2044. Let it be noted: 1. When the Apostolic See is vacant, the jurisdiction of the Datary ceases; but not the jurisdiction of the S. Penitentiary as regards the internal forum.

2. In the Datary a Tax is to be paid, to be determined from the nature of the impediment and the pecuniary condition of the Orators, not indeed as the price of the dispensation, which is granted gratis, but both for the stipend of the Officials of the Datary and the expenses to be undergone, and for the alms called the composition: which is imposed for this reason, that it may serve somewhat for repairing the wound inflicted upon discipline, and for lessening marriages between consanguines and affines, especially in the first and second degrees, in which a greater composition is imposed. - In the Penitentiary no TAX is paid. But if there is question of public impediments, and the orators are not altogether poor, some slight alms is required, to be transmitted to the Datary, so that its rights may remain whole and intact.

3. According to the practice of the Datary, those are to be reputed truly poor whose fortune does not exceed about three thousand francs, if they are beyond the Mountains; one thousand five hundred, if on this side of the Mountains; but those whose fortune does not exceed the value of ten thousand francs are called almost poor.[12]

(12) Cf. Feije, n. 690 sqq.; cf. also Giovine, tom. 2, § 18 and 37 sqq.; Planchard, Dispens. matrim., n. 80.

§ 2. What The Bishop Can Do

2045. Principles. I. A Bishop CANNOT, from his ORDINARY power, dispense concerning diriment impediments. This is clear from the Letters of Pius VI given to the Archbishop of Trier on 2 February 1782,[13] and from the Rescript of Pius VII to the Bishops and Vicars general of France, dated 27 February 1809.[14] The reason is that episcopal authority does not extend to making, by proper right, dispensations in the general laws of the Church, without at least express or tacit concession of the Superior by whom those laws were sanctioned.

Nevertheless the most common opinion teaches that the Bishop can dispense concerning doubtful impediments.[15] In doubt of LAW, a declaration suffices that one can proceed safely; but in doubt of FACT, a dispensation is given for caution (cf. n. 1997, q. 4).

(13) Roscovany, Matrimon. in Eccl. cathol., vol. I, p. 169, Monum. 47. (14) Moser, de Impedim. matr., App., n. XVII.
(15) Book VI, 902, v. Caeterum; De Priv., n. 54-58; cf. Scavini, III, n. 1029.

2046. II. A Bishop CAN, from QUASI-ORDINARY power, dispense, when necessity is urgent, concerning OCCULT impediments in which the Pope is accustomed to dispense. Thus the

Doctors most commonly. For when necessity is urgent, "the Pontiff is to be presumed to delegate to the Bishop the faculty which, if asked, he certainly would not deny."[16]

But it is REQUIRED: 1. That there be present urgent necessity, which is judged to be present if the Pope cannot be approached without too much delay, nor can the matrimony be deferred without scandal, infamy, or another most grave harm: for instance if there is question of matrimony in extremis, or all things are already prepared for the nuptials. Likewise, if spouses, after matrimony has been contracted, cannot be separated without danger of scandal or infamy, and, staying under the same roof, are in danger of incontinence. But if they are in good faith, they are to be left in it until a dispensation has been obtained from the Holy See.[17]

2. That the impediment be occult, as is clear from the declarations of S. C. of the Council issued on 13 March 1660 and on 19 January 1661, likewise of the Holy Office in 1660 and 3 August 1873, and of the S. Penitentiary on 10 August 1872.[18] The reason is "because when the impediment is public, the reason of scandal ceases, if the betrothed desist from such matrimony; indeed, especially to avoid scandal they are bound to desist from the nuptials."[19] - Probably, nevertheless, the Bishop can dispense from an impediment public by its nature, but occult by reason of circumstances, provided it is of the number of those concerning which the Major Penitentiary has ordinary faculties.[20]

3. That the Pope is accustomed to dispense; for otherwise his consent cannot be presumed. And from this it follows that the Bishop does not enjoy quasi-ordinary power of dispensing from those impediments in which not even the Major Penitentiary himself, by force of his ordinary faculties, can dispense.[21]

Another condition is also required if there is question of matrimony ALREADY CONTRACTED, namely that it was contracted in good faith, at least on the part of one spouse, with the prescribed solemnities, for example proclamations, unless there was dispensation. "The reason is both because in Trent it is said: if anyone knowingly shall presume to contract matrimony within prohibited degrees, let him be separated, and let him lack hope of obtaining dispensation; and because otherwise occasion would be given that daily, in hope of dispensation, marriages would be celebrated with contempt for impediments."[22] But ignorance of the impediment, even crass, excuses from bad faith, provided it is not so crass that it would seem to be temerity.[23]

Note. Since the aforesaid power of the Bishop is not annexed to the person, but to the dignity and office, and therefore must be called quasi-ordinary, it follows that it can be delegated not only for a particular case, but also for all occurring cases, both present and future. - Yet special delegation is required, even for the Vicar general, who does not obtain this faculty from the general commission of the Vicariate.[24]

(16) Book VI, 613. (17) Book VI, 1122, 1123. (18) Planchard, Dispens. matr., n. 94; Feije, n. 633. (19) Book VI, 1122, end. (20) Cf. Feije, n. 634, 7; cf. Acta S. Sedis, vol. XIV, p. 155. (21) Feije, ibid., 6. (22) Book VI, 1124. (23) Ibid. (24) Ibid., 1125.

2047. III. A Bishop ordinarily receives from the Supreme Pontiff DELEGATED power of dispensing from certain impediments in which difficulties occur more frequently. This power is customarily granted through quinquennial, or triennial, or annual faculties, and for a certain

number of cases. The same faculties are not granted to all Bishops; wherefore each one ought most carefully to weigh the tenor of the faculties committed to him, the conditions appended, and the clauses under which the dispensation is to be granted, and to communicate opportune instructions to the clergy subject to him (cf. Appendix I).[1]

And here it does not seem alien to NOTE the following things concerning the use of an Apostolic Indult:

1. The same rules which are held as necessary in the Roman Curia must necessarily also be observed by the Bishop who grants a dispensation by force of an Indult. For such is the mind of the Supreme Pontiff, as is clear from the Response of the S. PENITENTIARY given on 1 May 1858.[2]
2. The prescribed clauses, for example the notation of the Apostolic Indult, must altogether be observed; not however under penalty of nullity, unless this is clearly expressed in the Indult, for example by the words: otherwise they are null. - Thus from the Response of the Holy Office, 15 June 1875.[3]
3. A Bishop can, by force of the Indult, dispense from the impediment either of consanguinity or of affinity, even if the degrees are multiple, Holy Office, 15 June 1875;[4] S. Penitentiary, 18 January 1883;[5] but not from several impediments concurring in the same case, unless this is expressly granted in the Indult. This is drawn from the words of the Indults, and from the Response of S. C. C., 26 April 1873, and of the S. Penitentiary, 14 July 1881.[6]
4. A Bishop can use his faculty of dispensing, for example in affinity, even if incest had been committed with the intention of obtaining dispensation more easily. - Thus S. Penitentiary, 10 May 1876.[7] (cf. n. 2051, Note).
5. A Bishop cannot dispense except with his own subjects, namely those who have domicile or quasi-domicile in his diocese; or with wanderers who are staying in his diocese and do not have domicile elsewhere (cf. n. 235, q. 2).

(1) Faculties which are commonly accustomed to be granted, illustrated by excellent commentaries, you will find in Feije, n. 614 sqq., and Planchard, n. 96 sqq. (2) Cf. Nouv. Rev. Theol., t. V, 444. (3) Apud Konings, n. 1628, qu. 6; cf. also Collect. S. Sed., n. 1019 and 1021. (4) Konings, II, p. 397, µ. (5) Nouv. Rev. Theol., t. XV, 53. (6) Apud Planchard, n. 131 and 129 in note; cf. also Konings, ed. 5, II, p. 399, 10. (7) Planchard, n. 99.

2048. Questions. IT IS ASKED 1. What is the power of the Bishop concerning PROHIBITING impediments?

Resp. He can dispense from proclamations of banns, and from a vow not reserved to the Supreme Pontiff. As regards other things, a pontifical dispensation is required, as is clear from what was said in n. 1987, 1989, and following.[8] In this matter, those things also have force which were said concerning the quasi-ordinary power of the Bishop, in a case of necessity (n. 2046).

IT IS ASKED 2. Whether if the contracting parties are of DIFFERENT DIOCESES, each one must be dispensed by his own Bishop?

Resp. Distinguish. 1. Impediments altogether personal and without relation to the other party, for example the impedient impediment of vow, can be dispensed by the Bishop of the nupturient alone; wherefore if each party is detained by such an impediment, dispensation is required from the Bishop of each (cf. n. 2064).[9]

2. But if the impediment is common to both, for example cognation, affinity, it suffices if the Bishop of either party dispenses, "because, the impediment having been removed from one side, the other party also becomes free, since the bond no longer exists between both parties." - But it is fitting that the dispensation, regularly, be granted by that Bishop in whose diocese the matrimony ought to be contracted by law, that is, by the Bishop of the bride. Thus from the Responses of the S. Penitentiary given on 4 September 1839 and 15 April 1853;[10] confirmed by the Response of the Holy Office, 22 November 1865.[11]

IT IS ASKED 3. What must be done by the PARISH PRIEST or CONFESSOR, if he detects an impediment when ALL THINGS ARE ALREADY PREPARED for the nuptials, and no time remains for obtaining a dispensation?

Resp. 1. If the impediment is public, the matrimony must altogether be deferred until dispensation is obtained, since from delay no scandal can arise.

2. If the impediment is occult, and of those concerning which the Holy See is not accustomed to dispense, one must abstain from celebration of the matrimony, since the cessation of the law cannot be supposed in such a case.

3. If the impediment is occult, and of those in which dispensation is accustomed to be given, and the matrimony cannot be deferred without scandal or infamy of the betrothed: the celebration of matrimony is to be permitted; and meanwhile the betrothed are to be left in their invincible ignorance, until dispensation, or sanation in the root, is obtained.

4. If, the same circumstances standing, either betrothed or both are in vincible ignorance, or have knowledge of the impediment: a great difficulty arises, for avoiding which some teach that different ways must be entered: namely some by prescribing delay of the matrimony, others by permitting simulation of the Sacrament (cf. n. 1430), others finally by advising celebration under condition of a dispensation to be obtained (cf. n. 1973, q. 3). There is also the opinion of certain persons, which St. Alphonsus calls not unfounded, which holds that the law of the Church concerning impediments does not oblige in such great straits, and consequently that celebration of the matrimony can be permitted, and then recourse must be made as soon as possible to the S. Penitentiary, so that from it either dispensation or sanation in the root may be obtained.[12]

IN PRACTICE, every difficulty would cease if the Bishop expressly delegated to all priests to whom care of souls is committed the faculty which he has for a case of this kind (n. 2046).[13]

(8) Book VI, 1126. (9) Feije, n. 638, 20. (10) Planchard, n. 103. (11) Acta S. Sed., II, 671. (12) Book VI, 613; H. A., XVI, 114; Konings, n. 1556, qu. 3; Planchard, n. 547 sqq.; Feije, n. 640 sqq. (13) De Priv., n. 58.

Article II: On The Causes Of Legitimate Dispensation

2049. Since dispensation is the relaxation of common law, it cannot licitly be granted except on account of a JUST CAUSE, namely one which rests upon the necessity or certain utility of the dispensation itself. Nor without such a cause is the Superior himself ever presumed to wish to dispense, since this cannot be done licitly. Such a dispensation knowingly made would indeed be valid; but the same must not be said of a dispensation granted by an inferior in the law of a Superior, from delegated or quasi-ordinary power; for if a just cause is lacking, the dispensation would not only be illicit, but also invalid (cf. n. 237 and 238).

Nor indeed must every cause be held as just; for the Council of Trent requires a grave cause, and indeed one so much graver as the impediment which stands against the celebrating of nuptials is graver.[14] The PRINCIPAL CAUSES which, according to canonical sanctions, have been accustomed to be held as sufficient are set forth in the Instruction of S. C. de Propaganda Fide, 9 May 1877,[15] in the following manner:

"1. Narrowness of place, whether absolute or relative, only by reason of the oratrix, namely when in the place of origin, or even of domicile, the woman's cognation has been so propagated that she cannot find another of equal condition whom she may marry, unless a consanguine or affine; but for her to leave her country would be hard. [That place is reputed narrow which does not exceed 300 hearths, or 1500 Catholic inhabitants, from the declaration of Pius IX issued on 30 August 1847.[16] Wherefore S. Cong. of the Council declared[17] on 16 Dec. 1876: "Narrowness of place is not to be drawn from the number of hearths of each parish, but from the number of hearths of each place or even of several places, if they are not distant from one another beyond a mile," or 20 minutes.]

"2. The over-adult age of the woman, namely if, having already passed the 24th year of age, she has hitherto not found a man of equal condition whom she can marry. But this cause does not support a widow who desires to pass to other nuptials.

"3. Deficiency or incompetence of dowry, namely if the woman does not actually have so great a dowry that she can marry, in her own place in which she dwells, an outsider of equal condition who is neither consanguine nor affine. Which cause urges more if the woman is altogether undowered, and a consanguine or affine is ready to take her as wife, or even suitably to dower her entirely. [But it is indifferent whether the dowry is offered by the bridegroom or by another, but on the condition that she marry the consanguine or affine.[18]]

"4. Lawsuits concerning succession of goods already arisen, or grave or imminent danger of the same. If a woman sustains a grave lawsuit concerning succession of 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, except the one who desires to take her as wife: dispensation is customarily granted; for it is of interest to the Republic that lawsuits be extinguished. Another cause comes near to this, namely Dowry involved in lawsuits, namely when a woman is destitute of another man by whose aid she can recover her goods. But a cause of this kind suffices only for more remote degrees.

"5. The poverty of a widow who is burdened with numerous offspring, and a man promises to support her. But sometimes by the remedy of dispensation aid is given to a widow for this cause only, that she is younger, and is 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 consanguines and affines of the contracting parties, and which would be altogether settled by the celebration of matrimony; or when grave enmities flourished among the consanguines and affines of the contracting parties, and, although peace has already been entered among them, nevertheless the celebration of matrimony would conduce greatly to the confirmation of that peace.

"7. Excessive, suspect, dangerous familiarity, and also cohabitation under the same roof, which cannot easily be impeded.

"8. Intercourse previously had with a consanguine, or affine, 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 is indeed one of the more urgent causes on account of which dispensation is customarily given even to plebeians, provided the intercourse was not perpetrated under hope of an easier dispensation: which circumstance would have to be expressed in the supplication (cf. n. 2051, end).

"9. Infamy of the woman, arisen from suspicion that she, being too familiar with her consanguine or affine, was known by the same, although the suspicion is false: namely when, unless matrimony is contracted, the woman would remain gravely defamed, or unmarried, or would have to marry a man of unequal condition, or grave harms would arise.

"10. Revalidation of matrimony which was contracted in good faith and publicly, the form of Trent having been observed: because its dissolution can scarcely happen without public scandal, and grave harm, especially of the woman (cap. 7 *de consanguin.*). But if in bad faith the betrothed entered the nuptials, they by no means deserve the grace of dispensation, as the Council of Trent disposes, sess. 24, cap. 5 *de reform. matrim.* [Therefore then dispensation is obtained with more difficulty, today nevertheless more easily than formerly.[19]]

"11. Danger of mixed matrimony, or of matrimony to be celebrated before a non-Catholic minister. When danger is present that persons wishing to contract matrimony in some degree, even one of the greater degrees, because of denial of dispensation, will approach a non-Catholic minister for celebrating the nuptials, with contempt of the Church's authority: there is found a just cause of dispensing, because there is present not only most grave scandal of the faithful, but also fear of perversion and defection from the faith of those acting in such a way and contemning the impediments of matrimony, especially in regions where heresies rage with impunity... The same must be said of the danger that a Catholic party may dare to celebrate matrimony with a non-Catholic.

"12. Danger of incestuous concubinage. From the Instruction of S. C. of the Holy Office, 14 Aug. 1822, it is clear that the remedy of dispensation is to be applied lest someone grow foul in concubinage with public scandal and evident danger of eternal salvation.

"13. Danger of civil matrimony. From what has been said it follows that the probable danger that those who seek a dispensation, if it is not obtained, will celebrate only civil matrimony, as they say, is a legitimate cause of dispensing.

"14. Removal of grave scandals.

"15. Cessation of public concubinage.

"16. Excellence of merits, when someone has deserved 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 some other way.

"These are the more common and more powerful CAUSES which are customarily adduced for obtaining matrimonial dispensations."[20] - Universally, it is expedient to bring forward all reasons making matrimony desirable, which, if they are not from those enumerated, are called certain reasonable causes.

Dispensation also is sometimes granted without an expressed cause, namely when from a pious work, which is imposed by way of compensation, the cause of dispensation arises.[21]

And here it helps to NOTE that sometimes it happens that one cause, taken separately, is not sufficient, but joined with another is reputed grave, and consequently sufficient; for "things which do not help singly, many together help."[22]

(14) Sess. 25, cap. 18, de reform. (15) Collect. S. Sed., n. 1017; or Acta, vol. X, p. 291. (16) Cf. Giovine, § 212, 3; cf. also Acta S. Sed., IX, p. 571 sqq. (17) In one Oveten., per summar. prec., under n. III. (18) Konings, n. 1625. (19) Feije, n. 678. (20) Cf. Pyrrh. Corradus, Praxis dispens., lib. 7 and 8. (21) Book VI, n. 1130. (22) Arg. L. 5, C. de probat.; cf. Book VI, 1131.

2050. Questions. IT IS ASKED 1. Whether when the CAUSE of dispensation CEASES, the dispensation ceases?

Resp. "Affirmatively, if the cause ceases before the dispensation is expedited, or before it is made by the Bishop or by another delegate to whom it has been committed by the Pontiff. But otherwise, if the cause ceases when the dispensation has already been expedited and made by the inferior delegate, even if it ceases before the celebration of matrimony. - The reason is that through dispensation the impediment is now removed, or the law is relaxed, whose obligation, having been extinguished, by no means revives if afterward the cause ceases."[23]

IT IS ASKED 2. But what must be said if it is doubted whether a FINAL or IMPULSIVE cause has been falsely alleged; or whether a cause was TRUE or FALSE?

Resp. "In all these and similar doubts, the dispensation must be judged valid, because in doubt one must stand for the validity of the act"[24] (cf. n. 240).

(23) Book VI, 1132. (24) Ibid., 1133.

Article III: On The Manner Of Obtaining Dispensation

2051. A dispensation is obtained through supplicatory Letters directed to the DATARY or to the S. PENITENTIARY, according as there is question of dispensation for the external forum or for the internal forum (cf. n. 2043). - If the Bishop, by force of an Indult or of quasi-ordinary power, can dispense, recourse is to be made to him, observing the same things which must be observed before the Roman Curia (cf. n. 2047, 1).

Dispensation for the EXTERNAL forum is sought by the parish priest, through the mediation of the episcopal Curia, to which also the response of the Roman Tribunal, to be communicated to the parties, is directed.

Dispensation for the INTERNAL forum is sought by the confessor, through the mediation of the episcopal Curia, if nothing prevents, but by letters closed and secured by seal; but by direct recourse to the S. Penitentiary if there is danger of otherwise injuring the sacramental seal in some way.

Dispensation is sought in the name of the Orators: even without their knowledge, if reason persuades it.

"But now," again bringing forward the words of the aforesaid INSTRUCTION of S. C. de Propaganda Fide, "let us come to those things which, besides the causes, must be EXPRESSED in the supplicatory letters for obtaining dispensation, by law or custom or the style of the Curia, so that, if even ignorantly the truth is kept silent or falsity is narrated, the dispensation is rendered null. - These things are:

"1. The name and surname of the orators, each to be written distinctly and clearly and without any abbreviation of letters." [If an error in the name is accidental, so that the identity of the person is indubitably established, it is not a cause of nullity; but otherwise new recourse is required. Dispensation for the internal forum is sought under fictitious names.]

"2. The diocese of origin or of actual domicile. When the orators have domicile outside the diocese of origin, they can, if they wish, seek that the dispensation be sent to the Ordinary of the diocese in which they now live." [Mention of the diocese of the orators is not to be made in a supplication to the S. Penitentiary for the forum of conscience.]

"3. Also the lowest species of the impediment, whether it is consanguinity or affinity, arisen from licit or illicit intercourse; public honesty deriving origin from betrothals or ratified matrimony; in the impediment of crime, whether it came from conjugicide with promise of matrimony, or from conjugicide with adultery, or from adultery alone with promise of matrimony; in spiritual cognation, whether it is between the one lifting and the one lifted, or between the one lifting and the parent of the one lifted." [Error in species renders the dispensation invalid.]

"4. The degree of consanguinity or affinity or honesty from ratified matrimony, and whether it is simple or mixed; not only the more remote, but also the nearer; and also the line, whether it is direct or transverse; likewise, whether the orators are joined by a double bond of consanguinity, both on the father's side and on the mother's side." [In an unequal line, if the nearer degree is the first, it must also be expressed whether the bridegroom or bride is nearer to the stock: for it is dispensed with more difficulty that a grandson marry an aunt than that an uncle marry a niece. If an error increases the gravity of the impediment, it is not a cause of nullity; but otherwise, if it diminishes it. Hence, when a lesser degree is expressed for a greater, the dispensation is invalid; but when a greater is expressed for a lesser, it is commonly affirmed valid.]

"5. The number of impediments, for example if there is present double or multiple consanguinity or affinity; or if besides cognation there is also affinity or any other impediment whether diriment or impedient... Yet in seeking dispensation concerning the 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 fornicary intercourse perpetrated with the same deceased person before entering matrimony with that person: it is not necessary that mention be made of illicit intercourse of this kind, as is clear from the response of the S. Penitentiary, dated 20 March 1842, approved by Gregory XVI of holy memory, to the Bishop of Namur, which same Tribunal declared to be general by letters dated 10 Dec. 1874."

"6. Various circumstances, namely whether the 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 denunciations were premised, and according to the form of Trent; or whether in the hope of obtaining dispensation more easily; finally, whether it was consummated, if in bad faith, at least of one party, or with knowledge of the impediment."

"7. Finally, the state of fortune of the orators ought truthfully to be set forth, so that according to the diversity of circumstances, the composition or tax can rightly be determined, or also so that the dispensation may be expedited gratis (cf. n. 2044)."

Note. Formerly, for the validity of dispensation "concerning whatever prohibited degrees of consanguinity, affinity, spiritual and legal cognation, and also of public honesty," "INCESTUOUS INTERCOURSE had between the betrothed before the execution of the dispensation" had to be expressed, "whether before or after its obtaining, whether with the intention of obtaining dispensation more easily, or even such intention being excluded, and whether the intercourse is publicly known, or even occult." Thus from various responses of the Holy Office and S. Penitentiary, and from the cited Instruction of S. C. de Propaganda Fide.[1] But, these and similar Decrees and Declarations having been abrogated, His Holiness Pope Leo XIII, through the Decree of 25 June 1885, established and declared: "matrimonial dispensations to be granted henceforth, even if incestuous intercourse, or the plan and intention of obtaining dispensation more easily through it, have been kept back, are going to be valid."[2] - Yet sanation of the past is still desired.

(1) Cf. also St. Alphonsus, Book VI, 1134; H. A., XVIII, 85; 1 El. qq. ref., n. 91. (2) From an authentic copy.

2052. Questions. IT IS ASKED 1. How dispensation is to be sought, if SEVERAL impediments concur, some PUBLIC, others OCCULT; or if to a public impediment there is annexed an OCCULT CIRCUMSTANCE necessarily to be declared?

Resp. 1. If the orators consent to manifestation of the matter, dispensation is sought for the external forum, all circumstances being expressed, but mention being made of the consent of the orators.

2. If the orators do not consent to manifestation, which they are by no means obliged to do, since no one is bound to defame himself, recourse is made to the Datary for public impediments, the occult impediments or circumstances being kept back; but recourse is made to the S. Penitentiary for occult impediments or circumstances, yet with the public impediments also set forth at the same time, since all things must be opened before one Tribunal, and mention moreover being made of the relaxation of these already sought or to be sought from the Datary.[3] - It is more advisable first to have recourse to the Penitentiary, lest, after dispensation concerning a public impediment has been granted by the Datary and denied by the Penitentiary concerning the occult one, suspicions arise, and the expenses made in the Datary become useless.

IT IS ASKED 2. Whether he needs a NEW DISPENSATION who, after obtaining dispensation concerning an occult impediment of affinity, again had intercourse with the same consanguine of the bride before he married her?

Resp. Negatively, if the dispensation has not yet been fulminated by him to whom it is committed; "because such dispensations do not receive effect from the day of expedition, but from the time of execution." Indeed, if it has already been executed, the S. Penitentiary denies, in the Rescript issued on 21 September 1752, that a new dispensation is required. "The reason is that that affinity has already been removed through the dispensation with regard to this effect of contracting matrimony."[4] But if he had intercourse with another consanguine of the bride, a new dispensation certainly is required, since a new affinity has been contracted (cf. n. 786).

IT IS ASKED 3. "If someone seeks a SECOND dispensation in the same matter after a first one was previously obtained, whether he ought to express the first?"

Resp. 1. "Affirmatively, when the impediment is from the same crime, because relapse draws the Superior back from dispensing. 2. Negatively, if the impediment is not from some crime, or is from a diverse crime." Thus commonly.[5]

IT IS ASKED 4. Whether a dispensation sought as FOR THE POOR is VALID, if the orators are not poor?

Resp. Affirmatively, as S. C. C. declared on 9 September 1679;[6] because poverty is not the reason on account of which the dispensation is granted, but on account of which it is granted gratis. Therefore, when the cause of gratuity is lacking, for that reason the cause of dispensation does not fail. Yet false allegation of poverty renders the dispensation INVALID: 1) if it is granted by the Bishop by force of an Indult having the clause: "only in favor of those who are truly poor"; 2) if it is granted by the S. Penitentiary for the external forum; in which case, according to the practice of this S. Tribunal, either another dispensation or sanation is required. Each exception is clear from the declaration of S. C. C., 26 April and 28 June 1873.[7]

(3) Book VI, 1139. (4) Book VI, 1140. (5) Book VI, 1137. (6) H. A., ibid., 87. (7) Thesaur. S. C. C., tom. 132, 26 Apr., n. II; 28 Jun., n. III; cf. also Acta S. Sed., VII, 290 and 423.

Article IV: On The Manner Of Executing Dispensation

2053. Since matrimonial dispensations are customarily granted by the Holy See only in commissory form, it follows that the impediment is not yet removed by the favorable Rescript, but that besides this the execution of it, or the fulmination of the dispensation, is required. - For fulmination, indeed for the EXTERNAL forum, an Official, Bishop, or generically Ordinary is delegated; but for the INTERNAL forum, the confessor chosen or to be chosen by the orator.

I. First of all it ought to be established for the delegate, from an authentic document, concerning the validity of the Rescript. But the Rescript is vitiated both through substantial subreption or obreption, which can easily be recognized from the things said thus far; and also through accidental subreption or obreption, for example concerning an impulsive cause, if it was alleged in bad faith.[8] "Wherefore," says Benedict XIV,[9] "he who executes the Letters ought to expend every care and diligence, that he may know whether what was set forth to the Major Penitentiary or Datary is true. Whether the

matter itself, the circumstances, and the causes and reasons brought forward for obtaining dispensation are altogether consonant with truth." If the Apostolic Letters are found invalid, immediately care must be taken for the sanation of the same, a new Rescript being obtained, called *Perinde valere*, by which the prior Letters are declared valid, just as if they labored under no vice. If after sanation a new vice is detected, there is need of a new sanation, which is granted through another Rescript, which is called *Perinde valere* upon *Perinde valere*.[10]

For a Rescript of sanation, recourse must be made to the DATARY or to the S. PENITENTIARY, according to the nature of the matter: the whole cause is set forth summarily, the prior grace granted is mentioned, the vice detected is declared, and the grace is sought that, notwithstanding it, the prior Letters may have force. - Also firm remains the law concerning all things pertaining to the matter to be opened before one tribunal; wherefore, if recourse had been made both to the Datary and to the Penitentiary, and a new impediment is public, a double *PERINDE VALERE* is required: one from the Datary, because there is question of a public impediment; the other from the Penitentiary, because to this tribunal the whole cause must be declared.[11]

(8) Cap. Super litteris 20, de rescriptis. (9) Instit., 87, n. 34. (10) Feije, n. 729. (11) Feije, ibid.

2054. II. After the delegate has fulfilled all things which are prescribed as to be fulfilled in the Apostolic Letters, he ought to RELEASE the orators, in the name of the Pontiff, from the impediments mentioned in the Rescript, and declare to them that matrimony can freely be entered, notwithstanding the impediments.[12] Wherefore the DELEGATE: 1. Ought, and indeed under grave obligation, faithfully to fulfill all things prescribed in the Apostolic Letters, both because they have the nature of a true precept, and because many things are contained in them on the execution of which the validity of the dispensation depends, as will easily be clear to one reading the Rescript. 2. Ought to declare that he acts by force of Pontifical delegation. 3. Ought to release the orators from the impediments designated in the Rescript, expressing them in species, because the faculty of dispensing extends itself to those alone.

This act, which is called FULMINATION, is made in writing for the external forum; by living voice, and ordinarily in sacramental confession, for the internal forum. - Acceptance of the dispensation is indeed required. But this is sufficiently had if the recourse was made at the request of the orators. But if it was made without their knowledge, it cannot be fulminated unless they accept.[13]

N.B. We add nothing concerning the things pertaining to the external forum, since for a delegate in this forum there are many things necessary to know, for learning which he must necessarily approach authors treating of this matter in particular.[14] - But for the convenience of confessors, a few things seem to be added which pertain to execution in the internal forum. - Hence the following.

(12) Feije, n. 731 sqq., i.e. cap. 34 throughout. (13) Ibid., n. 730. (14) Pyrrhus Corradus, Vincentius de Justis, Giovine, Feije, Planchard excellently handle this matter.

2055. Questions.[1] IT IS ASKED 1. Who can EXECUTE the Letters of the S. Penitentiary?

Resp. This must be judged from their inscription. - If, as is commonly done, they are inscribed: *To a confessor from those approved by the Ordinary of the place*, it suffices that the confessor be approved. But if, which rarely happens, there is added *to a master in Theology and doctor of Decrees*, the doctor's laurel is required. - If the confessor elected is unwilling to execute the Letters, another can be chosen.

IT IS ASKED 2. What CLAUSES are customarily placed in the Letters of the S. Penitentiary?

Resp. The principal ones are the following:

1. *If it is so, if the prayers rest upon truth.* These words impose the necessity of investigating, as we said above. But since there is question of the internal forum, the whole investigation consists in this, that the confessor again question the penitent, seriously warning him concerning the most grave obligation, which presses, of answering sincerely.

2. *We commit to your discretion, insofar as... the bearer, his sacramental confession first having been heard..., you absolve from whatever sentences, censures, and penalties in any way incurred on account of the premises.* - According to this clause the dispensation cannot validly be pronounced unless sacramental confession has been premised, and in the very act of confession. Yet sacramental absolution is not required, if perhaps the penitent is not disposed. - Nor does absolution sacrilegiously received obstruct the validity of the dispensation, as has been declared several times by the S. Penitentiary.[2] Thus also S. C. de Propaganda Fide, 16 Jan. 1797.[3] But if some urgent necessity persuades that, sacramental absolution being denied, the dispensation be fulminated: the confessor nevertheless should absolve from penalties and censures incurred perhaps on account of the delict, for example if in the diocese there were reserved cases. Yet, by force of the Rescript, he cannot absolve from other penalties and censures, for which there would be need of a penitent forum.

3. *The occasion of sin being removed*: this is understood if the occasion is voluntary; because if it were necessary, it suffices that means be chosen by which from proximate it becomes remote.

4. *A salutary penance having been enjoined according to the measure of the fault*, which is to be distinguished from sacramental penance. - "Wherefore the confessor," says Benedict XIV,[4] "that he may rightly satisfy his office, should not exceed the bounds either of severity or of humanity. He will also have regard to the condition, age, and sex of him on whom the penalty is imposed." If the penance has been determined by the Letters themselves, for example confession once in a month, this is altogether to be imposed by the confessor. - Sometimes a grave, very grave, long, lasting, perpetual penance must be prescribed. *Grave* it will be, if by its weight it so presses the guilty person that he himself feels and recognizes through it the gravity of his delict: a penance of this kind, with St. Alphonsus as witness,[5] would be, if for six months a fast once a week were imposed to be observed; the rosary to be recited three times a week; likewise frequent confession, at least once in a month; always to wear a habit with respect toward penitents. *Very grave* it will be, if it presses the guilty person so that he sharply feels the atrocity of the delict. *Long*, if it is to be continued through individual weeks for an entire year; *lasting*, if for three years; *perpetual*, if it is extended unto death, to be performed not indeed daily, but on stated days.

5. *Other things to be enjoined by law having been enjoined*, namely those which otherwise would have to be prescribed.

6. *Provided the aforesaid impediment is occult* or *altogether occult*. This condition was declared above (cf. n. 2041, 5).

7. *Nor does any other canonical impediment obstruct*, namely one concerning which dispensation has not been granted. - If a public impediment concurs with an occult impediment, this clause is customarily added besides: "provided, or after, Letters of dispensation concerning the public impediment have been obtained."

8. *By Apostolic authority you mercifully dispense*; in express words, and with mention made of the delegation received. - Nor is the legitimation of offspring to be received or already received to be omitted, which is ordinarily prescribed.

9. *No Letters having been given concerning these things, but these presents, under penalty of excommunication latae sententiae, having been altogether torn up by you after execution*. For since the impediment is occult, the dispensation also ought to remain occult. This tearing up must be done at once, but understand morally, namely at least within three days. - Nor indeed is the confessor prohibited from retaining with himself a copied text of the dispensation, for his own instruction, yet with mention of day and year omitted, which would easily be an argument for recognizing the dispensed penitent.

IT IS ASKED 3. What is the FORM of fulmination?

Resp. No determinate form is required. Hence, sacramental absolution having been imparted, the confessor will be able at once to add this or a similar formula, the things to be changed having been changed: "And besides, by the Apostolic authority committed to me in this part, I dispense with you concerning the impediment... of the first, first and second, second degree of affinity, thence arising, because you had illicit intercourse with the sister of the woman with whom you intend to contract, so that, notwithstanding it, you may contract matrimony publicly with the said woman, the form of the Council of Trent being observed, and afterward may remain in it. In the name of the Father + etc. - Besides, by the same Apostolic authority I declare the offspring to be received legitimate. In the name of the Father +... etc."

If sacramental absolution seems to have to be denied, the FORMULA can be changed in this manner: "By the Apostolic authority committed to me in this part, I absolve you from whatever ecclesiastical sentences, censures, and penalties perhaps incurred on account of illicit intercourse with the sister of the woman with whom you intend to contract, and from excesses of this kind, and I dispense with you concerning the impediment of the first degree of affinity thence arising, so that notwithstanding it... etc." as above.[6]

IT IS ASKED 4. How a dispensation is to be executed, if in the Rescript mention is made of a DELICT which is COMMON to both contracting parties?

Resp. "The first confessor, after the dispensation granted according to the form of the Letters, ought to hand over the Letters of the S. Penitentiary to the penitent, so that through him they may be handed over to the other party, who likewise is to cause the same Letters to be executed with himself by another confessor.... For the mind of the S. Penitentiary is that the Letters be put into execution toward each person, if not for removing the impediment, which is supposed already removed by the prior dispensation with one person, at least for imposing congruous salutary penances on both, which it is not fitting to exact from one only, where the fault is common." Thus the S. PENITENTIARY, 15 Nov. 1748.[7]

(1) Cf. Book I, 205; Appendix I, Busembaum; and Book VI, 1131. (2) Feije, n. 749. (3) Cf. Collect. S. Sed., n. 858. (4) Instit., 87, n. 38. (5) Book VI, 1143. (6) You have various FORMULAS in Planchard, n. 529-536. (7) Apud Planchard, n. 475.

Chapter V: On The Celebration Of Matrimony

2056. There are two things which pertain most proximately to the celebration of matrimony, namely: proclamations are to be premised, and the Tridentine form is to be observed. - We shall treat each separately.

Article I: On The Proclamations To Be Sent Before Matrimony

We shall treat 1. of the precept and form of proclamations; 2. of dispensation from making them; 3. of the revelation of impediments.

§ 1. On The Precept And Form Of Proclamations

PROCLAMATIONS, which are also called banns, are public denunciations by which the faithful are warned concerning a matrimony to be contracted between certain persons, to the end that, if anyone knows some diriment or prohibiting impediment to exist between those wishing to contract, he may manifest it at an opportune time. - These, however, ought to be preceded by the private INVESTIGATION of the parish priest, and an opportune ADMONITION of the nupturients concerning those things which are required for contracting matrimony validly and licitly. - That these may become known better, let the following be given.

2057. Principles. I. The parish priest, before he comes to proclamations, is bound to institute a diligent EXAMINATION, by which he may know whether nothing obstructs the valid and licit celebration of matrimony. - For he ought, by reason of his office, to watch that subjects receive the Sacraments worthily. And this is greatly commended both by the Roman Ritual,[8] and by Benedict XIV's Constitution *Nimiam licentiam*.[9] - Congruently with these prescriptions:

1. "The parish priest, having been warned concerning some matrimony to be contracted in his parish, first should know from those to whom it pertains, for example from the parents or other cognates, and especially from the betrothed themselves, who and of what sort are those who wish to contract matrimony. Whether between them there is some canonical impediment, impedient or diriment; whether they wish to contract spontaneously, freely, and according to the honesty of the Sacrament." Thus the RITUAL.
2. If one party is a foreigner, according to the Instruction of the S. Inquisition approved by Clement X on 21 August 1670,[10] a testimony or mandate concerning free state is altogether required; in which matter, diocesan Statutes also must be attended to.
3. Let him inquire whether sons and daughters of families contract with the consent of parents. For matrimonies reasonably against the will of parents the holy Church of God has always detested and prohibited for most just causes (cf. n. 1973, q. 6).[11] - But if the children are unwilling to desist from matrimony, and greater evils are to be feared, let the parish priest not deny his ministry; but, if he can, let him set forth the whole matter to the Bishop.

4. Let him not neglect the prescriptions of the civil law, if they can be observed with a safe conscience. For although the civil law can establish nothing concerning Sacraments, nevertheless the parish priest acting against it would involve himself in many entanglements, which always, insofar as divine and ecclesiastical laws permit, he ought prudently to decline according to his strength.[12]

5. The RITUAL warns "that each spouse know the rudiments of the Faith, since afterward he ought to teach these to his children." The betrothed therefore are to be examined concerning these, yet prudently and discreetly, according as the condition of persons and various circumstances will persuade.

6. Let the parish priest explore whether they live separately, by day as well as by night; or, if previously they have lived under the same roof, whether from the time of the betrothals or of the proclamations they have been separated.[13]

7. "Moreover let the spouses be admonished that, before they contract, they diligently confess their sins, and devoutly approach the Most Holy Eucharist and the Sacrament of Matrimony to be received; and how they ought to conduct themselves rightly and Christianly in it, let them be diligently instructed from divine Scripture, by the example of Tobias and Sarah, and by the words of the Angel Raphael teaching them how holily spouses ought to live together."[14]

Concerning this we OBSERVE: 1. The state of grace is altogether required for receiving the Sacrament of matrimony worthily, as is plain. But Confession and Communion are strictly prescribed by no law: wherefore the PARISH PRIEST indeed ought urgently and paternally to exhort the betrothed to dispose themselves for matrimony by the reception of these Sacraments; but he cannot strictly command it, unless perhaps diocesan Statutes require it. 2. In setting forth the duties of spouses, and in inquiring concerning impediments from illicit intercourse, the PARISH PRIEST should use such a manner of speech as bears before it a certain singular gravity and integrity of mind; yet those things which pertain to the use of matrimony will scarcely not have to be remitted to the time immediately preceding matrimony, and ordinarily it is better to hand them on in the very act of confession[15] (cf. n. 2119).

(8) Tit. VII, De matrim., cap. 1. (9) Dated 18 May 1743, § 10. (10) Cf. Lucidi, vol. 3, p. 605 (Docum. LXXII, 3). (11) Benedict XIV, loc. cit.; Trid. sess. 24, cap. 1, de ref. matr. (12) Berengo, Theol. past., n. 127, p. 223. (13) Trid. ibid.; Benedict XIV, l.c. (14) RIT. Rom., l.c. (15) Konings, n. 1543.

2058. II. Proclamations are NECESSARILY TO BE PREMISED before matrimony: and this from an ecclesiastical precept obliging UNDER GRAVE obligation.

They are to be premised; for the holy Tridentine Synod,[16] "adhering to the footsteps of the sacred Lateran Council celebrated under Innocent III, commands that for the future, before matrimony is contracted, it be publicly denounced three times by the proper parish priest, on three continuous feast days, in church, during the solemnities of Masses, between whom matrimony is to be contracted." - Yet matrimony would not be invalid if, proclamations having been omitted, it were contracted, provided no other impediment obstructs.

But that the law obliges under grave obligation is evinced both from its end, which is that impediments be known and that clandestine matrimonies be avoided; and from the penalties laid on

violators, which similarly are grave, namely: a PARISH PRIEST presuming to assist at a matrimony which legitimate denunciations have not preceded is commanded to be punished by suspension from office, to last three years, or even by a graver penalty.[17] WITNESSES also, if they act knowingly, are to be affected with a fitting penalty. - But as regards the CONTRACTING PARTIES, if the matrimony was invalid from a hidden impediment, the children born from putative matrimony will be illegitimate, about to have no help from the ignorance of the parents.[18] Dispensation concerning an impediment afterward detected is also granted with more difficulty, and besides a penance to be defined at the judgment of the Bishop is to be enjoined (cf. n. 2061).[19]

(16) Loc. cit. (17) Benedict XIV, de Syn., Book 12, c. 6, n. 2. (18) De Angelis, lib. 4, tit. 3, n. 3, end. (19) Trid. sess. 24, cap. 5, de ref. matr.; Benedict XIV, l.c.

2059. III. Proclamations OUGHT to be made on three continuous feast days, in church, during the solemnities of Masses, by the proper parish priest of the contracting parties. Thus the decree of Trent.

Therefore they ought to be made: 1. On feast days, i.e. feasts of precept, among which suppressed feasts can be numbered if functions and solemnities are still customarily performed, as before the suppression, and there is a concourse of people.[20] - Indeed, on account of a just motive, which is approved as such by the Bishop, they can be made on ferial days themselves, if from some cause there would be a great concourse in the church.[21]

2. On three continuous feast days, i.e. with no feast day omitted from the first proclamation to the last. - To make proclamations on three non-continuous feast days, provided several feast days do not intervene, according to the truer opinion, is not mortal, because it does not seem a grave transgression; but it is not excused from venial fault, because now the precept of the Council is transgressed. But if three immediate feast days should occur, practice bears that one or another be passed over, because in so brief a time the end of the Council would not be sufficiently obtained.[22]

3. In church during the solemnities of Masses, i.e. in the parochial or conventual Mass, at the judgment of the parish priest. - According to the decree of S. C. C. dated 20 Sept. 1828,[23] the same thing can be done at another time, at which the concourse of the people would be more frequent. - Indeed, it is probable that they can be made outside the church, on the occasion of some sacred function, in a place of great concourse, "at least without mortal fault, and if some cause is present, without any fault."[24]

4. By the proper parish priest of the contracting parties, i.e. by him to whose parish the betrothed pertain by title of domicile or quasi-domicile (concerning domicile see below n. 2074).

Hence: 1) If they are of diverse parishes, proclamations are to be made in each. 2) Likewise in each, if someone has a double domicile, i.e. domicile in one parish and quasi-domicile in another. And this is clearly gathered from the Statute of the City (11 Jan. 1762), prescribing that denunciations be made both in the parish of domicile and of the college, monastery, conservatory, where the betrothed are staying.[25] - 3) If someone recently has arrived in some parish, proclamations ought to be made both in that parish and in the parish of his prior habitation, if he stayed there for at least six months. But what space of time from changed domicile is required, so that proclamations are to be made only in

the actual parish, is not defined by law: the matter therefore must be recognized from custom and from diocesan statutes. 4) They are to be made besides in the place of origin, unless it has already been deserted for several years. - 5) If the nupturients are wanderers, they are to be made in the parishes both of actual habitation and of origin, or even of preceding habitation, if either betrothed stayed there for a longer time. 6) Soldiers are to be proclaimed in the place where they are in garrisons and besides in the parish of their parents if they are minors; and if they are adults, in the place where they resided before undertaking military service.[26]

Note. When proclamations are to be made in two parishes, neither parish priest will be able to assist at the matrimony unless he has received the ATTESTATION of the other parish priest, that three proclamations were duly made in his parish, and that no impediment was detected from them.

(20) Cf. Feije, n. 241 sqq. (21) Decr. S. C. C. in Ravennaten. apud Giraldi, p. II, sect. 114, p. 989; cf. Book VI, 992. (22) Book VI, 992. (23) Thesaur., tom. 87, p. 240 in Sarzanen. (24) Book VI, 991. (25) Vecchiotti, lib. 5, § 71, p. 106. (26) Cf. on this matter Feije, cap. X, from n. 240 sqq.; Vecchiotti, cit. § 71; Berengo, 131 sqq.; Giraldi, P. II, sect. 114.

2060. IV. In making proclamations, that FORM ought to be held which corresponds to their end. - The reason is that aptitude for the end, i.e. the manifestation of impediments, is principally intended by the legislator. - Wherefore 1) the denunciations are to be made in the vernacular speech, with a high and intelligible voice, and the persons intending to contract and their parish are to be indicated accurately, so that there is room for no error. 2) In the individual denunciations it must be commemorated whether it is the first, or second, or last; indeed if only one, or two, were to be made by dispensation of the Ordinary, this ought to be notified to the people standing by. 3) It is also better to warn the people concerning the grave obligation incumbent upon each faithful person of manifesting impediments known to him, as is had in the formula of the Roman Ritual. 4) It is advised, and in various provinces is held as prescribed, that matrimony be celebrated only after an entire day has elapsed after the last proclamation. - 5) But if within two months after the denunciations have been made, matrimony has not been contracted, the denunciations are to be repeated, unless it seems otherwise to the Bishop (ROMAN RITUAL).

2061. IT IS ASKED. Whether it is a grave sin to omit denunciations, if, diligence having been made, it is altogether ESTABLISHED that no impediment underlies?

Resp. 1. Affirmatively, if the three denunciations are omitted. "The reason is both because, although through diligence the parish priest fulfills the end of Trent, nevertheless he transgresses the form of diligence which the Council prescribes: which, since it is in a most grave matter, is not excused from mortal sin unless urgent necessity which does not allow delay is present; and because otherwise the end of the precept of denunciations is not adequately satisfied; for the diligence of the parish priest does not sufficiently supply the effect of denunciations for impeding evils which otherwise can happen" (cf. n. 2058).[27]

Resp. 2. To omit two denunciations, more probably, is mortal; but omission of only one, probably, is only venial fault, because with respect to the whole precept it does not seem grave matter.[28]

Note. What the Tridentine Synod says concerning denunciations, if they have been omitted, to be supplied before consummation of matrimony, has now everywhere passed into desuetude. - Besides,

the Synod itself had remitted the matter to the prudence and judgment of Ordinaries.

(27) Book VI, 990. (28) Ibid., v. An autem.

§ 2. On Dispensation From Proclamations

Dispensation in matrimonial proclamations, which formerly could be obtained with more difficulty and very rarely, is now obtained with an easier business, as the following will set forth.

2062. Principles. I. The faculty of DISPENSING, from a just cause, in PROCLAMATIONS, belongs to Ordinaries of places. It is established from Trent (sess. 24, cap. 1, *de ref. matr.*). Concerning this it must be NOTED:

1. By the name Ordinary are understood the Bishop, and, the See being vacant, the capitular Vicar; a Prelate having quasi-episcopal jurisdiction, and more probably also the vicar general, as is very commonly taught (cf. n. 2259).[29]
2. For dispensing there is required a just cause, i.e. proportioned to the amplitude of the dispensation. - Hence a less grave cause is required for dispensing from only one denunciation; a graver for dispensing from two; but for licitly dispensing from all, "not any obvious and ordinary cause is enough," says Benedict XIV,[30] "but a grave, urgent, and most urgent one is required." And it must be noted besides, "that the Bishop, in dispensing in denunciations, is always bound diligently to inquire elsewhere concerning impediments, unless it were commonly established that they are not present."[31]

(29) Ibid., 1007; H. A., XIII, 59. (30) Const. Satis vobis, § 6; cf. also Const. Nimiam licentiam, § 12. (31) Book VI, 1006.

2063. II. According to the variety of causes, the Ordinary sometimes CAN and sometimes IS BOUND to dispense from proclamations. - It is established from those things which have been said concerning dispensation in the Treatise on Laws (cf. n. 234, 2). - Hence:

1. He can dispense, if the cause is sufficient, and no grave inconvenience from denial is to be feared: for example "if nuptials are to be contracted among magnates; if the betrothed are very old, or very disparate in condition, age, riches, or quality."[32]
2. He is bound to dispense, if the cause is urgent, namely if grave common or private damage, spiritual or temporal, is to be avoided; or if the dispensation will conduce to a notable spiritual or temporal good of the community or of some private person. CAUSES of this kind are: 1) Probable fear lest the matrimony be impeded maliciously. 2) Necessity of matrimony for avoiding damage or infamy of the contracting parties or of offspring: for example if concubinarians were reputed spouses; or if defloration preceded, and the bridegroom were now about to die, or about to depart to a distant region, or a change of will in him were feared. 3) The bad will of a bridegroom refusing, after civil matrimony has already been contracted, that three proclamations be made; and similar things.[33]

(32) Ibid. (33) Ibid., 1005; H. A., XVIII, 58.

2064. Questions. IT IS ASKED 1. Whether dispensation, when the betrothed are from diverse dioceses, must be obtained from EACH BISHOP?

Resp. The more common opinion today is affirmative, and, the intrinsic reasons being considered, also seems more probable. Yet where contrary custom is in force, it can be observed; but the mandate of free state is altogether required (cf. n. 2048, 1).

IT IS ASKED 2. Whether the PARISH PRIEST can sometimes dispense in denunciations?

Resp. Negatively, "because the parish priest has no jurisdiction in the external forum."[34] - Yet very probably authors say that, although the parish priest cannot dispense, nevertheless in cases in which the Bishop is bound to dispense and cannot be approached, he will be able to declare that the precept of proclamations does not oblige, provided he is certain that no impediment is present.[35]

(34) Ibid., 1006. (35) Feije, n. 266; Giovine, § 355, 4 sqq.; De Angelis, lib. IV, tit. 3, n. 3.

§ 3. On The Revelation Of Impediments

Just as it is the office of the parish priest publicly to denounce matrimonies to be contracted, so also it is the office of the faithful to manifest the impediments which they know obstruct their celebration. - The following will declare the things which pertain to this obligation.

2065. Principles. I. Every Christian faithful person who KNOWS that there is some impediment between the betrothed which obstructs the celebration of matrimony, IS BOUND, and indeed under grave obligation, to DENOUNCE it. The obligation proceeds from the law of charity, by which we are commanded to avert damage which threatens either a private person or the community (cf. n. 479 and 483): certainly damage of this sort would threaten each from impediments not manifested.[36] Besides this, there is the positive precept of the Church.[37]

It is said 1. *Every*; because no one, unless legitimately excused, is exempt from this law; but first of all the contracting parties themselves are bound to confess an occult impediment, and to obtain dispensation.[38]

2. *Who knows*, i.e. who has had at least probable notice concerning the impediment, even if he cannot prove it; both because such denunciation conduces to further investigations, and because on account of denunciation alone matrimony can sometimes be impeded, namely if the one denouncing is a witness greater than every exception.[39] But "if you know the impediment by hearing, but do not remember from whom, or if you received it from a person not worthy of faith, you are not bound to denounce."[40]

3. *Some impediment*, "whether it is diriment or impedient, even though it is occult and defamatory, namely one which had origin from sin. For anyone is bound to manifest another's occult sin, when the prelate legitimately has commanded it," as in this case (cf. n. 1186).[41]

4. *Which obstructs*, i.e. in which there has not been dispensation. Whence "if the impediment is occult, and dispensation for it has already been obtained as to the internal forum, the one knowing it is not bound to denounce it."[42]

5. He is bound to denounce it under grave obligation; for there is question of a most grave matter, in which the Church intends to oblige strictly. Yet he is excused from this obligation who cannot denounce without grave damage to himself, or scandal of others.[43] Hence no one is bound to manifest his own illicit intercourse, except the nupturients themselves, who ought

either to abstain from matrimony, or to procure dispensation for themselves. But one excused ought, if he can, to impede the matrimony.

You ask whether he is excused from denunciation who knew the impediment UNDER SECRET? Resp. Negatively, even if the secret was committed, and an oath of not revealing was added. - The reason is that a promise, even sworn, does not oblige when grave damage threatens the community or a third person[44] (cf. n. 616). - More probably except the case if someone knew the impediment under the secret of counsel, by reason of a public office which he exercises, for example a parish priest, physician, advocate, etc. For thus the public good seems to demand.[45] - Nevertheless they are bound, if they can, to warn the nupturients.

(36) Book VI, 994; H. A., XVIII, 56. (37) RIT. Rom., tit. VII, de matrim., cap. 1, n. 13. (38) Book VI, 994, 1000. (39) Ibid., 995, 996. (40) Ibid., 994, end. (41) Ibid., 994. (42) Ibid. (43) Ibid., 995. (44) Book VI, 994. (45) Gury, II, 742, and others cited there.

2066. II. Revelation, AS SOON AS morally it can be made, is to be made TO THE PARISH PRIEST of the betrothed, or to the BISHOP, yet the order of charity being observed. - Hence, if the impediment is defamatory, and admonition is probably going to be profitable, first the betrothed are to be warned, so that they may provide for themselves. Otherwise, the parish priest or Bishop is to be approached at once, because in circumstances of this kind there is ordinarily danger in delay.[46]

(46) Book VI, 994.

2067. Questions. IT IS ASKED 1. What the PARISH PRIEST, when an impediment is known, ought to do?

Resp. "If the impediment is denounced by others, it is certain from cap. fin. *de cland. desp.* that the parish priest is bound to interdict the nuptials, and to refer the matter to the Ordinary, that he may take cognizance." And the same must be affirmed, if he alone knows the impediment, outside confession. "The reason is that, if anyone is bound to reveal an impediment, even if he alone knows it, a fortiori the parish priest is bound, upon whom by office it is incumbent to take counsel for the salvation of his sheep. Nor does it obstruct that the Sacrament is not to be denied to an occult sinner publicly seeking it; for it is answered that this proceeds when the impediment merely renders reception of the Sacrament illicit; but otherwise, if the impediment, besides reception, furnishes occasion of other damages and faults."[47]

IT IS ASKED 2. Whether and when the denunciation of ONE WITNESS suffices for impeding matrimony?

Resp. 1. The very common and truer opinion affirms that one witness suffices, even if he is not greater than every exception, provided he has the QUALITIES to be explained below. It is proved from cap. *Super eo* 22, *de test. et attest.*, and also from cap. *Praeterea* 12, *de sponsal.* "The reason is that, although when there is question of prejudice of a third party, full proof is required, nevertheless since here there is question of avoiding danger of the soul, namely if perhaps matrimony were contracted with an impediment, the law is content with a lesser proof."[48]

Resp. 2. The QUALITIES REQUIRED so that one witness can impede matrimony are these: - 1) that he not only denounce, but also depose; unless such a witness by denouncing proved concerning the fame of the impediment, because then it suffices that he denounce; - 2) that he depose or denounce with an oath, because in those things which are to the prejudice of a third person, he is not believed unless he is a sworn witness; - 3) that he depose from certain knowledge, not from hearing: unless it is an impediment of consanguinity or affinity; because then it suffices that he depose that he knew it from certain and trustworthy persons; - 4) that the witness not be a base person; provided the fact is not so occult that it cannot be proved otherwise; for where the faculty of proving is lacking, even proof not sufficient of itself is admitted. Thus commonly.[49]

And here it must be noted that the fame of an impediment is sufficient for impeding matrimony, unless the consanguines of the betrothed, or the betrothed themselves, should swear that the impediment is not present.[50]

(47) Ibid., 1002. (48) Book VI, 996, 4th opinion. (49) Ibid., 997. (50) Ibid., 999; cf. H. A., XVIII, 56-59.

Article II: On The Tridentine Form To Be Observed

Here it comes to be said: 1. of the necessity of the Tridentine form; 2. of the requisites for the Tridentine form; 3. of the rite to be observed in the celebration of matrimony.

§ 1. On The Necessity Of The Tridentine Form

2068. By natural law matrimony indeed is perfected by mutual consent externally manifested; but the Tridentine Synod, wishing to meet the grave evils and sins which have arisen from clandestine marriages, established a solemn form under which consent is to be furnished, namely before the parish priest and witnesses, so that consent furnished otherwise is formless, and therefore invalid. - Hence the following are established.

Principles. I. Clandestine matrimony is everywhere GRAVELY ILLICIT. - The old canons established this, Innocent III confirmed it in the Fourth Lateran Council,[1] and the Tridentine Synod[2] fortified the same by its sanction, when it said that the Church always detested these things. - But if, on account of adjuncts of times or places, the law cannot be observed integrally, it is to be observed as to the possible part, according to the norm prescribed for missions among infidels.[3]

Hence: 1. The betrothed sin gravely, although in some place the nuptials are valid, if outside a case of necessity they contract between themselves alone, or before only the civil magistrate. 2. They sin more gravely, and are guilty of participation in heretical worship, if they contract before a non-Catholic minister.

(1) Decretal. IV, III, 3. (2) Sess. 24, cap. 1, de ref. matr. (3) Cf. Collect. S. Sed., n. 983 sqq.; specifically n. 984.

2069. II. Clandestine matrimony, in places where the TRIDENTINE decree concerning the solemnity to be employed has been promulgated, is altogether INVALID. For thus it was defined by the Council itself: "Those who shall attempt to contract matrimony otherwise than in the presence of the parish priest, or another priest by license of the parish priest himself or of the Ordinary, and two or three witnesses, the holy Synod renders them altogether incapable of contracting thus, and decrees that contracts of this kind are void and null, as by the present decree it makes them void and annuls them.... It decrees besides that this decree of this kind shall begin

to have its force in each parish after thirty days, to be numbered from the day of the first publication made in that same parish."

Moreover it is required that this PUBLICATION have been made in the individual parishes or quasi-parishes,[4] either by mandate of the Ordinary as promulgation of the decree of the Council of Trent, or, from special Indult, in the name and authority of the Roman Pontiff, as Benedict XIV explains diffusely.[5] - And the fact of promulgation ought to be indubitable. But as regards proof, S. C. C. on 29 Sept. 1602 defined: "publication is presumed where the decree had been observed for some time in the parish as a decree of the Council."[6]

We said *in places where it has been promulgated*, etc.; for it is certain that clandestine matrimonies "stand RATIFIED and FIRM in those places in which the decree of the Council of Trent either was never published, or was never observed as a decree of the same Council; or if it was ever observed, afterward by a long interval of time went into desuetude";[7] or finally if a dispensation concerning it was granted by Pontifical authority.

Here also it must be NOTED that, as Benedict XIV says,[8] "when one of the spouses, both by reason of the place in which he lives and by reason of the society in which he lives, is exempt from the law of the Tridentine Synod, the exemption which he enjoys remains communicated to the other party, on account of the individuality of the contract, by force of which the exemption which belongs to one of the parties is extended to the other, according even to civil laws, and is communicated to the same."

(4) Cf. Monit. eccl., t. X, p. 28, where Resp. S. OFFIC. 14 Nov. 1883, for the Canadian region. (5) De Synodo, lib. 12, cap. 5, n. 6. (6) Relat. in Instr. Pius VI to the Bishop of Luçon, 28 May 1793 (apud Perrone, de matrim., II, p. 210, ed. Liège). (7) Pius VII to the Archbishop of Mainz, 8 Oct. 1803 (apud Perrone, II, 236). (8) De Syn., Book 6, c. 6, n. 12.

2070. III. The Tridentine law invalidating clandestine matrimonies is at once LOCAL and PERSONAL. Thus the Instruction to the Archbishop of San Francisco in California given by S. C. de Propaganda Fide, from the resolution of the Holy Office on Wednesday, 14 Dec. 1859.[9]

As LOCAL, the law affects the territory, and obliges all those who are to be joined in matrimony there, even if they do not have domicile or quasi-domicile there. Hence if two Catholics domiciled in England, where the law is not in force, travel in France where it is in force, and there contract clandestinely, the matrimony is invalid.

But as PERSONAL, the law obliges all those who, having domicile or quasi-domicile in a place where the Tridentine decree has been published and is in force, wish to contract matrimony in another place, where it is not in force. - And this is indubitable, if the nupturients pass over IN FRAUD OF THE LAW, i.e. with the sole intention of contracting matrimony, into an exempt place, unless either one has acquired domicile or quasi-domicile there.[10] Nor is the restriction added to be held as an exception of the law, but it expresses the condition which is to be fulfilled so that one can be a participant in the privileges which inhabitants of the place enjoy. But whether the law also obliges those who passed over into the exempt place not indeed with the intention of marrying, but for another cause, is CONTROVERTED, with a great abundance of authors disputing on each side. This controversy standing, the validity of the matrimony indeed seems to us to have to be affirmed, from those things which we have set forth above concerning doubtful impediments[11] (cf. n. 1997, q. 4).

(9) Apud Konings, II, p. 396. (10) Decret. S. C. C. confirmed by Urban VIII, 14 Aug. 1627, and renewed by Benedict XIV, 19 March 1758, in the Letters Paucis ab hinc. (11) Cf. Feije, n. 338.

2071. Questions. IT IS ASKED 1. Whether HERETICS are bound by the Tridentine law concerning clandestinity?

Resp. Since it is certain that heretics are generally subject to the laws of the Church, the whole question is concerned with this, whether the Church wills them to be bound by this law of hers (cf. n. 198). But the question must be answered thus: The more common and much more probable opinion affirms that heretics are bound by the law of clandestinity, no less than Catholics, unless there is had a declaration of the Church establishing otherwise. The reason is sought from many documents issued by the Holy See, which cannot be turned aside into another sense except by force.[12]

Most celebrated in this matter is the DECLARATION and concession of BENEDICT XIV as regards matrimonies contracted in HOLLAND, made on 4 Nov. 1741, through which the Pontiff "declared and established that matrimonies, in the said federated provinces of Belgium, contracted up to now among heretics, and which will be contracted in the future, even if the form prescribed by Trent was not observed in celebrating them, provided another canonical impediment did not obstruct, are to be held as valid."[13] And he declared the same concerning mixed matrimonies, namely those which are contracted by Catholics with heretics.[14]

As regards the EXTENSION of this Declaration, the Congregation of the Holy Office, on 19 July 1818, declared: "The Decree of Benedict XIV, issued in the year 1741 concerning the matrimonies of Holland, looks taxatively only to matrimonies contracted in those provinces, but not to other matrimonies entered in other places and provinces, to which therefore it cannot be applied without a new and special declaration of the Holy See."[15] But it is established that the aforesaid declaration afterward, from Apostolic clemency, was also extended to other regions, which were in the same necessity as Holland.

From these things you will gather: 1. If it is established that the Tridentine decree was not published in some place, or after its publication the Benedictine declaration was extended to that place: it is certain that the marriages of heretics, whether among themselves or with Catholics, entered there clandestinely, are valid. 2. The same must be said if this has been expressly conceded by a particular Indult of the Holy See.

And here it comes appositely to be NOTED that, for the effect of matrimony, under the appellation of HERETICS there are comprehended in the declaration of Benedict XIV the following FIVE CLASSES: - "1) Those who, baptized Catholic, 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 of heretical doctrine, and not frequenting 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, grew up without having emitted any solemn profession of heresy, and as it were of no religion, etc." Thus C. S. OFFICII, 6 Apr. 1859.[16]

Concerning the matrimonies of heretics, S. Congregation of the Council also WARNS these things, in the Instruction to the Bishop of Rosnava (16 March 1780):[17] they "must be so dissembled by you, that concerning their validity or invalidity you abstain altogether not merely from pronouncing judgment, but even from promoting a disputation, from which not so much fruit of utility as movement of offense and danger for the ruin of the Catholic religion would have to be expected." Besides, "If any have entered marriage invalidly in heresy, the form of Trent not being observed, and afterward having been converted to the Catholic religion, persevere in it in good faith and adhere to their marriage, they seem rather to have to be left in the same good faith than to be warned of nullity." Thus S. C. C. in the case Iprensis, 17 Aug. 1737.[18] The same Congregation adds besides: "but particular cases and circumstances of those who are troubled by scruples concerning the validity of these matrimonies ought to be set forth distinctly by the Bishop."

IT IS ASKED 2. Whether, in places where the decree of Trent is in force, matrimonies celebrated without the assistance of the parish priest can be held valid, if ACCESS to him DOES NOT LIE OPEN to the parties?

Resp. 1. Affirmatively, if there is in some place a GENERAL impossibility, which is foreseen as about to last for at least a month. It is established from the Response of C. S. Officii, given on 1 July 1863 to the Bishop of Vallis Prati,[19] in which these things are read: "The same Eminent Fathers declared: When access is difficult and not safe, and it is unknown when the Parish Priest can be had, and he is foreseen as about to be absent from the place for the space of at least one month, and there is no other who may supply the place of the Parish Priest: matrimony is valid without the presence of the parish priest, yet the form of the Council being observed in that in which it can, namely with at least two witnesses employed."

Resp. 2. Negatively, if the necessity is PARTICULAR to the nupturients, since an invalidating law does not cease on account of the inconvenience of a private person.[20] Thus the more common opinion, against others thinking otherwise.

IT IS ASKED 3. Whether matrimonies entered against the law of Trent have ANY EFFECTS?

Resp. From matrimonies of this kind there arises the impediment of PUBLIC HONESTY, as was said above (n. 2033). - But if the matrimony was consummated, it is clear that peculiar obligations arise from this head. - Besides, there are not lacking those who adjudge to such matrimonies the force of betrothals, because an act which does not have force as it is done nevertheless has force as it can be done. But this must plainly be denied, at least if there is question of persons who have reached puberty, as is clear from various decisions of S. C. C.[21]

(12) See them apud Perrone, de Matrim., II, p. 209; cf. Vecchiotti, III, § 107. (13) Cited Declar., § 2. (14) Ibid., § 3. (15) Apud Perrone, loc. cit. (16) Apud Feije, n. 319. (17) Roskovany, de matr. mixtis, II, 539. (18) Cf. Perrone, l.c., II, 232. (19) Apud Konings, II, p. 395 (ζ); cf. Epist. Pius VI to the Bishop of Luçon, 28 May 1793 and to the Bishop of Geneva, 5 Oct. 1793 (apud Moser, p. 164). (20) Book VI, 1079 (cf. index Alphonsus, P. VII, q. 54). (21) Apud Feije, 282; cf. Book VI, 841.

2072. It helps here to add a LIST of the principal places in which the Tridentine Decree must be held as promulgated or not promulgated.[22]

A) All clandestine matrimonies, i.e. whether of Catholics, or of heretics, or mixed, are INVALID in Spain, yet at Gibraltar the matrimonies of heretics and mixed matrimonies have force; in Portugal,

Italy and the adjacent islands, in France as it existed before the war of 1870, in Germany with the exceptions to be excepted below, in modern Belgium, the grand duchy of Luxembourg, the Ecclesiastical Province of Goa; the Mexican Republic, and the regions of CENTRAL and SOUTH AMERICA, except those to be indicated under C 12; finally in all colonies of the Portuguese or Spaniards.

B) In various northern regions of Europe, which in the year 1564, in which the Council of Trent was confirmed, had already defected from the faith, the Decree concerning clandestinity DOES NOT OBLIGE. - Thus the matter stands in England, Scotland, Denmark, Norway, Sweden, which is not to be confused with Suevia, as some confuse them, 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 cantons of Switzerland, as Zurich, it does not oblige. The same has force, as regards Bavaria, in the non-Catholic places of Onoldina and Pappenheim, and in the district of the formerly imperial cities of Nuremberg and Weissenburg. - In Russia, one diocese or perhaps another is not obliged. 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, only a few places excepted. In Japan it is now nowhere in force, from the declaration of S. C. of the Holy Office, 11 March 1868.[23] - Nor is it in force in Abyssinia and nearly all other regions of Africa.

C) From the declaration of BENEDICT XIV for Holland and its extension, or from other Pontifical acts, clandestine matrimonies have force, whether of heretics among themselves, or mixed; but not, except those enumerated under B, of Catholics among themselves:

1. In all the Netherlands, except Limburg,[24] where nevertheless they have force 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. - 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 everywhere from 1 Jan. 1828.[25] - 4. In Silesia subject to Prussia and in the duchy of Cleves, and, from 25 March 1830 inclusive, in the dioceses of Cologne, Trier, Paderborn, and Münster: with faculty given to the Bishops for revalidating matrimonies contracted before this day. - 5. In the Kingdom of Württemberg the Benedictine declaration was certainly extended to the city of Ulm. Concerning other places of the ecclesiastical province of the upper Rhine there can also be doubt.[26] - 6. In Russia and in the whole part of Poland subject to the Russians. - 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 of the English and French, with only some places excepted as regards Catholics. - Likewise in Algeria. - 12. In the islands of Central or South America and other places, formerly existing under the dominion of Catholics, but now subject to the dominion of the English, Dutch, Danes.

(22) Konings, n. 1611; cf. Feije, 320 sqq.; Perrone, lib. 2, sect. 1, cap. 6, art. 3 (II, p. 239 sqq.); and especially Zitelli, Apparatus juris ecclesiastici, p. 394. (23) Collect. S. Sed., n. 998. (24) Yet see Feije, n. 320 (1). (25) Ibid., n. 325. (26) Cf. Feije, n. 329.

§ 2. On The Requisites For The Tridentine Form

The essential solemnity prescribed by Trent consists in the presence of the parish priest and witnesses. The following will elucidate the things which pertain to each presence.

2073. Principles. I. Only the PROPER PARISH PRIEST of either contracting party can VALIDLY assist at their matrimony. - It is established both from the Tridentine decree itself, and from various declarations of S. C. of the Council,[1] and finally from the constant practice of the Church and from common interpretation.

It is said 1. PARISH PRIEST, by which name is understood not only the parish priest properly so called, but every ecclesiastical Superior having ordinary jurisdiction over the contracting parties: as the Pope in the universal Church, the Bishop and Vicar general in their own diocese, and, the See being vacant, the capitular Vicar; finally Abbots having quasi-episcopal jurisdiction, in their own territory.

A putative parish priest also VALIDLY assists at matrimony, namely one who lacks parochial jurisdiction because of an occult defect, but who, a title at least colored suffragating, is held from common error as the true parish priest. Yet "since an intruder, nominated by non-legitimate authority, is by no means a parish priest," as Pius VI says,[2] "and has no title, either true or colored, matrimony contracted before him is certainly of no strength."

Similarly, an excommunicated parish priest VALIDLY assists at matrimony, even one to be avoided, irregular and suspended, or not yet initiated into the priesthood; because in assisting he exercises no jurisdiction, but intervenes only as a qualified witness, and he is still parish priest.[3] Yet a most grave cause is required for seeking assistance from a parish priest excommunicated by name, or interdicted.[4] But if he has become a public and declared heretic or schismatic, he can no longer validly assist, because he is deprived of the parochial benefice by the law itself, from the Constitution *Noverit* of Nicholas III.[5]

Here also it must be NOTED that a parish priest, even outside the parish, and say the same of the Bishop outside his diocese, can assist at the matrimony of his subject, even if the parish priest of the place where the matrimony is celebrated should contradict it.[6] And, from a just cause, he also does this licitly: the solemn blessing however being omitted, which he is prohibited under grave obligation from imparting without license of the parish priest or Ordinary of the place.[7]

It is said 2. PROPER, namely one who is parish priest of the domicile or quasi-domicile of the contracting parties. Thus it has been defined several times.[8]

(1) Book VI, 1081; cf. Benedict XIV, Instit., 33; Giraldi, p. II, sect. 115; Richter, Decreta Conc. Trid., sess. 24, after the decrees de ref. matr. (2) Instr. to the Bishops of France, 26 Sept. 1791 (Moser, p. 162). (3) Book VI, 1082. (4) Ibid., 1083. (5) Vecchiotti, III, § 106, p. 204. (6) Book VI, 1081. (7) Ibid., 1087. (8) See Resp. S. OFF. to the postulates of the Synod of Mantua, 2 May 1877 (apud Konings, II, p. 412).

2074. For perfect understanding of the matter it seems opportune here to repeat the things which above, in the Treatise on Laws, we said concerning domicile and quasi-domicile.

Therefore someone is said to have DOMICILE there where he dwells with the will of remaining perpetually. But since such a will is an internal thing, it ought to be manifested by words or deeds, or to be argued by presumption of law, from a ten-year habitation, provided the contrary intention is not established. Moreover, domicile once acquired is not lost by actual departure, nor by long absence, but only by a formal will of renouncing it. And this same renunciation is required so that the wife may lose the domicile of her deceased husband. But he who is not his own right, as a minor, retains the domicile of his father or tutor, as long as, after his emancipation, he has not dismissed it either by words or by deeds (cf. n. 203).

QUASI-DOMICILE is commonly defined by authors: habitation in some place, with the intention of remaining there through the greater part of the year, or at least for six months. "Wherefore if it is legitimately established that either both or one of the betrothed has the intention of remaining through the greater part of the year, from the first day on which these two things concur together, namely both an intention of this kind and actual habitation, quasi-domicile must be judged to have been acquired, and the matrimony which is contracted therefore to be valid. - Nevertheless, if the aforesaid intention is not established, recourse must be had to the indications which are at hand, and which produce moral certitude. 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 employed, that it be inspected whether before the matrimony, for the space of at least one month, either both or one of them dwelt in the place of the matrimony. But if this is found to have happened, it must be judged from presumption of law that the intention of remaining through the greater part of the year existed, and domicile was acquired, and therefore 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 in no way existed: then certainly it is manifest that a contrary judgment must be pronounced, because presumption must yield to truth. - Besides, it is also manifest that actual habitation is inept for producing quasi-domicile, if someone is staying in that region in the manner of a wanderer and traveler, but not as one truly and properly dwelling, namely in the way others are accustomed who in the same place have a true and properly so-called domicile."[9]

The proper parish priest of wanderers, namely those who have no domicile or quasi-domicile, as to assistance at matrimony, is he in whose parish they actually are. "Therefore they can contract before any parish priest, assisting in his own parish, and this even if only one of the betrothed is a wanderer.... But the parish priest, before he joins wanderers, is bound diligently to inquire concerning their condition, as Trent prescribes,[10] whether they are joined elsewhere; and afterward to seek license of assisting from the Bishop, without which, although he assists validly, nevertheless he sins gravely by assisting."[11]

From the things said you will resolve: 1. For the validity of matrimony, it makes no difference whether the parish priest of the bridegroom or of the bride assists. Yet matrimony is contracted more fittingly before the parish priest of the bride.

2. One who has two domiciles, or domicile and quasi-domicile, can contract before the parish priest of either one; yet more decently before the parish priest of actual habitation.

3. From quasi-domicile there acquire for themselves parochial right as to celebration of matrimony: public officials, judges, professors, pupils, servants, maidservants, etc., who by reason of office, duty, study, or for the sake of carrying on business, betake themselves into some place with the intention of spending the greater part of the year there; likewise, soldiers and those detained in prison, who are sent to a place for at least six months, but not if they are going to remain there for a shorter time. - And here it must be noted that those who live in some community, under the spiritual care of some chaplain, for example in a hospice, foundling hospital, cannot contract before him; but the presence is required of the parish priest of the place in which is the hospice or other house where they live.[12]

Nevertheless, for all the aforesaid it is also permitted to contract before the parish priest of the PLACE where they have true domicile; indeed girls who, for the sake of education, live in a monastery or conservatory, and who wish to enter matrimony, are to be sent back to the paternal home; as both the reason of decorum and the decree of S. C. of Bishops and Regulars, 7 October 1723, related by Benedict XIV,[13] show that it must be done. And this same thing must be done with young men living in a seminary, college, or other house for the sake of education.

(9) Instr. S. OFF., 7 June 1867, apud Konings, l.c. (cf. Acta S. Sed., vol. XI, p. 565). (10) Sess. 24, cap. 7, de ref. (11) Book VI, 1039 (cf. Craisson, n. 1876 sqq.). (12) Ibid., 1090, 1091; Benedict XIV, Instit., 33, n. 11 sqq. (13) L.c., n. 15.

2075. II. The parish priest or Ordinary enjoys the faculty of DELEGATING a priest who may assist at matrimony in his place. Thus expressly the Tridentine decree. But that the delegation be VALID it is required:

1. On the part of the delegate, that he be a priest, and have notice of the delegation made; for an ignored delegation profits nothing.[14] - He can subdelegate if he is delegated for the universality of causes, for example for performing all parochial duties; otherwise, if he is delegated for a case, unless an express faculty also of subdelegating is conceded: which is opportune to add, so that various difficulties perhaps not foreseen may be met.
2. On the part of the one delegating, that the delegation be express, either in writing, which is best, or by living voice, or at least by some sign which manifests consent in the present; whence, tacit delegation sometimes suffices, but never interpretative delegation. Yet delegation has force even if extorted by fear, provided it has not been retracted; for it is sufficiently voluntary (cf. n. 232, 286).

But with what faculty in this matter coadjutors of parish priests, or Vicars, are endowed, certainly cannot be defined by a general rule, but must be known from custom and diocesan statutes. For the Bishop, in constituting Vicars, can either immediately confer on them the right of assisting at matrimonies, or leave that right to be committed to them from the delegation of the parish priest.

(14) De Angelis, lib. 4, tit. 3, n. 5, v. end.

2076. III. Besides the parish priest, at least TWO WITNESSES ought necessarily to assist at matrimony, and this under penalty of nullity. - It is established from the often-cited decree of Trent.

But the common opinion is that any witnesses are suitable for this assistance, even women, children, provided they are capable of reason, infidels, infamous persons, parents, slaves, and even those who by chance pass by there, or are detained by force.[15] Yet honorable Catholics, who know the contracting parties, are to be preferred.

(15) H. A., XVIII, 70; Book VI, 1085.

2077. IV. The PRESENCE of the parish priest and witnesses ought to be not only material, but also FORMAL, so that they can attend to what is being done and testify to it. It is established from the end of the law, and from many declarations of S. C. of the Council.[16]

Hence: 1. "If they did not well understand the consent of the betrothed, for example because they are of a diverse idiom, one interpreter affirming concerning the consent is not enough.

2. "It is not necessary that they see the contracting parties, provided they hear the words of the contract, if they know the voices of the contracting parties. It also suffices if they see the signs of consent.

3. "Nor does it matter, even if unwilling they are detained through fear, force, fraud, or injury, or even if they contradict and resist.... But contracting parties sin gravely by contracting before a parish priest detained by force or fraud, or passing by by chance, on account of the injury which is inflicted on the Sacrament and the Church, since the parish priest then assists as a public person."[17] Except if, an urgent necessity of contracting being present, the parish priest were unwilling to assist, and the Superior could not be approached: because the parish priest then is bound from office to assist. Yet it would be only venial to contract before witnesses thus present, that is, detained by fraud.[18]

(16) Cf. Benedict XIV, de Syn., Book 13, c. 23, n. 1. (17) Book VI, 1092. (18) Ibid., 1093.

§ 3. On The Rite Of Celebrating Matrimony

2078. Since matrimony is a wholly holy thing, inasmuch as it is a Sacrament, and holy things are to be treated holily, the holy Church of God instituted the RITE which is to be observed in the celebration of this Sacrament.

It is found described in the Roman Ritual,[19] whose prescriptions in this matter look to THREE things: namely the joining, the blessing, and the inscription. A few things concerning each.[20]

I. The JOINING consists in this, that the parish priest, "the man and woman having been questioned, and their mutual consent having been understood, either says: I join you in matrimony, in the name of the Father, and of the Son, and of the Holy Spirit; or uses other words, according to the received rite of each province."[21] In the joining the following are to be OBSERVED:

1. It ought to be performed publicly, or in the face of the Church, and this under grave obligation: as is gathered from Benedict XIV's Constitution *Satis vobis*, by which the contrary custom is condemned as a grave abuse. - Therefore it cannot be performed in Oratories or in private houses, unless by license of the Ordinary: which only then can be presumed, when some necessity presses, for example in danger of death.

2. The parish priest ought to question each contracting party concerning consent. Yet omission of the questioning, if the free consent of each is established, is only venial.[22]

3. He ought similarly to pronounce the words: *I join you*, etc. Others probably say that this obligation is light; but others, still probably and perhaps more probably, affirm that the same is grave, because it seems a transgression in a matter of great moment.[23]

4. Finally there is added the blessing of the ring, which is a sacramental, and whose omission would be only venial. Nor is it to be omitted in second nuptials.[24] It can be done in the plural, and likewise the remaining blessings, if several matrimonies are celebrated at the same time.[25]

5. "If the Mass immediately follows the rite of Joining, the Priest besides Alb and Stole ought also to put on the Chasuble."[26]

IT IS ASKED. Whether the parish priest can assist at the matrimony of those who are PUBLIC sinners, or excommunicated?

Resp. to the 1st. Negatively, of itself, both because by natural law no one can cooperate with the sin of a neighbor, and because the parish priest is bound from justice to apply himself to the spiritual salvation of his sheep, by averting them from sins. - It is said *of itself*; because he is excused if he assists for avoiding death, or other grave evils of the community or of the contracting parties themselves, for example lest they themselves persevere in sin[27] (cf. n. 1429, q. 1).

Resp. to the 2nd. If the contracting parties are notoriously excommunicated, but not to be avoided, "let the parish priest consult the Ordinary, who, with account taken of the matters and circumstances, and all things weighed which are handed down by approved authors and especially by St. Alphonsus, should declare those things which he shall have judged more expedient in the Lord, yet the celebration of Mass always being excluded." Response of the S. PENITENTIARY, 10 Dec. 1860.[28]

(19) Tit. de Sacr. matrim., cap. 2. (20) Cf. Collect. S. Sed., n. 1027 sqq. (21) Trid. sess. 24, c. 1, de ref. matr. (22) Book VI, 1094. (23) Ibid. (24) C. S. OFF., 1 Sept. 1841. (25) S. R. C., 27 Aug. 1836 (Gard., n. 4780). (26) S. R. C., 31 Aug. 1867 (Gard., 5382). (27) Book VI, 54. (28) Acta S. Sed., I, 563, n. 18.

2079. II. The NUPTIAL BLESSING is read in the missal, the Mass for bridegroom and bride, and pertains to the solemnity of Nuptials. It obliges under venial fault, as is commonly taught.[29] Concerning it the following things are to be NOTED:

1. "The holy Synod established that the blessing be made by the proper parish priest, and that license for making the aforesaid blessing cannot be conceded to another priest by anyone except by the parish priest himself or by the Ordinary. - But if a priest should have dared to join or bless the spouses without the license of their parish priest, let him remain suspended by the law itself for so long until he is absolved by the Ordinary of that parish priest who ought to have assisted at the matrimony, or from whom the blessing was to be received"[30] (cf. n. 1373).

2. The Congregation of the Holy Office, on 31 Aug. 1881, decreed that that blessing "is always to be imparted in the matrimonies of Catholics, yet within celebration of Mass according to the Rubrics, and outside the forbidden time, to all those spouses who, in contracting matrimony, did not obtain it from whatever cause: even if they ask after they have already lived in

matrimony for a long time, provided the woman, if a widow, herself did not receive the blessing in other nuptials.[31] Besides, the same Catholic spouses who did not obtain 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 validly contracted before Conversion from heresy, that the blessing itself pertains to the rite and solemnity, but not to the substance and validity of marriage."[32]

3. The blessing of Nuptials cannot be conferred except in Mass:[33] in which the spouses are indeed to be exhorted by parish priests and confessors to communicate, but are not to be compelled by force of precept.[34]

4. The Mass, in celebration of nuptials, ought always to be the votive Mass for bridegroom and bride, as in the Missal:[35] except on Sundays and Feasts of precept, on doubles of the first and second class, within the privileged Octave of Epiphany and Pentecost, on the Vigil of Pentecost, on the octave day of Corpus Christi, and on other days excluding doubles of the second class.[36] - But on days on which the Mass for bridegroom and bride is not permitted, the Mass of the day is to be celebrated, with commemoration from that Mass.

5. The Mass for bridegroom and bride is a private votive Mass; since it is for the private good of those marrying, and therefore it must always be celebrated as any other private votive Mass, without Gloria and Credo, even if it is celebrated in chant and with solemn apparatus.[37]

6. When, without Apostolic Indult, nuptials are celebrated in the time of Advent or Lent, the Commemoration for the spouses ought not to be made in the Mass by Collect, Secret, and Postcommunion; nor is it licit to recite the Prayers placed in the Missal after the Lord's Prayer and *Ite Missa est*; nor ought the same prayers to be recited outside Mass, the prohibited time having elapsed.[38]

7. In the same Mass several spouses can be blessed; yet the prayers are not said in the plural, but are recited as they are read in the Missal.[39] "If any provinces use other laudable customs and ceremonies beyond the aforesaid in this matter, the holy Synod vehemently desires that they be retained altogether." To this pertains, for example, the ceremony by which the joined hands of the spouses are covered, or bound, with the lowest part of the stole.[40]

8. When, by reason of the blessing to be imparted, the Mass for bridegroom and bride is to be celebrated, the priest is not bound to apply it for the spouses, unless he receives a stipend: wherefore he is free to apply it for another offering.[41]

(29) Book VI, 988. (30) Trid., l.c., cap. 1. (31) Nor does it matter whether the woman is a virgin or corrupted. S. C. C., 2 Oct. 1593. (32) From an authentic copy; cf. Acta S. Sed., vol. XIV, p. 513. (33) S. R. C., 23 June 1853 (Gard. in Limburgen., n. 5190; likewise n. 5275, 5289, 5514); cf. Schober, p. 235. (34) S. R. C., 21 March 1874 (Gardell., n. 5582). (35) Cited Decr. Limburgen. (Gard., n. 5190). (36) Schober, p. 238. (37) S. R. C., 28 Feb. 1818 (Gard., n. 4544) and 28 July 1832 (n. 4691). (38) S. R. C., 31 Aug. 1839 in Montis Pessulan. (Gardell., n. 4868). (39) S. OFF., 1 Sept. 1841 (apud Schober, p. 241). (40) Bangen, III, 55. (41) S. C. PROPAG. FID., 23 March 1844 and 7 June 1853 (cf. Collect. S. Sed., n. 1047 and 1048).

2080. III. The INSCRIPTION of matrimony, which Trent and the Ritual prescribe, is to be made under grave obligation; since, after the death of the witnesses and the parish priest, from this

inscription alone it can be established that the matrimony was performed. - See the formulas in the Ritual itself.

Note. Concerning secret matrimony, or matrimony of conscience, concerning which see n. 1962, 3, it will help to have noted the following things here.

1. A Matrimony of this kind cannot be celebrated except by license of the Ordinary: for legitimately obtaining it, there are prerequired: 1) A grave and most urgent cause, for example of recalling from a state of damnation occult concubinarians who are reputed legitimate spouses; 2) diligent inquiry of the matter and circumstances, for example whether the spouses are of their own right or of another's, whether parents justly dissent, etc.; 3) indubitable documents concerning the free state of the spouses.
2. Matrimony is celebrated, denunciations being omitted, with everyone unaware, before only the parish priest and two witnesses, for example two other presbyters, who will most faithfully preserve the secret. But the parish priest ought to admonish the spouses concerning the most grave obligation of providing for future offspring as to education, legitimacy, and inheritance, but especially concerning the obligation of denouncing to the Bishop, within a month to be computed from the day of birth, the offspring received and baptized; if they neglect to do these things, they certainly will lose the right of secrecy.
3. Attestations, both concerning celebration of Matrimony and concerning Baptism conferred, are to be transcribed not in the parochial books, but in books preserved at the episcopal Curia and guarded with seals, and are to be kept cautiously in a more secret place.

Thus from the Constitution *Satis vobis* of Benedict XIV, issued on 9 Nov. 1741.[42]

(42) Vecchiotti, lib. 5, § 83; Berardi, De Occas., n. 117-119.

Chapter VI: On The Revalidation Of Invalid Matrimony

2081. I. A matrimony is called INVALID when it is a conjunction of man and woman which indeed bears before itself the form of matrimony, but which, with consent lacking, or with some diriment impediment obstructing, does not have the substance of true matrimony. - In the external forum the ecclesiastical judge pronounces the nullity of matrimony, a process having been completed according to the paths of law.[43] In the internal forum, to declare a discovered nullity, unless prudence persuades otherwise, is the office of the confessor. But how cautiously one must proceed in a matter of this kind is declared by the most grave consequences flowing from a pronounced sentence; and hence it is why, in doubt, one must always stand for matrimony, and why in every difficult case counsel must be sought from the Ordinary, or at least from a learned and prudent man.

II. But when the invalidity of matrimony has been discovered, the CONFESSOR ought, according to the diversity of circumstances, either to permit the putative matrimony, or to urge separation, or to procure revalidation.[44]

1. He ought to PERMIT the putative matrimony, if, the parties being in good faith, only a harmful remedy can be brought, i.e. a remedy from which greater evils, and first of all formal sins, would arise. Therefore in the case in which an occult but indispensable impediment obstructs the validity of matrimony, and in which the putative spouses cannot be separated without scandal and cannot cohabit without danger of incontinence, they are altogether to be left in good faith (cf. n. 1810, Rule 2).
2. He ought to URGE SEPARATION, if, the nullity of matrimony being manifest to each or to either party, revalidation cannot be had, or is rejected. - Sometimes juridical separation is required, which is made through the sentence of a judge declaring the nullity of matrimony. Sometimes separation from bed and habitation is to be made, under the species of divorce, namely if the nullity of matrimony cannot be proved, nor can revalidation be obtained, and cohabitation is judged not to be free from danger of incontinence. Sometimes separation from bed suffices, so that the putative spouses cohabit as brother and sister: and this remedy indeed is best of all, provided, which is rare, danger of incontinence threatens from neither side.
3. He ought to PROCURE REVALIDATION, whenever it can be obtained, and the parties do not contradict. But since revalidation, on account of dispensation to be obtained, demands some delay for itself, what is to be observed meanwhile must be indicated in a few words.

1. If the nullity of matrimony is public and notorious, separation as to bed and habitation is to be urged, until matrimony, dispensation having been obtained, can be revalidated publicly in Tridentine form. This is required from the necessity of avoiding scandal.[45]
2. If the nullity is known only to the parties, separation from bed suffices, provided proximate danger of sinning is absent; otherwise, momentary separation from habitation, under an honorable pretext, for example of a journey, is prescribed.
3. If the nullity is known to only one party, this one, where no inconvenience underlies, should warn the coparty, and let them act as in the preceding case; or under some pretext let this party refuse the debt even with whatever inconvenience; since it is never licit to use matrimony while its invalidity is established. And meanwhile, every delay having been cast away, either simple dispensation is to be sought, if the party unaware can be warned; or dispensation in the root, if warning is foreseen as going to be impossible (cf. n. 2084).
4. If the nullity is known to neither party, and greater inconveniences are foreseen from warning, as for the most part they must be foreseen, the parties are to be left in good faith, until, through the confessor having obtained the necessary faculties, the nullity can both be declared and immediately healed. And in this way indeed one must always act when a spouse confesses a sin committed before the nuptials, from which the nullity of matrimony becomes known to the confessor alone (cf. n. 2041 and 2051).[46]

The confessor should also take care that the spouses, at the time at which the matrimony is revalidated, be in the state of grace, since at that point of time they receive the Sacrament. - But, right disposition lacking, revalidation is not for that reason to be postponed, since a greater evil would generally come from postponement.

III. For the revalidation of matrimony two things are regularly REQUIRED: dispensation from the impediment, and new consent. - 1) As regards dispensation, the things which we warned above are to be attentively attended to in the petition (cap. IV, especially n. 2049, 10, and 2051, 6). - 2) New consent is to be furnished in Tridentine form, if this was omitted, or if the nullity is publicly established. Nor nevertheless are publications necessarily to be premised; it suffices if consent is renewed occultly before the parish priest and two faithful witnesses, provided scandal is forestalled through opportune divulgation. But if the nullity is occult, and the matrimony has already been celebrated in the face of the Church, it suffices that consent be repeated secretly, the Tridentine form being omitted. The reason is that the Council wills the presence of the parish priest and witnesses for proving the validity of matrimony according to external appearance; but since the matrimony first contracted is now externally reputed valid, the reason ceases why the aforesaid presence would again be required.[47] - And thus indeed the S. Penitentiary established from the oracle of St. Pius V, and it itself constantly held this manner of acting.

Moreover, the MANNER OF ACTING in the revalidation of matrimony depends on the nature of the impediment which obstructs validity, and which comes either 1. from defect of true consent, or 2. from defect of habilitation of the parties, or 3. from defect of the Tridentine form. - Therefore, concerning the diverse manner of revalidating, according to the diversity of impediment, some things are to be set down.

(43) Cf. Benedict XIV, Const. Dei miseratione; likewise Instr. C. PROP. F. De Processu matrim. (Rev. des sc. ecclés., t. 52, p. 126). (44) Cf. Benger, Past. Theol., § 191, n. 31-32 (III, 849); Compend., n. 641 sq. (45) Cf. Acta S. Sed., vol. II, p. 19 and 52. (46) Cf. De Priv., n. 56-57. (47) Book VI, 1110.

Article I: On Revalidating Matrimony Invalid On Account Of Defect Of True Consent

2082. Matrimony is invalid ON ACCOUNT OF DEFECT OF CONSENT, if one party or each party, whether fictitiously, or from error, or from force and fear, consented. - Such a matrimony, error or fear having been removed, is revalidated by consent alone duly furnished. - Now:

1. If true consent was lacking from EACH party, it must be expressly renewed by each party, as is clear of itself.

2. If it was lacking from only ONE party, it is certain that it must be renewed from this side. But whether it must also be renewed by the other party, namely so that this one must be warned concerning the nullity of the matrimony, is indeed controverted; but the more common and truer opinion denies with St. Thomas.[1] - Indeed, if no inconvenience were to be feared, which very rarely is absent, it would be better, on account of reverence for the Sacrament, that consent be renewed on both sides; but this mutual renewal is not necessary. Therefore it suffices if he who previously did not consent furnishes his consent, either by words or by signs, for example through conjugal intercourse and through cohabitation. "The reason is that it is certain that in the contract of matrimony physical simultaneity of the consents of the betrothed is not required, but moral simultaneity suffices, namely if the consent of one morally perseveres while the consent of the other is placed. But in our case..., since the true consent of the other has already preceded and virtually perseveres, through cohabitation or another sign,

it is enough that the consent of the one who suffered fear or consented fictitiously accede."[2] Positive law suffragates.[3]

"Nor does the fear obstruct, lest the party who furnished free consent, if again asked about new consent, perhaps should deny it; for this interpretative dissent is not true dissent, but meanwhile the consent formerly imparted perseveres."[4]

IT IS ASKED. "Whether one who FICTITIOUSLY contracted matrimony is bound FROM JUSTICE to revalidate it by true consent?"

Resp. "The Salmanticenses and others affirm, because the other has already handed over his body through true consent; whence, that equality may be preserved, the one fictitiously consenting is bound also through true consent to hand over his body. But Sanchez, and others, more probably deny, because since the contract of matrimony cannot limp, when one consents fictitiously, there is no handing over on the part of the other, and therefore no inequality remains: for he who placed true consent remains equally free as if he had placed no consent. - Nevertheless all agree that the one consenting fictitiously is bound to revalidate the matrimony by true consent, if he cannot otherwise repair the damages inflicted on the other from that deception."[5]

(1) Suppl., q. 47, a. 4, ad 2. (2) Book VI, 1114; 1 Elench. qq. ref., n. 90. (3) Cf. St. Alphonsus, ibid. (4) Ibid. from the 6th ed.; H. A., XVIII, 80; cf. Acta S. Sed., vol. XI, p. 345. (5) Book VI, 1113; H. A., l.c., 79.

Article II: On Revalidating Matrimony Invalid On Account Of The Incapacity Of The Parties

Matrimony invalid on account of an impediment of divine law, for example on account of bond, this having been removed, is convalidated through the new consent of each party, according to the things said in n. 2014, 3. - But matrimony invalid on account of an impediment of ecclesiastical law is convalidated, dispensation first having been obtained, either through new consent, or through sanation of the prior consent, which manner is called SANATION IN THE ROOT.

§ 1. On The Revalidation Of Matrimony Through New Consent

2083. Rule 1. If the impediment obstructing validity is known to EACH party, the matrimony must be revalidated through consent to be expressed in act by each party. For in this case, there is had not so much a revalidation as a simple celebration, although secret.

Rule 2. If the impediment is known to only ONE party, and cannot be REVEALED to the other without danger of grave damage, the party conscious of the impediment is to be admonished concerning consent necessarily but secretly to be renewed with the putative spouse, the other party having been made more certain concerning the nullity of the prior consent, but so cautiously that this one's delict is nowhere detected. This Manner furnishes every security concerning the value of the Sacrament, since both parties, now made capable through dispensation, knowingly emit a new consent, and one independent from the prior consent: wherefore this is especially to be desired.

But renewal of consent can be sought by the conscious party speaking thus to the coparty: "when I married, I did not have true consent; now I wish to furnish it: do you also wish to furnish it?" or: "the confessor told me that my consent was not duly furnished; come, let us now renew it mutually."[6] No one does not see that the aforesaid making-more-certain generally has much difficulty and is full of

dangers. And hence it is why the S. Penitentiary, a great difficulty standing, no longer urges the matter, as is gathered from the following rule.

Rule 3. If the impediment is known to only ONE party, and the other party cannot be MADE MORE CERTAIN concerning the nullity of the matrimony without grave danger, this making-more-certain can be omitted, and the matrimony revalidated, "consent having been renewed, according to the rules handed down by approved authors." - Thus from the style which today the S. Penitentiary commonly observes in conceding faculties.[7]

A manner of this kind is if the conscious party says: "I am troubled by scruples concerning the value of our matrimony, and therefore let us renew consent"; or: "for my consolation I wish to contract anew; come, let us contract"; or: "out of my love toward you I take you as spouse, do you not also in turn?"

Indeed, if none of these manners seemed to have to be employed, the consent of the conscious party expressed through conjugal intercourse would suffice, with the consent of the other virtually enduring. For that consent furnished with an impediment was naturally valid, and lacked its proper effect only on account of the obstacle; therefore, the obstacle having been removed and the consent of the other acceding, the consent becomes mutual, and the matrimony is convalidated.[8]

Nor does it obstruct that here use is made of a probable opinion concerning the value of the Sacrament; for: 1) in a case of urgent necessity, this is licit according to the things said in n. 82 and n. 1407; 2) there is question here of matter in which the Church can supply, and, a just cause standing, certainly supplies: which will be clearer from the things soon to be said.

(6) Book VI, 1117. (7) Cf. at the end of the work, Sheet of S. Penitentiary N. XII. (8) Book VI, 1115-1117.

§ 2. On The Revalidation Of Matrimony Through Sanation In The Root

2084. SANATION IN THE ROOT is the abrogation of the ecclesiastical law which induced the impediment, in a particular case, with retroactive force, so that dispensation from the impediment now conceded is to be had as if it had been conceded before the matrimony was contracted, and the matrimony is revalidated without new consent.

And indeed, just as because of dispensation conceded before the nuptials were entered mutual consent duly furnished would have effected valid matrimony: so through dispensation now conceded with retroactive force it is effected that the same prior consent virtually persevering exercises its force and effects matrimony, which for this reason obtains the same effects just as if it had been valid from the beginning.[9] - For the dispensation, by fiction of law, is drawn back to the root of the matrimony, and replaces things in that state in which they would have been if the impediment had never existed; and hence it is why it is called sanation in the root.

From the things said it follows that sanation in the root has a twofold EFFECT: one *from now*, i.e. the validity of the matrimony by force of the first consent; the other *from then*, namely the annulling of all the effects that followed from the nullity, first of all as regards children, who obtain the fullest legitimacy, so that they are altogether to be held as born from legitimate matrimony. This effect indeed can be obtained even when the parents are deceased.

Hence the difference between sanation in the root and ordinary revalidation is clear, since the latter requires new consent, and extends its effects only to future time, but not to the past.

(9) Benedict XIV, de Syn., Book 13, c. 21, n. 7.

2085. I. That the Church possesses the POWER of revalidating matrimony through sanation in the root is of certain law, and is evinced both from constant practice and from the nature of the matter. For just as the civil legislator can so remove his law that he annuls its effects even as to past time: so similarly the Supreme Pontiff can abrogate his own law as to all its effects.[10]

(10) Cf. Giovine, § 323 sqq.

2086. II. The CONDITIONS required for sanation in the root are FOUR, namely:[11]

1. That the impediment be of ecclesiastical law.
2. That true matrimonial consent was given in the beginning; for the root which did not exist cannot be healed. Wherefore it is required that, at least at the time of celebration, the conjunction had the appearance of matrimony and was not manifestly fornicary. - Matrimonial consent indeed does not regularly consist with knowledge of an impediment, since no one can seriously will what he knows cannot be done; nevertheless it can consist, if one does not sufficiently attend to its invalidating force, or if this force is unknown, or is not believed, or is not held as sufficiently seen through. If one party is in good faith as to the validity of the matrimony, the consent of this one can be healed, the consent of the other party having been renewed. Hence it is concluded that civil matrimony can be healed in the root, provided true matrimonial consent was furnished.
3. That the consent of each party persevered. This condition is customarily expressed, for the most part, in the Pontifical Rescript; but if it has not been expressed, it ought to be supposed by full right. For if the consent, the matrimony not yet having been convalidated, has been revoked, it can no longer be healed, since it has already been destroyed; otherwise one would have to say that the Sacrament of matrimony can be received by one formally unwilling. - But interpretative dissent does not impede sanation in the root, because it does not fight with true consent (cf. n. 2082). Besides, one must not inquire anxiously concerning the perseverance of consent; it suffices if revocation is not established.
4. That a grave and urgent cause be present: which is had if the matrimony cannot be revalidated otherwise, or in no way, or at least not without danger of grave damage. Yet the dispensation would be valid if the Pope knowingly conceded it without cause; otherwise, if the Ordinary conceded it (cf. n. 238).

(11) Cf. Feije, n. 767 sqq.; Acta S. Sed., vol. I, p. 182 sqq.

2087. For practice, the following still come to be NOTED: - 1. Sanation in the root is commonly conceded only for the internal forum; nevertheless, necessity demanding it, it can also be obtained for the external forum; in which case, inscription of the convalidated matrimony is to be made either in the parochial book, if prudence permits this, or in a secret book to be preserved in the episcopal Curia, according to the things said in n. 2080 (Note 3). - 2. In

whatever way revalidation is made, scandal, if perhaps it is present, is to be removed through knowledge of the valid matrimony prudently made known. 3. Sanation can be made with each party unaware, and thus is to be made whenever danger of grave damage is feared from warning. - 4. If one party can prudently be warned, the dispensation in the root ought to be fulminated according to the norm described above for ordinary dispensation (n. 2054), the things to be changed having been changed, and those things which are prescribed in the Rescript being diligently observed.

This or a similar Formula can be employed: I, by the Apostolic authority conceded to me, heal and strengthen in its root the matrimony contracted by you with N., and I declare the offspring received or to be received legitimate. In the name of the Father, etc.

Article III: On Revalidating Matrimony Invalid On Account Of Defect Of The Tridentine Form

2088. Matrimony invalid ON ACCOUNT OF DEFECT OF FORM is sometimes convalidated by this very fact, that the betrothed legitimately withdrawn from the Tridentine law, namely through acquisition of domicile in a place where the law is not in force, formally renew consent, at least by signs, for example by living conjugally. Outside this case, the Tridentine form must be observed, or dispensation obtained. - But before all things one must weigh with what mind the spouses are, namely whether each party, or only one, or neither, is rightly disposed.[12]

1. If EACH of the contracting parties is rightly disposed, the Tridentine form is to be observed, either occultly, if the nullity of the matrimony is occult; or publicly, if it is public. - But if the Ordinary, on account of peculiar circumstances, has judged that it is expedient that matrimony be celebrated secretly before the parish priest and two witnesses, it will be able to be celebrated secretly: provided public scandal can be removed by another reason, and is removed as soon as possible (cf. n. 2080, Note).
2. If ONE of the contracting parties refuses to convalidate the matrimony in the face of the Church, it must be striven that this one, through a special procurator or letter, express consent in the present before the parish priest and witnesses, and thus the validity of the matrimony be provided for. If not even this can be obtained, but true matrimonial consent was in no way revoked, one must come to sanation in the root, with the conditions observed, as above (n. 2086).
3. IF NEITHER contracting party consents to revalidate the matrimony in legitimate form, there is no place for dispensation, since contumacious persons by no means deserve to feel the indulgence of the Church (cf. n. 2086, 2).

Note. 1. Nuptials revalidated, if the revalidation was public, are to be blessed again; because in truth they were never blessed; otherwise, if the revalidation was secret.[13] 2. Public revalidation is INSCRIBED in the usual parochial book. - But if formerly the matrimony was already celebrated in Tridentine form, then either a new inscription is made with reference to the prior one, or the whole matter is duly annotated to this one. - Secret revalidation, if it is made in Tridentine form, is inscribed in the book of secret matrimonies; otherwise, no inscription is made.[14]

(12) Instruct. Card. Caprara, de revalid. matr. (apud Moser, append. N. XVI). (13) Catalani, Theol. mor., p. III, q. 14, c. 10, n. 10. (14) Feije, n. 775-778.

Scholium.

On Civil Matrimony.

2089. Just as it is the office of the Church to establish those things which pertain to matrimony, as it is considered in itself and is one of the seven Sacraments, so there is a right in civil society to determine the CIVIL EFFECTS of matrimony. - To this pertain cases of dowry and of inheritance, likewise cases of succession, admission to or exclusion from public or private offices and duties, illegitimacy of offspring in the civil forum, and other things of this kind, which are found described in the codes of each nation or province.

The Church has never not recognized this authority of civil society; indeed she has even openly fought for it; and Pope Leo XIII most recently furnished this in the Encyclical *Arcanum*, with these words: "Likewise she, the Church, does not herself ignore, nor deny, that the Sacrament of matrimony, since it is directed also to the conservation and increase of human society, has cognation and relation with human things themselves, which indeed follow upon matrimony, but turn in the civil genus: concerning which things those who preside over the republic rightly decree and take cognizance."

But civil authority has not used equal equity toward the Church. For it not only did not recognize ecclesiastical authority, but even attacked it with sacrilegious daring, by issuing laws concerning things looking to the nature or validity of matrimony, concerning the firmness of the bond, concerning the form necessarily to be observed in contracting. Thence that pact which is called CIVIL MATRIMONY, which alone is held by the civil legislator as true matrimony, and which consists in the mutual consent of man and woman expressed according to the prescriptions of civil law.

Moreover these prescriptions of law look both to impediments, whether prohibiting or diriment, and to the form necessarily to be observed.[1] - It helps here to indicate in a few words those which are now more universally in force.

The PROHIBITING impediments received almost commonly are these: - 1) defect of denunciations in the civil forum; - 2) military condition, unless the one who presides over military matters grants permission; - 3) state of widowhood: namely a widow cannot pass to new nuptials except after ten months from the death of the prior spouse, or unless meanwhile she has given birth; for birth immediately removes the impediment.

Very many DIRIMENT impediments have been taken from ecclesiastical legislation, yet under a limitation to be recognized from civilists. They are the following: - 1) Force and fear; 2) error and madness, even if the madman has lucid intervals; - 3) defect of puberty, namely if the man has not yet completed eighteen years, the woman fifteen; - 4) bond, unless somewhere civil matrimony has been dissolved through legal divorce; - 5) consanguinity, affinity, and legal cognation: namely nuptials are prohibited between all ascendants and descendants, whether legitimate or natural; between brothers and sisters, whether legitimate or natural; between affines of the same degree; between paternal uncle and niece, and between maternal aunt and nephew; likewise between adopter and adopted and the descendants of the latter; between brothers and sisters from adoption; between adopter and the

spouse of the adopted. [In the ITALIAN Code there is numbered besides: homicide, even merely attempted, which invalidates matrimony between the homicide and the surviving spouse of the one killed; likewise manifest, perpetual, and antecedent impotence. To the impediments mentioned there has been added almost everywhere another impediment, namely defect of consent of the parents, or of those who hold the place of parents, if the son has not yet completed the twenty-fifth year, the daughter the twenty-first.] - THE OTHER canonical impediments ARE NOT RECOGNIZED by the civil legislator, and obtain no force in the civil forum.

As regards the FORM of civil matrimony, the law prescribes that it be contracted publicly before a civil official and witnesses.

(1) Cf. Scavini, lib. 4, append. 75; Aichner, § 179 and 180; Vecchiotti, III, append. I; Feije, cap. 36, from n. 780 sqq.; Moullart, p. 214.

2090. From these impious laws, which plainly stand against canonical discipline, most mournful consequences flow, namely: Honors and advantages of true matrimony are attributed to this coupling of man and woman made against the laws of the Church, which therefore is nothing other than foul concubinage. On the contrary, civil effects are denied to true matrimony, i.e. matrimony contracted according to the laws of the Church, unless civil matrimony also accedes to it. Indeed, afterward the very liberty of contracting in the face of the Church is tyrannically restricted. But what must be done in these straits is taught by the S. PENITENTIARY in the Instruction given on 15 January 1866,[2] whose principal heads we judge opportune to report here.

I. From true doctrine concerning matrimony it is easily deduced that a civil act can in no way be held before God and his Church either as a Sacrament, or truly even as a contract; and therefore one would be a true concubinarian who should presume to persist in matrimony by force only of the civil act, and he is unworthy of absolution until he repents and, subjecting himself to the prescriptions of the Church, is converted to penance.[3]

II. "But although for the value of matrimony there is by no means need that it be ratified or confirmed by the civil power: nevertheless, for avoiding vexations and penalties, and on account of the good of offspring, which otherwise would by no means be held as legitimate by the lay power, and also for averting the danger of polygamy: it seems opportune and expedient that the same FAITHFUL, after they have legitimately contracted matrimony before the Church, present themselves, about to execute the act decreed by law, yet with this intention, as Benedict XIV teaches in the Brief *Redditae sunt Nobis* dated 17 Sept. 1746, that by presenting themselves to the Government official they do nothing other than execute the civil ceremony."[4] There are not lacking authors who affirm that the aforesaid obligation must be fulfilled, in certain Kingdoms, under grave obligation, especially on account of the detriment which otherwise would threaten either the parties or the offspring.[5] Yet one must say otherwise if the law somewhere has not yet obtained so great force.

III. "For the same causes, but by no means so that they may cooperate with the execution of the unhappy law, PARISH PRIESTS should not so easily and promiscuously admit to the celebration of matrimony before the Church those faithful who, because they are barred by law, afterward would not be admitted to the civil act, and therefore would not be held as legitimate spouses. In this matter,

they will have to use much caution and prudence, and to seek the counsel of the Ordinary; and let him not be easy in assenting; but in graver cases let him consult this sacred Tribunal."[6]

IV. "But if it is opportune and expedient that the Faithful presenting themselves for performing the civil act prove themselves legitimate spouses before the law: nevertheless they ought by no means to perform this act before they have celebrated matrimony before the Church. And if some coercion or absolute necessity, which is not easily to be admitted, were the cause of inverting the order of this kind; then every diligence must be used that matrimony be contracted before the Church as soon as possible, and meanwhile the contracting parties remain separated."[7]

N.B. As regards SYNDICS and CIVIL OFFICIALS, see the things to be said in n. 2126 and 2291 sqq.

(2) Acta S. Sed., I, 508. (3) Cited Instr., n. 4. (4) Cited Instr., n. 5. (5) D'Annibale, Summula, III, n. 360. (6) Instr., n. 6. (7) Cited Instr., n. 7.

2091. IT IS ASKED. Whether merely civil matrimony produces no effect in the ecclesiastical forum?

Resp. Civil matrimony, although it lacks the nature of matrimony, nevertheless bears before itself a certain appearance and external form of the same; whence, if true matrimonial consent was present, it can attain validity through sanation in the root (cf. n. 2086). - Besides, it is some attempt at matrimony: and from this head it induces the penalties established against those attempting matrimony, and, adultery acceding, it produces the impediment of crime (cf. n. 2036). Yet from it there does not arise the impediment of public honesty (cf. n. 2034). - And these things indeed have force for places where the Tridentine law concerning the form of matrimony is in force; but in places where the said law is not in force, civil matrimony, true consent having been furnished, is to be held as clandestine matrimony.[8]

(8) Cf. Acta S. Sed., XII, 168.

Chapter VII: On The Rights And Duties Of Spouses

What the RIGHTS and DUTIES of spouses are, we set forth summarily in the Treatise on the fourth Precept (n. 703 and 704). - It remains that here we treat specifically of the conjugal debt and of cohabitation.

Article I: On The Conjugal Debt

2092. The conjugal act is customarily named by theologians the conjugal debt, both because spouses mutually owe this act to themselves, and especially because the Apostle thus called it, saying (1 Cor. 7:3): Let the husband render the debt to the wife: and likewise the wife to the husband.

This having been noted beforehand, so that all things which pertain to this matter may be weighed, we shall treat: 1. of the liceity of the conjugal act; 2. of the obligation of the conjugal act; 3. of various delicts in the conjugal act, or of the sins of spouses.

N.B. Before we approach the unpleasant matter, it helps to remit the reader to those things which were said in n. 762, where ST. ALPHONSUS warns students not to read these things except with due cautions, and then only when the proximate necessity of hearing confessions has persuaded the reading.

§ 1. On The Liceity Of The Conjugal Act

2093. That the conjugal act is of itself licit and honorable is already established from the things said concerning the honorableness of matrimony (cf. n. 1967). But that such an act, from every part, be licit and legitimate, it ought to be clothed with certain conditions, which refer both to the persons using matrimony, and to the end and circumstances of the act itself.

I. On The Requisites On The Part Of The Persons

For the liceity of the conjugal act there is required on the part of the persons a true right, and this unimpeded.

It is said 1. a true right, that is, a right which arises from valid matrimony; otherwise the conjugal act would be true fornication. Whence: if matrimony is certainly null, it is never licit for the party knowing this either to seek or to render the debt to the other who is ignorant.[9] - It is said 2. an unimpeded right; for spouses can be deprived of conjugal right on account of certain prohibiting impediments, which either preceded matrimony or followed after. The principal ones concerning which we must treat here are FOUR, namely: 1. Doubt concerning the value of matrimony; 2. Impotence of body; 3. Simple vow of chastity; 4. Affinity contracted after matrimony was entered. Concerning these, therefore, the following are established.[10]

(9) H. A., XVIII, 35; Book VI, 900. (10) Book VI, 903-905.

2094. Principles. I. A spouse DOUBTING concerning the value of his matrimony CAN and OUGHT to RENDER the debt to a coparty seeking in good faith; but he CANNOT SEEK it, unless he prudently has put aside his doubt after due diligence has been made. The reason of the first is that if, after the first two-month period, or after consummation of the matrimony, he refused to obey the coparty seeking in good faith, he would commit himself to grave danger of violating that one's right. Whence, as long as from valid reasons it has not been established with moral certitude concerning the nullity of the matrimony, the certain possession of the coparty presses. - The reason of the second is that in the one doubting the right of possession is suspended until the truth has been diligently investigated, as was seen in n. 46; but with doubt persevering after diligence has been made, possession remains for the value of the matrimony, and therefore for the use of it.[11]

St. Alphonsus with others, against many, admits these same things as sufficiently probable, even if the matrimony had been contracted in bad faith or in doubt; because although the one doubting cannot put aside doubt by title of possession, since he began to possess in bad faith, nevertheless he can put it aside from another principle, namely from the principle that in doubt one must stand for the value of matrimony, in favor of which, in the forum both internal and external, judgment must always be made, by reason of the common good of society.[12]

Yet two cases are to be excepted, in which doubt cannot be put aside from the aforesaid principles, namely: - 1. If someone prudently doubts concerning the death of a prior spouse; for then the prior matrimony possesses, until it is established as morally certain concerning its dissolution; meanwhile, however, the debt must be rendered to the coparty seeking in good faith, as we said above.[13] - 2. If it is established concerning an impediment of ecclesiastical law, and it is not established concerning a dispensation having been obtained; for then likewise the impediment possesses. But otherwise, if it

is established concerning the dispensation and there is doubt concerning its value; because one must stand for the value of the act[14] (cf. n. 1810).

IT IS ASKED. What in the case of a matrimony contracted in GOOD FAITH, if it is PROBABLY invalid, no probability standing for the value?

Resp. It is controverted. The first opinion DENIES the right of seeking the debt; because possession indeed suffragates for one doubting, but not for one opining for the nullity of matrimony. - The second opinion, sufficiently probable, AFFIRMS; because possession confers a certain right of seeking, until it is established concerning the nullity of matrimony. It is confirmed from cap. *Laudabilem, de frigid. et malef.*; for if, after two years, spouses have not yet been able to consummate, it is surely most probable that the matrimony is invalid; and nevertheless they can attempt intercourse until the end of the third year, certainly for no other reason, except because the nullity of matrimony is not yet certain (cf. n. 45).[15]

(11) Book VI, 903-905. (12) Book VI, 906. (13) Ibid., 903; cf. Istruz., XVIII, 37. (14) Book VI, 901. (15) Ibid., 905; Aertnys, n. 30, qu. 2.

2095. II. Certain impotence SUPERVENING upon matrimony renders the use of it illicit, insofar as danger of pollution underlies.[16] The reason is that the pouring out of seed is not licit except in an act of itself apt for generation. Authors commonly agree.

It is said 1. certain impotence; for if it is doubtful, it is licit to try intercourse for so long as there is probable hope of completing it as nature requires (cf. n. 2011, Resp. 2).

It is said 2. insofar as danger of pollution underlies; because short of such danger, the conjugal act is licit, no otherwise than touches, concerning which below n. 2110.

Whence spouses are not to be prohibited from the use of matrimony if, on account of old age or another cause, it generally happens that the seed is poured out outside the vessel, "provided there is probable hope of emitting seed within the vessel; because whenever such hope is present, they have a right to intercourse, and if seed is poured out, this happens by accident."[17]

(16) Book VI, 1095, I said 2. (17) Ibid., 954, Dub. 2.

2096. III. He who VOWED chastity after matrimony CANNOT SEEK the debt; nevertheless he is BOUND to RENDER it to one seeking. The reason of the first is sufficiently clear from the obligation of the vow. - The reason of the second is that a vow cannot prejudice the right of the other spouse.[1]

But if the spouse not only permitted the coparty's vow, but consented to it, intending to yield his right, now neither is permitted the seeking or rendering of the debt. But if "they have vowed mutually, not intending to yield their right, the one is still bound to render to the other seeking," as is commonly taught. And the reason is that the seeking is still just, and on the part of the act honorable, although on the part of the one seeking illicit; and because thus to one seeking there can never be denied a thing which is owed to him from justice[2] (cf. n. 216 and 519). But if the vow preceded matrimony, recall the things said in n. 1992, Hence 2.

IT IS ASKED. Whether a spouse bound by a vow can ever seek the debt?

Resp. HE CAN, indeed HE OUGHT, in a twofold case: - 1. If the other is in danger of incontinence; because then the obligation arises from the very end of matrimony, which commands that one assist the other. - 2. If the other seeks tacitly, for instance when a wife does not dare to seek because of modesty, and the husband perceives intercourse to be desired by her; because then the seeking is really a rendering. Thus commonly[3] (cf. n. 1992).

(1) Book VI, 930, 949. (2) Ibid., 944. (3) Ibid., 930; H. A., n. 41.

2097. IV. A spouse who, during matrimony, contracted AFFINITY with his consort, namely by perpetrating complete and formal incest with a blood relative of the consort, male or female, in the first or second degree, is deprived of the right of seeking the debt until he has obtained a legitimate dispensation. - Recall the things said in n. 2031, q. 3.

Note. Concerning adultery, insofar as it deprives of the right of seeking the debt, see n. 2031, question 3.

II. On The Requisites On The Part Of The End.

That the conjugal act be licit and honorable, it must be exercised FOR AN HONORABLE END. This is clear from the things said concerning the honorableness of human acts (cf. n. 306 and 307). - Whence,

2098. I. It is licit to exercise the conjugal act for VARIOUS ENDS which COHONESTATE matrimony, namely: - 1. For generating offspring; because this is the end intended by the very Author of matrimony. Nor, however, must the generation of offspring necessarily be intended, provided it is not positively impeded; indeed it is licit for spouses with a simple affection to wish that offspring not be born, for instance because of the difficulty of nourishing it. - 2. For rendering the debt; because this rendering is an act of justice emanating from the institution itself of matrimony. - 3. For avoiding incontinence in oneself or in the coparty; because after the fall of the first parents, matrimony was also ordained as a remedy of concupiscence. - Indeed, if it is a question of avoiding the coparty's incontinence, the act is not only licit, but also obligatory by precept of charity. - And these are the PRIMARY ends.

Moreover, it is licitly exercised for any honorable end whatever, e.g. for fostering conjugal love, for the health of the body; because nothing prevents a means licit in itself, and useful for that end, from being applied to an honorable end.[4]

(4) Book VI, 882, 883, 927.

2099. II. It is not licit to exercise the conjugal act FOR PLEASURE ALONE. This is clear from the ninth proposition condemned by Innocent XI: "The work of marriage exercised for pleasure alone is entirely without any fault or venial defect." The reason for the condemnation is given because it is a certain perversion of order to intend delight as an end, which nature intends as a means. But there is only VENIAL fault, because the inordinate use of a thing licit in itself is not grave, unless someone rests in it as in an ultimate end (cf. n. 342, q. 3).

It was said: for pleasure alone, i.e. any other end whatever being excluded; because unless such an exclusion is made, the act, apprehended as licit and duly exercised, is referred virtually and by its

nature to its proper intrinsic ends. Wherefore it is also without any fault, although the appetite of delight impels one to it (cf. n. 1966).

Here also in passing we note that a spouse sins gravely who exercises marital intercourse with an adulterous affection toward another person, whom he imagines or wishes to be present to himself[5] (cf. n. 356).

From these things you will resolve: - 1. The conjugal act is licit, although because of sterility there is no hope of offspring; for this happens by accident, and the other ends of matrimony cohonestate the act.

2. Spouses who assume the pleasure of intercourse as a remedy of concupiscence, or for avoiding incontinence, act rather from love of virtue than from love of pleasure, since they intend to preserve continence and avoid sin. But those who desire pleasure for its own sake are led by love, not of virtue, but of pleasure, which is not honorable.[6]

3. In practice, as regards the use of matrimony for delight alone, spouses are customarily in good faith, nor usually can fruit be hoped for from admonition. Whence it is more advisable that the confessor leave them in their good faith.[7]

(5) Ibid., 913. (6) Vindic. Alph., p. 7, q. 8, art. II, 2. (7) Berardi, Praxis Conf., n. 334, q. 12; cf. Aertnys, De usu matrim., n. 3 and 4.

III. On The Requisites On The Part Of Other Circumstances.

2100. The due circumstances of the conjugal act look especially to its manner, place, and time.

I. The natural manner or position in the use of matrimony is that the woman be beneath and the man above, since it is more apt for pouring out and receiving seed; whence, of itself it is unlawful to change this position, since such a change is an inversion of the order of nature. Yet authors commonly say with St. Thomas that it is not of itself mortal if the act is exercised in an improper position, either standing, or sitting, or from behind after the manner of beasts, or with the man beneath, provided it always takes place in the natural vessel. For a change of position ordinarily does not impede generation, since the male seed is of itself naturally drawn into the woman's matrix. - And therefore there will be no sin if the natural manner is changed on account of some just cause, e.g. of danger of abortion, scandal, or difficulty.[8]

We said 1. that of itself it is not mortal; for the Angelic Doctor teaches that by accident one can sin gravely in this, if it is done from depraved concupiscence, e.g. from an affection of bestiality or sodomy.[9] 2. Provided it always takes place in the natural vessel; otherwise the order of nature would be essentially violated, and the end of matrimony would be entirely frustrated (cf. n. 2112).

You will ask whether it is mortal to change position if, because of this, some part of the seed is lost? Doctors more commonly deny it; because if seed is poured into the vessel, a partial loss of it after infusion, which can occur in some positions, happens by chance, nor does it forestall conception. For it is clear that a small amount of seed suffices for generation. - On the contrary, if it were established by experience that the woman retains none of the seed because of the natural position having been

changed, then it would be mortal; but this very rarely happens. And therefore the confessor ought not to ask about this danger.[10]

(8) Book VI, 917; H. A., XVIII, 39. (9) Ibid. (10) Ibid.; Capellmann, p. 147; Aertnys, n. 15, fin.

2101. II. The place suitable for the conjugal act cannot be, as natural modesty itself dictates, except secret. In a public place or before others, and especially before children, the conjugal act would be a most grave scandal. But if it were done in a sacred place, apart from the case of necessity, according to the more probable and more common opinion it would be a grave and sacrilegious irreverence (cf. n. 788).[11]

Note. Spouses are to be admonished not to allow children capable of reason, or already capable of some malice, to lie down with them in bed or in the bedroom.[12] But if on account of poverty they are compelled to this, let them at least take care lest the children perceive anything.

(11) Book VI, 620 and III, 458. (12) Praxis, n. 211.

2102. III. TIME, of itself, is an indifferent circumstance; nevertheless sometimes, by reason of other adjuncts, it can render the conjugal act lightly or gravely illicit. Thus more commonly with St. Bonaventure. - The reason of the first is that no law can be assigned by which an act of this kind is ever prohibited, and the prescriptions of the ancient Mosaic law have been entirely abrogated by the New Law. Whence if the canons and the holy Fathers seem to prohibit the use of marriage on feast days or in times of penance, the prohibition is to be understood as of counsel, not of precept. Concerning the days of Communion, see n. 1561, 2. - The reason of the second is had from the natural law, because the use of conjugal right can be suspended or impeded on account of the concurrence of another predominant right, e.g. on account of danger of abortion or harm to health, especially in the time of menstruation, pregnancy, purification after birth, lactation, and sickness. - Whence YOU WILL RESOLVE:

1. In the time of menstrual flow conjugal intercourse is forbidden, under venial fault, as the most common and more probable opinion holds; both because it involves a certain indecency, and because, as physicians testify, it can harm the genital parts of the woman and thence, if she conceives, afterward bring on some danger of abortion; and because it is a certain intemperance not to await the suitable time which will shortly be present. In the time of an extraordinary flow of blood, which proceeds from disease and is long-lasting or perpetual, intercourse can then become illicit when it is established by experience that the flow is increased after intercourse; if this happens, intercourse will ordinarily harm somewhat, yet rarely gravely. If it will be only lightly harmful, intercourse will become licit, because otherwise the husband would have to abstain perpetually, which would bring him both grave inconvenience and ordinarily grave danger of incontinence; these two things certainly prevail over a slight harm to the wife.[13]
2. In the time of pregnancy, intercourse, the danger of abortion being excluded, is more commonly judged licit; because it is prohibited by no law, and it would be a most grave burden if spouses were held to contain themselves for so long a time. - Nevertheless, the opinion of those who judge that intercourse with a pregnant woman, speaking of itself, is not without venial fault, is more pleasing to St. Alphonsus; because the seed is frustrated of its end; yet by

accident it is cohonestated when an honorable cause accedes, e.g. danger of incontinence, or another cause; and since this is hardly ever absent, in practice this opinion nearly coincides with the former.[14]

The danger of abortion will be so much the less, the farther intercourse is distant from the day of conception. Whence it can exist only within the first months of pregnancy, and in this time only then when intercourse is performed either more often or more impetuously; wherefore moderation as to number and manner is to be recommended to spouses. - Moreover, on account of the danger of abortion, intercourse can by no means be forbidden; both because no one knows anything concerning beginning pregnancy, at least nothing certain; and because abortions much more often proceed from a morbid disposition than from a direct cause.[15]

3. In the time of purgation, according to the more common and more probable opinion, intercourse is illicit; both because of indecency and because of danger of harm for the wife. - If slight harm is feared, there will be venial fault; if grave, mortal fault. A new conception is not to be feared except after about six weeks, namely when the uterus is restored and menstruation recurs.[16] Moreover, according to the opinion of St. Alphonsus,[17] who consulted a very skilled physician, grave harm can prudently be feared within two days after birth; and, according to more recent physicians, still longer, for one or perhaps two weeks, namely while the puerperal flow, or the woman's great weakness or sickness, persists.
4. In the time of lactation, it is most commonly affirmed that intercourse is licit; because although milk for the most part, when a new pregnancy begins, is soon diluted and shortly ceases, offspring can be nursed in another way, lest spouses be compelled to abstain for so long with so great difficulty. To this there accedes that a woman commonly does not conceive in the time of lactation.[18]
5. In the time of sickness, the conjugal act is illicit when notable harm to health can prudently be feared from it. Therefore, A DISTINCTION MUST BE MADE between contagious and non-contagious diseases.

1. In the contagious disease of one spouse, if it is a venereal disease or syphilis, intercourse is gravely illicit, on account of the horrendous consequences which it brings with it for the coparty and for offspring. The infected party is not bound to manifest this disease to the coparty, on account of infamy, provided that, while he remains silent, he neither seeks nor renders the debt. Yet see n. 2108, 2.

In other diseases, intercourse is likewise prohibited if they are apt to bring death shortly; but otherwise, if they are chronic or longer-lasting, because the danger of incontinence, which for so long a time can scarcely be absent, seems to prevail. Moreover, the infected party is bound to manifest the disease to the coparty.

It must be admonished in this place that phthisis is not a contagious disease, but hereditary; but it would be better for offspring to be infirm than not to be at all. - On the contrary, the flow of seed which in men is called gonorrhea is for the most part a certain species of syphilis, and therefore

contagious, as physicians testify. - Leucorrhea, or white flow, from which pregnant women often suffer, does not forbid intercourse, since it is not harmful.

2. In a non-contagious disease, intercourse is very harmful in a disease that greatly debilitates, joined with fever and the greatest pain. In a slight disease, intercourse is not harmful; nevertheless diseases of the genitals are excepted, which in a woman can be aggravated by intercourse and afterward be healed with difficulty.

Note. After a bath, bloodletting, lunch, or dinner, intercourse is not customarily notably dangerous, as present-day physicians testify.[19]

(13) Book VI, 925; Capellmann, p. 148; Aertnys, n. 8. (14) Book VI, 924. (15) Capellmann, p. 152; Aertnys, n. 9. (16) Capellmann, p. 149. (17) Book VI, 926. (18) Ibid., 911; Capellmann, p. 151; Aertnys, n. 11. (19) Book VI, 909, 910, 950; Capellmann, p. 155, 158; Aertnys, n. 12.

§ 2. On The Obligation Of The Conjugal Act

Two things are to be weighed here: 1. what the obligation is for spouses, whether of rendering or of seeking the debt; 2. what causes excuse from such an obligation.

I. On The Obligation Either Of Rendering Or Of Seeking The Debt.

2103. Principles. I. EACH spouse is held from justice, and under grave obligation, to RENDER the debt to the other spouse reasonably and seriously seeking. - This is clear from the Apostle (1 Cor. 7:3): "Let the husband render the debt to the wife; and likewise the wife to the husband." The reason is that by force of the matrimonial contract "the woman does not have power over her own body, but the man. And likewise the man does not have power over his own body, but the woman" (ibid.). And therefore they cannot deny to each other the use of marriage without injustice, which is, of itself, a mortal sin; because it is a denial grave from its nature, at least if it is done more often, or obstinately.[1]

We said 1. to one seeking reasonably; for if the one seeking is not master of himself, as a madman or one perfectly drunk, because he does not seek in a human manner; or if he seeks unjustly, immoderately, at an unseasonable time, and whenever generally a legitimate cause of denying intervenes, the obligation ceases, at least that of justice; although then there can still be an obligation of charity, namely for avoiding in the one seeking a danger of incontinence, anger, blasphemy, etc., as will be explained below (n. 2104, 2).

We said 2. to one seeking seriously; for if a spouse seeks weakly, or easily yields to the prayers of the one denying, according to the common opinion it is not mortal, unless the one seeking is placed in danger of incontinence; indeed, not even venial, if some cause of denying is given. Yet it makes no difference whether he seeks expressly or tacitly; for it suffices if by certain signs he manifests that he desires that act, although because of modesty he does not dare to demand it.[2]

(1) Book VI, 938; H. A., n. 44. (2) H. A., ibid.; Book VI, 948.

2104. II. NEITHER spouse is held PER SE, or from justice, TO SEEK the debt; but indeed PER ACCIDENS, from charity or another virtue, he can be obliged to this.[3] - 1. He is not held from justice, because no one is held to use his own right. This, more probably, St. Alphonsus also

admits, although the coparty is in formal danger of incontinence; because if no express or tacit seeking occurs, no obligation of justice to render is present. A spouse indeed obliged himself not to break faith, but not to impede the other from breaking faith. - 2. He can be obliged PER ACCIDENS, namely from charity or from another virtue, gravely or lightly, according as this or that virtue urges. But authors commonly teach that there is a grave obligation of seeking from charity, when this is judged necessary for avoiding incontinence in either spouse, or for fostering mutual love. They admit the same if the generation of offspring is very necessary for the public good or for the peace of the family.[4]

Spouses can MAKE AN AGREEMENT not to use matrimony, and then neither can be compelled to render the debt; but this agreement, which is rarely expedient, can be rescinded by mutual consent. Indeed, when danger of incontinence supervenes, it must be remitted from charity, at least for a time, so that incontinence may be avoided.

(3) Book VI, 928, 938, 940. (4) Ibid., 938.

2105. From the things said you will resolve:[5] - 1. A wife sins mortally if she obstinately denies even for one time only, while the husband seeks seriously and insistently.

2. Likewise, if in rendering she shows great delay, with danger or even with the intention of deterring the husband from seeking; if she does not grant the debt except when compelled; if she harshly and insultingly reproaches the husband for his requests. Thus commonly.

3. Those worst husbands gravely offend who, whether from avarice so that they may avoid offspring, or from malevolence, or from love conceived toward others, never or almost never know their own wives, although they ought to presume well that the wives bear this most unwillingly.[6]

4. Denial of the debt is EXCUSED from grave fault on account of smallness of matter, if it occurs rarely, e.g. once in a month to one seeking often, short of danger of incontinence or grave dissension; likewise, if the rendering is delayed somewhat, for instance from day to night, from night to morning.[7]

(5) Aertnys, n. 32. (6) Berardi, Prax., n. 336. (7) Book VI, 940.

II. On The Causes Excusing From The Rendering Of The Debt.

2106. In one spouse the OBLIGATION of rendering the debt CEASES when the RIGHT of demanding ceases in the other. For these are correlatives.

Now the right of demanding BEGINS after the two-month period from the celebration of matrimony, or after the first rendering of the debt, as was said (n. 1981 and 2087); and it CEASES entirely through legitimate causes of divorce, especially through adultery, as will be said below (n. 2124, 1). - It can also cease on account of very many other causes, both on the part of the one seeking and on the part of the one rendering; which causes now come to be explained.

2107. I. On the part of the ONE SEEKING, first of all the ILLEGALITY of the seeking itself can stand in the way; in this matter, St. Alphonsus teaches that a distinction must be made thus:

1. If the illegality holds on the part of the act and is grave, for instance because one seeks in a sacred or public place, or with proximate danger of abortion or death, the other cannot render without grave fault; since an act grave evil in itself can never be cohonestated by any cause, nor therefore can it be demanded. - But if the illegality is light, because it is sought, for example, in an unnatural position, or in the time of menstruation or puerperium, it is licit to render with a just cause which cohonestates the act, e.g. lest the indignation of the consort be incurred. Indeed, if the one seeking has a just cause of seeking thus, the other is bound to render. But every reasonable cause being absent, he is not bound to render, indeed he cannot do so short of venial fault.

2. If the illegality holds on the part of the one seeking alone, e.g. because he has a vow of chastity, or because he seeks for a depraved end, according to the more common and more probable opinion the coparty is bound to render, nevertheless with an admonition first given, if fruit is hoped for, that the one seeking desist.[8] If the husband is an onanist, see n. 2118, q. 2.

(8) Conf. diretto, XVII, 15.

2108. II. On the part of the ONE RENDERING, there is held to be a just cause of denying the debt IF GRAVE HARM or DANGER would threaten from it.[9] - The reason is sought from the order of justice and charity, from which spouses are not judged to have obliged themselves to render the debt with grave harm. If grave and proximate danger of life is present for either spouse, neither can seek or render; because no one is master of his own life, or of the life of another.

Hence: 1. A wife is exempted from rendering the debt who, by her own experience or by the judgment of experts, has learned that she cannot bring forth offspring without grave danger to life. Yet, for avoiding her own or her spouse's incontinence, or for avoiding dissensions, she could expose herself to a danger that is only probable and remote; because although a human being is not master of his own life, nevertheless he can expose it on account of charity.[10]

2. A healthy spouse is exempted if the coparty suffers from a contagious disease, e.g. plague, venereal disease, and danger of infection threatens. - Yet, for a just cause, he can undergo a danger that is not entirely proximate from a motive of charity, namely by applying preservative means.[11]

3. A spouse who is feverish, or affected by another grave disease, is exempted, namely on account of notable debilitation of the body; likewise a wife, if she suffers from beginning cancer of the uterus, so that after the conjugal act she is subjected to a copious outpouring of blood; or if she undergoes intercourse with very acute pain which is repeated each time.[12] - But she is not exempted on account of labors and pains, even unusual ones, of pregnancy, birth, lactation, education, etc.[13]

(9) Book VI, 950. (10) Ibid., 950. (11) Ibid. (12) Cf. Berardi, Prax., 342. (13) Book VI, 952.

2109. IT IS ASKED. Whether harm which is feared for OFFSPRING exempts from the obligation of the conjugal debt?

Resp. Distinguish. 1. If harm is feared for offspring already conceived, e.g. if it is established that in a particular case by intercourse there is harm to its life or formation, or danger of abortion is induced, spouses do not have a right to intercourse[14] (cf. n. 2102).

2. But if it is a question of offspring to be conceived, the debt must be rendered, although it is to be feared lest offspring be born infirm; since it is better for it to be thus, than not to be at all. But if the wife has already experienced that she brings forth dead children, authors more commonly hold that, danger of incontinence in herself or in the coparty being excluded, she cannot render the debt, chiefly on account of this reason, that she herself undergoes danger of life from the death of the fetus in the uterus.[15] - If it is established concerning this danger, the aforesaid opinion will indeed urge; but because rarely is it established concerning it, and spouses would be placed in great danger of incontinence if on account of this cause they had to abstain perpetually from the use of matrimony, hardly, or not even hardly, is the debt to be denied on account of the aforesaid reason.[16]

3. If, finally, an excessive multiplicity of offspring is feared, this of itself seems a sufficient reason for denying the debt, provided that in neither spouse there is danger of incontinence. But since such danger is scarcely ever absent, it is clear that a spouse is not easily excused from rendering the debt on account of the multiplicity of offspring.[17]

(14) Ibid., 924. (15) Book VI, 951-953; H. A., n. 49, fin. (16) Berardi, Prax., n. 346. (17) Book VI, 941; cf. Frassinetti, tr. 18, not. 178.

§ 3. On The Sins Of Spouses

Besides those things which have already been said concerning those who INJUSTLY seek or deny the conjugal act, it remains that we speak of the same act insofar as it is opposed to CHASTITY. - Hence we shall treat: 1. of the sins of spouses generally; 2. specifically of onanism.

I. On The Sins Of Spouses Generally.

2110. Acts which can be exercised in conjugal commerce are distinguished as of THREE kinds: namely some are according to, others besides, others against the end of marriage.[18] Hence a threefold rule:

I. Whatever is ACCORDING TO the end of marriage, or whatever is necessary or useful either for exercising the conjugal act or for fostering mutual love, is licit for spouses. - The reason is, "because for him for whom the end is licit, the means are also licit; and for him for whom the consummation is licit, the beginning is also licit."[19]

Hence: 1. Modest touches, kisses, and embraces for fostering mutual love are without fault, although sometimes unforeseen pollution would follow; because this would be by accident, and a just cause is present for applying blandishments of this kind. - But they are gravely culpable "if they are done with danger of pollution in oneself or in the other, in a case in which they are had for pleasure alone, or even for a light cause; otherwise if for a grave cause, for instance if sometimes there is an urgent cause of showing signs of affection for fostering mutual love; or so that a spouse may avert from the other the suspicion that he is inclined toward another person,"[20] provided danger of consent is absent.

2. Touches, kisses, embraces, sights, foul conversations, and all immodest acts are without fault if, danger of pollution being excluded, they are referred to intercourse to be consummated here and now. This also is true, although pollution now and then inculpably precedes intercourse.[21] - Yet spouses ought according to their strength to beware of an effect of this kind, not lingering too long in the aforesaid acts.[22]

(18) D'Annibale, Summula, III, 364. (19) Book VI, 932. (20) Book VI, 934; III, 484; H. A., n. 42. (21) Book VI, 932-934. (22) Aertnys, n. 37.

2111. II. Whatever is BESIDES the end of marriage, or whatever is not of itself necessary or useful for the conjugal act, is customarily a venial fault, from which, nevertheless, an honorable end can excuse. Thus commonly according to the truer opinion. And the reason is that just as the conjugal state cohonestates intercourse, so also it cohonestates immodest acts which do not induce danger of pollution. "For otherwise, since there is so great a companionship between spouses, and they often cannot have intercourse, they would be exposed to continual dangers if such acts were gravely illicit for them. But just as delight sought in intercourse does not exceed venial fault, so also in these touches and sights."[23]

Hence: 1. Spouses do indeed sin, but only venially, if for the sake of pleasure and with proximate danger of pollution excluded, they permit to themselves foul acts or sights without order to intercourse. "And this, even if intercourse were then forbidden to them on account of disease, or were impossible on account of impotence which had supervened, as Sanchez and others say; because, since intercourse is licit between spouses, touches between them cannot be gravely illicit. But otherwise one must say if a spouse were bound by a vow of chastity; because such a vow excludes every venereal pleasure voluntarily taken. Thus commonly." - But one impeded from intercourse on account of affinity contracted, although of himself he is not bound under grave obligation to abstain from touches and sights of this kind, since the penal law prohibiting intercourse is not to be extended to touches, nevertheless "in practice, ordinarily he ought to abstain from touches of this kind, especially foul ones, on account of the proximate danger either of pollution, or of seeking intercourse by seeking against the prohibition."[24]

2. "It is licit, as the truly probable opinion holds, for spouses to take delight, even carnally, concerning intercourse had or future, whenever danger of pollution is absent. The reason is that the matrimonial state itself renders all these things licit; otherwise the matrimonial state would be liable to too many scruples."[25] - But indeed, "if delight is had not only with commotion of the spirits, but also with titillation or venereal pleasure, I think it cannot be excused from mortal fault, because such delight is proximately joined with the danger of pollution."[26]

(23) Book VI, 933. (24) Ibid.; Ninzatti, n. 1635. (25) Book V, 25; Istruz., III, 43, fin. (26) Book VI, 937.

2112. III. Whatever is AGAINST the end of marriage, or whatever is opposed to the generation of offspring, namely by inducing of itself, outside natural congress, an outpouring of seed, is gravely illicit; indeed, according to the more probable opinion, it has the malice of a double adultery[1] (cf. n. 782, 2). - The reason of the first is that the outpouring of seed is not licit except in order to generation, and therefore matrimony gives spouses no faculty except for an

outpouring of seed which can of itself serve generation.[2] - The reason of the second is that voluntary pollution by a married person violates the right of the coparty; whence it has annexed to itself the malice of adultery, just as pollution by one bound by a vow of chastity has the malice of sacrilege. Since, therefore, in the conjugal act which is done against the end of marriage, each sinner is married, it follows that the aforesaid malice is superadded to the pollution of each.[3]

Hence: 1. Sodomy between married persons has the guilt of greater malice than between unmarried persons, far from losing anything of its atrocity on account of the matrimonial state.[4] This also holds concerning a sin not consummated, for instance if the husband were to begin intercourse in the unnatural vessel, with the intention of completing it in the natural vessel; or if he were to rub the private parts around the unnatural vessel of the wife;[5] or if he were to introduce them into her mouth[6] (which obscenity is called irrumation); because in these there is either the beginning of sodomy, or an affection toward it, or another sin against nature.

2. Foul touches are gravely illicit which are had without order to the conjugal act, with proximate danger of pollution.[7] But if acts of this kind are by their nature a kind of disposition toward intercourse, they can be excused in the one rendering, on account of the grave inconvenience otherwise to be undergone by him, as we shall say below concerning onanism, provided they are not such that of themselves they induce an entirely proximate danger of pollution, and therefore seem to be as it were the beginning of it, e.g. lingering handling of the private parts.[8] For since direct pollution is always illicit, its proximate danger can never be permitted, unless those causes are given and those conditions are observed which sufficiently excuse indirectly voluntary pollution (cf. n. 796).

3. The man sins gravely if, deliberately, he restrains emission, when the wife has already emitted seed or is in probable danger of emitting; because he is the cause why the seed of the wife, the end of generation being frustrated, is wasted. - But otherwise, if he were to interrupt intercourse from a grave cause, for instance to avoid scandal, although with danger of pollution.[9]

4. If the man has already emitted seed, it becomes doubtful whether the WOMAN sins mortally if she withdraws herself from emitting seed, or whether the MAN sins mortally by not awaiting the emission of the wife. The more common and today much more probable opinion denies this; and the reason is that today it has been discovered that in the woman there is not given a true emission of seed which is necessary for generation. The matter which the woman necessarily supplies to generation is the ovum. If the woman has a mature and released ovum, she is apt for fecundation, although she is not moved in the act of intercourse. Certainly, the secretion of humor which theologians call emission, and the concomitant movement of the organ, contribute something to fecundation;[10] but spouses are not held to come together in the more apt manner, and it is enough if they do not impede generation.

Nevertheless, the contrary practice is earnestly to be advised, both because the aforesaid emission of the woman pertains to the complement of intercourse, and lest conjugal love grow cold. - But if either one were so to behave as to impede generation, on the part of intention there would be mortal fault.[11]

5. It is ordinarily a mortal sin if both spouses, intercourse having begun, restrain emission; and the reason is that although, speaking speculatively, such congress, danger of pollution being excluded, is not gravely illicit, and is reputed like a touch of the private parts, nevertheless practically the danger of pollution can scarcely be absent in both spouses, which would be required. - Except if the spouses have experienced the opposite; yet in that case they would not be excused from venial fault.[12]

6. A wife sins mortally who, immediately after the conjugal act, rises or does something with the intention of expelling the received seed. For such an act, although it is done in vain, nevertheless by reason of the perverse intention has the malice of abortion.[13]

(1) Book VI, 954, 918. (2) Gury, n. 918. (3) Book III, 446. (4) Ibid. (5) Book VI, 916. (6) Ibid., 935. (7) Book VI, 934, His sententiis. (8) Ibid. (9) Book VI, 918. (10) Capellmann, p. 137-140. (11) Aertnys, n. 20, q. 5; Berardi, Prax., n. 334, q. 3. (12) Book VI, 918. (13) Ibid., 918 and 954.

2113. IT IS ASKED. Whether foul touches WITH ONESELF are ever licit for a spouse?

Resp. 1. They are licit if they are ordered to intercourse to be had immediately, as all confess. Indeed, they are licit, more probably, for a WOMAN immediately after intercourse in which the man alone emitted seed, so that she may thus procure her own emission; because although this is not absolutely necessary for generation, nevertheless it can contribute to it and pertains to completing the conjugal act.[14] But before intercourse this is never licit, nor after onanistic congress, because in that case the end of nature would be entirely frustrated.

Resp. 2. The aforesaid necessity or utility being excluded, they are not licit; indeed, according to the more probable opinion, and one wholly to be advised, they are, just as for other unmarried persons, gravely illicit if they are had for pleasure. The reason is both that a spouse does not have a right in his own body of itself, but only by accident, namely in order to intercourse; and that touches of the private parts, when they are done lingeringly and with commotion of the spirits, of themselves tend to pollution and are connected proximately with its danger.[15]

(14) Ibid., 919. (15) Book VI, 936.

II. On Onanism Between Spouses.

2114. Onanism is intercourse begun or completed with an outpouring of male seed outside the vessel (n. 801).

Intercourse is begun when the man indeed penetrates the natural vessel, but as soon as he notices that the outpouring of seed is proximate, withdraws himself; or also when the woman withdraws herself before the man's emission. - Intercourse is completed, namely in the natural vessel, but with greater malice, when the man uses a certain thin covering or instrument to impede the seminal substance from arriving at a place apt for generation.

Moreover, there has been invented a wicked manner of destroying conception immediately after intercourse, namely by means of a certain injection into the uterus. This injection, as is clear, has the guilt of homicide, just as the procuring of abortion.[16]

(16) Aertnys, n. 16.

2115. Principles. I. Onanism between spouses is an act against nature, and therefore gravely illicit.[17] - This is clear both from Scripture, which (Gen. 38:10) calls this act a detestable thing, and from reason, which dictates that onanism is true pollution directly defrauding matrimony of its end, and also from the decision of the Church, which, by a Decree of the Holy Office on 21 May 1851, defined that this use of matrimony is prohibited by natural law, and taught that this is elicited from proposition 49 condemned by Innocent XI, which sounds thus: "Mollities is not prohibited by the law of nature."[18]

Hence: 1. Onanism can be cohonestated by no cause, whether of poverty, lest offspring to be nourished be multiplied, or of avoiding infirmity, or of warding off danger of death in childbirth. Yet on account of a cause of this kind it can be perpetrated with good faith; and when this exists, it belongs to the prudent confessor to judge whether admonition is expedient or not.

2. Not only the man exercising onanism, but also the wife formally cooperating with or consenting to him sins mortally, and both are unworthy of absolution unless they sincerely grieve concerning the sin and promise amendment. - The wife formally cooperates if by complaints concerning the pains or dangers of childbirth, concerning more numerous offspring, etc., she supplies to her husband an impulse toward onanism, namely foreseeing this effect or even intending it.[19]

(17) Book VI, 954. (18) Cf. Aertnys, n. 17; Konings, n. 1657, where there are various Responses. (19) Aertnys, n. 18.

2116. II. Onanism can be PERMITTED by the wife if a JUST cause suffragates for her rendering the debt to an onanistic husband. - The reason is that she then cooperates with the husband's sin only materially, by an act honorable in itself, which it is licit to furnish under certain conditions and with a just cause acceding.

The CONDITIONS are the following:

1. That the wife not consent to the husband's sin, and that she always be ready to impede it efficaciously, if she could (cf. n. 518, 519). - We say to the sin; for nothing prevents her from consenting to the carnal delight arising from intercourse, or even to a simple complacency concerning not having offspring, according to the things said in n. 2098.
2. That she not cease prudently to admonish the husband concerning the obligation of desisting from this foulness. Thus the S. Penitentiary, 13 Nov. 1816. For she is held to such admonition both from charity toward the husband, namely that he may recover his senses, and from charity toward herself, namely that she may decline every danger of consent. It was said prudently; for admonitions ought not to be continual, nor unseasonable, but opportune, namely when hope of amendment shines forth, and no grave evil is to be feared, for instance the husband's adultery, indignation, or great dissension.
3. That she permit the inordinate act only from a just and reasonable cause. And to this pertain the words of the Major Penitentiary in the cited Response: "Approved and chastened moral theologians agree in this, that it is licit for a wife to render the debt, if from its denial she is to be treated badly by her husband, and can fear grave inconvenience to herself from it; for, they say, in this case the wife is not judged formally to cooperate with the sin of her husband, but

only to permit it from a just and reasonable cause."[20] In practice, denial of the debt can scarcely be separated from danger of grave inconvenience.

(20) Konings, n. 1659, V.

2117. Therefore, when the aforesaid conditions concur, the WIFE can licitly RENDER the debt, provided the act is rightly begun, and she, as regards the interruption, has herself entirely passively. But if the husband is known to be about to commit onanism by means of an instrument, the wife cannot, by having herself passively, permit the act; but she is bound, not otherwise than a virgin to whom force is brought, firmly to resist according to her strength. The reason is that in such a case intercourse on the part of the act itself, already from the beginning, is entirely illicit and against nature.[21]

(21) Cf. St. Alphonsus, III, 368; VI, 943; Berardi, Prax., n. 327.

2118. Questions. QUESTION 1. Whether a wife can also SEEK the debt from an onanistic husband?

Resp. Affirmatively, but only from a grave cause. It is said only from a grave cause, because she is held from charity not to give the husband an occasion of sinning. - Now a grave cause would be danger of incontinence, a long deprivation of the right of seeking, with perpetual scruple whether the cause of seeking is just or not; wherefore she is not held to abstain except for a few times[22] (cf. 2098).

QUESTION 2. Whether the husband commits onanism if he indeed penetrates the wife's vessel, but only slightly, and pours out all the seed at the entrance of the vagina?

Resp. Distinguish. 1. In the work, negatively, because that act indeed renders fecundation less easy, but does not impede it; therefore intercourse so exercised is apt for generation. Yet except if it were done in such a way that all the seed flows away and is lost. - 2. In the mind, subdistinguish: affirmatively, if he intends to impede generation in this way, then from a depraved intention he sins mortally against nature; otherwise, it must be denied. Moreover, if he behaves thus because he wishes to avoid a manner more apt for generation, so that offspring may be less certain, he does not seem to be guilty of lethal fault; because he is not held to choose the more certain manner for conceiving offspring, nor is the desire of lacking offspring a mortal sin. Finally, if he has a legitimate cause of behaving thus, because, e.g., the wife on account of recent birth or infirmity in the private parts does not endure more perfect coition, he sins in no way.[23]

QUESTION 3. What is to be judged concerning spouses who, for avoiding more numerous offspring, come together only at that time when fecundation can occur with difficulty?

Preliminary note. It is clear from very many testimonies of physicians that the conception of offspring occurs easily about the time in which the woman is in menstruation, namely three or four days before, and about fifteen days after; but with difficulty at another time, called agenesis, if the flow of blood is certain and constant every month.[24] Now then,

Resp. Of themselves, they are not to be accused of sin; for they use their right, since the work of marriage is not prescribed at the time when the probability of conception is greater, nor is it prohibited at the time when the probability is less or none. But whether by accident fault enters, is to

be judged from the end and from the other circumstances. To the point is the following response, which, after various doubts had been proposed concerning this manner of acting, the S. PENITENTIARY, on 16 June 1880, judged should be given: "The S. Penitentiary, having diligently weighed the things proposed, responds: Spouses using matrimony in the aforesaid manner are not to be disturbed, and the confessor can cautiously, however, insinuate the opinion in question to those spouses whom he has attempted in vain to draw away in another way from the detestable crime of onanism."[25]

QUESTION 4. But what concerning ARTIFICIAL fecundation, e.g. between sterile spouses?

Resp. Fecundation of this kind, which is done with seed obtained from the husband's pollution, is intrinsically evil, and therefore wholly illicit.[26]

(22) H. A., XVIII, 47; Book VI, 947. (23) Berardi, Prax., n. 334; Aertnys, n. 19, qu. 6. (24) Capellmann, p. 133. (25) Cf. Nouv. Rev. theol., XIII, 460. (26) Cf. Disp. phys. th., author A. E., Disp. 1, c. 4, a. 1.

2119. Admonition. Concerning the office of the confessor in QUESTIONING about the sins of spouses, besides the things said in n. 1804 sqq., let the following be noted:

1. Concerning those things which look to the use of matrimony, the confessor should question only those whom, on account of a just cause, he suspects to be guilty of lethal fault. And he should do this in the most modest manner he can, by inquiring, e.g. from wives, whether "they have always been obedient in those things which look to the conjugal state." - If from a general question of this kind he detects something of culpability, yet does not sufficiently know the nature of the sin, let him come so cautiously to particular questions that he gives the penitent an occasion rather of opening his conscience than seems to investigate it more curiously. - But concerning venial things let him introduce no discussion of his own accord, because, since they are not necessarily to be subjected to the keys, there is no reason why investigations should be instituted in so slippery a matter. Nevertheless, when questioned, let him respond, so that he can thus provide for the peace of consciences.[1]
2. The confessor ought sometimes to question concerning Onanism, namely when there is prudent fear that the penitent is guilty of this sin. The reason is that he is held, from the office of judge, to supply the defect of the penitent, as the common opinion teaches.[2] And hence it is why the S. C. INQUIS., on 21 May 1851, declared the opposite opinion, namely that spouses are never to be questioned concerning this matter, "false, too lax, and dangerous in practice." This declaration especially looks to those regions in which the devastating plague of onanism spreads widely; for many take an occasion for persevering in the worst practice from the fact that the confessor, when the circumstances suggest it, does not question. - At least generally, let him inquire whether there is anything concerning the sanctity of matrimony which gnaws at the conscience.[3]

But to the Question: Whether those confessors satisfy their duty who, when a penitent accuses the sin of onanism, "keep deep silence, and when the confession of sins has been finished, excite him to contrition with general words, and to him asserting that he detests every lethal sin, impart holy absolution" ... the S. PENITENTIARY, on 14 Dec. 1876, responded Negatively.[4]

It seems useful to add also the following document:

"Most Blessed Father - Bishop N. N., reverently presenting himself at the feet of Your Holiness, proposes to Your Beatitude certain doubts to be elucidated, which for a long time have brought grave anxiety of mind and conscience to pastors of souls and confessors.

"As is known to Your Holiness, the unspeakable crime of Onan is being spread more widely day by day in several regions of France, and it is driving deeper roots; so that hardly any Province remains immune from this pest, and the cultivators themselves of social science publicly complain concerning this deadly disease. Nearly everywhere families are seen to become rarer, not indeed from the infrequency of marriages, but from their voluntary infertility. The matter has now come to this, that whereas before many spouses wished to avoid only excessive offspring, now very many dare, by wicked counsel, to exclude every or almost every reception of children. Hence also, at least in great part, comes that lamentable diminution of ministers of the Church by which the dioceses labor more and more.

"Indeed, the deplorable calamity moves pastors of souls, which is derived into society itself from this depraved use of matrimony; but the most grave offense brought against God and the most present danger of souls moves them more sharply, and at the same time affects them with immense sadness. And this sadness of theirs is also increased from the fact that there is not one manner of acting among all confessors in caring for this wound; nor can the desired uniformity be hoped for from the Responses and Declarations of the Holy See which have thus far come forth.

"The knot of the difficulty turns on the necessity of questioning and admonishing penitents. - Indeed all confessors and writers of moral theology acknowledge the very great gravity of this sin; all likewise confess that the greatest prudence and modesty must be applied by the confessor in questioning, and that it is better that the material integrity of confession be deficient than that scandal should come to the penitent from an indiscreet question, or the honor of the sacred ministry be offended. But confessors disagree on this point: whether the questioning itself is necessary or not, even though expressed in chaste and modest words.

"For some confessors have persuaded themselves that among so many faithful who indulge the detestable practice of Onan, at least some are found who are in good faith. - Therefore, lest they disturb these rare penitents from good faith, they think it more advisable to question no one concerning this sin, unless perhaps the penitent himself begins to accuse himself, and the questioning only renders the confession easier. The same confessors judge that the penitent ought not to be admonished concerning the gravity of this sin, because perhaps he thinks the matter is not so grave. And in that opinion they are also confirmed by this reason, that most spouses, openly admonished concerning the malice of onanism, are foreseen to be about to desert the sacraments, and thus incur a greater danger of damnation.

"Other confessors think that silence is not licit for ministers of the divine law, to whom by office it belongs to teach the faithful their proper duties, when they see the precepts of nature itself generally violated. For then, to use the words of Benedict XIV in his Bull *Apostolica Constitutio*, 'the penitent either is ignorant of crimes which nevertheless he ought to know, or is placed in those circumstances which, if the confessor dissembles, confirm the sinner in a depraved work, not without the scandal of others; since someone thinks those things are licit for himself which he observes to be practiced with impunity by those who frequent the Sacraments of the Church.' - Hence the aforesaid confessors judge that a discreet question must be asked concerning Onanism as often as there is a founded

suspicion that the penitent is addicted to this crime; they judge that the common good demands that a penitent who is only probably in good faith be admonished in open, but discreet, words; finally they judge that then only must one abstain from questioning and admonishing, unless the common good demands the contrary, when from the present circumstances of the matter it seems morally certain that the penitent is in good faith, and that the admonition will be fruitless.

"From the Responses hitherto given by the Holy See, various rules are indeed supplied, by which several doubts already pertaining to this matter are clear.

"Thus from the Response of the S. Penitentiary of 14 December 1876, given to the Rector of a Parish in the diocese of Angers, it is clear that it is not licit to favor the error of penitents, which by many is called good faith, nor to create such good faith.

"It is also clear that those confessors do not satisfy their duty who, when a penitent merely accuses Onanism, keep deep silence, and when the confession of sins has been finished, excite him to contrition with general words, and to him asserting that he detests every lethal sin, impart holy absolution."

"It is clear, moreover, that those confessors are free from every reprehension who, keeping themselves within the limits laid down by the Roman Ritual and approved authors, as regards questions sometimes to be asked of spouses concerning the use of matrimony, 'do not omit to reprehend any penitent whatever, whether of his own accord or from a question prudently asked, confessing onanism, not otherwise than concerning other grave sins, as much as his good seems to demand; nor do they absolve him, unless by sufficient signs he shows that he grieves concerning the past and has the purpose of no longer acting onanistically.'

"But since from the prior Responses of the Apostolic Holy See not all doubts concerning this matter are solved, and meanwhile action is taken diversely by different confessors with Onanists, not without grave detriment of souls and great sorrow of pastors; hence the aforesaid Orator reverently and confidently approaches Your Holiness, having the words of eternal life, earnestly beseeching that Your Beatitude deign kindly to give a Response to the following doubts, namely:

"I. When there is a founded suspicion that a penitent who is entirely silent concerning ONANISM is addicted to this crime, is it licit for the confessor to abstain from prudent and discreet QUESTIONING, because he foresees that several will be driven from good faith and many will desert the Sacraments? Or rather is the confessor not bound prudently and discreetly to question?

"II. Whether a confessor who, either from spontaneous confession or from prudent questioning, knows that a penitent is an Onanist, is bound to ADMONISH him concerning the gravity of this sin, equally as concerning other mortal sins, and, as the Roman Ritual says, to reprehend him with paternal charity, and to impart absolution to him then only when it is established by sufficient signs that the same one grieves concerning the past and has the purpose of no longer acting onanistically?

"The Sacred Penitentiary, considering that the unspeakable vice of which there is question in the case has widely prevailed, judged that to the proposed doubts response must be made, as it responds:

"To I. Regularly, negatively to the first part; affirmatively to the second.

"To II. Affirmatively, according to the doctrines of approved Authors.

"Given at Rome in the S. Penitentiary, on 10 March 1886.

"Card. Monaco, Major Penitentiary.

"Hip. Can. Palombi, Secretary of the S. P."

(1) Cf. Praxis, n. 35, 41. (2) Book VI, 629. (3) Aertnys, n. 40; Konings, n. 1657. (4) From an authentic copy, Angers, 21 Aug. 1878, and Seez, 19 Oct. 1880.

Article II: On The Cohabitation Of Spouses

Spouses, on account of the undivided manner of life by which they are bound to each other in turn, and on account of the mutual help which one ought to furnish to the other, are held to cohabit together, unless a legitimate cause of separation has freed them from this obligation. - Whence there is a new argument, the treatment of which we shall dispatch in few words.

§ 1. On The Obligation Of Cohabiting

2120. Principles. I. "It is certain that spouses ARE HELD, from an obligation of justice, TO COHABIT in the same house, at table and bed."[1] - This is clear both from reason, namely from the nature of marriage, and from the words of the Lord: "A man shall leave father and mother, and shall cling to his wife" (Matt. 19:5).

Hence it is inferred: 1. "Neither spouse can depart elsewhere, against the will of the other, for a long time, unless just causes are present, namely on account of the public good, or for nourishing or protecting the family, or for avoiding harm from enemies."

2. "If the husband had to remain elsewhere for a long time, he would be bound, if he conveniently can, to bring his wife there, so that she may cohabit with him."

3. The wife is held, more probably, to follow the husband into exile; because she is held to suffer his misfortune. Similarly the husband is held to accompany the wife, if necessity compels her to change domicile.[2]

(1) Book VI, 939; H. A., XVIII, 51. (2) Book VI, 939; III, 353.

2121. II. "Regularly the WIFE is held TO FOLLOW THE HUSBAND changing domicile, even if he changes without just cause, provided the cause is not foul. And this, even if somewhere there is a contrary custom, which cannot derogate from divine law, which constituted the man the head of the wife. Likewise also, if the husband departs far away and will remain there for a long time. But otherwise, if he is going to return from there shortly; for then neither is the wife held to follow the husband, nor the husband to lead the wife with him, just as neither is the husband held to lead her with him, even if he departs far away, if great expenses would be required to transport her there."[3]

We said regularly; for "the wife is not held to follow the husband if he wishes to drag her into sin, or if the wife by departure would be exposed to grave danger of life, or to danger of grave detriment. Thus likewise the wife is not held to follow a wandering husband, unless before matrimony she knew his errant life."[4]

IT IS ASKED. Whether it is licit for a husband not to cohabit with his wife, and to expel her from the house, ON ACCOUNT OF A DOWRY promised and not paid?

Resp. Panormitanus with others affirms; but others with Sanchez more commonly and more probably deny. - "The reason is that the obligation of cohabiting does not arise from the payment of dowry, but from the natural and divine law itself, by which the husband is held to render the debt to the wife, and therefore to live with her. - Whence authors say that even if the husband has not yet led the wife into his house, he is held to lead her there, notwithstanding that the dowry was not paid."[5]

(3) Ibid., 977. (4) Ibid. (5) Book VI, 939, dub. 1.

§ 2. On The Legitimate Separation Of Spouses

2122. Principles. I. DIVORCE, or separation from bed or habitation, can be made for just causes, while the bond of marriage remains. - This is clear from Trent (sess. 24, can. 8): "If anyone shall say that the Church errs when she decrees that, on account of many causes, separation between spouses, as regards bed or as regards cohabitation, can be made for a certain or uncertain time: let him be anathema."[6]

(6) Cf. Acta S. Sed., I, 213.

2123. II. There are very many CAUSES OF DIVORCE, or of the separation of spouses as regards bed and habitation. This is clear from different places of canon law, against some Protestants, who acknowledged adultery as the only cause of this separation. - But the CAUSES enumerated by canonists can be reduced to THREE:

1. The first and principal cause, on account of which it is licit to make divorce, and indeed perpetual divorce, is the adultery of a spouse. - This is clear both from divine law, the Lord saying (Matt. 19:9): "Whoever shall dismiss his wife, except on account of fornication, and shall marry another, commits adultery"; and from canon law, cap. *Significasti* and cap. *Gaudemus*, *de divortiis*. - But it is REQUIRED that the adultery be: 1) morally certain; - 2) voluntary, and not perpetrated from violence brought upon one; - 3) not condoned, whether expressly or implicitly, e.g. by the conjugal act, or by other signs, exhibited by the innocent party conscious and mindful of the adultery, with the mind, for the internal forum, of condoning; - 4) not mutual, because then compensation would exist; - 5) consummated by intercourse, as is more probable to St. Alphonsus; - 6) committed without the consent of the coparty. - And here it must be noted that, from the more common and at least extrinsically more probable opinion of authors, under the name of adultery there is also understood every division of flesh, such as sodomy and bestiality.[1] Long-lasting and injurious desertion is also customarily equated with adultery.[2]

We said that it is licit to make divorce; for the innocent party is not held to dismiss the guilty party, unless this is necessary for correction and amendment, or for removing scandal; and in these cases also he is excused whenever he would prudently fear grave inconvenience from it.[3] Nor indeed is some adultery admitted before nuptials and afterward disclosed a sufficient cause of divorce, unless injury is inflicted on the husband from it, as would be if the wife, when she married, had already been pregnant by another; for then, as one deceived and injured, he can remove from himself, by the

authority of the Church, her who contrived fraud and dishonor for him. And this same thing seems to be said if the wife had given herself to prostitution.

Authors note besides the following: 1. A juridical separation having been made, the innocent spouse is not held to receive the adulterous coparty, although amended; for "on the one hand Christ has perpetually freed him from the obligation of cohabiting with an adulterer, and on the other hand charity does not seem, of itself, to oblige to so great a burden."[4] - 2. Yet he can recall the adulterous spouse to himself, although juridically separated, because he can renounce his right; but it is scarcely to be counseled or prescribed to an adulterous woman that she return to the husband, on account of the frequent danger of bad treatment.[5] - 3. If after the sentence of divorce it happens that the other spouse also commits adultery, it is more probable that neither is held to return to the coparty recalling; because by the sentence of the judge each was freed from servitude. Nevertheless, the judge ought to take care that they return to each other, so that they may better provide for the salvation of their souls and remove the scandal of others.[6]

2. The second cause of divorce is some grave danger of soul or body; by reason of which danger: 1) If one of the spouses slips into heresy or apostasy from the faith, which is spiritual adultery, it is conceded to the other to institute divorce, even perpetual, after the sentence of the judge.[7] 2) If a spouse draws the coparty into sin, e.g. if he solicits that one to heresy, sodomy, adultery, etc., the innocent party can depart, indeed is bound if the danger is grave.[8] 3) Finally, if from cohabitation there threatens grave danger of life or health, or if cohabitation becomes so burdensome that it is rendered morally impossible; for instance, if a spouse were compelled to suffer cruelties grave and frequent for his condition, or if the wife were expelled without cause.[9]

3. The third cause is mutual consent. From this consent spouses separate themselves licitly from bed, or even from habitation, whether for a time or in perpetuity. - Moreover, separation from habitation in perpetuity is not customarily permitted unless each enters Religion; or at least unless, when one professes Religion or receives sacred Orders, the coparty vows chastity. But this ought not to be done inconsiderately; rather, it is required that, all things having been well weighed, every danger of incontinence be absent, and offspring not need the care of parents, etc.; for the evangelical counsels do not free human beings from the duties by which they are bound by the law of nature.[10]

(1) Book VI, 961, 962, 966; H. A., XVIII, 91, 93, 95. (2) Cf. Acta S. Sedis, V, 12. (3) Book VI, 963, 964, where there are several things; H. A., ibid., 94. (4) Book VI, 965. (5) Book VI, 967; H. A., 96. (6) Ibid., dub. 2. (7) Book VI, 974. (8) Ibid., 973. (9) Ibid., 970-972; H. A., ibid., 92; Acta S. Sed., III, 136. (10) Book VI, 975.

2124. Questions. QUESTION 1. By what AUTHORITY ought the separation of spouses to be made?

Resp. It is to be made, regularly speaking, by the authority of the judge, i.e. of the Bishop, whenever there is question of separation from the roof; because such separation is public and pertains to external governance; and although it remained hidden, nevertheless the authority of the Bishop would be required.

We said 1. regularly; for by private authority divorce can be made by an innocent spouse in the case of cruelty or danger of perversion, if there is danger in delay, and the judge cannot be approached, or

perhaps the fact cannot juridically be proved. Likewise, it can be made by the husband, more probably, in the case of the wife's adultery, whether the adultery is public or hidden, provided it is certain and provided the separation does not bring public scandal with it. For it is said in law: "Wherever there is fornication, or suspicion of fornication, the wife is freely dismissed."[11] But in the case in which he were compelled by the judge to cohabit with the adulteress, he would indeed be held to obey, but by no means to render the debt.[12]

We said 2. whenever there is question of separation from the roof; for spouses, from their own authority and mutual consent, can be separated from each other as regards bed, provided danger of incontinence is absent, as is clear from the words of the Apostle (1 Cor. 7:5): "Do not defraud one another, except perhaps by consent for a time, that you may give yourselves to prayer; and return again to the same, lest Satan tempt you because of your incontinence." Recall the things said in n. 2103.

QUESTION 2. After juridical divorce has been made on account of adultery, can the spouses enter RELIGION, or the man receive SACRED ORDERS?

Resp. 1. The innocent spouse can, even against the will of the adulterous party, enter Religion or receive sacred Orders.

2. The adulterous spouse cannot enter Religion, nor be initiated into sacred Orders, unless the innocent one consents, or has already himself undertaken an irrevocable state; otherwise, if he received the priesthood or entered Religion, he could be recalled by the innocent party, even after profession. Nevertheless, the tacit consent of the innocent party suffices, e.g. if the innocent one, knowing that the adulterer wishes to change state, does not impede him, though he conveniently could; or if, when asked by the adulterer, he did not wish to admit reconciliation.[13]

QUESTION 3. After juridical divorce has been made, with which spouse are the CHILDREN to be educated, and at whose expense?

Resp. 1. Natural law being considered, all children are to be educated with the innocent spouse. Except if this one is an infidel or heretic, because then they are to be educated with the faithful spouse.[14] But from civil law, children are generally handed over to the one who obtained the separation, unless, on account of the greater advantage of the children, the judge has established otherwise.[15]

2. The expenses of the whole education are regularly to be paid by the spouse who is in fault. Yet always in these matters the sentence of the judge is required, by which one must stand.

(11) Can. Dixit Dominus, caus. 35, qu. 1. (12) Book VI, 968; H. A., ibid., 96. (13) Book VI, 969; H. A., ibid., 97. (14) Book VI, 976. (15) Cf. French Code, art. 302 sqq.; Italian, 154.

2125. PRACTICAL RULES. As regards spouses who, legitimate separation not having been sought, live separated, let the parish priest or confessor attend to the following: - 1) A woman whom it is publicly clear to have been unjustly driven away by her husband is not to be barred from the Sacraments; and the husband is not to be absolved unless he restores the consortium of life with the wife. - 2) He who withdrew from the coparty by reason of notorious adultery is not to

be disturbed; but the guilty party is not to be admitted to the Sacraments unless he has repaired the crime and scandal. - 3) They are to be held unworthy of absolution who, on account of a matrimony unhappily begun, e.g. mutual aversion, have separated themselves by private counsel. But, scandal having been removed, if they are in good faith and do not wish to acquiesce when admonished, they are not to be admonished concerning this.[16]

(16) E. Mueller, lib. III, § 227, v. fin.

Scholium.

On Civil Divorce.

2126. FROM CIVIL LAW, in force in many places, there can be had a judicial sentence of divorce or of separation from bed and from habitation, on account of various CAUSES, which are commonly enumerated as THREE, namely: 1. Adultery of the woman, and also of the man, if he kept a concubine in the house common to the spouses. 2. Cruelties or grave injuries brought by one spouse against the other. 3. Condemnation of one of the spouses to an infamous penalty.[1] - And here it must be NOTED that separation of bodies always imports separation of goods, but not vice versa.

Indeed, in several places, civil law permits not only that imperfect separation, or separation of habitation and goods, but also DIVORCE PROPERLY SO CALLED, namely as regards the civil bond, so that it becomes free for spouses to pass to other nuptials. And in that case, to the three causes of separation already numbered, in certain places there is added a fourth, namely mutual consent.

Wherefore it helps to report the following Documents of the HOLY OFFICE.

1. Response to the Bishop of St. Gallen: "The law of the Swiss Confederation enacted concerning status and civil matrimony sanctioned that all and singular matrimonial causes, ecclesiastical jurisdiction being suppressed from now and thereafter, are to be treated in lay tribunals according to the norm which is established in civil causes; and that sentences are to be pronounced in them according to the prescriptions of common law and of the most recent enacted law, by which even marriages of Catholics can, under certain very light reasons, be perpetually severed and dissolved as regards the bond, so that litigating spouses of this kind, after the sentence of divorce of secular judges has been passed, can pass to contracting other marriages if they wish. Therefore it is asked: Whether Catholic JUDGES and ADVOCATES in lay tribunals of this kind can with safe conscience take up and defend, or know and judge, matrimonial causes? - Likewise, whether the same Catholic judges and advocates, according to the recent law of Switzerland, can with safe conscience propose the bond of matrimony as to be dissolved, or declare it as dissolved, and also declare that spouses of this kind can pass to contracting another marriage, just as civil law in this case expressly commands and urges judges to judge and declare?"

In discussing this question, it must not be forgotten that the secular tribunals, whose office it is to judge concerning civil causes, are the same tribunals to which by the new law it belongs to know and judge matrimonial causes. But if, therefore, Catholic judges were forbidden to sit in tribunals of this

kind, we would experience, to the great harm of citizens, that those tribunals are deprived of those judges who, filled with the fear of God, judge piously and justly.

But the Sacred Congregation, on Wednesday, 3 April 1878, responded: "As regards Judges, let him recur in particular cases. - As regards advocates, let the responses already given to the Bishop of Southwark be given, namely Tuesday, place IV, on 22 May 1860, to the DOUBT: whether a Catholic advocate can defend the causes of the party brought to trial, against an actor seeking dissolution of the bond? The Response was: 'Provided that it is established to the Bishop concerning the probity of the advocate, and provided that the advocate does nothing which deflects from the principles of natural and ecclesiastical law, it can be tolerated.' And to the other DOUBT: whether it is licit to act the parts of advocate and actor, when the end of the lawsuit is simple separation, without any sentence drawing with itself the nullity of matrimony? The Response was: 'Provision has been made in the preceding'; and on Wednesday, 19 December of the same year: 'provided the Catholic party can approach no other tribunal from which he may obtain a sentence of separation as regards bed and table, and provided the sentence of this tribunal has no other effect than the aforesaid separation, it can be tolerated that Catholics, in that forum, act the parts of actor and advocate, and provided just causes of separation are present, in the judgment of the Bishop; and if besides he has anything of doubt, let him recur, setting forth all the circumstances and dispositions of the law.' J. Velamie, Notary of the Holy Roman and Universal Inquisition."[2]

2. Letter to all Ordinaries in French territory: "After the recently restored laws of divorce among the French in the year 1884, several doubts were proposed by some Bishops of France to this Holy Roman and Universal Inquisition: namely whether it would be lawful for lay judges in causes concerning the separation of spouses to declare law, whether concerning the bond or concerning habitation only; whether for advocates and procurators to conduct causes of this kind before lay judges; whether for those to whom by law it pertains to appoint the official defenders, as they call them; finally, whether for syndics, commonly *maires*, to pronounce divorce.

"The Most Eminent Fathers, General Inquisitors together with me, after the matter had been maturely weighed, on Thursday, place IV, on 25 June 1885, judged that it should be decreed thus:

"Considering the most grave adjuncts of things, times, and places, it can be tolerated that those who hold magistracies and advocates conduct matrimonial causes in France without being held to resign their office, provided they openly profess Catholic doctrine concerning matrimony and concerning matrimonial causes as pertaining to ecclesiastical judges alone, and provided they are so disposed in mind, both concerning the value and nullity of marriage and concerning the separation of bodies, about which causes they are compelled to judge, that they never pronounce a sentence, nor defend one to be pronounced, nor provoke or excite one contrary to divine or ecclesiastical law; and in doubtful or more difficult cases, let each approach his Ordinary, direct himself by his judgment, and, insofar as there is need, recur through his mediation to the Apostolic Penitentiary."

"The Most Holy Father held this decree ratified; and therefore it is made known to all Archbishops and Bishops in France for their norm, by these letters which otherwise are not to be published. R. Card. Monaco."

3. Decree for excluding false interpretations of the preceding Letter:

"By some Bishops of France the following doubts were proposed to the Holy Roman and Universal Inquisition: 'In the Letter of the Holy Roman and Universal Inquisition of 25 June 1885 to all Ordinaries in French Territory concerning the law of civil divorce, it is decreed thus: Considering the most grave adjuncts of things, times, and places, it can be tolerated that those who hold magistracies and advocates conduct matrimonial causes in France without being held to resign their office'; it added conditions, of which the second is this: 'Provided they are so disposed in mind, both concerning the value and nullity of marriage, and concerning the separation of bodies, about which causes they are compelled to judge, that they never pronounce a sentence, nor defend one to be pronounced, nor provoke or excite one contrary to divine or ecclesiastical law.' It is asked:

I. 'Whether the interpretation diffused throughout France and also printed is correct, according to which the judge satisfies the aforesaid condition who, although some matrimony is valid before the Church, entirely abstracts from that true and constant matrimony, and by applying civil law pronounces that there is place for divorce, provided he intends in mind to break only the civil effects and only the civil contract, and the terms of the pronounced sentence regard only those things? In other terms, can the sentence thus passed be said not to be contrary to divine or ecclesiastical law?

II. 'After the judge has pronounced that there is place for divorce, can the Syndic, in French, *le maire*, also himself intending only the civil effects and only the civil contract, as is set forth above, pronounce divorce, although the matrimony is valid before the Church?

III. 'After divorce has been pronounced, can the same Syndic civilly join with another the spouse attempting to pass to other nuptials, although the prior matrimony is valid before the Church and the other party is living?'

"Thursday, place IV, on 27 May 1886. In the General Congregation of the Holy Roman and Universal Inquisition held before the Most Eminent and Most Reverend Lords, Cardinals of the Holy Roman Church, General Inquisitors, the above-written doubts having been proposed, and the Vote of the Lord Consultors having been had beforehand, the same Most Eminent and Most Reverend Lords ordered that response be made: To the first, second, and third doubt, Negatively.

"On the same weekday and day, report having been made concerning these things to Our Most Holy Lord Pope Leo XIII, His Holiness approved and confirmed the resolutions of the Most Eminent Fathers. Jos. Mancini, Notary of the Holy Roman and Universal Inquisition."

It seems useful also to add these decisions of the S. PENITENTIARY:

1. Response to a certain Bishop of Italy: "Most Reverend Lord. I have reported to the Eminent Major Penitentiary what you write concerning a certain Syndic of your diocese, who by force of his office would have to assist at the civil matrimony of someone already bound by another matrimony celebrated in the face of the Church; and I must, at the command of the aforesaid Eminent Penitentiary, signify to you that the aforesaid syndic can by no pact furnish his work to an act which is so greatly opposed to the sanctity of matrimony. Therefore, whatever the circumstances of the case may be, he ought altogether to deny his assistance, even though it would happen that for this reason he would be compelled to resign his office.

"From the S. Penitentiary, 28 Nov. 1883. Luigi Martini, Substitute of the S. P."

2. Instruction to the Bishops of Italy, of 29 March 1885.

Q. Whether a CIVIL OFFICIAL can both assist at matrimony which they call CIVIL, and prepare and draw up the legal instrument of the same matrimony, although true matrimony did not precede, indeed although there is suspicion or even certainty that it will by no means be celebrated before the Church?

"R. It can be tolerated, provided civil officials in drawing up acts of this kind intend to exercise a merely civil ceremony, and perform or advise nothing against the sanctity of matrimony and the necessity of contracting it before the Church; indeed let them exhort to contracting it before the Church herself, having before their eyes the most holy laws of our religion and the letters of Benedict XIV, *Redditae sunt Nobis*, concerning which, for removing scandal, let them admonish the contracting parties. - But as regards the cases in which it appears that the faithful, approaching the civil ceremony, are badly disposed, and are not going to celebrate matrimony, which regularly ought to have been premised, before the Church, but are going to persist in concubinage under the pretext of a civil contract, the officials themselves are to be directed according to the rules handed down by approved authors, and especially by ST. ALPHONSUS DE LIGUORI (Lib. 2, tr. 3, cap. 2, dub. 5, art. 3), concerning cooperators."[3]

From these things you will resolve: - 1. Matrimonial causes look only to the ecclesiastical forum, and therefore cannot, unless the Church permits this, be brought to the civil forum; thus from the constant doctrine of the Church.

2. The Church indeed permits, in various regions, that causes of this kind be treated in the civil forum, but always under the condition that nothing be done which is contrary either to divine or to ecclesiastical law.
3. Where legitimate and canonical causes of divorce are had (cf. n. 2123), spouses can seek separation of habitation and goods, advocates can promote it, and judges can pronounce it. Nor indeed is it licit for spouses to bring the cause to the civil forum before it has been defined by the ecclesiastical judge, since it looks to this judge alone to judge whether sufficient motives of separation are present. Nevertheless, if the spouses, the ecclesiastical judge having been passed over, present themselves to the civil judge, this judge can, on account of grave reasons, know their cause, and, the motives being just, pass a sentence of separation.
4. Divorce as regards the bond of matrimony contracted only civilly can be both sought and pronounced in the civil forum, as is clear. The same must be said concerning matrimony indeed before the Church, but invalidly contracted, provided that the sentence of the ecclesiastical forum concerning the invalidity of the matrimony has preceded.
5. The sentence of divorce by which the bond of a validly contracted matrimony is declared dissolved can neither be sought by spouses nor promoted by advocates. For actors in such a cause seek a thing manifestly unjust and impious. - Nor is it licit for the judge to pronounce a sentence of divorce, even if, while he pronounces it, he intends to abstract from true

matrimony and to break only the civil contract, nor do the terms of the pronounced sentence regard anything else.

But whether this is licit if he openly manifests this mind of his and professes the true doctrine of the Church concerning matrimony, there are not lacking those who still move controversy. But to us it seems that it must altogether be denied. The reason is that the sentence of the judge, as regards its being and as regards its effects, depends in no way on his intention or on the declaration of intention, but on the law which he applies. Whence a sentence of divorce, whether the judge wishes it or not, is of itself, not otherwise than the law of divorce itself, evil and iniquitous, and it furnishes help and support to iniquity.

6. Whether a civil official can join by civil rite persons if one of them or each is already bound by the bond of true matrimony, there is not yet one opinion of all; nevertheless, from the above-cited document of the S. Penitentiary, it seems to be denied. But he can, on account of most grave reasons, assist at the civil matrimony of those who are held to be badly disposed, even if he foresees that matrimony will not be celebrated before the Church.[4]

(1) French Code, art. 230 sqq.; Italian, 148 sqq. (2) In Aug. de Roskovany, Matrimonium in Eccl. Catholica, tom. IV, p. 64. (3) Monit. eccles., Vol. 4, P. I, p. 274. (4) Cf. concerning these things: Bucceroni, S.J., Enchiridion morale, App. Commentarius tertius; Nouv. Rev. theol., tom. XVIII, p. 473 sqq.; Monitore eccles., loc. cit.

Part IV: On Particular Precepts

Prologue

2127. The order of matters now demands that we approach the FOURTH PART of moral theology, which we have inscribed *On Particular Precepts*. For, after the general principles of Christian Ethics have been unfolded in the FIRST PART, after the laws of natural right which regard all human beings and which human law has sanctioned more or less have been declared in the SECOND, and after finally the positive divine laws which Christ the Lord, by instituting the Sacraments, established and proposed to us to be observed have been set forth in the THIRD, this one thing remains: that we institute a discourse concerning those laws and obligations to which some human beings bind themselves when they freely undertake a particular manner of living, namely a state or a public office.

Nor indeed should this Fourth Part be judged to be of small moment; for just as all the faithful are held to have a sufficient notion concerning the precepts of the Decalogue and concerning the Sacraments to be received, so likewise every human being is held to know the other precepts which pertain to his own state or office, in such wise indeed that vincible ignorance itself of them, although no transgression follows, already involves mortal sin in itself[1] (recall the things said in n. 319).

Moreover, according to the threefold perfection to be pursued in human society, there is distinguished a THREEFOLD species of states and particular offices, namely: 1. The Religious State, whose end is to lead the human being who undertakes it to his own perfection, and this a spiritual one. - 2. The clerical state, whose end is to lead spiritual society, or the Congregation of Christ's faithful, to its supernatural perfection. - 3. The lay state, whose end is, according to its diverse offices, to lead civil society to its natural or temporal perfection.

Hence there will be a THREEFOLD TREATISE: the first, On the Religious State; - the second, On the clerical State; - the third, On the lay State.

(1) St. Alphonsus, book IV, Prooem.

Treatise I: On The Religious State

There are five things concerning which we must treat in this Treatise, namely: 1. On the nature of the religious State; - 2. On entrance into Religion; - 3. On the obligations of Religious; - 4. On the privileges of Regulars; - 5. On Religious in a state of dispersion.

Chapter I: On The Nature Of The Religious State

2128. Three things must briefly be weighed, namely the notion, origin, and distinction of the RELIGIOUS STATE.

1. Notion Of The Religious State.

DEFINITION. In general, State is a certain condition of life in which someone persists perpetually, or for a time. - Of this kind is the state of innocence, the state of fallen nature, the state of grace, the state of sin, the ecclesiastical state, the lay state, etc.

In a stricter manner, STATE is an immovable condition of life by which someone is firmly bound to another. Immovable absolutely, or movable only with difficulty; for state signifies persistence and a certain stability. - A state of this kind is THREEFOLD: episcopal, religious, and conjugal. For Bishops are obliged to service of their Church; Religious to divine service; married persons to mutual service. The two prior states are spiritual; and the first of them is the state of perfection acquired, the second of perfection to be acquired, but the third is a secular state.[2]

Now then,

The RELIGIOUS STATE is incomplete or complete, namely according as it is taken in a broad or strict sense.

The INCOMPLETE religious state, and taken in the broader sense, is the state of the faithful tending to the perfection of divine charity. - Under this definition not a few Institutes called Religious improperly are comprehended, as will be clear from the things to be said.

The COMPLETE religious state, and strictly so called, is defined: A stable manner of living by which one tends to the perfection of divine charity through the three perpetual vows of poverty, chastity, and obedience, under a rule of common life approved by the Church.[3]

It is said 1. a stable manner of living; otherwise it would not be a state properly so called, as we have already noted.

It is said 2. by which one tends to the perfection of divine charity; for the end of the religious state is CHARITY, not indeed that common charity which belongs also to imperfect Christians who are in the state of grace, but that eminent charity by which someone is proximately disposed to act easily and ordinarily according to the precepts and counsels of God,[4] namely in imitation of Christ the Lord saying (John 8:29): I always do those things which are pleasing to Him (cf. n. 467, III, and 690).

It is said 3. through the three perpetual vows of poverty, chastity, and obedience; because, according to all theologians, a complete religious state is not understood unless it makes one tend completely

and permanently to perfection. But indeed, that a human being tend completely to perfection, it is required both that he remove from the midst all things which forestall this perfection, namely the concupiscence of the eyes, the concupiscence of the flesh, and the pride of life, and that he offer to God in perpetuity as a holocaust all that he has, namely external and internal goods, body and soul. But each is done, as is clear, through the observance of the three evangelical counsels, namely of voluntary poverty, chastity, and obedience. Then, that he tend permanently and firmly to perfection, a VOW is required; for since the prementioned perfection is of free election, scarcely any other means of stability can be thought of than a perpetual vow, which, from the virtue of religion, establishes a truly perseverable law.[5]

Hence, those are not Religious properly so called who indeed observe the three evangelical counsels, but who have pronounced no vow concerning them; nor those who have vowed only one or two of the three; nor those who have vowed all three, but only for a time. - Suarez indeed dissents,[6] teaching that with the vow of conjugal chastity alone there can exist a religious state properly so called, so that the essence of the religious state remains in the case in which the Supreme Pontiff should dispense someone, in part, from the solemn vow of chastity, with the faculty of using matrimony already contracted, or of contracting future matrimony. But Doctors more commonly oppose this doctrine.[7]

It is said 4. under a rule of common life. And in this consists the accidental or secondary element by which the religious state is constituted. - For although the three vows by which the observance of the evangelical counsels is promised, accepted in the name of God by someone having power for this, suffice of themselves for the essence of the religious state, nevertheless, considering present ecclesiastical law, that state does not exist before the Church except in common or cenobitic life, under one head and under one rule which fittingly conduces to pursuing perfection.

Hence: "Those are not Religious who, after the vow of perpetual poverty and chastity has been made, vow obedience to a confessor or Bishop;[8] nor are Hermits reputed such, unless they have a common prelate and rule with other members of the same Institute, according to the present custom of the Church."

It is said 5. approved by the Church, namely by the Holy See, to which today the matter is reserved, as being of greater moment. For although this approbation is not of itself of the essence of the religious state, as most theologians think against some, nevertheless it is required from ecclesiastical law. In antiquity indeed, for founding religious Institutes, e.g. of St. Basil, St. Augustine, St. Benedict, etc., the express institution and approbation of the proper Bishops sufficed, the Roman Pontiff not opposing but rather commending; but in the Fourth Lateran Council,[9] and then in the Council of Lyons,[10] it was established that a new Order could not be introduced, nor the habit taken in it, unless it had been expressly approved by the Supreme Pontiff.

Now the approbation of the Church imports two things, namely judgment concerning the honorableness and utility of the Order or rule, and power conceded to Superiors of receiving Candidates to the habit and profession, and of performing the other things which are according to the Rule or Institute.[11]

Hence: 1. Those are not Religious properly so called who, although they emit the three vows and lead life in common, nevertheless do not profess a rule approved by the Holy See; such are the pupils of various Congregations which Bishops have instituted by their own authority alone. Although their

merit before God can be plainly the same as the merit of the others who are properly Religious, since they exhibit to the Lord the same abnegation of themselves.

2. An Institute which would be reproved or prohibited by the Holy See would by that very fact be void and would exclude the essence of the religious state. For it would no longer be a state of perfection, but rather a state of rebellion, since God can never hold as accepted what the Church disapproves.

(2) Polman, 2.2, n. 864 and 865. (3) Cf. Book IV, n. 1; H. A., XIII, 1. (4) Cf. St. Thomas, 2.2, q. 184. (5) Ibid., 2.2, q. 186, a. 7. (6) De religione, tr. 7, lib. 9, cap. 26, n. 7. (7) Cf. Bouix, de jure Regularium, tom. 2, pars 6, sect. 2, cap. 1, Propos. 4a and 5a. (8) Book IV, 1, 3. (9) Cap. fin. de religiosis domibus. (10) Cap. un. ejusdem tit. in 6. (11) Cf. Lucidi, tom. 2, p. 255, De disciplina quam servat S. C. Ep. et Reg. in Institutorum approbatione.

2129. Questions. QUESTION 1. What is the difference between SOLEMN and SIMPLE vows, and do simple vows SUFFICE for the essence of the state of religion?

Resp. 1. Authors do not agree concerning the difference which intervenes between solemn vows and simple vows. According to the opinion of St. Thomas,[12] Bellarmine, etc., which St. Alphonsus teaches as the more probable,[13] the solemnity of the vow of chastity is from ecclesiastical law as regards the rite, i.e. the form essentially required that it be held by the Church as solemn, but from positive divine law as regards the essence and effect, i.e. of invalidating matrimony. The reason is, "because in a simple vow the body is promised only to God, but in a solemn vow through the legitimate acceptance of Prelates, the body is besides handed over to God." These are the words of St. Alphonsus.[14] And a similar reason can be adduced for the vow of poverty and obedience.[15] Nevertheless, the contrary opinion seems today to have become the more common among canonists. Philip de Angelis testifies to this,[16] saying: "This is the canonical doctrine, that solemnity is not intrinsic or essential to vows, so that the simple and solemn vow differ in species; but that it is extrinsic and accidental to vows, proceeding from the disposition of the Church." And a demonstration having been added from various documents, the distinguished Canonist concludes "that the SOLEMNITY of the three vows consists in the force added to them by the disposition of the Church, of making void, or at least voidable, certain acts contrary to the accidental perfection of the vows of a Religious." But whether this opinion is also intrinsically more probable, let others judge. Cf. the things to be said in n. 2156, 2160, 2176.

Resp. 2. "For the essence of Religion solemn vows are not required. The reason is that those who in the Society of Jesus make simple vows are true Religious, as Gregory XIII defined in the Bull *Ascendente Domino*."[17] And Benedict XIV writes: "By the authority of the Roman Pontiff it can be brought about that that also is a true Religion in which only simple vows are emitted."[18]

Nor does it stand in the way that the bond of solemn vows is greater; because, as Suarez rightly observes,[19] greater and lesser do not vary species. And indeed, although simple vows do not induce of themselves, as solemn vows do, inability for matrimony, incapacity of dominion, and absolute or immutable stability, nevertheless they render matrimony illicit in perpetuity, strip the one vowing of every independent use and every arbitrary disposition of temporal things, which is the same as if the Religious possessed nothing at all; finally, they induce sufficient stability, while it is established that the professed can never withdraw by his own will, and the Order ought not to dismiss him except for a grave and just cause.[20]

QUESTION 2. Whether for the essence of the religious state strictly taken, there is required a HANDING OVER OF ONESELF made to God and ACCEPTED in the name of God by some human being?

Resp. Affirmatively, according to the common opinion of authors. For the religious state properly so called has always been held in the Church of God as a true handing over or donation, by which a human being wholly binds himself to God, namely by abdicating that natural right which each one, the precepts being observed, has of disposing of himself and his things according to his will. And although the aforesaid handing over is customarily joined to the very emission of vows, nevertheless it is something different from the vows, which is superadded to them. For a vow, by its nature, is nothing except a promise, by force of which not the dominion of the thing itself, but only a right to having it, is conferred; but a handing over which is legitimately accepted in the name of God by someone is a true and perfect donation, which effects that the thing or person offered is irrevocably transferred under the dominion of the one accepting.

But that an acceptance of this kind is necessary is gathered from this, that through a donation of goods, right is not yet transferred to another unless the donation is accepted by the donee, as we saw in the Treatise on Contracts (n. 1063 sqq.). "But indeed a handing over or donation, although it can immediately be made in view of God, nevertheless is not accepted by Him, nor is it pleasing to Him, unless it is made to some human being by whom it can be accepted or repudiated, and who acquires a right over the thing handed over for using it or for commanding it and for bearing care of it. The reason of this is that God, according to His ordinary providence, does not assume the peculiar care of governing a private person immediately by Himself, nor does He need sensible things, so that He may use them immediately and without the intervention of secondary causes. And therefore a donation thus made to God would either be vain and odious, or as though tempting God by demanding immediate governance from Him; and for that reason it is not pleasing to Him, nor is it immediately accepted by Him."[21]

(12) 2.2, q. 88, a. 7. (13) Op. in Trid. sess. 24, n. 21. (14) Book VI, 1025. (15) Cf. Suarez, De religione, tr. 7, lib. 2, cap. 14, n. 4; likewise Gregory of Valencia, disp. 6, q. 4, p. 8. (16) L. III, tit. 31, n. 4. (17) Book IV, 1, 1. (18) De Synodo, lib. 13, c. 11, n. 29. (19) Loc. cit. (20) Cf. Gury-Cretoni, tom. I, p. 578. (21) Suarez, de Religione, tr. 7, lib. 2, c. 4, n. 7, 8.

2130. From these things you will gather: 1. Vows which are made to God alone and are accepted by no one do not induce the essence of the Religious State. - And hence it was why Pope Alexander VII, in the Constitution *Ex commissa* issued on 22 Sept. 1655 in favor of the Congregation of the Mission, or Lazarists, which, although it intended to emit three vows, and these perpetual, nevertheless did not wish to be numbered among religious Orders, established these things most worthy of note, namely: "that, in the emission of their vows, no one be present who accepts them in the name of the Congregation, or in Our name and in the name of the Roman Pontiff existing for the time ... And that the said Congregation not on this account be judged among the number of religious Orders, but be of the body of the secular clergy." But unless the Pontiff had added this clause, the Congregation of the Lazarists would not be secular, but properly religious, namely having the essence and truth of the Religious State.[22]

2. The handing over of oneself, concerning which we have spoken, does not necessarily presuppose the emission of solemn vows. And this is confirmed from the Bull *Ascendente Domino* of Gregory XIII, § 18, where the Pontiff notes: "that the three vows of the Society, i.e. of Scholastics, although simple, have been admitted by this See as substantial vows of Religion, and that those emitting them are truly constituted in the State of religion, since by them they dedicate and actually hand over themselves to the Society, and bind themselves to divine service in it."

3. On the part of the Order there can be some acceptance, without for that reason a reciprocal obligation arising between it and the Religious. - To the point, Schmalzgruber speaks thus:[23] "It must be said that, for someone to be truly and properly a Religious, it suffices if at least on the part of the one vowing there is given the obligation of remaining perpetually in Religion, although Religion does not have in turn the absolute obligation of retaining him perpetually." - And this is confirmed by the example of the Society of Jesus, in which "Scholastics bind themselves by vows to remain perpetually in the Order; but the Society reserves to itself the power of dismissing them, if this seems more expedient to it."[24]

(22) Cf. Bouix, de jur. Reg., tom. I, p. 228 and 236; Craisson, n. 2538. (23) Lib. 3, tit. 31, n. 18; cf. Suarez, loc. cit., L. 2, c. 14, n. 12. (24) Bouix, l.c., tom. I, p. 65.

2. Origin Of The Religious State.

2131. ○ Some writers have taught that the religious State is of merely ecclesiastical institution, and consequently belongs in no way to the essence or integrity of the Church. Thus especially the Innovators, most hostile to Religious, against whom we establish the following:

Principles. I. The religious State, AS TO SUBSTANCE, although not as to accidental forms, was instituted by Christ the Lord; whence it must be said to be of DIVINE LAW, not commanding but COUNSELING.

"This," says Suarez,[1] "is the opinion of all Catholics who think rightly" (cf. n. 133). And in truth Christ must be called the author of the religious State as to substance, if He Himself is the author of religious perfection, to be acquired through the observance of poverty, chastity, and obedience; for the whole matter or substance of the religious State consists in this. Now then, that the matter is so is clear from the three oracles of the Lord; the first of which is: "If thou wilt be perfect, go, sell what thou hast, and give to the poor, and thou shalt have treasure in heaven" (Matt. 19:21); - the second: "And there are eunuchs who have made themselves eunuchs for the kingdom of heaven. He who can take, let him take it" (ibid. 19:12); and the Apostle explains the mind of the Savior (1 Cor. 7); - finally the third: "If anyone wishes to come after Me, let him deny himself, and take up his cross daily, and follow Me" (Luke 9:23); which same counsel of obedience was given also in these words: "And come, follow Me" (Matt. 19:21).

The same is proved from the Holy Fathers; for they, Suarez bearing witness,[2] commonly teach that the state of Christians was distributed by Christ into two orders: into the order of those professing the common life of the commandments, i.e. the conjugal or secular life; and into the order of those professing the higher and angelic life of the more sublime counsels, i.e. the religious life. - And this

was the life which the Apostles professed, as St. Thomas testifies,[3] writing: "The Apostles are understood to have vowed the things pertaining to the state of perfection, when, having left all things, they followed Christ."

From these things you will gather: 1. Although the Pope, as Vicar of God, can dispense in the vows of Religion, he nevertheless cannot effect that someone be at once a Religious and loosed from the substantial vows; because these belong to the essence of the religious State divinely instituted.[4]

2. No Authority on earth is able to abolish the religious State without by that very fact wounding divine right.[5]

(1) Loc. cit., L. 3, c. 2, n. 3. (2) Ibid., n. 4. (3) 2.2, q. 88, a. 4, ad 3. (4) Book IV, 1, 4. (5) Cf. Pius VI, Brief Aliquantum, 10 March 1791; and Pius IX, Letter to Card. Antonelli, 16 June 1872 (Acta S. Sed., VII, 3).

2132. II. The religious State is, as to substance, connatural to the Church and so NECESSARY that it must be said to belong to her integrity. - This is drawn not only from the evangelical words, but from the very nature of the Church. For Christ implanted in His Church the property and note of sanctity, namely so that she would be adorned not only with internal sanctity through sanctifying grace and the gifts of the Holy Spirit, but that she would shine also with external and public sanctity, by which she could easily be discerned from all false and spurious religions. Now then, this note of Sanctity comprises not only the exercise of those virtues which suffice for attaining salvation, but also the observance of the counsels and public profession, or the religious State. - Another argument can be taken from the necessity of evangelical workers; for St. Alphonsus[6] does not hesitate to assert that Bishops and parish priests are unequal to supplying all the spiritual necessities of peoples. Hence, if God did not send to them other priests by whom they might be helped, He would not have sufficiently provided for His Church.

Hence: 1. In every age Religious have existed in the Church, although perhaps they were bound by no peculiar and common discipline during the first two centuries.

2. The religious State is indefectible in the Church, although some Order or Congregation in particular can fail.[7]

Note. The Ascetical writers discuss the EXCELLENCE of the religious State.[8]

(6) Selva, p. 1, c. 9, n. 7 (Opp. ascet., III, 67). (7) Cf. Craisson, n. 2509 sqq.; Bouix, de Regul., tom. 1, p. 165. (8) Cf. St. Alphonsus, Vera Sposa, cap. 2; and Opusc. De Vocatione religiosa.

3. Distinction Of The Religious State.

2133. ○ For the greater decorum and utility of the Church, various religious Orders have been raised up by God, which for that reason can be divided into various species.

I. By reason of their PECULIAR END, Religious are said to be contemplative, who principally tend to their own sanctification through prayer and solitude; - active, who principally apply themselves to works of charity toward the neighbor; - mixed, who with equal zeal tend to attaining both ends.[9]

The CONTEMPLATIVE life excels the ACTIVE, according to that word of Christ the Lord: Mary has chosen the best part. But the MIXED LIFE is most perfect, in which a Religious so gives himself to contemplation that, from the fullness of this, those things flow forth which through doctrine and other spiritual offices he expends in helping neighbors. For just as it is more excellent both to shine and to illuminate: so it is more excellent to join action with contemplation, and from charity to pour out into others, for procuring their salvation, the things which are drawn in contemplation. This was the life of the Apostles and of our Lord Jesus Christ Himself, than which none more perfect can be thought.[10]

(9) Cf. Craisson, n. 3104. (10) Cf. St. Thomas, 2.2, q. 182.

2134. II. By reason of VOWS, they are divided into Religions, into religious Congregations, and into Religious Institutes.

1. A Religion, or religious Order, in the canonical and stricter sense, is constituted by solemn vows alone, so that only those who emit vows of this kind are strictly to be called Regulars.
2. For a religious Congregation there is required and suffices the essence of the religious State with simple vows, as is clear from what was said in n. 2129, q. 1. The members of such Congregations are sometimes comprehended under the name of Religious in Pontifical documents.
3. The word religious Institute extends more broadly than religious Congregation; for it is extended even to those modes of living which imitate the religious State without vows, e.g. the Oratory of St. Philip Neri.[11]

From these things the manner of SPEAKING of the Supreme Pontiffs becomes clear, who name religious Institutes with simple vows sometimes religious Congregations, religious families, etc.; sometimes secular Congregations, according as they use those words either in the natural sense or in the canonical sense. - But the canons by which the common law of Regulars is constituted suppose and regard Religions properly so called, so that neither the laws nor the privileges given to Regulars belong of themselves to Institutes of simple vows.

(11) Cf. Suarez, de Relig., tr. 7, lib. 2, c. 16, n. 22, where he explains the Decree of Gregory X prohibiting a new Order or Religion.

2135. III. By reason of the Rule, there are FOUR principal SPECIES of Orders, according as they follow the rule of St. Basil, or of St. Augustine, or of St. Benedict, or of St. Francis. Most founders of religious Orders have embraced one of these four, with peculiar statutes added, by which each might direct his Institute more fittingly to its proper end.

2136. ○ Note. Religious Orders strictly so called, in which SOLEMN vows are emitted, are reduced to these supreme species:

1. MONASTIC Orders, which, by force of their own institute, are not ordered to the ministries of clerics, but profess in the first place a contemplative and solitary life. - Of this kind are: Basilians, Cassinese, Camaldolese, Vallumbrosans, Cistercians, Trappists, Olivetans, Sylvestrines, Hieronymites, Carthusians, Antonians, etc.

2. CLERICAL Orders, which by their own institute are held to spiritual ministries, to which they are deputed by ecclesiastical ordination. Such are: Canons Regular, e.g. of the Lateran Basilica, and Clerks Regular, e.g. Theatines, Barnabites, Somaschans, Jesuits, Minor Clerks, Ministers of the Sick, Clerks of the Mother of God, and of the Pious Schools.

3. MENDICANT Orders, under which name are comprehended those to whom, from the rule or constitutions approved by the Apostolic See, it is forbidden to have revenues and possessions in common, although they have them by dispensation of the Pontiff, as today, from Trent, sess. 25, de Regul. cap. 3, a dispensation is made with all Mendicants, except the Minors of the Observance and Capuchins. - Wherefore, to the Orders of Mendicants belong the four more ancient Orders of St. Dominic, the Minors, the Hermits of St. Augustine, and the Carmelites, of whom mention is made in cap. unic. § sane, de Relig. domibus in 6; and besides these the Orders of the Servants of Mary, of the Minims of St. Francis of Paola, of St. Jerome, as St. Pius V declared in Constit. 35a *Romanus Pontifex*, and 48a *Apostolicae Sedis*; the Society of Jesus, from the Bull *Dum indefessae*. Likewise, the Trinitarians reformed by Blessed J. B. of the Conception (Paul V, 15 Dec. 1609); the Mercedarians (Benedict XIII, 8 July 1725); the Discalced Carmelites (Clement VIII, 20 Aug. 1603), etc.[12]

4. MILITARY Orders, as the Knights of St. John and the Teutonic Knights, who are ordered to military service for the defense of the Church against Infidels and other enemies of the same.

5. HOSPITALLER Orders, e.g. St. John of God, who from the scope of the Institute are ordered to the exercise of hospitality, as regards the reception of pilgrims, care of the sick, etc.[13]

NB. To various Orders, especially those of St. Francis, St. Dominic, and the Blessed Virgin Mary of Mount Carmel, are joined Tertiaries, who live either in common under a rule, or privately in the world. - Concerning the Third Order of St. Francis of Assisi, see the Constitution of the Most Holy Pope Leo XIII, *Misericors Dei Filius*, issued on 30 May 1883.[14]

(12) Acta S. Sed., I, 727; Konings (Edit. 5a), I, p. 477. (13) Cf. De Angelis, lib. 3, tit. 31, n. 6. (14) Cf. Acta S. Sed., vol. XV, p. 513.

Chapter II: On Entrance Into Religion

In this chapter we shall treat: 1. of those who can enter; 2. of those who are bound to enter; 3. of the Novitiate; 4. of Profession.

Article I: On Those Who Can Enter Religion

2137. ○ Principles. I. "All and only those can enter Religion who are of their own right and not bound to others; but those who are bound to others CANNOT do so without their consent."[1] Each is clear of itself.

Hence: 1. Entrance is not licit for IMPUBERES, because they are subject to parents or guardians as regards the disposition of life. To them are to be numbered servants properly so called, if their masters refuse; and in many places, on account of civil laws, minors, unless with the consent of parents, which, for preventing future troubles, is prudently required to be set down in letters.

2. Entrance is not licit, regularly, for CHILDREN, even those bound by a vow of Religion, who would have to leave parents constituted either in extreme necessity or merely grave necessity. - But otherwise, if their necessity were common, or if they would suffer only a moderate diminution of state, or if the son, although he should remain in the world, nevertheless could in no way aid their necessity; otherwise also, if he himself could not remain in the world without grave and proximate danger of sin; because his spiritual salvation must be preferred to the temporal life of the parents.[2]

You will ask: Is a son already professed bound TO LEAVE Religion ON ACCOUNT OF THE NECESSITY OF PARENTS? - Resp. 1. If the necessity is only grave, he is not bound, nor can he; because just as a wife already taken, so also Religion already assumed must be preferred to parents. - 2. But if the necessity is extreme, he is bound, in the case in which he cannot aid them from the cloister. In doubt concerning the gravity of the necessity, judgment belongs to the Superior.[3]

"Outside the case of necessity," Luther used to say, "children sin by entering Religion without the consent of parents. - But the opposite has been taught by all the Holy Fathers and all Catholics, while it is certain, as the Angelic Doctor says,[4] that children are free concerning the election of State. And although it is fitting, as the Doctors say, that children not depart unless they have first received the father's blessing; nevertheless this is understood when there is no danger that the father will turn them aside from a holy purpose; but because this danger is almost always present, therefore St. Thomas absolutely exhorts children not to use the counsel of blood-relations when the matter is about a religious vocation. But from this counsel, says the Saint,[5] first indeed relatives of the flesh must be removed. But relatives of the flesh in this proposal are not friends, but rather enemies."[6]

3. Entrance is not licit for PARENTS who have children constituted in grave necessity or destitute of sufficient education, "unless it has been provided how they can be educated," as St. Thomas speaks.[7] But this is not understood of emancipated children, unless they are in grave necessity.[8]
4. Entrance is not licit for THOSE who would have to leave brothers or sisters in extreme necessity. If their necessity is only grave, in this case, a brother who has vowed Religion needs dispensation so that he may defer entrance for a long time. - Otherwise, if he has not vowed; because "by reason of charity someone could defer and even omit the state of Religion in order to aid brothers gravely in need."[9]
5. Entrance is not licit for SPOUSES, when matrimony has already been consummated, unless with the consent of the other party, or unless because of his or her notorious adultery; for the matrimonial bond belongs to the order of justice, against which the virtue of religion does not prevail. That a ratified marriage is dissolved by solemn profession, and that two months are conceded to spouses for deliberating concerning entrance into Religion, or into an Order strictly regular, we have already said in the Treatise on Matrimony, n. 1981.[10]
6. Finally, entrance into Religion is not licit for BISHOPS. - For they cannot, without a just cause, leave their Churches, both on account of the vow which they emitted in accepting them, of serving them perpetually, and on account of the spiritual marriage with their own Church, which, as Innocent III says, "is dissolved not by human, but rather by divine power." But if a just cause intervenes, the Supreme Pontiff certainly can permit them entrance into Religion.[11]

(1) Book IV, 65. (2) H. A., XIII, 23; Book VI, 65-66. (3) Book IV, 67. (4) 2.2, q. 104, a. 5. (5) Opusc. 17, cap. 9, v. fin. (6) H. A., XIII, 24; cf. Book IV, 68. (7) 2.2, q. 189, a. 6. (8) Book IV, 69. (9) Book IV, 70; H. A., ibid., 24. (10) Book IV, 65, fin. (11) Ibid., 65 and 76; H. A., ibid., 28.

2138. ○ II. All clerics, parish priests, or beneficiaries CAN licitly enter Religion, even if the Bishop contradicts, unless they are held by another bond. This is clear both from the canon *Duae sunt leges*,[12] in which Pope Urban II established: "If any of these clerics holds people in his church under a Bishop and lives secularly, if, inspired by the Holy Spirit, he should wish to save himself in some monastery ..., even with his Bishop contradicting, let him go free by our authority"; and from the unanimous opinion of the Canonists, which Benedict XIV reports in the Bull *Ex quo dilectus*.[13]

Nor does the obedience promised to the Bishop stand in the way; because this is promised according to the liberty given by Christ the Lord and according to the laws of the Church. Nevertheless a parish priest, because he is about to resign his office, is bound, from natural law, to make the Bishop more certain concerning the counsel he has taken up, lest the flock be abandoned without a keeper. Clerics and other Beneficiaries are held to the same from decency and office, unless they are excused on account of reverential fear.[14] Yet the benefice is not vacant except after profession. Indeed, if the benefice is not residential, it can be retained, but without use and administration, by those who emit simple vows.[15]

We have said: unless he is held by another bond, e.g. of justice, by which that cleric would be held who had been educated gratuitously under the condition that afterward he would exercise ministry in the diocese for a determined time; or by the bond of charity, for example if the Church would suffer grave damage from his departure; indeed, in such a case, the Bishop could recall a priest of this kind from Religion.[16] Thus likewise those are prohibited from deserting missions who were ordained by title of mission with an oath (cf. n. 1923).

(12) Can. 2, caus. 19, q. 2. (13) Book IV, 74; cf. Craisson, n. 2616 and 2617. (14) Book IV, 75. (15) Bizzarri, p. 475. (16) Book IV, 74, 75; H. A., ibid., 29.

2139. ○ IT IS ASKED. Can those burdened by DEBT enter Religion?

Resp. 1. Considering natural law, the opinion which seems more probable to St. Alphonsus teaches that such persons cannot licitly enter if there is probable hope that in a short time, e.g. within two years, they will be able to satisfy creditors. - But if this hope is absent, or if from that brief stay in the world there threatens a probable danger of falling into grave sins or of losing vocation, they can enter immediately, a cession of their goods having been made to the creditors. "The reason is that the natural precept does not oblige when the debtor cannot satisfy except with so great a detriment to his liberty, and with the burden of undergoing danger to eternal salvation." But if the debts are uncertain, so that they can be restored to the poor or to pious places, he is not bound to wait even the least little while, since nothing is so pious as to dedicate oneself and all one's own things to God in Religion.

Resp. 2. From canonical law, the profession of those who, through the squandering of their goods, have fallen into enormous debt is indeed valid, but illicit; and also that of those who must render

accounts, e.g. guardians, procurators, executors of a testament, if the accounts to be rendered are very litigious, intricate, fraudulent, and about to furnish occasion for lawsuits.

Article II: On Those Who Are Bound To Enter Religion

2140. ○ Principles. I. In the first place, he is BOUND to enter Religion who has promised this by a LEGITIMATE vow.[1] It is clear from what was said concerning the obligation of a vow in general (n. 627). Hence it follows:

1. He who has vowed Religion in general, i.e. not determining Order, or place, or discipline more lax or more severe, is bound to seek by ordinary means some Order or some approved religious Congregation in which discipline is flourishing, at least as regards the more principal observances; and if he is repelled from that Order, he is bound, more probably, to enter some other Religion; because by a general vow he is bound to entrance into some Religion.
2. He who has vowed Religion in species is bound to enter some house of that Order, and after being repelled from one he must use ordinary means so that he may be admitted into another. - But after the third or fourth repulse, he is now free from fault if he remains in the world; because fulfillment of the vow has become impossible.
3. He who has vowed Religion individually, so determining the place that he intended no other, is free from his vow if he is not admitted into that house; because he bound himself under this condition only.
4. He who has vowed Religion and has entered it is bound to PERSEVERE in it; "because the vow of Religion obliges not only to taking up the religious habit, but also to serving God for the whole time of life."[2] - Whence he sins gravely if he withdraws without a just cause; "unless he had understood only that he would make trial of it. Moreover, there would be a just cause of going out if he should find there such a manner of living to which his powers were not equal; or if there he should experience grave and long sadness. - But if he had also vowed to profess, he is bound to execute this even with grave inconvenience to himself, provided the religious State does not turn out wholly intolerable to him."[3]

(1) Book IV, 72; cf. Book III, 221, as regards causes of delaying. (2) Book IV, 72. (3) H. A., V, 34.

2141. II. Everyone who is morally CERTAIN OF HIS VOCATION to the religious life is bound to enter Religion, nor can he, with conscience safe, remain in the world. Certainly, not to obey a divine vocation, speaking of itself, is not a sin; for counsels do not of themselves bind to fault. - Nevertheless, unhappy is he who neglects such a vocation! For "if anyone gravely sins who draws another away from vocation on account of the harm which he inflicts on him: how will he be immune from fault who knows that he is certainly called by God to Religion, and wishes to remain in the world with danger to his eternal salvation? To expose oneself to such danger, the Holy Doctor adds, I will never be able to persuade myself is free from fault. But whether this fault is grave or light, I leave to the judgment of the wise."[4]

(4) H. A., XIII, 26; cf. Damanet, Manuale per eleggere uno stato di vita (Venice, 1869).

2142. For the fuller explanation of the matter, it will not be beside the point to add here some general questions ON DIVINE VOCATION to some state of life.

Questions. QUESTION 1. What is VOCATION to some state?

Resp. Vocation can be defined: An act of supernatural providence, by which God elects each human being to some kind of life, and adorns him with suitable gifts and helps for worthily and laudably fulfilling the offices which are proper to that kind of life. Certainly, many states, e.g. of advocate, of judge, etc., if they are considered in themselves, do not transcend the merely natural order; but if they are considered insofar as they are states of men destined to a supernatural end, there is none which is not subject to the supernatural order. Whence St. Paul says: "Each one has his proper gift from God" (1 Cor. 7:7).[5] And St. Cyprian: "By His order, not by our judgment, the virtue of the Holy Spirit is administered."

QUESTION 2. What are the SIGNS of a divine vocation to some state?

Resp. THREE especially are enumerated, namely: 1. A certain constant and deliberate PROPENSION to that condition of life about which one is deliberating: a propension, I say, constant; for him whom God destines to some kind of life, He sweetly and strongly draws in a permanent manner to it, although at the same time there can be present a certain natural repugnance; then a propension deliberate, so that in the intellect of the one called there is an illumination of divine grace, in which he looks upon the state to be entered as going to be suitable for him for attaining his eternal salvation. - 2. SUITABILITY, or APTITUDE for fittingly fulfilling the offices of that state. This aptitude for the religious state consists chiefly in right judgment, in a good disposition, in a soul submitted to the yoke of obedience, in relatively sufficient knowledge, and in the absence of defects of body and soul which are opposed to the religious life or to the end of the Institute. - 3. ABSENCE OF IMPEDIMENTS, such as would be want of parents, bad health of body, etc. This last sign, although negative, is nevertheless of the greatest moment, since God is accustomed to manifest His will also through the circumstances of things and external events.[6] Recall what was said n. 1849, 3.

QUESTION 3. How does one sin who, not called, embraces the state of Clericate or Religion?

Resp. 1. If he embraces the sacerdotal state, especially while intending to dwell in the world, without vocation, i.e. without aptitude or without right intention, he sins most gravely, because he casts himself and others into great danger of salvation.

Resp. 2. If he embraces only the religious state, he is certainly to be accused of great temerity, because he takes up obligations which he will be able to satisfy with difficulty, on account of the defect of special helps which are granted by God to those alone who are called. Whence Christ the Lord said (Matt. 19:11): "Not all take this word." Nevertheless, if one not called has a firm will of satisfying his obligations, he does not seem to sin gravely; because the religious state, by its own nature, will supply him with such helps by which he will be able to execute this will of his.[7] Except if he knows that he lacks those conditions of soul or body without which he certainly will not be able to observe the vows and rules, or in fact will not observe them.[8]

QUESTION 4. What is to be done by him who has certainly ERRED in the election of state?

Resp. If it is still licit, let him choose for himself another suitable state by the counsel of his confessor. - But if Religion prohibits this, let him consider that word of St. Augustine said to him: "If

you are not called, make yourself be called," i.e. live in such a way as if you had been called to the present state of life. Namely, necessity is to be converted into virtue, and special helps must be obtained from God through prayer; for God will never be lacking to one doing what is in him.[9]

QUESTION 5. Whether and how does one sin who DRAWS ANOTHER BACK from the religious State?

Resp. 1. If he draws him back by unjust means, namely by force, fraud, or grave fear, he offends gravely by a sin of injustice, both against that private person, whom he unjustly deprives of a great good, and against Religion, which has the right that it not be impeded by force or deceit from attaining its good. - Hence, he is held to reparation, both of the scandal which he gave and of the damage which he inflicted, according to what was said n. 514 and 921.

Resp. 2. If he draws him back by prayers or counsels, he indeed does not sin against justice, but he sins of himself gravely against charity, unless a just cause is present. Parents, however, can be excused from mortal sin, at least for some brief time, "by reason of ignorance or inadvertence, which can easily be in them on account of vehement carnal affection toward children."[10]

(5) Cf. St. Alphonsus, opusc. De vocatione religiosa, § 1 (Opp., IV, 396). (6) Cf. Praxis, n. 92. (7) Cf. Praxis, n. 93. (8) Konings, I, p. 483, Not. s. (9) Cf. Scavini, IV, 493; cf. St. Alphonsus, Vera Sposa, cap. 24, § 8. (10) Book IV, 77; cf. III, 662.

Article III: On The Novitiate

2143. ○ The NOVITIATE is the probation of religious life, or the mutual experiment, by which Religion examines the qualities and disposition of the Novice, and the Novice examines the austerity or observance of the Order. - Hence there are diverse obligations, looking on the one side to the Superiors of the Order who admit novices, but on the other side to the novices themselves who ask to be admitted. Concerning these obligations only a few things are to be said. For it suffices here briefly to explain the common principles of the Law of Regulars, which can be modified by particular Statutes or Indults.[11]

I. The RIGHT OF ADMITTING novices belongs to the ORDER which one desires to enter, in such a way namely that it is to be exercised not by the Prelate alone, but by the Convent, or capitularly. Now then,

1. As regards MEN, it is of common law that Religions approved by the Holy See, even those not exempt, do not depend on the Bishop in admitting novices; for the faculty of admitting them is contained in the approbation itself.[12]

But in the decree of the Sacred Congregation SUPER STATU REGULARIUM (25 Jan. 1848, *Romani Pontifices*)[13] Pius IX established, and indeed under penalty of privation of offices, though not under penalty of nullity of profession, that: "In any Order, Congregation ... whether solemn vows or simple vows are emitted in them, no one be admitted to the habit without testimonial letters both of the Ordinary of origin and also of the Ordinary of the place in which the postulant, after the completion of the fifteenth year of his age, has stayed beyond a year; after they have diligently inquired concerning the qualities of the postulant, the Ordinaries must report concerning his birth, age, morals, life, reputation, condition, education, knowledge." And it is added: "Let the Ordinaries know

that their conscience remains burdened concerning the truth of the things set forth, nor is it free to them to deny letters of this kind."

If the Ordinary refuses to testify concerning the qualities of the postulant, either because he does not know him, or because he is impeded by the civil authority, etc., it must be supplied by another accurate information, and the postulants, before they are admitted to the habit, are to remain at least for three months in the Convent, and there they are to be diligently proved. Thus the Sacred Congregation super Statu Relig., on 1 May 1851.[14]

But in another Decree of the same day (*Regulari disciplinae*), the same Supreme Pontiff enacted a twofold law concerning things to be observed: 1. in proving those who ask to be admitted to the Religious habit; 2. in admitting Novices to Profession. - The reason for the decree is that "it seemed necessary that in the admission of Novices to the habit and profession the parts to be conceded should belong not only to inferior Prelates and Superiors general, but also to certain other Religious men ... outstanding in counsel and gravity, so that they might accurately examine the disposition, talent, morals, and other necessary gifts of those who are about to give their name to the religious family," etc.

This second decree was issued only "for Italy and the adjacent islands"; but it furnishes an excellent norm also for other regions.

2. As regards NUNS, the Tridentine law (Sess. 25, de Regul.) continues to have force. - Therefore the Bishop, either by himself or through another, is bound, both before the reception of the habit and before profession, even in exempt monasteries, to examine the will of the virgin: "whether she has been forced, whether she has been seduced, whether she knows what she is doing, whether she is suitable for the monastery, whether this monastery is suitable for her."[15] - This EXAMINATION is indeed commanded under grave obligation, at least before profession. Nevertheless, profession, if the examination has been omitted, is valid.

And here it must be NOTED that the aforesaid examination binds only nuns of solemn vows; but it is expedient that it also be instituted with nuns who pronounce only simple vows, although, at least from positive law, it is not commanded under grave obligation.

Furthermore it must be noted that nuns, although not exempt and professing only simple vows, can never be compelled by the Ordinary to admit some novice; nor can they be compelled to manifest the cause why they have not admitted someone.[16] But they themselves sin, and indeed gravely, if they admit someone evidently not suitable; or if they exclude someone who "has had the conditions required according to the rule of the monastery and Order."

Note. From Trent, loc. cit., novices could be admitted to the habit when the twelfth year had been completed. - But today, from the decree of the Sacred Congregation of Bishops and Regulars issued on 23 May 1659, it is required that the fifteenth year be completed. Then indeed a name of a saint, not of a gentile woman, must be imposed on a nun ...; likewise, she is to be called by the title of sister, and not lady.[17]

(11) Cf. Lucidi, Visit. sacr. liminum (edit. 3a), vol. III, doc. XLVII, XLVIII. (12) Craisson, n. 2641. (13) Ap. Bizzarri, p. 882. (14) Ibid., p. 891. (15) Cf. Trid. sess. 25, de Regul., cap. 17. (16) Ferraris, v. Moniales, art. 1, n. 107. (17) Ibid., art. 1, n. 72-75.

2144. ○ II. NOVICES, before they are admitted to profession, must stand in probation for at least ONE YEAR, and this whole and continuous, and indeed in the religious habit and in houses destined for this, under penalty of nullity of profession. - Thus from Trent.[18]

A novice must observe the rule of Religion during the time of probation, at least from decency; he enjoys the privileges of Religion; nor can he be dismissed without a just cause, although he himself always enjoys full liberty of abandoning the proposal begun and returning to the world.[19]

Indeed, to provide for his liberty, the Council of Trent, under penalty of anathema, PROHIBITS that he himself, and his parents and relatives, give anything to the monastery, except food and clothing; and at the same time it commands that, to him when he departs, all things which were his be restored. - It further forbids, under penalty of nullity, that after vestition he make any irrevocable renunciation or contract an obligation, even in favor of whatever pious cause and even if an oath has been added, unless with the license of the Bishop, within the two months immediately before profession, and provided that profession follows. - And these things were most wisely established, lest on account of the said renunciations and obligations he be despoiled of his goods, and so be compelled against his will to dwell in the monastery, when, despoiled, only begging would remain for him in the world.[20] See more among the Canonists.

(18) Sess. 25, de Reg., cap. 15. (19) Cf. Bouix, de jur. Reg., tom. I, p. 600. (20) Loc. cit., cap. 16.

2145. ○ IT IS ASKED. When is the year of probation judged to be INTERRUPTED?

Resp. 1. It is judged to be interrupted chiefly when the novice goes out from the monastery without license, with the intention of not returning, even if he immediately returns, as is clear from a decree of the Sacred Congregation of the Council;[21] when he is dismissed absolutely by the Superiors and afterward is again admitted; when he departs by private authority so that he may enter another house, or another province, although of the same Order.

Resp. 2. But it is not judged to be interrupted if the novice is sick in the monastery, even for a notable time, although he can by no means take part in the exercises of novices; - if he departs from the monastery compelled by violence; - if, license having been received, he goes aside to parents or others for a brief time for the sake of recovering health or conducting business; - if he is dismissed on account of a false accusation, and afterward, the truth having been known, is again admitted; - if he makes a journey ordered by his Superiors, because then he remains under their dependence.[22]

(21) Cf. Thesaur. Resol., tom. 6, p. 393. (22) Gury, II, 141.

Article IV: On Religious Profession

2146. ○ DEFINITION. Religious profession, in the canonical sense, is customarily defined: "A promise freely made and legitimately accepted, by which someone constituted in due age, the time of probation having been completed, binds himself perpetually to a certain Religion approved by the Church, with solemn emission of vows." In a broader and improper sense, even the emission of simple vows is called Profession.

DIVISION. Profession is either express, which is enunciated by words; or tacit, which is expressed by deeds, e.g. when a novice, the time of probation having elapsed, knowingly wears the habit of

profession and exercises acts proper to the professed. Today this is almost unusual; indeed, it has been expressly abrogated, if there is question of the emission of solemn vows to be made by male Regulars.[1]

(1) Cf. Declarations, 12 June 1858, n. XI, ap. Bizzarri, p. 907.

2147. I. For the VALIDITY of the profession either of Religious or of Nuns, THREE things are required, namely the aptitude of the one vowing, free consent, and the acceptance of the Superior.[2]

There is required 1. the aptitude of the one vowing, namely: that he not be of another's right, that he have completed the sixteenth year to the moment of the hour, that he have stood in probation for a whole year (in a leap-year the lapse of 366 days must altogether be awaited); that he have no impediment which, by Statutes confirmed by the Roman Pontiff, is judged substantial in that Order.[3]

There is required 2. free consent, i.e. that there be present in the one vowing the intention of making profession, free from every deceit, fraud, or error concerning substantial things; and that force or grave fear be absent, both on the part of the one professing and on the part of the monastery accepting (cf. n. 1044 sqq.). - And here there comes to be noted the Tridentine decree, by force of which they incur excommunication reserved to no one "whoever shall have forced some virgin, or widow, or any other woman, except in the cases expressed in law, to enter a monastery, or to receive the habit of any Religion whatever, or to emit profession"[4] (cf. n. 1359, where concerning cases expressed in law, or excepted).

There is required 3. Acceptance of the Superior of the Order, with the consent or at least with the counsel of the Chapter, according to the Statutes of each Religion; for religious profession consists in a certain bilateral contract, for which true and legitimate consent is necessary on each side.[5]

In ITALY, the Decrees of the Holy See, concerning which n. 2143, must moreover be observed.

Further, a Religious unjustly denying a vote to a novice not only sins, but besides is held to restitution, as they most commonly say, unless there is present a grave cause for reproving, namely a cause of infirmity, bad disposition, defect of talents, and the like, so that the novice is thought going to be grave, i.e. burdensome, to Religion. Thus St. Alphonsus.[6]

(2) H. A., XIII, 3. (3) Book IV, 5; cf. Craisson, n. 2639. (4) Book VII, 212, where the law is explained. (5) Cf. Panzuti, lib. 3, c. 1, n. 2. (6) In Indice theol. mor. (edit. 7a), v. Novitius.

2148. II. For the validity of the profession of MEN with SOLEMN vows, there is further required, according to the present discipline, that they first have emitted SIMPLE VOWS. - Namely, from the decrees of Pius IX (19 March 1857 and 7 Feb. 1862):[7] all Religious of those Orders in which solemn vows are emitted, in the future, the tyrocinium having been completed, emit only simple vows, at least for three years; then, after at least the nineteenth year of their age has been completed, they are admitted to solemn vows, if they are found worthy by their Superiors. But for just causes solemn profession can also be deferred longer, although not beyond the age of twenty-five completed years. The decree does not regard nuns.

But from the declarations of the Sacred Congregation SUPER STATU REGULARIUM given on 12 June 1858, and regarding the aforesaid decree of 19 March 1857, the simple vows of which there is

question are perpetual on the part of the one vowing, and dispensation from them is reserved to the Supreme Pontiff. - On the part of the Order, however, they can be dissolved by dismissal of the Professed, so that, dismissal having been given, by that very fact the professed become free from every bond of the said vows. But no one can be dismissed because of infirmity arising after profession of simple vows. - Moreover, the professed of these vows become participants of all the graces and privileges by which the solemnly professed in the same Order enjoy.[8]

(7) Ap. Bizzarri, pp. 904 and 912. (8) Bizzarri, p. 906, n. I-VI.

2149. III. Concerning the profession of NUNS, the following things especially must be noted:

1. A novice CANNOT LICITLY be admitted to profession: 1) If the Bishop, by himself or by a delegate, even in an exempt monastery, has not examined her beforehand; wherefore the Superiorissa is bound, under penalty of suspension from office, to warn him at least one month before profession; but the Ordinary is bound, within fifteen days from the day of notification, to institute the examination according to the Tridentine rules (cf. n. 2143, 2).[9] - 2) If, the year of probation having been completed, the Ordinary has deferred profession from a just cause. - 3) If the dowry of a choir nun, assessed by the Bishop and which is to be paid in money, has not been furnished (cf. n. 589, 5). But the dowry cannot be alienated, nor, if the nun is transferred into another monastery, be transferred to the same, unless this monastery is compelled to admit the nun. But it is to be restored to one departing from the monastery if only simple vows are emitted in it. - Nevertheless it is equitable that expenses incurred be deducted (cf. n. 2144).[10]
2. Profession is INVALID if a novice, having departed from the monastery because of infirmity, and, after she has recovered, having returned, has not begun the novitiate anew. - If a novice of sixteen years and constituted in danger of death wishes to emit profession, she can certainly emit it; but if she recovers, once the year of her profession has been completed, she must profess anew.[11]
3. The profession of nuns must be made principally into the hand of the Ordinary or his delegate, not into the hand of the Superiorissa. - Nevertheless it is valid if it is made into the hand of the Superiorissa, with the consent of the greater part of the Chapter. Except if custom or approved Statutes of the Order require something else.[12]

(9) Cf. Craisson, n. 2725 sqq. (10) Cf. ibid., n. 2733 sqq. (11) Craisson, n. 2649. (12) Ibid., n. 2706.

2150. Questions. QUESTION 1. Can one RECLAMATE who has emitted an INVALID profession?

Resp. He can, from the Council of Trent,[13] provided he does this within a five-year period; once this has elapsed, he is no longer heard, unless he is restored in full by the Apostolic See. - But the process must be made both by the local Prelate and by the Ordinary of the diocese, with the assistance of a defender of profession. Further, the professed, although he has the first sentence in his favor, cannot therefore withdraw from Religion, but must await the second, if an appeal is pending. But if he has already taken flight, he is repelled from judgment until he has resumed the habit of Religion. Thus Benedict XIV, Bull *Si datam hominibus*.[14] See more among the Canonists.

QUESTION 2. What are the EFFECTS of valid profession?

Resp. The principal effects are the following:[15]

1. Remission of sins as regards penalty, if the professed is in grace and immune from every depraved affection, even lightly sinful; for profession is a holocaust offered to God, and exceeds every kind of satisfaction.[16] 2. Extinction of vows previously emitted, as though through a certain commutation into something better.[17] 3. Liberation from paternal power, notwithstanding civil law; whence it happens that parents who, relying on secular law, draw a son or daughter from the convent after profession has been emitted, stain themselves with grave sin. - 4. Dissolution of betrothals, according to what was said n. 1957. 5. Dissolution of a ratified marriage already contracted, and inability for contracting matrimony, if the profession is solemn (cf. n. 1981). 6. Cessation of irregularity from defect of birth; but only to the effect of receiving Orders, not however as regards obtaining Prelatures or Dignities (cf. n. 1935). - 7. Vacancy of Benefices, according to what was said n. 2138. 8. Participation in all privileges of Regulars, especially exemption, if the monastery has the required conditions (cf. n. 2183). 9. The obligation of tending to perfection and of observing vows, concerning which now at greater length.

(13) Sess. 25, c. 19, de Reg. (14) H. A., XIII, 3, fin.; Book IV, 8, where there is more. (15) Cf. Bouix, I, p. 416 sqq.; Craisson, n. 2707 sqq.; De Angelis, L. III, tit. 31, n. 12. (16) St. Thomas, 2.2, q. 189, a. 3, ad 3. (17) Cf. Salm., tr. 15, c. 4, n. 50.

Chapter III: On The Obligations Of Religious

2151. ○ The obligations of Religious are: 1. to tend to perfection; 2. to observe the vows emitted; 3. to observe the rule of their own Order; 4. to persevere in the institute of life undertaken. Concerning the obligation of reciting the canonical Hours, see n. 2204, 3, and 2205.

Article I: On The Obligation Of Tending To Perfection

2152. ○ Principles. I. A Religious is held, UNDER GRAVE obligation, to tend to perfection. - For by force of his profession he is bound to wish to preserve his State, which is a state of perfection, or a state of those tending to perfection; although this perfection, of itself, is not of precept but of counsel.[18]

(18) Book IV, 9, 10; H. A., XIII, 2.

2153. ○ II. A Religious is bound to strive toward perfection: - 1) through ESSENTIAL means, which are the exercise of virtues, assiduity in prayer, and frequentation of the Sacraments; - 2) through the GENERAL means of regular life, i.e. through observance of the vows, for by these the roots of worldly life are cut away; - 3) through the SPECIAL means of his Order, i.e. through at least imperfect observation of the rules, which are not only as it were the outer wall of the vows, but also means necessary for attaining the special end which each Religion has proposed to itself for serving God and perfecting its own members.[19]

Hence, a Religious sins gravely against the obligation of tending to perfection: 1. If he casts aside all the means of perfection; for then he is not in the way of salvation. 2. If he frequently infringes the vows in a grave matter; because the vows are to be observed not only by reason of themselves, but also insofar as they are essential means of perfection. - 3. If he violates the rules of the Order from contempt, or with grave detriment to common discipline, as will be explained below (cf. n. 2170).

(19) Cf. Panzuti, lib. 3, n. 1; cf. St. Alphonsus, Vera Sposa, cap. 3-6.

2154. IT IS ASKED. Does a Religious sin gravely who wishes to observe only those rules which oblige UNDER MORTAL sin, and to neglect the others?

Resp. St. Alphonsus: "Many excuse him; but many do not. But Sanchez says knowingly that it will happen with difficulty that such a one be excused from mortal sin, at least from other heads, namely on account of the danger to which he exposes himself, either of offending against the vows or of inducing relaxation of the rule in the Community"[20] (cf. n. 343).

(20) H. A., XIII, 2; Book IV, 11.

Article II: On The Obligation Of Observing Vows

2155. ○ A Religious by force of the vows is bound to poverty, chastity, and obedience; and if he emitted other vows in profession, he is held to those similarly, according to the prescription of the rules and the custom of the Order.

§ 1. On The Vow Of Poverty

DEFINITION. Religious poverty is placed in a certain abdication of dominion, whether radical or useful, over temporal goods.[21]

(21) Cf. St. Alphonsus, Vera Sposa, cap. 9.

DIVISION. A FOURFOLD grade is distinguished by which evangelical poverty can be vowed: the first grade excludes the use of superfluous things; the second, the free and independent use of temporal things; the third, dominion over these things; finally the fourth, the very capacity of dominion. - This last grade is proper to Regulars who have bound themselves by solemn vow. But for the essence of the vow of poverty, in the religious state properly so called, the second grade is required and suffices, as is clear from the practice of the Church in approving various Institutes.[1] Hence we establish the following:

(1) Cf. Suarez, de Relig., tr. 7, lib. 8, cap. 7, n. 7.

2156. ○ Principles. I. A Religious, through the SOLEMN vow of poverty, so ABDICATES the right of ownership over every temporal thing estimable by price, that 1) he can licitly have neither independent use nor independent disposition; 2) nor can he possess anything as his own; 3) nor does he retain the very capacity of possessing. This is clear both from cap. *Cum ad monasterium* 6, de Statu monach., and from Trent, sess. 25, c. 2, de Regul., and from the common interpretation of Canonists as regards the capacity of dominion. - But he retains dominion over spiritual goods, e.g. reputation, honor, etc. And the same is commonly taught concerning sacred Relics enclosed in cases of small value, and concerning manuscripts whether his own or received from another: both

because they are fruits of genius, although of another, and therefore something spiritual; and because they pertain to knowledge, which does not fall under the vow of poverty; and because such is the common custom. But otherwise if the work has in any way been printed by type.[2]

It is said 1. neither independent use nor independent disposition...; for this is first and essential in every vow of poverty, whether solemn or simple, that it take away the free use of goods; and consequently the one vowing cannot, without the consent of the Superior, use any thing, or dispose of any thing, even if conceded to him for his own use. - Indeed, in order that Regulars and Nuns can, after solemn vows have been emitted, make a testament, cede their leases or a sum of money to blood-relations, or in turn receive rich revenues from them, they need not only the license of the Superior, but also of the Holy See.[3]

But it must be NOTED: 1) Although a Religious can neither donate nor remit the things which are owed to him, e.g. legacies left to him, the wage owed for his labors, an annual pension to be paid by parents, because the right to these is with the monastery; nevertheless he can refuse gifts offered to him without wounding the vow of poverty; but one refusing without a just cause sins against charity, namely by impeding the good of his Religion. - 2) It is not prohibited to Religious to invite outsiders to banquets, and to bestow gifts on them moderately, if a just cause suggests this: e.g. so that they may free the monastery from some vexation, so that they may conciliate benevolence toward it, indeed so that they themselves may testify their benevolence to friends.[4]

It is said 2. nor can he possess anything as his own. For the Council of Trent, loc. cit., c. 2, decreed thus: "Let it be licit to no one of Regulars, both men and women, to possess or hold immovable or movable goods as their own, or even in the name of the Convent; but let them immediately be handed over to the Superior and incorporated into the Convent." - And this is the ancient rule: that no one be reputed an owner, but that all ownership pertain to the monastery itself. - Nor indeed is it opposed to the vow of poverty if Religious have goods, even immovable, in common. Except Capuchins and Minors of the Observance, from Trent, l.c., c. 3, de Reg. (cf. n. 2136, 3).

It is said 3. nor does he retain the capacity of possessing. For this, by unanimous consent of the Doctors, is imported by the very solemnity of the vow: not that one professed with solemn vows cannot acquire, e.g. from labor, from donation, or even from inheritance, for he is capable of acquisition; but that he acquires not for himself, but for the monastery or Religion, according to that celebrated saying of law: "Whatever a monk acquires, he acquires for the monastery."

And this incapacity of dominion in a solemnly professed Religious is indeed so absolute and immutable that it can never be taken away by the Superior of the Order; because it is annexed, by the law of the Church, to the very solemnity of the vow, whose effects can be taken away by the Supreme Pontiff alone, through dispensation from a most urgent cause[5] (cf. n. 2176).

(2) H. A., XIII, 5; Book IV, 14. (3) H. A., ibid., 7; Book IV, 22; cf. Bouix, de jure Reg., p. 1, sect. 3, cap. 3, fin., and p. 3, c. 3. (4) H. A., 9-10; Book IV, 20-21. (5) Cf. De Angelis, lib. 3, tit. 35, n. 4, concerning faculties conceded by the Holy See.

2157. II. A Religious, through the SIMPLE vow of poverty, circumscribes the right of ownership for himself by such limits that, although he retains direct dominion of his goods, nevertheless he cannot licitly dispose of them or use them according to his own will and without legitimate

license. This is clear from various Rules approved by the Holy See, and from the Declarations already cited (n. 2148) made on 12 June 1858, in which[6] these things are read: "The professed of simple vows will be able to retain radical dominion, as they say, of their goods, but administration of them and expenditure and use of revenues are altogether forbidden to them. Therefore before profession of simple vows they must cede, for the time in which they shall have remained in the same profession of simple vows, the administration, usufruct, and use to whomever they please, and even to their own Order, if they shall have judged thus according to their choice."

We have said 1. although he retains direct dominion: which dominion indeed extends: 1) to temporal goods which he possessed before the vows; 2) to the fruits or revenues of the same goods; 3) to those things which come to him by right, as paternal inheritance, legacies of relatives, etc.; 4) to all goods which he receives from parents, kin, friends, with the license of Superiors and of the Constitutions.[7] But such dominion is retained by Religious especially for this end, that the Institute may be able with greater liberty to dismiss them when it shall have been necessary, as Gregory XIII said in the Constitution *Ascendente Domino*.[8] Today another end also has been added, namely the end of avoiding difficulties which civil law creates when it does not recognize religious vows.

We have said 2. they cannot dispose according to their own will; for the things said in n. 2156 concerning Regulars and Nuns are also valid concerning Religious emitting simple vows; with this difference, however, that the former dispose both illicitly and invalidly without license, but the latter only illicitly. Nevertheless dispositions of this kind seem to be voidable through the Superior, because all Religious are subjected to the dominative power of Superiors.[9]

We have said 3. nor can he use according to his own will; for to Religious of whatever Order or Congregation there is forbidden the active use of any thing, or use as of one's own thing; but to them there is conceded only use of fact, and indeed precariously, that is, as long as it shall seem good to the Superior. Hence a Religious sins when he uses a thing as his own, or beyond the use legitimately conceded to him.[10]

(6) Ap. Bizzarri, p. 907, n. IX. (7) Gury, II, 155, q. 3. (8) Cf. Lugo, de Justit., disp. 3, n. 74-77. (9) Craisson, n. 2778. (10) Book IV, 19.

2158. Questions. QUESTION 1. What is the PECULIUM of Religious, and is it licit?

Resp. 1. By PECULIUM is understood whatever from stable or movable goods, e.g. from leases, pension, alms, sermons, Mass stipends, is conceded by the Superior to some member of the Community, and is permitted to him to have, without any right of ownership (in those solemnly professed), and for mere use of fact, and therefore revocably at the nod of the one conceding.

Resp. 2. The Council of Trent indeed prohibited it, by forbidding that a Religious possess, etc., even in the name of the Convent; likewise Clement VIII, Const. *Nullus*, 25 July 1599. But from a custom long since tolerated by the Apostolic See, it is licit, in some Religions, to have a moderate peculium for necessary and honest uses, e.g. for obtaining food, clothing, and books; provided the subject does not hold it hidden, and is ready, at the nod of the Superior, to deprive himself of it. For thus the use of a temporal thing is not independent, and the substance of poverty remains safe.[11]

But St. Alphonsus admonishes, saying:[12] 1) "In practice, let all Prelates persuade themselves as certain, that if they introduce the use of peculium anew in monasteries, scarcely the name of poverty will survive there, and from this innumerable evils will supervene upon the Community as regards observance. - Wherefore, even if they themselves can be excused from grave sin by conceding the use of peculium with respect to the vow of poverty, nevertheless they will not be excused on account of the relaxation of the rule, to which by this concession they will without doubt give their work." 2) Subjects cannot refuse common life if Superiors wish to erect it; because although not to observe common life is not against the vow of poverty, nevertheless it is against the vow to reject common life, when nothing which is necessary is denied by the Convent; because this is to have goods independently of the will of Superiors.[13]

Nor must there here be passed over in silence what Pius IX, in the decree of 22 April 1851, enacted on this matter:[14] "In all novitiate houses let perfectly common life be introduced; but in other houses let money be deposited in the common chest."

QUESTION 2. Of what kind must the Superior's LICENSE be, so that a Religious can legitimately use it?

Resp. 1. License expressly conceded can bring with it no difficulty, provided it is true and reasonable: true, i.e. conceded by a legitimate Superior, immediately or mediately through another, and neither extorted from the one conceding by fear nor by fraud; reasonable, i.e. conceded for honest uses. But whether one conceded for illicit or vain uses is valid? - The absolutely more probable opinion denies this, since the Superior is not the owner of the goods of the monastery, but only the administrator of them, nor is Religion ever to be judged to wish to concede anything unto the spiritual ruin of its own members. Whence, if a Prelate concedes to some Religious a general license of spending a sum of money at will, he can by no means spend it for illicit or vain uses. - Nevertheless he can validly, from that license, expose it to play, provided the game is licit and not of mere chance, and the sum moderate, and provided he himself does not belong to an Order of stricter observance.[15]

2. They commonly say that tacit license, or presumed license concerning the present, suffices: namely when the Superior knows and sees the subject receive, give, spend something, etc., and does not prohibit it, although he easily could; for then by being silent he is judged to consent. - Except if something else must be gathered from the circumstances.[16]

3. It is indeed doubted whether interpretative license, or license presumed concerning the future, is valid, namely that to which the Superior is presumed going to consent if he were asked; but the more probable opinion holds that it suffices whenever the presumption is reasonable, "because then the subject already proceeds with dependence on the will of the Superior, and this effects that he himself is freed from the fault of ownership."[1] And St. Thomas favors this opinion, when he teaches: "A monk ought not to give alms, except in extreme necessity, or, the Abbot being absent, something small under hope of ratification."[2] "Moreover," says St. Alphonsus, "such dispositions by subjects from presumed license, for the most part, are illicit at least venially; because the Superiors, at least as regards the manner, are unwilling, and not rarely even gravely, and especially when those dispositions have been expressly prohibited by them."[3]

4. License sought and undeservedly denied does not excuse from transgression of the vow, unless there is danger of grave harm in delay; because in such a case at least the license of major Superiors is presumed to be present, or one can act from epikeia, because necessity has no law.

QUESTION 3. What things are commonly permitted to a Religious from PRESUMED license?

Resp. Generally the following things are permitted: - to succor a poor person reduced to great want, when access to the Superior is not open; - to bestow moderate alms on the needy, if he is staying outside the Convent with due license; and if he is in the Convent, to give them something of food; - to make slight donations to friends and blood-relations as a sign of gratitude, or of due friendship, or for conciliating benevolence toward Religion; - likewise, to make remunerative donations from goods conceded to him for use, because they are as it were payments of debts; - to donate, according to the more probable opinion, those things which he subtracts for himself by living more sparingly, if a certain quantity is assigned to individual subjects, in such a way that neither the monastery must furnish more, nor are the subjects bound to render an account of the assigned thing; - to accept from outsiders, unless it is clear concerning the contrary will of the Superior, a thing to be handed over to the Superior; - to buy a thing which he judges will be pleasing to the Superior, if recourse to him is not easy, e.g. on a journey; - to give something to Peter, if he has license to give to Paul, unless the Superior gave license for Paul because of a peculiar reason and would have denied it if it had been sought for Peter. - Thus commonly.[4]

NB. Concerning the LICENSE of the Superior, it is also helpful to note the following: - 1. In obtaining or conceding it, account must be taken of each Institute; for what is permitted in one is often reproved in another. In stricter ones certain general and tacit faculties are not admitted which are tolerated in mitigated ones. 2. When the Superior gives license to one to give, although in the rigor of law license to receive is also required in the one receiving, in fact he is judged to give it to his own subject. 3. License conceded by one Superior perseveres under his successor, unless it has been explicitly or implicitly revoked by this successor.[5]

QUESTION 4. What QUANTITY is required for GRAVE sin against the vow of poverty?

Resp. 1. As regards the goods of the monastery or of others, this is the rule: that quantity which suffices in theft for constituting mortal sin against justice also suffices for constituting mortal sin against Religion, or against the vow. Nevertheless it must be noted that more is required in these thefts than in thefts from outsiders, but less than in thefts by children; for these have at least hope of dominion, but Religious do not; and Prelates are certainly more unwilling than parents, because the detriment which is inflicted on the monastery is at once temporal and spiritual. - Account must besides be taken of the very material harm really inflicted, which indeed is had less: 1) if the monastery is wealthy; 2) if the Religious does not give a thing of the Community to outsiders, but converts it to his own use; or if the thing is bestowed on Religious of the same monastery, because thus the thing remains at home;[6] 3) if there is question not of money, but of eatables, or of other things consumable by use; for minute thefts in this last case do not coalesce unless they bring great detriment to the monastery.[7] And "regularly a Religious does not sin gravely by secretly receiving, for example, a book for temporal use, even for a long time, but not in perpetuity; because then the Prelate is not judged unwilling as regards the substance, but only as regards the manner."[8]

2. As regards goods whose dominion a Religious with a simple vow retains, grave matter for violation of the vow is not easily determined; for in this case not justice itself, but only the vow is violated. Concerning this matter St. Alphonsus speaks thus: "But if something is received from outsiders, to be furnished to others, and therefore without wounding justice, still more is required; for then Jerome Garcia with others among the Salmanticenses assigns for grave matter a value greater than sixty silver pieces."[9] Today we would say: greater than 60 francs.

QUESTION 5. Does a Religious violate the vow of poverty who expends money IN ANOTHER'S NAME?

Resp. Distinguish. 1) If he has received money with at least some designation of the persons to whom it is to be distributed, he does not violate the vow, because then he is a naked minister and like a servant; nevertheless he can offend against the rule of his Order. - 2) If he has received it with an indeterminate faculty of expending, so that he can confer it, according to his own judgment, on any good work whatsoever or on any needy person whatsoever, he violates the vow: "for, as Azor says,[10] even to the vow of poverty there is opposed a use or administration from which the Abbot cannot remove the monk by his nod."[11]

QUESTION 6. Whether and when must RESTITUTION be made to the monastery?

Resp. 1. He who without license, in a grave matter, donates or consumes, etc., goods of the monastery is certainly bound to restitution; nevertheless he is not bound to restore from the things given to him for use, unless they are superfluous; because the Prelate is not presumed to wish to oblige the subject with so great an inconvenience.[12]

Resp. 2. One receiving from a Religious a gift of great moment is bound to restore it, not indeed to the Religious from whom he received it, but to the monastery (cf. n. 1772 concerning the case reserved to the Supreme Pontiff).

(11) H. A., XIII, 6; Book IV, 15; cf. Panzuti, lib. 3, n. 14-16. (12) Book IV, 15, v. Caeterum. (13) H. A., XIII, 6, fin.; cf. Lucidi, vol. 2, p. 176. (14) Ap. Bizzarri, p. 903; cf. De Angelis, lib. 3, tit. 35, n. 3. (15) H. A., ibid., 13, 14; Book III, 873; Book IV, 30, 31; I El. qq. ref. 44. (16) H. A., ibid., 11; Book IV, 17, 18. (1) H. A., ibid. (2) In 4, dist. 15, qu. 2, art. 5, in fine. (3) H. A., ibid., 11; Book IV, 18, where more fully. (4) Book IV, 21-23; Konings, n. 1163. (5) Cf. Lugo, Disp. 3, n. 163-165; Croix, L. 4, n. 115. (6) Book IV, 24; H. A., XIII, 10. (7) Book IV, 25. (8) Ibid., 24, fin.; cf. Craisson, n. 2784. (9) Ibid., 24, v. fin. (10) P. 1, L. 12, c. 9, v. Hoc posito. (11) Cf. St. Alphonsus, Circolare, 3 Oct. 1757 (Opp. ascet., vol. 4, p. 830); H. A., XIII, 7. (12) H. A., ibid., 13, v. fin.

2159. From what has been said you will resolve: 1. A PRELATE sins against the vow of poverty "if he permits a subject to expend goods coming from whatever cause or title for vain or illicit uses; or to have with him things superfluous, precious, and indecorous to his state."[13] Indeed, it is more probable that this license is of itself invalid, according to what was said n. 2158, q. 2. - Likewise a procurator, economus, administrator, or official sins if he expends anything against the statutes or custom of the Order, or against the will of the Superior.[14]

2. A RELIGIOUS sins: - 1) By receiving or possessing illicitly: namely if he receives, possesses, or retains as his own something estimable by price, even something pertaining to food or clothing; or if he receives gifts, if he is a Religious not solemnly professed, without due license; - likewise, if without license he receives from outsiders, by loan or commodate, money or other things estimable by price; - likewise, if he retains a peculium, or things obtained from it, as

owner, against the legitimate will of the Superior; - likewise, if he hides anything for the end of withdrawing it from the disposition of the Superior: nor can he be excused in this by the fact that he had previously obtained license.

2. By disposing illicitly: namely, if without the license of the rule or Superior he alienates, exchanges, lends by commodate, or donates anything estimable by price; - if he remits to others things owed to him, e.g. the wage of his labor, or, if he has solemn vows, an inheritance, a legacy left to him; - if he culpably loses or destroys things conceded to him for use; for it is the act of an owner to neglect a thing, or to make it worse at will; - if he gives things given to him for use to others by commodate or loan; this, however, is a light sin if he is certain concerning restitution, and there is not question of a thing necessary to the Community here and now.
3. By using illicitly: namely if he uses things against or apart from the will of the Superior, e.g. by retaining a thing beyond the limits of time fixed by the Superior; - by applying a thing determinately conceded for one use to another, even honest, use: for with respect to the other use, license is lacking; - much more by expending it on vain, base, or indecorous uses for a Religious. - Likewise he sins against the vow if he eats or drinks among outsiders without the permission of the Superior; if, while making a journey, he turns aside from the straight way to see curious things, unless perhaps the distance is brief and no expenses, or very moderate expenses, must be incurred.[15]

Note. A Religious sins against the VIRTUE of poverty, although the vow remains uninjured, if toward the things which he holds from legitimate license he fosters excessive affection; if he indulges his own comforts more than is fitting, etc. Concerning this we note that the vow, of itself, regards external acts alone; but the virtue, which is the end of the vow, is extended even to internal acts, and labors for the extirpation of every inordinate affection toward earthly things. - We have said that the vow regards only external acts; nevertheless, if someone should conceive a desire or purpose of acting externally against the vow, he would violate this very vow:[16] as is clear from what was said concerning Internal Sins (n. 347 and 348).

(13) Book IV, 29. (14) Ibid., 28. (15) H. A., ibid., 7; cf. Gury, II, 161-163. (16) Cf. St. Alphonsus, Vera Sposa, cap. 9, n. 4.

§ 2. On The Vow Of Chastity

2160. ○ By the VOW OF CHASTITY a Religious forbids to himself every voluntary venereal delight, even that which could become licit in legitimate matrimony.[1] Hence,

I. By force of the vow of chastity, a Religious is held UNDER GRAVE obligation to abstain from every voluntary act of luxury, both internal, as from base joy, desire, morose delectation; and external, as from immodest speech, sight, touch, etc.; and at the same time from probable danger of sinning against chastity. For he has vowed chastity both of mind and of body; and therefore, as often as he offends against this vow, he incurs the guilt of a twofold malice to be opened in Confession, namely guilt against the virtue of chastity and guilt of sacrilege against the virtue of religion.[2] "And most probably he also sins against the common good, if there is danger that by his sin Religion be defamed."[3]

Two things WORTHY OF NOTE are to be added here, namely: 1) From the simple vow of chastity, subsequent matrimony is prohibited, but is not invalidated; whence if a Religious, notwithstanding this vow, should enter nuptials, he would commit only one sin, namely against religion, in the petition of the conjugal debt. - 2) From the solemn vow, matrimony is both prohibited and invalidated, and therefore one bound by such a vow, in the use of an attempted marriage, would be stained by a twofold sin, i.e. the sin of fornication and the sin of sacrilege.

II. For the custody of chastity, the LAW OF ENCLOSURE has been established for monasteries, both of men and of nuns.

(1) Concerning the MERIT of this holy virtue, see ibid., Vera Sposa, cap. 1. (2) H. A., XIII, 15. (3) Book IV, 37.

I. On The Enclosure Of Male Regulars.

2161. ○ The law of ENCLOSURE, insofar as it affects monasteries of Regulars, prohibits two things: namely the going out of Regulars, and the entrance of women.

1. The going out of male Regulars is not licit, except by legitimate license of the Superior. For thus Clement VIII established: "Let no one dare to go out from the Convent except from a cause, and with a companion, and with license obtained from the Superior each time; who is not to concede it otherwise than once the cause has been proved, and is to join a companion to the one going out, not at the request of the petitioner, but by his own judgment, nor the same one too often. But general licenses of going out are to be conceded to no one."[4]

Authors commonly say that the transgression of this precept is grave if the going out is done at night, furtively, and this case is reserved in several Religions, or repeatedly through the day with scandal; but venial, if it happens once or twice without scandal and contempt.[5]

2. The ENTRANCE of women into the precincts of a monastery of male Regulars is prohibited under penalty of excommunication reserved to the Supreme Pontiff, which both the women themselves violating enclosure, under whatever pretext, and Superiors and others admitting them incur. In the Const. *Apostolicae Sedis* of Pius IX (cf. n. 1334).

It is said 1) entrance of women, of whatever condition they may be. Only Queens, Electresses, and similar women are excepted, and their daughters; likewise Foundresses, provided from the Constitution *Regularis disciplinae* of Benedict XIV[6] they have a privilege from the Apostolic See in the form of a Brief, and exhibit it to the Ordinaries or prelates of the monastery. 2) Into the precincts of a monastery of Regulars, i.e. of those emitting solemn vows. For the penalty of excommunication does not regard other convents unless in them there is enclosure constituted by privilege after the likeness of regular enclosure.

But as regards the MANNER of observing enclosure, St. Alphonsus notes[7] that legitimate and reasonable customs, approved by the authority of Superiors, are to be attended to; but not those which should rather be called abuses and corruptions.

(4) Book IV, 37. (5) H. A., ibid., 15. (6) 3 January 1742, § 8. (7) Book VII, 231, fin.

II. On The Enclosure Of Nuns.

2162. ○ The custody of nuns is stricter than that of Regulars; for,

I. AS REGARDS GOING OUT, they incur excommunication reserved to the Roman Pontiff if they go out from the monastery without most urgent necessity, even if this were done secretly. Thus from the Constitution *Decori* of St. Pius V, and from the Const. *Apostolicae Sedis* of Pius IX (cf. n. 1333).

It must be noted: 1. that this penalty by common law is not incurred except from violation of papal enclosure, which from the decrees of the Council of Trent and of the Supreme Pontiffs has been prescribed for nuns emitting solemn vows. Nevertheless episcopal enclosure also, as well as papal enclosure by special decree, can be imposed on nuns pronouncing simple vows under a similar penalty and in the same form.[8]

It must be noted 2. that in this violation of enclosure there is not given smallness of matter, even if the going out is done by only one step, or onto the roof, outside the window, in the turn turning outward, or in the exterior church, provided the whole person comes outside.[9]

It must be noted 3. that nuns are excused both from censure and from sin in a case of urgent necessity, as of great fire, great flood, incursion of soldiers, ruin of the building, infirmity of leprosy, epidemic, i.e. pestilence or some contagious disease, as St. Pius V speaks; but it is required, if time permits, that there be license of the Bishop in writing, and also of the regular Prelate if the monastery is exempt.[10]

(8) Cf. Analecta J. P., Series 3, pp. 80, 101, 193 sq. (9) H. A., XIX, 46; Book VII, 229; cf. Const. Apostol. Sedis ... commentariis illustratam, published at Clermont-Ferrand (anonymous author), n. 220. (10) Ibid.; ibid.; cf. Acta S. Sed., vol. XVII, p. 255.

2163. ○ II. AS REGARDS ENTRANCE. - All the faithful, of whatever class or condition, sex, or age they may be, entering monasteries of nuns without legitimate license incur excommunication reserved to the Pope; and likewise nuns, or others, introducing or admitting them, even if not to an evil end. Thus from the Const. of Pius IX (cf. n. 1333).[11] - Nevertheless,

1. The following CAN ENTER monasteries: 1) Bishops in a case of necessity or visitation, but accompanied by a few mature persons. - 2) Regular Prelates, once in a year, for the cause of visitation. - 3) The confessor, for administering the Sacraments in necessity, with a license, namely general, unless the necessity is extreme, and dressed in surplice and stole. But he can minister the Holy Eucharist to the sick as often as he ministers it to the healthy.[12] - 4) A physician, or ordinary surgeon. But his license, although general, is to be renewed every quarter, and two of the senior nuns must always accompany the one entering. Likewise an extraordinary physician in default of an ordinary one, just as also other physicians with whom counsel is to be entered. - 5) A notary, with special license, for seeking some necessary writing in the archive, or for making the testament of some girl. - 6) Craftsmen, gardeners, masons, bakers, porters, and others of that kind, for furnishing some necessary work, with the same special license. But once the work has been furnished, they must go out without delay; for every useless stay which is notably protracted is forbidden under grave obligation.[13] Nor is entrance licit if they can exercise their art outside the enclosure.

2. The license is LEGITIMATELY GRANTED, by himself or through another, e.g. the abbess or confessor: 1) by the Bishop, or his Vicar, if the monastery is subject to the Bishop; 2) by the Bishop alone, or another expressly delegated by the Holy See, if the monastery is subject to the Apostolic See; 3) by the regular Prelate, if the monastery is subject to him and custom does not oppose.[14] - Formerly, from the Tridentine decree, license had to be given in writing. Today, from the common interpretation of the Const. *Apostolicae Sedis* of Pius IX, one given orally suffices, at least for avoiding censure.

3. For legitimate license a REASONABLE CAUSE is always required, and probably a just one, i.e. moral necessity on the part of the monastery; nevertheless less for a woman than for a man, for daytime entrance than for nighttime entrance, for the first buildings than for the interior ones.[15] The cause of learning some art does not suffice, unless the art would be necessary to the monastery; nor the cause of carrying out the funeral of a deceased nun, even if such a custom had already grown strong; nor the cause of blessing cells, or of exorcizing some nun; nor the cause of consecrating a virgin; nor the cause of clothing a novice, or of forming a painted image of a nun or girl; nor the cause of placing in a safe place a married woman separating from her husband.[16] Finally, without license of the Holy See to be obtained each time, girls cannot be received into the enclosure for the sake of education.[17]

4. In a case of sudden necessity, e.g. danger of death, fire, etc., no license is required, because human law does not oblige in so great a crisis.[18]

(11) Cf. the cited Anonymous author, n. 211 sqq. (12) Book VII, 227. (13) H. A., XIX, 37-39; Book VII, 226-228. (14) H. A., ibid., 35; Book VII, 224. (15) H. A., ibid., 36; Book VII, 225; cf. Vera Sposa, c. 23, § 1, n. 2. (16) Book VII, 225; cf. Lucidi, vol. 2, p. 143 sqq. (17) Benedict XIV, Const. Per binas, 24 Jan. 1747. (18) Book VII, 225.

2164. ◦ IT IS ASKED. What concerning CONVERSATION at the grates with nuns?

Resp. 1. For protecting nuns in every better way, besides the most strict law of enclosure, laws have been issued by which 1) Lay persons frequenting monasteries of nuns without license of the Ordinary incur excommunication *ferendae sententiae*; but Clerics incur suspension to be imposed by the Bishop. Further, frequency consists in this, that someone approaches the monastery on three continuous days, or once in individual months for about a year, or four times in a week.[19] 2) But Regulars undergo privation of active and passive voice and of office, and sin gravely, even if the conversation is held only once, for whatever honest cause and through whatever small space of time, according to the Decree of the Sacred Congregation of the Council issued on 11 May 1669.[20]

Resp. 2. The following are EXEMPTED from this prohibition: 1) Relatives joined in the first and second degree of consanguinity, except on forbidden days, and except also Regulars, who can never speak with nuns or other persons dwelling in enclosure without license of the Ordinary. 2) Confessors, whether ordinary or extraordinary. - 3) The poor and public beggars, from tacit license of Superiors; likewise servants bearing gifts and quickly dispatching themselves. - 4) Those speaking with the Abbess alone, because she, in odious matters, is not comprehended under the name of nuns.[21]

It must moreover be noted that these laws are not in force except in places where the law itself concerning papal enclosure most fully has force.

(19) Ibid., 232-237; H. A., XIX, 40-41. (20) Cf. Lucidi, vol. 2, p. 75. (21) H. A., XIX, 41-42; Book VII, 238-243.

§ 3. On The Vow Of Obedience

2165. "Poverty indeed is great, but integrity is a greater good; obedience is greatest, if it is kept uninjured. For the first dominates things, the second the flesh, but the third the mind and soul." Thus John XXII, in Extrav. *Quorundam*, de verbor. signif., v. f.[1]

Principle. A Religious from the vow of obedience is obliged to all things which the Superior commands according to the Rules and Constitutions of the Order, whether directly and expressly, or indirectly and implicitly.[2] The reason is that a Religious has subjected himself by vow to the power of the Superior, namely both of jurisdiction, which the Superior has as quasi-episcopal from the Pope, Vicar of Christ, in exempt Orders; and dominative power, which the Superior has in every Institute, as father of a family, for the political governance of the house. Hence, a professed Religious, acting against a precept of obedience, more probably commits two sins: one against RELIGION by reason of the vow, the other against the VIRTUE OF OBEDIENCE, by reason of the promise and handing over made concerning himself in profession, on account of which, of itself, even without a vow, he is bound to obey a legitimate Superior[3] (cf. n. 690).

It is said 1. He is obliged to all things which the Superior COMMANDS; for a precept is the proper object of obedience, nor can sin be committed where there is not a law or precept. - Whence: 1) If the Superior manifests his will or his desire only by optative words, there is of itself NO obligation of obeying; although the subject can sin from another source, for example by saddening him, by not preserving the reverence owed to him, by omitting a thing already prescribed of itself, etc. - 2) If the Superior commands simply, e.g. by using these words: I order, I command, the subject is held UNDER VENIAL sin to obey; because there is now a precept, although the Superior does not intend to use his whole power. - 3) If the Superior, in commanding in matter certainly or doubtfully grave, uses these words: in virtue of holy Obedience..., in the name of the Lord..., in the name of Jesus Christ..., under formal precept..., under penalty of excommunication *ipso facto*, or similar words, the subject is held, and indeed UNDER GRAVE sin, to obey; because from formulas of this kind it becomes known that the Superior wishes to use his whole authority.[4]

It is said 2. according to the Rules and Constitutions; for a Religious, by vowing obedience, wished to oblige himself only to living and obeying according to the Rules of the Order to which he freely consecrated himself. Whence the Superior CANNOT command things which are against the rule, unless he can dispense in it and a just cause of dispensing is present;[5] or above the rule, i.e. graver things, e.g. that the subject accept an Episcopate, a benefice with cure, or even a simple benefice, or exercise himself in great austerities, etc.; or below the rule, i.e. more lax or vain things. - Nevertheless, he CAN command things which pertain only indirectly to the rule, or which make for fuller observance of it. Indeed, at times he can, if necessity or the spiritual or bodily utility of the subject himself requires it, command things which are against or above the rule: e.g. fasting as a punishment for some fault, assistance to be furnished to the sick of his own Order infected with a contagious disease; or even to outsiders, if those are lacking who would minister the necessary Sacraments to them[6] (cf. n. 155).

(1) Concerning the MERIT of religious Obedience, see Lessius, De jure et just., lib. 2, cap. 46, n. 37. (2) Book IV, 38. (3) Ibid., 46. (4) Book IV, 38; H. A., XIII, 16-17. (5) Book I, 194. (6) Book IV, 40.

2166. St. Alphonsus further NOTES the following: 1. A Prelate can probably command internal acts under sin, although this is not customary nor advisable;[7] likewise, "he can command under grave sin what has been commanded by the rule only under light sin, if it is feared that otherwise the rule will not be observed."[8] - 2. He can prohibit subjects from emitting vows without himself having been consulted; nevertheless vows emitted within the limits of the rule are not of themselves invalid, although they can be irritated; for the matter of the vow is accepted by God, although the mode displeases Him (cf. n. 638).[9] - 3. He cannot command the revelation of a secret committed to some Religious, unless such revelation is necessary for averting harm to oneself, or to the monastery, or to a third party (cf. n. 1187, q. 2).[10] - 4. LICENSE denied by a Prelate but conceded by a Superior of lower order is probably valid as often as the Prelate has not expressed that he wishes to derogate from the authority of the inferior; indeed it is licit if he has not positively prohibited the subject to execute the thing and the inferior Superior to give license (cf. n. 2158, q. 2).[11]

(7) Ibid., 45. (8) Book I, 141. (9) Book IV, 48. (10) Ibid., 49. (11) Ibid., 50, Qu.; H. A., XIII, 20; concerning the Conditions of a good Superior, see Nic. Lancicius, opusc. 12.

2167. ○ Questions. QUESTION 1. Whom are Religious and nuns bound to obey?

Resp. By force of the vow, they are bound to OBEY: - 1) The Supreme Pontiff, as supreme Prefect of all Religions, from whom all power of religious jurisdiction emanates. 2) Their own Superiors, namely the Superior General, Provincial, and local Superior; but nuns, the Abbess: with this order being observed, that if different Superiors command, they obey rather him who is of higher grade.[12] - 3) The Ordinary of the place, if they are not exempt, but according to the rules approved by the Holy See (cf. n. 2190).

QUESTION 2. What power belongs to an ABBESS or SUPERIORISSA over nuns?

Resp. 1. An Abbess, or Superiorissa, CAN, by reason of the dominative power handed over to her by vow, or at least as minister of regular observance, demand, even in virtue of obedience according to the absolutely more probable opinion, that nuns fulfill that which is commanded by the rule, or that which conduces to their progress according to the rule. Likewise, although she is not capable of jurisdiction, nor can she, in an authoritative manner, dispense concerning vows and observances of Religion against the rule; nevertheless she can dispense in these from commission of the Prelate, or even, from a just cause, declare in her own name that such a precept, say fasting, is not obligatory on such a day or hour. Finally, by reason of dominative power, if she truly possesses this, she can irritate the vows of nuns, whether concerning supererogatory matter or concerning a thing about the rules; but the vows of novices she can suspend as regards execution, if they are an obstacle to probation.[13]

2. She CANNOT oblige nuns to receive Holy Communion more frequently or more rarely than has been defined by their ordinary confessor. Nevertheless she can, e.g. on account of some scandal given and not yet repaired, forbid them Holy Communion on some day, "if otherwise a penalty of this kind, as Suarez speaks,[14] is conformable to her rule, does not exceed the ordinary mode of religious discipline ... and is not inflicted properly as a spiritual privation, but as it induces some mark or shame."[15] - If, by force of the rules, she exacts from them an account of conscience, they are not bound to manifest to her their sins, whether present or

past. Further, the Sacred Congregation of BISHOPS AND REGULARS (10 March 1860), "on account of abuses which have crept in, at present is by no means accustomed to approve the opening of conscience to the Superiorissa; but it is only permitted that Sisters, if they wish, can disclose defects in the observance of the rule and progress as regards virtues; for concerning other things they must treat with their own confessor."[16]

In various Institutes, with the Holy See approving, the Moderatrix general "must seek the deliberative vote of the Consultors in graver matters; especially for foundations and suppressions of houses, for contracts, for the vestition and profession of members, and other things of this kind."[17]

QUESTION 3. Is a subject bound to obey IN DOUBT concerning the power of the Superior, or concerning the licitness of the thing commanded?

Resp. 1. If the doubt is concerning the legitimacy of the Superior, he is not bound to obey unless that one is in peaceful possession, and is commonly held as Superior. - And the same must be said if there is doubt concerning the imposition of the precept (cf. n. 52, 693).

2. If it is doubted whether the thing commanded is licit or not, or whether it exceeds the power of the Superior, he is bound to obey, even if the opposite opinion seems to him more probable.[18] EXCEPT 1) "if the thing is very difficult and troublesome; because then the difficulty of the work together with the probable opinion that the thing commanded is illicit, or that the precept exceeds the power of the Superior, prevails over that one's possession. - 2) If by obeying the subject would expose himself or another to danger of undergoing grave inconvenience in life, reputation, honor, or goods. The reason is that the subject is not then bound to deprive himself of his certain right which he possesses concerning such goods of great moment, lest the Superior be deprived of his possession, which in that case is in some way uncertain."[19]

(12) Cf. Can. Quae contra, Dist. 8. (13) Book IV, 52-55. (14) De relig., tr. 8, L. 2, c. 9, n. 10. (15) Craisson, n. 3043; Sabetti, n. 702. (16) Bizzarri, p. 832, n. 4. (17) Ibid., p. 848; cf. Meynard, Rep. can. et pratiq., 1re Partie. (18) Cf. Book I, 98-100. (19) Book IV, 47, v. Limitant.

2168. ○ From these things you will resolve: 1. A professed Religious SINS gravely against the VOW of obedience: 1) when he refuses to obey, in a grave matter, a Superior commanding in virtue of holy obedience, according to what was said n. 2165; 2) when he responds to a commanding Superior: I do not wish to obey, I do not wish to do it, I will not do it, or something else similar, which smells of formal contempt of the authority commanding; 3) when from disobedience there follows grave scandal, whether of subjects or of seculars, or grave inconvenience, whether for the community or for others, e.g. for the salvation of souls, etc. - In other cases, disobedience does not exceed venial fault[20] (cf. n. 693, q. 2).

2. A Religious SINS only against the VIRTUE of obedience, generally only venially: 1) when he refuses to obey Superiors of lower grade with whom there is not power of commanding from the vow; 2) when in the external execution of a precept he murmurs in heart, or internally does not submit himself. - Likewise, novices, oblates, and all others who live common life in

pious Institutes without the bond of vows offend against the virtue of obedience alone, gravely or lightly according to the gravity of the precept[21] (cf. n. 690 sqq.).

3. If the rules order that in all things one obey the Superior, or in all things in which sin does not appear, "this is understood not of the obligation of the vow, but of the perfection of obedience."[22]

(20) Gury, I, 171. (21) St. Alphonsus discusses the virtue of obedience in op. Vera Sposa, cap. 7, § 2 sqq. (22) Book IV, 40; cf. Salmant., tr. 15, c. 6, n. 55.

Article III: On The Obligation Of Observing The Rule

2169. ○ A RULE is that norm of living by which Religious are so directed in their operations that, in a due and congruent manner, they may strive toward the perfection of their state. - Under the name of RULE are also understood the Constitutions and Statutes which emanate from the Founders or Chapters of Religions.[1]

Now indeed: 1. Rules which define the matter and conditions of vows impose the same obligation as the vows themselves: concerning these we have already said enough above. 2. Rules which regard regular discipline can oblige in various ways. Hence the following:

(1) Cf. Salmant., tr. 15, cap. 4, n. 54-55.

2170. ○

Questions. QUESTION 1. How great is the OBLIGATION of rules which regard discipline?

Resp. 1. "A rule," says Suarez,[2] "is not a mere counsel," since its violation can be punished by the Superior. - Except, however, those rules which are expressed by way of counsel or exhortation.

Resp. 2. There can be rules which oblige under mortal sin; others, which oblige under venial sin; finally others, which oblige to a penalty. 1) If a rule obliges under mortal sin, its transgression is against the vow and is sacrilegious: the reason is that such a rule is not less preceptive than the voice of the Superior; whence, for example, a Carthusian eating flesh meats, or a Franciscan not fasting on Friday, sins against obedience and against temperance.[3] - 2) If a rule expressly declares that it obliges as much as it can, its transgression is a mortal or venial sin according as the matter is grave or light; because the rule is not less obliging than the voice of the Superior; but the Superior can oblige according to the gravity of the matter.[4] - 3) If a rule declares that it does not oblige under sin, its transgression is of itself neither mortal nor venial; because a rule which is not preceptive is judged to be only an ordinance or admonition, obliging only to a penalty, if one is imposed.[5] - Yet many Doctors rightly note that transgressions of this kind are rarely free from every fault, on account of negligence, contempt, or some other disordered affection; indeed, he would sin gravely who frequently and as it were by custom transgressed the rule, gravely disturbing religious discipline: e.g. if he "would never wish to observe silence, nor pray, nor walk modestly; if he entered the rooms of all the Religious, and transgressed similar statutes of Religion."[6] He also sins GRAVELY who violates the rule from formal contempt of the Superior, as, for example, to show that the Superior is despised by him and held for nothing; likewise, if he does this from hatred against the Religion or its persons, or from the will of resisting the Prelate; likewise, if he exposes himself to proximate danger of falling into mortal sin, or

if he foresees that he will therefore be expelled. But if someone proposes never to observe the rule, it can scarcely happen that contempt is not present. Thus Suarez (apud D. Bouix[7]) and St. Alphonsus.[8] - But the mere frequency of infractions does not seem sufficiently to prove contempt; since this frequency can arise from great sloth, in which nevertheless the slothful person can still esteem the rules, Superiors, and Religion highly[9] (recall what was said n. 2153).

QUESTION 2. Are Religious bound to submit themselves to a REFORMATION of the Rule?

Resp. 1. Affirmatively, if the reformation regards substantial things; because everyone must obey in those things which are necessary for salvation; nor can any custom prevail against natural or divine law. Whence the obligation of submitting oneself would press, if the Religion were such that, "unless it were reformed, it would be rather for harm to Religious than for utility."[10]

Resp. 2. If the reformation does not regard substantial things, a DISTINCTION must be made: either the mitigation was introduced by the Supreme Pontiff, and in such a case each one can conform himself to it, for it is a new law; or it was introduced by custom, and in this case, although those introducing it sinned, nevertheless their successors can follow it with a safe conscience. - But if the general Chapter or the greater part of the professed should establish a reformation, there are Authors who deny that private persons are bound to submit themselves to such a reformation; because they emitted profession according to the state of the rule as it was at the time of their profession, and therefore they are judged not to have wished to oblige themselves to more than the relaxed rule. This opinion is indeed probable; but the more probable opinion teaches that they are bound to obey.[11]

QUESTION 3. Does a Prelate, sometimes neglecting to correct the LIGHT DEFECTS of subjects, sin gravely?

Resp. "Affirmatively (against Lorca) with Lugo and others commonly, in the case in which the defects are many and such (e.g. concerning silence, fasting, etc.) that they can relax discipline. The reason is that, although each Religious fails in a light thing by transgressing a light rule, nevertheless the Superior, neglecting to impede, when he can, the relaxation of observance, fails in a grave matter. And therefore he is bound not only to correct, but also to inquire into, defects of subjects which tend to the harm of the whole Community, so that he may correct, as St. Thomas teaches, yet without excessive solicitude.... But it is expedient that he sometimes dissemble in correcting, if the defects do not bring scandal, or if he foresees that the subject will become worse from the correction, or if a more opportune time must be awaited. And here it must be adverted that, if it is necessary for correcting, the Superior can even strike the subject and rebuke him with reproaches, from St. Thomas,[12] provided he does not act from anger, or before seculars or novices. And just as the Superior is bound to correct, so he who has the office of zealator is bound to admonish him concerning the transgressions of others."[13]

Note. At the time of a CANONICAL VISITATION Religious (or nuns interrogated by the Bishop or by the Prelate of the Order) are bound to open the truth to the visitor concerning the observances of the rule, even if the transgressions are light; because ordinarily from these begins the relaxation of the whole rule. - "Except if the delinquents have already come to their senses, or if the offense is occult, or known under a natural secret, or could be hidden without common harm, or if it has already been manifested by others, or if it is foreseen that the revelation would not be profitable or

would be harmful to himself, and the concealment would not be to the harm of the Community"[14] (cf. n. 1198).

(2) De Relig., tr. 8, L. 1, c. 2, n. 2. (3) Book IV, 41. (4) Craisson, n. 2813. (5) Book IV, 42. (6) Book IV, 10. (7) De jur. Regul., P. 6, sect. 5, cap. 4, § 3 (tom. 2, p. 576); cf. Suarez, De Relig., tr. 8, L. 1, c. 4. (8) Book IV, 11, 42. (9) Konings, n. 1176. (10) H. A., XIII, 17. (11) Book IV, 44; H. A., ibid. (12) 2.2, q. 72, a. 2, ad 2. (13) Book IV, 13; H. A., XIII, 2. (14) H. A., ibid., 21; concerning the Offices of Lay Brothers in particular, see Lancicius, opusc. XV.

Article IV: On The Obligation Of Stability

2171. ○ The obligation of remaining in the religious state arises both from the nature of the thing (for state is so called from standing); and from the perpetuity of the vows; and finally from canon law, as regards Regulars and nuns of solemn vows. Hence that saying: once a monk, always a monk. - But as regards Institutes of simple vows, the firmness which is not had from canon law is sometimes supplied, as in the Congregation of the Most Holy Redeemer, by the vow and oath of perseverance. For by this vow and oath a peculiar mutual contract is entered upon, by force of which the Religious binds himself to persevere in the Congregation until death; and conversely, the Congregation obliges itself not to dismiss the professed member except from a supervening cause which would be most grave.[15]

To stability are opposed, or seem in some way to be opposed: 1. Apostasy and flight; 2. ejection; 3. dispensation from vows; 4. transfer to another Religion; 5. translation to the Episcopate. - Concerning each, now a few things.

(15) Book III, 255; IV, 50.

1. Apostasy And Flight.

2172. ○ An apostate (from Religion) is he who departs from the monastery or Religion with the intention of totally deserting the Order and not returning to it. But he is called a fugitive who departs without license with the intention of returning. Whence, from Trent (sess. 25, c. 4, de Regul.), among fugitives are also numbered those who, without license of the local Superiors, flee to the major Superiors, unless they have been sent or called by them.

I. APOSTATES and FUGITIVES (whether the habit has been laid aside or retained, according as provision is variously made by the constitutions of Religions), incur, besides the guilt of lethal sin, excommunication *ipso facto*.[16] - They are deprived besides of all privileges of Regulars, and are subjected to the Ordinaries of places, from Trent, l.c., cap. 19, de Reg. - Yet they are not released from the obligations of the state deserted, but are bound to observe their vows and all the constitutions of their Order, namely lest they obtain an advantage from fraud. - See the other things among the Canonists.[17]

II. Prelates ARE BOUND to SEEK OUT fugitives and apostates, because by divine and natural law they must provide for their salvation. - Except if this could not be done without grave harm of the Order, or if they were incorrigible; "because, if for a just cause they can be ejected, for the same also, after they have gone out, they will be able not to be received."[18]

(16) De Angelis, lib. 3, tit. 31, fin. (17) Cf. Lucidi, vol. 2, cap. IV, n. 12-29; Grandclaude, Jus canon., tom. 3, p. 341 sqq. (18) Book IV, 82; cf. Craisson, n. 1077-1084.

2. - Ejection Or Dismissal.

2173. ○ By the name of ejection or dismissal is understood the perpetual separation of a Religious from his Order, made by the authority of a competent judge. The process of ejection must be made both according to the Canons and according to the Constitutions and style of each Order.[19]

I. Regulars solemnly professed can be ejected for three causes: 1) if in admission they concealed a very grave impediment, e.g. leprosy; 2) if they can no longer be tolerated without infamy of the Order; 3) if they are notoriously incorrigible in a grave and pernicious crime. Formerly it was lawful to eject Religious from the Order on account of any grave offense, even if admitted once; but Urban VIII (21 Sept. 1626, § 6) declared that no one (except a member of the Society of Jesus), unless he is incorrigible, can be ejected; but that those throwing off discipline can be punished by fasts and prison: which must always be observed with incorrigible nuns, where civil power does not obstruct.[20]

The one ejected remains always a Religious and bound by vows, which he must observe, insofar as circumstances permit it. - Hence, 1) as regards poverty, he has only the use of the things which he acquires, but not dominion, which remains with the monastery, if this is capable of dominion;[21] otherwise, with the Apostolic Camera. - 2) As regards obedience, the Divine Office (if he is not in Sacred Orders), and the other rules, he is now bound by no obligation, since he has been juridically dismissed by the Prelate. But he is bound to obey the Bishop, by whom nevertheless he cannot be ordained; indeed he remains suspended from every exercise of Orders, nor can he preach, nor teach (cf. n. 1365). - 3) He is bound to amend himself, so that he may merit being admitted again; for since he is held by vows, he must seek again that state in which he can carry out his vows. Yet if, although amended, he is not admitted, he can remain in the world with a safe conscience, and receive the Sacraments in the manner of clerics.[22]

(19) Cf. Ferraris, verb. Ejecti. (20) H. A., XIII, 4; Book IV, 79. (21) Thus H. A., ibid., 4, against Busenbaum; cf. Ferraris, v. Ejecti, n. 67 sqq. (22) Book IV, 81.

2174. ○ II. Religious of simple vows can be ejected for several causes, which are determined both by natural law and by the approved rules of each Institute. - Those ejected or dismissed in this case are commonly exempted from the obligations of the religious state, whether these come from a vow or from a rule, and are reduced to secular life; they belong to the jurisdiction of the Bishop to whom they were subject before inscription in the Institute.[23] - See concerning the Dispensed (n. 2177).

(23) Lucidi, vol. II, p. 644.

2175. ○ IT IS ASKED. Can Religious of simple vows be licitly and validly dismissed WITHOUT CAUSE?

Resp. 1. If in the Institute at least the essentials of the religious State are found, a professed subject can never be dismissed without grave cause, even if he himself should consent to his own dismissal; because, where the religious state exists, there intervenes in profession a handing over: by which, on

the one part, the Religious has devoted himself to God and to the Institute in perpetuity, and by which, on the other part, the Institute in turn, through the acceptance of profession, has obligated itself, at least implicitly and from a quasi-contract, never to dismiss him without a just cause. But a just cause is not had in this alone, that the Religious acquiesces in his own dismissal. Although in this case a lesser cause will be able to suffice; for the subject can yield his own right.[24]

Resp. 2. If in the Institute there are not found those things which are of the essence of the religious State, and the subject consents to his own dismissal, it seems that he can be dismissed without grave cause: e.g. on account of weak health; because in the circumstances of such things, neither the religious state nor the reclamation of the subject stands in the way.[1] - Yet advert that a just cause is always required if the Religious himself wishes to be dispensed from his vows, as is known.

Resp. 3. If a vow or oath of perseverance is emitted by the one vowing, there arises a special obligation on both sides of standing by the promises, whether a true religious state is found in the Institute or not; because such a vow or oath, accepted by the Congregation, has the character of a true bilateral contract: from which it happens that, just as the subject cannot, upon any new circumstance whatsoever arising, leave the Institute (unless for passing over into a stricter Order), so neither can the Institute, while the subject stands by his promises, dismiss him.[2]

(24) Craisson, n. 3093. (1) Cf. Bouix, De jur. Reg., tom. 2, p. 517, Qu. V. (2) Cf. H. A., XIII, 19; Book IV, 50, v. Et idem.

3. - Dispensation From Vows.

2176. ○ I. As regards SOLEMN vows. Formerly, indeed, many thought that no one could be dispensed from solemn vows, and that the bond of religious profession was indissoluble by divine law. But this opinion has become less probable; for the common opinion today teaches that a Religious, even solemnly professed, can be released from his obligations, either in part or in whole. And the practice of the Supreme Pontiffs favors this opinion; for more than once, although generally only on account of a public cause, they have granted a dispensation of this kind (cf. n. 135, 642).[3] - Thus the Roman Pontiff sometimes dispenses Religious even solemnly professed, so that true dominion of temporal goods may be in their possession; or so that at least they may be able to exercise acts of proprietors, namely when their incapacity is not recognized by the civil power. Yet in Indults of this kind the substance of the vow always remains safe, for the reason that the dispensed cannot do more than what is permitted by the Pontiff, and they need besides the permission of Superiors.[4] Thus likewise, in the time of the French disturbance, the Pope dispensed not a few priests, both secular and regular, from the vow of chastity, at least in part. We say in part, i.e. in order to a marriage already contracted invalidly; for generally clauses of this kind were added to the dispensation: "with the same woman only, but not for contracting with another, nor for entering upon second nuptials, and if... outside the licit use of marriage he shall have offended, let him know that (the petitioner) will act sacrilegiously against the sixth precept."[5]

By common law, when there is dispensation in the solemnity of one vow, the other solemn vows cease to be solemn, unless the Pope shall have established otherwise.[6]

(3) Book III, 256; cf. Bouix, P. 6, sect. 2, cap. 1 (II, 481). (4) Cf. De Angelis, lib. 3, tit. 35, n. 4; cf. also Nouv. Rev. théol., tom. X, p. 610. (5) Cf. Roskovany, Caelibatus, tom. 3, p. 184, Monum. 1969, fin.; cf. also Nouv. Rev. théol., tom. XVI, p. 441. (6) Craisson, 3067 and 2504; Lucidi, vol. 2, cap. 5, n. 298.

2177. ◦ II. As regards SIMPLE VOWS. These vows are emitted either in Institutes approved by the Holy See, or in Institutes approved by Bishops. - If the first, dispensation is granted by the Roman Pontiff alone, although, from apostolic privilege, the same power can also belong to the Superior General, if there is question of a Congregation of men. The reason is that the vows were made as it were into the hand of the Pontiff.[7] If the second, either those Institutes, distributed into various houses, are subject to a general Superior or Superiorissa; and in this case the several Bishops cannot dispense in the houses subject to themselves, because they would violate the right of the general Superior; or the individual houses subsist by themselves, and in this case the Bishop can release subjects from the vows of poverty and obedience, but not from the vow of perpetual chastity, as being reserved to the Holy See. - From the Response of the Sacred Penitentiary, 2 Jan. 1836[8] (cf. n. 2190 and 2194).

It MUST BE NOTED: 1. For a valid dispensation of simple vows a lighter cause is required than for a dispensation of solemn vows; likewise, a lighter cause on the part of the Institute than on the part of the subject: either because in many Institutes the bond is not obliging equally on both sides, or especially because the common good of the Institute must always be preferred to the private good of the subject.

2. If any alumnus of such an Institute, without just cause, has sought and obtained dispensation from vows, the dispensation must be judged valid, although it was illicitly sought. The reason is that although a just cause was lacking on the part of the one seeking, nevertheless an excellent one was present on the part of the one granting, to whom belongs the right and office of procuring the common good by dismissing subjects who are not of good example to the others.[9]

(7) Cf. Gury, II, n. 180; cf. Lucidi, l.c., n. 333-351. (8) Bouvier, De Decal., cap. 2, art. 4, sect. 6. (9) Cf. Gautrelet, tom. II, p. 141 sqq.; Craisson, Communautés relig., cap. 21, n. 898 sqq.

4. - Passage To Another Order.

2178. ◦ Let only the following be NOTED: 1. By common law (i.e. from the Decretal *Licet* of Innocent III) passage from a more lax Religion to a stricter (or more austere) one is licit; provided it is done from a just cause, without grave harm of the Religion to be left, and provided that the license of the Superior or of the Pope is sought, indeed also (if the Order which is left enjoys a privilege specially conceded for this) provided that it is obtained.[10]

2. Passage to an Order of equal rigidity is also licit, but with a greater cause and with the license of the Superior; or, if this greater cause is lacking, with the permission of the Supreme Pontiff;[11] which must always be had if the passage is made to an Order of more lax observance, or if there is question of a cloistered nun.[12]

In any of these cases, from the Constitution *Pastor bonus* of Benedict XIV, the Major Penitentiary can grant the passage, "for just and grave causes respectively, however, to be approved by the same Major Penitentiary; the Superior of the Order from which the passage is to be made having first been heard, and with the consent of the Superior of the Order to which it is to be made."[13] - Recall what was said n. 638. Hence 1 and 642, 3.

(10) Book IV, 73, where there are many things (from the 6th ed.). (11) Craisson, n. 3098. (12) Craisson, n. 3097, 3100. (13) Cf. De Angelis, L. III, tit. 33, n. 14.

5. - Translation To The Episcopate.

2179. ○ A Regular assumed to the Episcopate (or Cardinalate)[14] is not exempted from profession, nor from all rules generally; but only from those obligations which do not agree with his new office or dignity. For to the question, "whether and how a Regular Bishop is bound to observe the rule which he has professed:" - the Sacred Congregation of BISHOPS AND REGULARS, on 6 May 1864, judged that it should respond: "Affirmatively, according to the prescription of the Constitution of Benedict XIII beginning *Custodes*, namely, a Regular Bishop is bound to observe the Rules of his Religion which determine the matter of the vow of poverty. Likewise he is bound to observe the other rules and observances not repugnant to episcopal dignity and office, with the same grave or light obligation by which he was held before he obtained the episcopal dignity: yet so that in particular cases he can prudently make a judgment whether those things agree with episcopal dignity and office."[15]

Hence. - 1. A Regular Bishop cannot, except by license of the Pope, make a testament, and take inheritances or legacies for himself. Yet he can legitimately acquire goods; namely, the use for himself, but the property for the Church over which he presides and of whose goods he is the dispenser.[16] Nor does the vow of obedience cease in him, since he obtains the Supreme Pontiff himself as Superior.

2. If he is of the Family of the Minims, he is still bound to the vow of Lenten diet; if of the Family of St. Francis, to the fast of Friday, etc., unless he has been specially dispensed by the Apostolic Holy See.

3. As regards the Divine Office, he is bound, from the declaration of the Sacred Congregation of Rites made on 11 June 1605,[17] to recite it, not indeed according to the rite of his Religion, but according to the rite of his diocese.

4. As regards the habit, he must indeed preserve the color of his Order; but in the form of the habit he can be vested in the manner of secular Bishops, as Clement VIII conceded.[18]

NB. Decisions of the Sacred Congregation of BISHOPS AND REGULARS issued for Regular Bishops must be extended to Religious Bishops of simple vows, yet with the due restrictions being made, e.g. as regards poverty.[19]

(14) Cf. Bouix, P. 5, sect. 1, cap. 8 (II, 65). (15) Bizzarri, p. 774. (16) Acta S. Sed., I, 227. (17) Gardellini, n. 265. (18) Cf. Caeremoniale Episcop., L. 1, c. 1, n. 4; Sanchez, Decal., L. VI, c. 6, n. 22. (19) Cf. Acta S. Sed., vol. I, p. 466.

Chapter IV: On The Privileges Of Regulars

We shall treat: 1. Of the privileges of Regulars in general; 2. of the privilege of exemption; 3. of various privileges of Regulars (recall what was said n. 249-254).

Article I: On The Privileges Of Regulars In General

2180. ○ I. Privileges GRANTED to Regulars are either DIRECTLY, by writing or by an oracle of the living voice, or INDIRECTLY, by communication with other privileged persons.

But communication either is made in COMMON form, and embraces only those things which are commonly and without difficulty accustomed to be conceded; or it is made in SPECIAL form, and comprehends also unusual things and those which are of rare and difficult concession: excepted however (unless they are expressed by name) 1) indulgences, under which privileged altars also come; 2) Offices, both proper ones, which are not communicated to Religious using the diocesan Directory, and new ones, for which those who have a proper Calendar need an Indult; 3) exemption from the jurisdiction of Ordinaries.

It MUST BE NOTED: In no communication, however broad, are comprehended: - 1. Certain prerogatives entirely specific, which the Holy See conceded exclusively and privatively to certain Orders, with the faculty made to their Superiors General of communicating them to other Religions, Congregations, or even priests in particular. Thus, for example, the Superior General of the Dominicans communicates to priests petitioning the faculty of blessing rosaries, roses of St. Dominic, girdles of St. Thomas. - 2. Odious privileges, and those which are contrary to proper statutes. - 3. Privileges or Indults conceded for a determined time. - 4. Privileges conceded on account of a special motivating cause with a condition, whether expressed or tacit: as long as the cause perseveres. - 5. Privileges conceded to some convent, province, or to Religious of some Institute existing in certain lands, unless the same or a similar reason militates for the other Religious, convents, provinces, of the same or another Institute. - 6. Privileges generally revoked by Trent or by Apostolic Constitutions, unless they have been conceded anew. Yet advert that only those privileges were revoked by Trent to which a Decree of the Council is contrary with that expressed clause: *notwithstanding any privileges whatsoever*.[20] - 7. Privileges conceded with the clause: *that they not be communicated to others*, or declared incommunicable; unless some succeeding Pontiff, or the same one later, has conceded a very broad communication with all other Religions, in special form, with effective clauses added, by which all Constitutions and Apostolic Ordinations to the contrary, and all other derogatory clauses, are derogated.[21]

(20) Cf. Reiffenstuel, De Privilegiis, n. 135 sqq. (21) H. A., XX, 11, 12.

2181. ○ II. Direct or indirect concessions of privileges are sometimes CONFIRMED by the Holy See, and that either in common form, which does not bestow a new right and leaves individual privileges in that state in which they were before; or in special form, which not only, as the common one, strengthens valid things, but also revalidates invalidated things, and indeed in such a way that lost privileges, or those conceded with the clause "that they not be communicated to others," are judged to have been acquired anew. But if privileges are confirmed more often, and in one confirmation certain things are omitted which are had in another, the omitted things are by no means judged to have

been revoked, unless perhaps they were opposed to Trent or to some Apostolic Constitution which had revoked privileges of this kind generally.[22]

(22) Ferraris, v. Privilegia, art. 2, n. 7-14.

2182. ○ III. Whatever has been conceded to the Superiors of one Religion is understood also to have been conceded to all Superiors of other Religions which communicate with them, although the denominations of offices are various.[23] - Similarly, privileges conceded to inferior Prelates are also understood to have been conceded to Superior Prelates; but not vice versa.

(23) H. A., XX, 11.

2183. ○ Let it be noted: 1. If a privilege conceded to some Religion is not accepted by it, or is not brought into use, or if it ceases by renunciation or special revocation, no prejudice is thereby created for another Religion which communicates with it.[24] And this runs even if the Religion originally privileged were extinguished.

2. A Prelate can, for a just cause, LIMIT for his individual subjects the use of one or another privilege; indeed, the Superior General can extend a limitation of this kind to the whole Order. But if no limitation or prohibition intervenes, and no condition has been added in the Indult, subjects can bring their privileges into use without delegation or license of Superiors.[25]
3. Privileges 1) communicated to subjects generally (i.e. not for a case) by the Superior General, whether by himself or through subaltern Superiors, ENDURE until they are revoked by him or by his successor; - 2) those communicated by subaltern Superiors by their own right expire when the time fixed for their office has ended, i.e. when a new Superior has entered upon his office; - 3) those to be conceded for a certain number of cases cease only when the number has been exhausted, but not when the office of the one granting has ended.
4. Regulars are bound to EXHIBIT to the Ordinaries of places: 1) even if not required, and before they can use them, privileges with the clause: *the Ordinaries of places having been notified*; likewise new indulgences, before they are published; 2) if required, yet without meanwhile being able to be interdicted from the use of the privilege, special privileges of exemption, i.e. those which are not contained in the common and notorious law of all Regulars.[26]
5. "All Regular Orders COMMUNICATE in the privileges of other Orders, whether Mendicant or not";[1] and this communication is sometimes extended also, by special concession, to Congregations of simple vows.

(24) H. A., ibid., 9. (25) H. A., ibid., 6; Book IV, 64. (26) Konings, n. 1192. (1) H. A., XX, 9; Book IV, 60.

Article II: On The Privilege Of Exemption

2184. ○ EXEMPTION is a privilege by which either some place or person (physical or moral), or a place and person at the same time, within the territory of some ordinary jurisdiction, is withdrawn from the same.

Some exemptions have been conceded by the Supreme Pontiff, others by Bishops. Some exempt from episcopal jurisdiction, others from parochial jurisdiction, or even from inferior jurisdiction. - Some are personal, others local, others personal and local at the same time.

The exemption of Regulars: 1) has been conceded by the Supreme Pontiff; 2) exempts from jurisdiction, both episcopal and parochial; 3) is at once personal and local. - Moreover it is conceded most justly: both so that religious Orders may enjoy greater tranquility, unity, and vigor of discipline under the single governance of their own Prelates; and so that particular Churches may be bound by a stronger bond to the center of unity, i.e. to the Apostolic See.[2]

With these things having been premised, there comes to be explained: 1. what the exemption of Regulars comprehends; 2. what it does not comprehend.

(2) Cf. Bouix, P. 5, sect. 2, cap. 2, § 3 (II, 110).

§ 1. What The Exemption Of Regulars Comprehends

2185. ○ The exemption of Regulars, provided there is question of a canonically erected Convent, generally comprehends the following:

I. AS REGARDS PLACES. Their churches, to which no parochial or quasi-parochial care of souls is annexed, are not subject to the Visitation of the Ordinary; nor their houses and oratories, whether public or private, joined to their houses; nor their chapels and altars of laymen or local Confraternities erected in these churches or oratories.[3]

But it must be noted what is read in the Constitution *Romanos Pontifices* of LEO XIII, 8 May 1881: "It has been established by common law... that houses which do not hold at least six religious members (of whom four are priests) must be entirely in the power of Bishops." - But Regulars dwelling in mission residences, although they may have been few, are not subject to Bishops "except in cases expressly named by law, and generally in those things which concern the care of souls and the administration of the Sacraments" (same Constitution).[4]

(3) H. A., XX, 79, 88. (4) Cf. Lucidi, vol. II, p. 8.

2186. ○ II. AS REGARDS PERSONS. Regulars are subject to the ordinary and exclusive jurisdiction of their own Prelates, insofar as no exception is established by the sacred canons or Apostolic Constitutions which declares in express words that they are subject in certain cases to the ordinary jurisdiction of Bishops or to jurisdiction delegated by the Holy See.[5]

Now it must be adverted: - 1. In odious things, under the name of subjects there come, generally, only professed Religious, both priests and lay brothers. 2. But in favorable things there come also novices, candidates admitted to probation, Oblates or Tertiaries dwelling in the monastery, and secular familiars, provided they are continuous table-companions, dwell within the enclosures of the Convent, and live under the obedience of Superiors[6] (see what was said n. 1763, q. 2, concerning boarders).

(5) H. A., ibid., 72. (6) Ibid., 74.

2187. ○ Consequences. By force of this jurisdiction, which is called quasi-episcopal:

1. General Superiors can and must, either by themselves or through their Visitors, and provincial Superiors by themselves, VISIT the individual houses, persons, and churches subject to them: with every visitation of Bishops excluded, except in the cases to be excepted below (n. 2189).

2. The same Superiors can BRING against their professed subjects all those CENSURES which it is licit to inflict upon persons. The local Superior also can do the same, at least with the consent of the major Superiors (cf. n. 1256, 7, and 1774).[7]

3. All Superiors can DISPENSE with their subjects, in those things and in that manner in which and according to which Bishops can by law dispense with their own diocesans, namely: 1) as regards servile works on feast days and Sundays; 2) as regards fast and abstinence from flesh meats: concerning which "they can also accept for themselves and their own house those dispensations which the Bishop grants generally for the whole diocese";[8] - 3) as regards the Divine Office, in the manner of Bishops, in particular cases, for a brief time and from a just cause, e.g. if there is doubt concerning moral impotence of reciting.[9] (Moreover, from the concession of Clement VII, in favor of the sick and of those serving the sick who would not be excused of themselves, they can commute the Office into six or seven Psalms to be assigned by themselves, and seven *Our Fathers* and two *Creeds*);[10] - 4) as regards prohibited books, in the manner of Bishops (i.e. in a case of great necessity, another privilege being set aside) (cf. n. 454, q. 2); - 5) as regards irregularities from an occult delict, and certain ones from defect, in which Bishops can dispense with diocesans, and even in the case of occult homicide, or one consummated outside the cloisters; in defect of body, "if someone should lack a foot or an eye, even the left"; in defect of birth (to dignities inferior to the Generalate), in bigamy, in defect of mildness, etc.;[11] - 6) as regards inabilities and penalties contracted from delict, such as privation of office, benefice, voice, place, etc., even if these have been reserved to the Roman Pontiff;[12] - 7) as regards all vows not reserved to the Pope; but reserved vows, if there is question of the vows of the three pilgrimages, they can irritate with professed members and suspend with novices, even if they themselves, or a predecessor, or a subaltern Superior, consented to their emission (cf. n. 638-640); - 8) as regards rules, in particular cases, unless dispensation has expressly been interdicted to them.[13]

4. It belongs to Superiors to ADMINISTER THE SACRAMENTS to any persons subject to themselves, or to see that they are administered; likewise, to approve confessors for their respective subjects, and to concede to them jurisdiction over the same, in the name of the Supreme Pontiff (cf. n. 1762-1763). - But these CONFESSORS, although they cannot absolve them, as formerly by privilege, from censures and cases specially or simply reserved to the Pope; nevertheless they can do this, with the special delegation of Prelate Superiors, by common law, insofar as Religious are impeded from going to Rome: according to what was said n. 1280, 3, and 1283. - Similarly the same confessors can absolve all their own, even novices, candidates, and familiars, from episcopal cases, unless there is question of a case brought before the contentious forum before their entrance[14] (cf. n. 1762).

5. Superiors General and Provincials can give dimissorial letters to their subjects, yet professed ones, so that they may receive ORDERS, even outside the times, with the interstices not observed, on Sundays and feast days of precept (even suppressed ones), even continuously (cf. n. 1910).[15]

6. Regulars, by force of personal exemption, are not bound to intervene in DIOCESAN SYNODS. Except Abbots who are not subject to general Chapters of the Order, and those Regulars who exercise the office of pastors or quasi-pastors.[16] Nor similarly are they bound to assist at conferences of cases of conscience, unless they exercise the care of souls (cf. n. 2254, end).

7. In administering TEMPORAL GOODS, male Regulars do not depend upon the Bishop.[17] - Hence, when an inheritance has been left to an Order with the burden of Masses, or of pious works to be fulfilled either within or outside the Order, the Bishop cannot inquire concerning their execution. And the same must be said concerning Masses, whether founded or manual, even in those churches of Regulars to which the care of souls is annexed[18] (cf. n. 1617, 1).

(7) Cf. Acta S. Sed., I, 98, where there is discussion of the Exemption conceded to the Passionist Fathers and to the Congregation of the Most Holy Redeemer. (8) H. A., XX, 106; Book I, 194. (9) Lehmkuhl, I, n. 165. (10) H. A., XX, 107. (11) H. A., XX, 104, 105; Book VII, 396. (12) H. A., ibid., 105, fin. (13) Book I, 194. (14) H. A., ibid., 95. (15) Book VI, 797, dub. 3; H. A., XX, 117; cf. Rotarius, Theol. mor. Regul., P. I, c. 2, p. 13, n. 7; Rossignoli, De Ord., P. I, q. 11, art. 8, n. 4; and Const. Greg. XIII Pium et utile, which Gregory XIV (Const. Illius qui) and Urban VIII (Const. Redemptoris nostri) extended. (16) H. A., ibid., 78; cf. Const. Romanos Pontifices, v. De officio. - Cf. Bouix, tom. II, p. 149; also the cited Const., v. Praecipuam. (17) H. A., XX, 81. (18) Cf. Benedict XIV, De Syn., lib. 13, cap. 25 (ult.), n. 5 and 6; and as regards alienation cf. Bizzarri, p. 331.

2188. ○ From these things you will resolve, FOR PRACTICE: the right of Regulars is composed with the right of pastors in the following manner.[19]

1. Regulars can, without the pastor being able to stand in the way, celebrate in churches at an hour that seems good to them, preach, announce the feasts, vigils, and fasts of the following week, and also distribute the Holy Eucharist on all days (Easter day excepted) (see also n. 677, 678).

2. Regulars, approved by the Bishop for confessions, can throughout the whole year, even in Paschal time, hear confessions of seculars, even of the sick. But after the confession of some sick person has been heard, they must notify the matter to the pastor at least by a writing left with the sick person: to which they can be constrained by the Bishop, under penalty of suspension from hearing confessions.

3. All the functions of Holy Week can freely be performed by Regulars in their own churches. Yet on Holy Saturday they cannot ring the bell before it is rung in the more dignified church, unless a contrary custom is in force, or unless the churches are very distant.

4. They can perform all blessings in their own churches: except the blessing of the baptismal font, and the nuptial blessing, and, where contrary custom or synodal statutes stand in the way, the blessing of women after childbirth.

5. Funeral Masses and burial, in the case in which someone has chosen it among Regulars, are not among parochial rights strictly so called. But the funeral fourth, or the candles lit at the exposition and association of the corpse, must be paid to the pastor in this case, unless a contrary custom is in force. But the bodies of the dead to be buried in cemeteries of Regulars must be carried by the direct path, and by the way to be declared by the pastor, to the churches of the Regulars themselves, but not first to the parish church, even if the heirs contradict. Thus the Sacred Congregation of Rites, 19 December 1671, in Savonen.[20]

6. Although processions generally cannot be made by Regulars and by Confraternities which have been erected in their churches outside the cloisters without license of the Bishop, nevertheless that license suffices without the consent of the pastor. Indeed, during the Octave of Corpus Christi, a procession can be made outside the limits of the Convent without the permission of the pastor or even of the Bishop being sought.

7. Strangers, even if they should fall into sickness among Regulars, cannot receive Paschal Communion, Viaticum, or Extreme Unction from them without the pastor's license; for only familiars and boarders of Regulars enjoy this privilege, as we said above (n. 2186). - And the same holds for obsequies (cf. n. 2193, end).[21]

(19) Cf. Konings, n. 1196. (20) Gardell., n. 2574. (21) Cf. Craisson, n. 611 sqq.

§ 2. What The Exemption Of Regulars Does Not Comprehend

2189. ○ In general, Regulars ARE SUBJECT to episcopal jurisdiction in their operation *ad extra*, and in the exercise of sacred ministry to be furnished to seculars. - But in particular let the following be NOTED:

1. As regards the erection of houses. Regulars cannot erect a regular house, or even a hospice broadly so called, or one which has a church or public oratory, unless with the consent of the Ordinary. Thus from Trent, sess. 25, de Regul., cap. 3. - Yet (in this our time) the consent of the pastor is not required, who has only the right that he be heard in certain cases, namely when his strict and exclusive rights would be injured. Nor similarly is the consent of other Religious required, unless the house is erected outside the city in the vicinity of Mendicant Friars.[22]

But by common law it is free for Regulars, even with the Ordinary unwilling, to abandon their houses and churches; and if they have built them from their own revenues or alms, freely to dispose of them (cf. n. 1353). - They can likewise, without new license, provided the rights of another are not injured, either return to their abandoned houses, or transfer a Convent into another place of the same land, or into its vicinity. Nor do they need any license for founding a hospice strictly so called, in which namely neither a church is built nor Masses are received.[23]

2. Concerning divine worship. 1) Regulars are bound to observe the Feasts and Interdicts of the diocese; - 2) to conform themselves to the statutes and ordinations of the Bishop concerning the celebration of Mass and the tax of the stipend; - 3) when asked personally by the Bishop, and not only by a public edict, to intervene in processions, they cannot refuse, unless they are exempt by privilege or by force of their rule, or unless they live perpetually in stricter enclosure; - 4) they cannot expose sacred Relics or an unusual Image in the church for public veneration without previous recognition or approbation of the Bishop; - 5) nor similarly can they (outside the Octave of Corpus Christi), unless by license of the Bishop or from legitimately prescribed usage, publicly expose the Most Holy Sacrament (i.e. with the Most Holy uncovered and the doors opened), or institute processions outside the circuit of the church.[24]

3. Concerning preaching. 1) In churches of Regulars, although approved by the Prelate of the Order, neither seculars nor Regulars of other Orders can preach unless after the license of the Ordinary has been sought and not expressly denied. - 2) In alien churches, they cannot

Regulars preach unless after license has been obtained, and, if it shall have seemed so to the Ordinary, after some moderate and discreet examination has been carried out. Yet the license of the pastor suffices, if they are staying only for a brief time in some place where the Bishop is not present. 3) The Bishop can suspend some Regular (but not all of some Convent, as regards preaching in their own churches), for "reasonable causes, although occult, yet concerning preaching," from preaching (Clement X, Const. *Superna*). - 4) If the Bishop himself is going to preach in some place, he can prohibit sermons from being had to the people at the same time in other churches, even those of Regulars; likewise, he can prohibit Regulars from preaching on some day, so that thus the whole people may come together in the cathedral.

Regulars cannot without license of the Ordinary 1) publish new indulgences; 2) commend to their hearers needy persons or families, unless there is danger in delay, or unless the church is quasi-parochial. - Moreover, they are forbidden publicly to reprove someone by expressing his name, and to preach concerning the determined time of the last judgment or of Antichrist, or to treat revelations of that sort.

It MUST BE ADVERTED: 1) The Ordinary cannot strictly command that Regulars who do not have the care of souls preach in their own churches, nor that they summon secular preachers or preachers of other Orders into their churches. 2) Likewise he cannot prohibit them from preaching in their own churches at the same hour at which a sermon is being had in the parish church, unless he himself is present at this sermon.[1]

4. Concerning the administration of the Sacraments. - 1) To hear confessions of the faithful, Regulars entirely need the approbation of the Ordinary (cf. n. 1746). - 2) They can indeed administer the Holy Eucharist in their own churches, except on Easter day, or even on Thursday in the Supper of the Lord, if the Bishop or custom (as in the kindly City) shall have so established; but, outside the case of custom, they cannot carry it publicly through the streets to the sick without license of the Bishop or pastor. But whether they can carry it secretly, in a case in which there is no question of Viaticum, is disputed. 3) It is strictly prohibited to them, and indeed under penalty of excommunication reserved to the Pope, to administer Viaticum and Extreme Unction without license of the pastor, outside the case of necessity[2] (cf. n. 1341). Yet for the favor of professed members, novices, and familiars, they can keep holy Oil in their own churches.
5. Concerning the care of souls and Confraternities. - 1) In those things which regard parochial or quasi-parochial care of souls, Regulars are subject to the jurisdiction, visitation, and correction of Bishops.[3] - 2) They cannot, without license of the Ordinary, erect Confraternities, except those which Generals of Orders erect by right conceded to them by the Supreme Pontiff. But Confraternities once erected are subject to the visitation of the Ordinary, to whom it also belongs to found, examine, correct, and renew their statutes, unless these have been confirmed by the Holy See or founded in the form of a contract.[4]

6. Concerning synodal Statutes. Regulars are bound by synodal Statutes: 1) as regards directive force, if their observance is necessary for avoiding scandal; - 2) as regards coercive force, if there is question of Feasts to be observed (the rite, however, excepted); or of Interdicts to be published and observed; of the celebration of Masses; of the first Communion of children; of exercising a non-exempt office, as of preacher, confessor, pastor.[5]

7. Concerning the coercive power of Bishops. - Regulars are subject to Bishops, as delegates of the Apostolic See, in the following: 1) In a cause of heresy, and in other matters belonging to the tribunal of the Holy Office. 2) If they gravely offend them, or impede their jurisdiction. 3) If they gravely offend in the preaching of the word of God, in hearing confessions, in the administration of the Sacraments, or in some matter pertaining to the enclosure of nuns. Likewise, if they admit pilgrim priests destitute of commendatory Letters to the celebration of Mass.[6] - 4) If they dwell outside the cloisters in a permanent manner (i.e. without license of the Superior, or in a place so distant that they cannot be punished by the Superior except after a long time), they can be visited and punished by the Bishop. - 5) If, while dwelling in the cloister (Superiors, however, are excepted), they perpetrate a notorious offense, with scandal of the people, they must be punished by their own Superior within the time to be defined by the Bishop. But if, after repeated admonition, they are not punished, the Bishop himself will be able to take measures against them (cf. n. 1260, 4).[7]

8. Concerning various rights. - 1) As regards the printing of books, Regulars, no otherwise than others, are subject to the Ordinary.[8] - 2) The Bishop can settle all controversies of precedence relative to processions and in conducting funerals, for that act.[9] - 3) Bishops can exercise Pontificals in churches of Regulars and use the baldachin. - 4) Without the consent of the Ordinary, it is licit for no one to exercise Pontificals in the said churches.[10]

(22) H. A., XX, 88; cf. Craisson, n. 2549-2566. (23) H. A., ibid., 89; cf. Salmant., tr. 18, cap. 3, n. 132 sqq.; cf. Konings, n. 1197 and 1205, IV. (24) H. A., XX, 75; Book VI, 424; cf. Konings, n. 1199 and 1201-1202. (1) H. A., XX, 124-128. (2) Ibid., 123. (3) H. A., XX, 79, where there are many things; cf. LEO XIII, cited Constit. Romanos Pontifices. (4) Cf. Craisson, n. 902-909 and 4656 sqq. (5) H. A., XX, 78. (6) Cf. De Angelis, lib. I, tit. 22, n. 3. (7) H. A., ibid., 82, 83. (8) Craisson, n. 593, 743. (9) Id., n. 641. (10) Cf. Konings, n. 1202. - See other things of lesser moment apud Craisson, n. 577 sqq.

2190. ∘ Questions. QUESTION 1. What power belongs to the Bishop over Religious who are NOT EXEMPT?

Resp. 1. The general principle is that the PERSONS and PLACES of any non-exempt Institute are subject, in all things, to the ordinary jurisdiction of the Bishop, unless the Rule approved by the Holy See, or special privileges obtained either directly or indirectly from the same Holy See, expressly establish some exceptions.

Resp. 2. In fact, there exists no approved Congregation of men which does not enjoy particular exemptions of this kind. But these exemptions generally regard all acts of internal economy, namely: nominations or elections of Superiors, admission and expulsion of Subjects, expenses and accounts, administration of goods, etc. Except if there is question of alienating immovables of not small value, or precious movables, apart from money; for in these things all Institutes, both of simple and of

solemn vows, depend upon the Sacred Congregation of the Council (or of Bishops and Regulars), as was said n. 1353.[vol2-0130-fn-10a]

QUESTION 2. What is the power of the Bishop over NUNS?

Resp. 1. If the nuns are exempt and immediately subject to the Holy See, the Bishop, as delegate of the Holy See, can and must, by himself or through another: 1) examine novices before profession, as was said above (n. 2149); 2) institute a canonical visitation once in the year; 3) preside over the election of the Superiorissa and receive the votes; but confirmation must then be sought from the Holy See itself; 4) exact each year an account of the administration of temporal goods; whence he can remove administrators, although he cannot constitute them[11] (cf. n. 2170, Note).

2. If the nuns are exempt and subject to Regular Prelates, he can likewise examine the novices before profession and watch over the administration of goods, as in the preceding case. But he cannot visit the monastery except by reason of enclosure, nor preside over the election of the Superiorissa except directively, only hearing the votes and recognizing them.[12] - The rest belongs to the Regular Prelates.

3. If the nuns are not exempt, he possesses full and ordinary authority over them, yet with the rules approved by the Holy See saved. Nevertheless, if, disseminated in different dioceses, they are subject to a general Superiorissa, each convent indeed depends upon the respective Ordinary as regards those things which are of episcopal jurisdiction; but not so as regards those things which are of mere economic administration, e.g. as regards elections and transfers of nuns from one house to another; for good order demands this for itself, that nuns in matters of this kind not depend upon the governance of ecclesiastical Superiors, but only upon the will of the general Superiorissa; nor does contrary custom seem to be reasonable.[13]

Here it must also be NOTED that it is generally not approved by the Holy See that some Bishop (or Priest) be Superior General of an Institute which is spread into other dioceses, lest the order of jurisdiction be disturbed.[vol2-0130-fn-13a]

(vol2-0130-fn-10a) Cf. Craisson, n. 2910 sqq.; cf. De Angelis, lib. 3, tit. 36, n. 4. (11) H. A., XIII, 22; Book IV, 49, where there are many things concerning the election of an Abbess. (12) Book IV, 5; likewise n. 36, where there are many things concerning the administration of the goods of a monastery. (13) Cf. Konings, n. 1189, 4. (vol2-0130-fn-13a) Cf. Bizzarri, append. I, p. 833 sqq.

Article III: On The Other Privileges Of Regulars

2191. ○ Regulars have from common law, either directly or by communication, the following FACULTIES:

1. "Generals and Provincials of Regulars can erect private ORATORIES in their Convents and Colleges, provided they are deputed only for divine worship; and in them, without another faculty of the Bishop or Supreme Pontiff, several Masses can be read on the same day, not only by Regulars, but also by secular presbyters";[14] likewise, in them "all the faithful can hear Mass and satisfy the precept of hearing the Sacred rite on feast days, because those oratories enjoy the privilege of a public oratory" (cf. n. 678, 1583, 1, 1627, 2185).

2. Regular Superiors, even local ones, can bless any vessels, vestments, and other things pertaining to divine worship, provided a sacred unction is not to be used; but only for their own churches and convents. Likewise, they can bless sacred places proper to themselves, namely their own churches, and their own oratories and cemeteries; and, if they have been polluted, reconcile them with blessed water mixed, according to the precept of the Roman Pontifical, with salt, ashes, and wine.[15] Yet it has been counseled that they never use this faculty when the Ordinary is unwilling, nor publicly.

3. Regulars can CELEBRATE Mass one hour before dawn (or about three hours before sunrise); indeed, when some just cause accedes, two hours after midnight, even in winter time; but only in their own churches, in which this is also licit for secular priests. Besides, from a privilege conceded by Eugene IV, they can celebrate three hours after noon.[16]

4. In time of Interdict Religious are privileged, as we saw n. 1307, II.

5. Regular Confessors, approved by the Bishop, have the faculty: - 1) of dispensing with seculars, whether within or outside confession, in all simple vows (the five reserved to the Pope excepted), provided the rights of a third party are not prejudiced; 2) of dispensing in all occult irregularities from delict, except voluntary homicide; - 3) of dispensing in the inability to celebrate which confessors soliciting to shameful things incur, and also priests abusing the sacrifice of the Mass for sorceries; - 4) of dispensing with spouses in the impediment of exacting the conjugal debt, which one of the spouses has contracted, whether from incest committed with an affine, or from a personal vow of chastity emitted before or after marriage; but special license from the Superior at least of the house must be sought for this.[17]

Will you ASK whether Regulars (or others possessing the same faculty) can dispense in oaths made to God, as also in vows? R. Authors dispute, and indeed probably on both sides. Whence St. Alphonsus concludes for practice: "The negative opinion must altogether be held; for the obligation of an oath already contracted, since it is certain and is in possession, cannot be taken away by a dispensation only probably valid."[18]

(14) Ferraris, v. Oratorium, 72, 75; cf. St. Alphonsus, Book III, 319, fin.; Book VI, 357, 424, v. Hic ultimo. (15) Cf. Ferraris, v. Benedicere, art. 1. (16) H. A., XX, 122. (17) H. A., XV, 104, 108, 109; Book VI, 987, 1076. (18) Book III, 190 (from the 6th ed.) and H. A., V, 43; according to these, other things previously written must be reformed, i.e. De Priv., n. 108; H. A., V, 19, 20; Conf. dir., V, 7, 12.

Chapter V: On Religious In A State Of Dispersion

2192. ○ Principles. I. It is certain that no juridical effect can arise from those dispersions or suppressions of religious families which the civil Power decrees without the consent of the Supreme Pontiff. The reason is that the religious state draws its origin from law, both divine and ecclesiastical. Therefore, it belongs to the Church alone to judge concerning affairs pertaining to it.[19]

II. The dispersion or suppression of religious families can bring it about that something is diminished in the obligations of the regular state, and that the use of privileges is interrupted for some time. This is established from various responses of the sacred Congregations, from which we judge it opportune to excerpt the following decisions.[20]

1. Vows among Religious dispersed by force remain in their perfect vigor. This is established from the Brief of Pius VI to the Bishop of Brunn, the day before the Ides of April, 1782, and from the response of the Sacred Penitentiary, 18 April 1867.[21]
2. Remaining bound by the vow of poverty, dispersed Religious cannot possess goods in their own name, accumulate monies,

spend expenses upon useless things, nor make testaments (but see n. 2176).

3. As regards the vow of Obedience, the Sacred Penitentiary, 18 April 1867, declared to all Regular Superiors: "their jurisdiction over their own suppressed subjects, even those dwelling outside the cloisters, has by no means ceased. For although each Regular dwelling outside the cloisters, as regards polity and ecclesiastical discipline, is not exempt from the jurisdiction of the Ordinary of the place in which he dwells: nevertheless, as regards regular discipline and the obligations which flow from religious profession and are compatible with his new state, he is subject to his own Superiors and is bound to obey them."[1] - If he dwells outside his own Province, he is subject both to the local Superior and to the Provincial in whose territory he is staying. Thus from the decree of the Sacred Congregation ON REGULAR DISCIPLINE, 5 Aug. 1872.[2]
4. "Care must be taken that Regulars expelled from their own houses, insofar as they cannot be received into another monastery, come together into some particular house to be designated by their Superiors; and there they must not omit to observe the rule which they have professed, in the better manner in which it can be done, with prohibition made to each one of departing without due license." Thus the Sacred Penitentiary, 18 April 1867.[3]

Note. An indult of secularization, or license of dwelling in the world for a time or in perpetuity, from a just cause, e.g. for assisting parents, for caring for one's own health, etc., is sometimes conceded by the Sacred Congregation of BISHOPS AND REGULARS. But ordinarily it is required that the Religious observe the substantial things of the vows compatible with the new state, that (having been provided with a suitable patrimony, if he is a priest) he live under the obedience of the Ordinary of the place even by force of the religious vow, and that he continually wear some trace of the religious habit. Hence, if he has been solemnly professed, he cannot (without another special Indult) make a testament; and when he has died, the pensions or goods which he was holding belong by right of spoils not to his heirs or legatees (unless by permission of the Holy See), but to his Order or to the Holy Camera: to the Order, if he had been restored to the world for a time; to the Camera of spoils, if in perpetuity.[4] Thus Pius VIII, 26 June 1829.[5]

For the whole time of the Indult, such a Religious must confess before a Confessor approved by the Ordinary of the place, by whom nevertheless he can be absolved even from censures and cases reserved in his own Order, if they are by no means reserved in the Diocese. Thus PIUS IX, 27 Aug. 1852.[6]

(19) Cf. Bouix, De Jure Regul., tom. I, p. 354 sqq. (20) Cf. Acta S. Sed., III, 151 sqq.; G. a Varceno, t. II, append. IV, where there are various Responses and Indults. (21) Cf. Pius VI, Acta, tom. I, p. 46. (1) Acta S. Sed., III, 152, n. 2. (2) Ibid., VII, 407. (3) Ibid., III, 152, n. 1. (4) Cf. Monit. eccles., vol. IV, P. I, p. 33, where there is the formula of the Indult. (5) Apud Bizzarri, Collect., p. 76. (6) Monit. eccles., loc. cit., p. 37.

2193. ○ IT IS ASKED. Whether Religious DISPERSED by force enjoy all the PRIVILEGES of their own Religion?

Resp. 1. If several live together IN COMMUNITY and form a family, although an imperfect one, they retain all the rights and privileges of Regulars. - And hence it is that the Sacred PENITENTIARY, on 18 April 1867, declared: 1. "that houses, provided at least three Regulars have come together into them to dwell there, of whom at least one is a priest, will be subject to the jurisdiction of the Provincial Minister, and must be governed through a particular Superior to be constituted there. - 2. In houses, provided at least four Regular priests dwell in them, a private oratory can be erected, with those things being observed which must by law be observed, first to be visited and approved by the Provincial Minister..., in such a way that in it Mass can be celebrated by Regular priests, the Most Holy Eucharist reserved, and Holy Communion received by Religious and Oblates only, and the precept of hearing the Sacred rite satisfied. - 3. The Apostolic See grants besides that in Oratories so erected the Regulars themselves can enjoy all Indulgences conceded to the churches of their own Order."[7]

Resp. 2. Dispersed Regulars who live SEPARATELY in their own houses retain only personal privileges conceded to Religious, but not real privileges; because the subject of these privileges no longer exists. And hence it is, e.g., that, short of a special Indult of the Bishop, they are subject to the pastors of places as regards Paschal Communion, as regards the last Sacraments, and as regards funeral right.[8]

Response of the Sacred Congregation of BISHOPS AND REGULARS. - Whether and to whom belongs, in the case, the right of funerals as regards Religious dispersed by force of present circumstances? - R. The Sacred Congregation, on 11 March 1881 (in Casertana), responded: "Affirmatively in favor of Regulars, whenever Religious live together under a legitimate Superior at least in the number of three, and others dwelling outside depend upon the same; otherwise, in favor of pastors."[9]

(7) Acta S. Sed., ibid., n. 3-5. (8) Cf. ibid., I, 168; V, 569; VII, 147. (9) From an authentic copy; cf. Nouv. rev. théol., t. XIII, p. 571.

Scholium.

On The Condition Of Nuns In France.

2194. ○ Concerning the actual state of Nuns in France we shall note these few things:[10]

1. Today, in France (Savoy excepted), in Belgium, and in the other places where the same Code of civil laws is in force, the vows of nuns are not held as solemn, as has several times been responded by the Sacred Congregation of BISHOPS AND REGULARS and by the Sacred PENITENTIARY.[11] - Yet this does not run as regards men, who can still emit solemn vows in those regions: as is established from the authentic testimony of GREGORY XVI as regards the Religious of St. Benedict of Solesmes.
2. Papal enclosure does not exist in the same regions, nor therefore do transgressors incur the canonical penalties established by St. PIUS V and renewed by PIUS IX. - Nevertheless, the law of enclosure in monasteries in which, by force of the Constitutions, it ought to exist, cannot be

cast off without fault of itself mortal; because thus it seems to be commonly apprehended, and Bishops are judged to wish to oblige thus, since this discipline has always been held as supremely necessary. Thus Bouvier.[12]

3. The obligation of the Divine Office does not press, for the aforesaid nuns, from a law of the Church; but only from the respective Constitutions of the Orders, which generally do not oblige under grave sin. - Thus the Sacred PENITENTIARY to the Bishop of Perigueux, 26 Nov. 1852.[13]

4. As regards entrance into Religion, "the vow of a woman whose intention had regard to monasteries as they now exist in France is not reserved; namely because the same monasteries, by the Apostolic Holy See, with attention given to the peculiar circumstances, are not regarded as Orders truly and properly religious, but as families of very pious women." Thus the Sacred PENITENTIARY to the Bishop of Le Mans, 23 Dec. 1835.[14]

5. To the same Bishop asking "whether the Ordinary can DISPENSE concerning vows emitted by nuns, a sufficient reason having been given, with the vow of perpetual chastity remaining," - it was responded: "From the declaration of His Holiness, Bishops of France, while things stand thus, can dispense."[15]

But it must be adverted: 1) this Indult has regard only to Institutes in which formerly solemn vows were emitted, say the Order of the Visitation of the Blessed Virgin Mary; but not to Congregations in which simple vows are emitted from a law of the Institute approved by the Holy See; nor to nuns who emit vows accepted by a third party, or a vow of perseverance or stability (cf. n. 2175, 3). - 2) It is not customary for an absolute dispensation concerning the simple vow of perpetual chastity to be conceded by the Holy See; but only a commutation mixed with dispensation: especially under this condition, that if the woman survives her husband, she cannot enter other nuptials without a new commutation of the Holy See[16] (cf. n. 2176).

6. In some Institutes SIMPLE VOWS (the vow of chastity not excepted) are so emitted that they endure as long as the professed woman shall have remained in the Institute: in which case the vows of those who either depart spontaneously or are dismissed by Superiors cease without any dispensation. - Yet generally "in Congregations of women it is by no means in use that simple vows are perpetual on the part of those vowing and are dissolved on the part of the Institute. Rather, vows are customarily emitted first for a time, and then perpetual, for whose dispensation recourse must be had to the Apostolic See."[17]

"But it is established that the Sisters or girls of Charity, instituted by St. Vincent de Paul, pronounce only simple vows, whose obligation is not extended beyond a year; so that, if they wish to remain in the Congregation, they must renew the same vows each year when the time of the Chapter recurs: and this practice, while it opens to each one the liberty of deserting the Congregation, also leaves to Superiors the liberty of dismissing sisters giving bad examples and the unteachable, by which it happens that the individual Sisters are more easily contained in duty."[18]

(10) Cf. Gury, II, n. 177. (11) Cf. Bizzarri, p. 94 and 503. (12) De 2 Praec. Decal., at the end. (13) Gury, l.c., n. 183; cf. Bizzarri, p. 77, Lugdunen. (14) Bizzarri, p. 505. (15) Ibid. (16) Ibid., p. 505, fin. (17) Ibid., p. 843, XIII, Animadvers. 4. (18) Ibid., p. 456, in Gandaven; cf. Meynard, Réponses canon., P. I, Liv. 2, where there are many things useful for practice.

Treatise II: On The Clerical State

2195. ○ What the nature of the clerical State is and what its origin is has been set forth above, in the Treatise on Order (n. 1885 sqq.), where we saw that it was instituted partly divinely and partly canonically. It remains, therefore, that we discuss the Obligations of CLERICS, both by reason of state, - and by reason of benefice, if they possess any, - and by reason of sacred office.

Chapter I: On The Obligations Of Clerics By Reason Of State

The obligations by which Clerics are held by reason of STATE can conveniently be reduced to these TWO, namely: 1. that they perform all things which are specially prescribed to them; 2. that they avoid those things which are forbidden to them.

Article I: On Those Things Which Are Prescribed To Clerics

2196. ○ To Clerics are prescribed: 1. Holiness of life; 2. Celibacy; 3. Recitation of the canonical Hours; 4. Wearing of the habit and tonsure.

§ 1. On Holiness Of Life

"Whoever professes some state," says St. Thomas,[19] "is held to those things which befit that state." From which, for the clerical state, the following are deduced:

(19) 2.2, q. 186, a. 2, in princ.

Principles. I. Clerics are held, in a peculiar manner, to HOLINESS OF LIFE. This is proved 1) from several places of Sacred Scripture, and especially from the Epistles to Timothy and Titus, in which the Apostle is wholly intent on this, that he impel both priests and Bishops of the New Law, and the ministers of priests, i.e. deacons, to the pursuit of virtue and holiness. - 2) From the doctrine of the Holy Fathers, who everywhere affirm this primary obligation of clerics and gravely exhort them to it.[20] "For the suitable execution of Orders" (says St. Thomas, resuming the common doctrine of ecclesiastical writers on this matter), "not just any goodness suffices, but excellent goodness is required: so that, just as those who receive Order are placed above the people by the grade of Order, so also they may be superior in merit of holiness."[21] - 3) From very many Councils, and especially from these words of Trent:[22] "It is wholly fitting that clerics called into the lot of the Lord so compose their whole life and morals that in habit, gesture, gait, speech, and all other things they show forth nothing except what is grave, moderated, and full of religion." - The same is evinced from what was said concerning the one to be Ordained (n. 1912 sqq.).

(20) See the principal testimonies of the Fathers apud St. Alph., Selva, P. 1, c. 2. (21) Suppl., q. 35, a. 1, ad 3. (22) Sess. 22, cap. 1, de Ref.

2197. ○ II. Clerics IN SACRED ORDERS are held to a holiness SO MUCH GREATER as the GRADE of the sacred hierarchy in which they are placed is higher. - The reason is taken both from the excellence of the office which they perform, by ministering at the altar and praying for the people; and especially from the necessity in which they daily are placed of

preaching the divine word and ministering the Sacraments. Whence St. Thomas:[23] "Because through sacred Order someone is deputed to the most worthy ministries, by which Christ Himself is served in the Sacrament of the altar: for this, a greater interior holiness is required than even the state of Religion requires. Whence, other things being equal, a cleric constituted in sacred Orders sins more gravely if he does something contrary to holiness than some Religious who does not have sacred Order."

(23) 2.2, q. 184, a. 8.

2198. ○ Note. Clerics and priests, who before Ordination are already supposed to have reached some grade of perfection, are bound to use those means by which holiness already acquired can be preserved and can take on new increase. Among these means the following in the first place are commended by St. Alphonsus: 1. A life so stably ordered that each thing may be done in its own time. - 2. Frequent prayer, both vocal and mental, especially before and after the celebration of Mass. - 3. Spiritual reading, and this daily, especially in the Lives of the Saints. - 4. Study of sacred theology, and especially of moral theology. - 5. Daily visitation of the Most Holy Sacrament and of the Blessed Virgin Mary. - 6. Daily examination of conscience and frequent confession. - 7. Guard of the senses and flight from conversation with seculars. - 8. Annual celebration of spiritual exercises for a full week, and monthly for one day. - 9. Pious and constant devotion toward the Blessed Virgin, which effectively impels to this, that fervent prayers be recited daily to Her with the third part of the Rosary, and that every Saturday some act of mortification be exercised in Her honor.[24]

(24) Cf. Regolam. di vita per un sacerd. secol. (Edit. Turin, tom. 3, p. 859).

§ 2. On Ecclesiastical Celibacy

2199. ○ For the holiness of Clerics and Priests, inviolable chastity of the body is required before all things. Hence the following:

Principles. I. The obligation of observing PERPETUAL CELIBACY is contracted, *ipso facto*, by all who receive SACRED ORDERS. This is established from various decrees of canon law; and notably from can. 1, dist. 28, where St. Gregory prescribed thus: "Let Bishops presume to make no Subdeacon except one who has promised that he will live chastely: because no one ought to approach the ministry of the altar unless his chastity has been approved before the ministry received." Likewise from Trent, sess. 24, can. 9, where this was defined: "If anyone shall say that Clerics constituted in sacred Orders, or Regulars solemnly professing chastity, can contract marriage, and that the contract is valid, notwithstanding ecclesiastical law or vow: let him be anathema"[1] (cf. n. 2013).

(1) Book VI, 806.

2200. ○ II. The obligation of ecclesiastical celibacy is not of divine law; but arises from the LAW OF THE CHURCH prescribing chastity, and the vow of chastity.[2] The reason of the former is "because, although celibacy had its origin from the Apostles, as the Doctors prove, nevertheless only from a precept of the Church or of the Apostles (as Bellarmine proves) was it introduced and established, as is clear from the very words of Trent."[3] -

The reason of the latter is taken chiefly from the Law,[4] where it is said: "We therefore, attending to the fact that the Oriental Church has not admitted the vow of continence."

But among the GREEKS, with the Church tolerating it, even to the present times there is in force canon 13 of the Trullan Council, which indeed against the institutes of the Elders permitted that deacons and presbyters can licitly come together with the wives whom they took BEFORE Ordination; meanwhile, however, those two edicts being preserved in their pristine integrity, by one of which it is prescribed that Bishops live in perpetual celibacy, and by the other that, after sacred Orders have been received, it is no longer licit for clerics to contract nuptials.[5] - Whence it happens that SACRED ORDER is among the Greeks, as among the Latins, a diriment impediment of contracting marriage; but the use of marriage (if married men have been ordained) is gravely illicit only to Bishops, while among the Latins it is gravely illicit to all clerics constituted in Sacred Orders (recall what was said n. 1939, 2, and 2013).

(2) Ibid., 807, and Exam. Ordin., n. 59. (3) Cap. Cum olim, 6, de cleric. conjug.; cf. Gury-Cretoni, tom. 2, p. 638. (4) Cf. St. Alphonsus in Trid. sess. 23, n. 40-54. (5) Cf. Eminent Card. Pitra, Jur. eccl. graecorum historia et monum., tom. 2, p. 30.

2201. ○ Will you ASK whether the obligation of celibacy arises immediately from the precept of the Church, or mediately, namely from the vow which is emitted in Ordination itself? - R. Both opinions, according to St. Alphonsus, are probable; but the second, which says that this obligation arises from a vow, is more common and more probable. For this is expressly said in various chapters of canon law; and moreover, if the obligation were from the law of the Church alone, the Supreme Pontiff could release all priests from it: which is against the common opinion of the Doctors.[6]

From these things you will resolve: 1. The Church can dispense in the vow of continence annexed to sacred Orders, as in all other vows.[7] Yet it never dispenses with those constituted in Sacred Orders except under this condition, that the dispensed be altogether removed from clerical offices.[8]

2. If someone, in receiving Order, expressly did not wish to vow chastity, he would nevertheless be held to celibacy: not indeed by force of the vow, which he did not emit; but by force of the precept of the Church, which would bind him to chastity from a motive of religion when the vow is lacking.[9]

3. If someone were ordained before the use of reason, certainly he would not be held to celibacy. But whether one Ordained before puberty would be held is disputed probably on both sides.[10]

4. If someone is ordained through extrinsic fear unjustly inflicted, and does not have the intention of receiving Order, he is not validly ordained, nor is he held to chastity or to the Breviary. Indeed, even if from fear he consented to Ordination, it is more probable that he is not held to the burdens; because his vow is more probably to be judged invalid. Nevertheless, it is expedient that one so Ordained seek dispensation, if he does not wish to exercise the Order but to enter marriage. But he would be held if the fear had been justly inflicted, or if the Ordained man knowingly ratified his ordination, e.g. by spontaneously exercising the Order.[11]

(6) Book VI, 808; cf. Konings, n. 1085. (7) Book VI, 807. (8) Cf. Acta S. Sed., I, 221; II, 443; VI, 85. (9) Book VI, 809, dub. 2. (10) Ibid., 810. (11) Exam. Ord., n. 59; cf. De Angelis, lib. 1, tit. 11, n. 8.

2202. ○ Note. The law of celibacy is most fitting to the clerical state, and morally necessary to the end of the Church. - The reasons are: 1) The holiness and dignity of the Eucharistic Sacrifice and of the other mysteries, which are to be handled by ministers of the altar. - 2) The office of teaching and exhorting: for a married priest cannot with perfect authority and efficacy teach the most holy truths of the Gospel, and especially opportunely exhort virgins and widows to continence. - 3) The administration of the Sacraments; for how could the Christian faithful, unless sacred ministers excelled in the vigor of chastity, be induced to open candidly to them the secrets of their consciences, and how would they show to the Sacraments themselves that highest reverence which they merit? - 4) Care of the sick, and generally ministries of charity; for souls empty of carnal cares and affections, and full of the spirit of Christ, pour themselves out into charity and into most abundant beneficence, as is everywhere established from the works of Catholic charity.[12] - See more among the dogmatic Authors, or Canonists.

(12) St. Alphonsus in Trid. sess. 23, n. 40 sqq.; Scavini, lib. III, n. 598.

§ 3. On The Canonical Hours

2203. ○ The CANONICAL HOURS are vocal prayers instituted by the Church and, from her precept, to be paid to God by persons deputed to this.

They are customarily called by various names. They are called the Breviary, either because they briefly commemorate the oracles of the Scriptures, the sayings of the Fathers, and the deeds of the Saints; or because they are a compendium of the longer prayers which in ancient times had to be recited. - They are also called: the ecclesiastical Office, because they are paid in the name of the Church; the canonical Office, because they must be paid according to the rules of the canons; the divine Office, because they have been instituted for the honor and worship of God.

The canonical Hours are numbered SEVEN, namely: Matins with Lauds, Prime, Terce, Sext, None, Vespers, and Compline. - Matins with Lauds and Vespers are called the MAJOR HOURS, the others MINOR or little HOURS.

The canonical Hours, as regards substance, repeat their ORIGIN from the very times of the Apostles, as is established from Acts of the Apostles 2:42, and more manifestly from the Apostolic Constitutions, lib. 8, can. 34, where these things prescribed to Clerics are read: "Make prayers in the morning, at the third hour, sixth, and ninth, and in the evening and at cockcrow."[13] But as regards the FORM in which they are recited today, it must be said that the canonical Hours are the work of the Roman Pontiffs: first (in the fourth century), St. Damasus, using for this the work of St. Jerome; then (in the fifth century), Gelasius in the Roman Council; then (in the sixth century), St. Gregory the Great; then (in the thirteenth century), Gregory IX, who reduced them into a briefer form; afterward (in the sixteenth century), St. Pius V; then (in the seventeenth century), Clement VIII and Urban VIII;[14] and finally (in our times), Leo XIII.[15]

With these things having been premised, there must be explained: 1. what is the obligation (whether for Clerics, or also for Religious) of reciting the canonical Hours; 2. in what form and manner they must be recited; 3. what are the causes excusing from recitation.

(13) Book IV, 141. (14) Cf. Thomassin, Vetus et N. Eccl. Disc., P. 4, lib. 1, cap. 40 (al. P. 1, L. 2, c. 84, n. 11, 12, 13). (15) Cf. Brief, 28 July 1882.

I. - On The Obligation Of Reciting The Canonical Hours.

2204. ○ Principles. I. The OBLIGATION of reciting the canonical Hours arises FROM A THREEFOLD title, namely: from the title of sacred Order, from the title of ecclesiastical Benefice, and from the title of Religion bound to choir. Thus all.

1. From the title of ORDER, Clerics constituted in Sacred Orders are bound, even those suspended and excommunicated. "For," says Benedict XIV,[16] "the daily task of the canonical Hours coheres with sacred Order; and the more common opinion of theologians teaches that it was received by ancient tradition and placed in custom by immemorial usage."

This obligation begins from the Hour corresponding to the hour at which the subdiaconate was conferred; whence, if the Order is conferred at the eleventh hour in the morning, the obligation begins from Sext.[17]

2. From the title of BENEFICE, all beneficiaries are bound, even if only tonsured, provided they have a right in the thing or full possession of the benefice: which must not be too slight (i.e. which reaches at least a third part of support), and from which they receive or will receive fruits.[18] Thus from the decree of the Fifth Lateran Council, declaring: "We establish that anyone having a benefice, if after six months, the benefice having been obtained, he has not said the divine Office, does not make the fruits his own, in proportion to the omission." But he who, after admonition, continues to omit the recitation of the Office can also be deprived of the benefice. - St. Pius V decreed besides, in the Constitution *Ex proximo*, that he who omits Matins restore half the part of the fruits corresponding to that day; he who omits the other Hours, the other half; but he who omits only one of the little Hours, a sixth part. - And the same must be said if someone, through several light omissions during the Office of the day, reaches grave matter. - Nor is one omitting the Office on one day excused from restitution if he supplies on another.[19]

But this restitution must be made before every sentence; because recitation is absolutely necessary for gaining the fruits. - Further, it must be made to the poor, or to the fabric of the church, or to the house of the benefice, or for increasing its fields. Similarly, it can be applied to Masses for the dead; because souls in purgatory are truly poor.[20] Nor can it be supplied by any alms which the beneficiary previously made from the fruits of his benefice, as is established from proposition 33 condemned by Alexander VII. But if someone after the omission has given alms, being either forgetful or perhaps ignorant of the restitution to be made, he can probably compute them.[21]

It is said in the decree: after six months; from which it follows that a beneficiary who neglects the Office during the first six months indeed sins gravely against religion, but not against justice, and therefore is not held to restitution.[22]

Will you ASK whether a beneficiary ought to restore ALL THE FRUITS according to the Offices which he omitted? - R. A simple beneficiary, who has only the burden of wearing the habit and tonsure, must restore all the fruits. But other beneficiaries are held to restore only those fruits which

correspond to the burden of the Office. "The reason is both because the bull of St. PIUS V has been received thus and has been explained thus by usage, as being more conformable to natural equity; and because it seems harsh that Bishops, pastors, and chaplains, who bear other burdens, should be obliged in the same manner as simple beneficiaries. Therefore they say that a Bishop or pastor is held to restore a third or a fourth (or, as others think, a fifth) part of the fruits, retaining the others for the other burdens which they satisfy; - Canons, half the part (and, according to some, only a fourth); those having a chaplaincy, half or a third part (for a chaplain is held to the Office, since any chaplaincy to be conferred by a Bishop, and erected by his authority, is truly a benefice, even if it is removable at will; otherwise, if it is not erected by authority of the Bishop, although it is conferred by him). The reason is that all these receive fruits not only for the Office, but also for other burdens."[23]

3. From the title of RELIGION assigned to choir, all Regulars solemnly professed who come under the name of Choristers, although they have not been promoted to Orders nor are to be promoted to them, are bound under grave sin to the canonical Hours, whether publicly in choir or privately.

This obligation arises from custom already prescribed and having the force of law among Regulars assigned to choir. But the obligatory force of this custom is established both from the fact that it has been constantly observed by Regulars and by Nuns and with great inconvenience, and from the fact that Prelates have always gravely reprehended transgressors. But if, says St. Alphonsus, in some Religion it were established that there is no such custom, such an obligation would not be in it.[24]

It was asked: "Whether Professed of simple vows, which must be premised to the profession of solemn vows according to the encyclical letters given on 19 March 1857, are held to the divine Office?" And the Sacred Congregation on the State of Regulars, at the command of Pius IX, responded, on 6 August 1858: "that they are not held to private recitation, but nevertheless must be present at Choir as those solemnly Professed."[25]

(16) Const. Eo quamvis tempore, § 43, 4 May 1745 (cf. Cap. Dolentes, de celebratione Missar.). (17) Book IV, 140; Exam. Ord., n. 61. (18) Book III, 674; Exam. Ord., 67. (19) Exam. Ord., 61; Book III, 663, 667; cf. 1 El. qq. ref., n. 27, 28, 29. (20) Book III, 672. (21) Book IV, 153; Exam. Ord., 62, 63. (22) Book IV, 145, fin. (23) Book III, 673. (24) Book IV, 142. (25) Cf. Bizzarri, p. 908.

2205. ○ St. Alphonsus further adverts:[26] 1. "No individual Religious or Nun is held under grave sin to say the Hours in choir, provided, however, that the choir is not taken away.... But paucity of religious excuses the whole Community from choir. Therefore, unless there are present at least four available ones (i.e. neither sick nor legitimately occupied), there is no obligation of choir."

2. Prelates sin gravely if from negligence they permit a notable part of the Office to be omitted in choir; because they are bound to protect and preserve regular observance.[27]

3. Religious dwelling with permission outside the cloisters are held to the Office; likewise, if they are fugitives, or imprisoned. - But otherwise, if they have been ejected, or condemned to the galleys.[1]

4. Lay brothers ought, from the prescription of the Rule, to recite certain prayers, but not under grave obligation.

(26) Book IV, 143. (27) Ibid., 143; Exam. Ord., n. 61. (1) Book IV, 142.

2206. ○ II. The obligation of reciting the canonical Hours is so GRAVE that everyone upon whom this duty is incumbent sins gravely if, without legitimate cause, he omits the whole Office of one day, or a notable part of it. The reason is because he violates a precept in grave matter, namely in matter which pertains to the most excellent virtue of religion. - Yet this omission, according to the truer opinion, is not a sevenfold sin, but only one. "But if someone omitted several Hours from intentions morally interrupted, then he would commit several sins."[2] (cf. n. 328, Rule 32; n. 331, 3).

Furthermore, in assigning what is that notable part whose omission would be a mortal sin, there is not one opinion of all theologians. - As far as St. Alphonsus is concerned, having rejected as improbable the opinion of those who affirm that the omission of one whole little Hour is light matter, he embraces the opinion of Sanchez, who says that the matter is light whenever it does not reach the quantity of one entire little Hour. Hence it is probable that he does not sin gravely who omits all Vespers of Holy Saturday. But he sins gravely who omits one entire Nocturn, or even three Lessons with the responsories, if they are such that they equal a little Hour. - But neither would he be excused from mortal sin who recited only very little from a little Hour.[3]

(2) Ibid., 148; Exam. Ordin., n. 69. (3) Book IV, 147.

2207. ○ Two things here come TO BE NOTED: 1. There is a grave obligation of reciting the Office of the Dead on the day of the Commemoration of all the dead; likewise, of reciting the Litanies on the feast-day of St. Mark and during the three days of Rogations.[4] - 2. Today there is no obligation to recite, on the days assigned in any month, the little Office of the Blessed Virgin Mary, the Office of the Dead, the penitential Psalms, or the Gradual Psalms. Except if a custom of reciting them flourishes somewhere: which, however, does not oblige the individuals outside choir, but only the Community. Thus the Sacred Congregation of Rites, 10 January 1609.[5]

It is ASKED. What in DOUBT whether something from the Office has been OMITTED?

Resp. 1. In a STRICT doubt (i.e. negative, or positive and probable on both sides) the part about which you doubt certainly must be recited. Except if an equitable interpretation of the law, or a circumstance of fact, furnishes a legitimate excuse. Thus "the scrupulous are not to be obliged to repeat, because in these persons, for the most part, doubts are not true doubts, but empty apprehensions."

Resp. 2. In a BROAD doubt, i.e. if you have either a unique probability, as often happens, or another founded presumption that you have omitted nothing, you are not held to repeat. "Whence the Authors teach that you are well excused from repeating if you do not remember that you said something, and you have a just conjecture for believing that you said it; for example, if you remember that you began a psalm, a lesson, or an Hour, and afterward, not distracted on purpose, or not interrupted, you find yourself at the end of the Hour, reading or reciting by memory those things in which ordinarily you are not accustomed to err." - Likewise, "if ordinarily you are not accustomed to say a later Hour except after the prior one, you can prudently believe that you have omitted nothing"[6] (cf. n. 50 and 98, 2).

(4) Ibid., 161; Exam. Ordin., n. 72; Conf. dir., XVI, 21; cf. Acta S. S., XIII, p. 429. (5) Gardellini, n. 401. (6) Book IV, 150, with 2 Elench. qq. ref., n. 1.

II. - On The Form And Manner Of Reciting.

2208. ○ The canonical Hours must be RECITED: 1. according to the prescribed form; 2. according to the due order; 3. at a suitable time and place; 4. vocally, integrally, and continuously; 5. attentively and devoutly.

Now concerning each, several things.

I. The canonical Hours must be recited ACCORDING TO THE FORM PRESCRIBED by the Church; whence:

1. The GENERAL FORM must be observed by all, according to the Constitution *Quod a nobis* of St. PIUS V, given on 7 July 1568, by which the Roman Breviary is prescribed for the whole Latin Church, and all other Breviaries are abolished, unless by institution or legitimate custom they precede by 200 years. Indeed, in the other Constitution *Ex proximo*, the Pontiff declares that those obliged to the Hours will not satisfy their duty if they use another Breviary, and therefore that Beneficiaries do not make their fruits their own. (Except if a legitimate dispensation is added.)[7]
2. The SPECIAL FORM of one's own Calendar or Directory must be observed, so that the Office is recited on any given day as it is prescribed there, even if the error seemed manifest, e.g. as regards the transfer of some Feast: according to the decision of the Sacred Congregation of Rites, 23 May 1835,[8] in Namurcen.

But in composing the proper Calendars of dioceses, the decree of the Sacred Congregation of Rites approved by URBAN VIII must absolutely be observed: where the Ordinaries of places, both secular and Regular, are forbidden, by their own authority, to change the rite placed in the Roman Calendar or Rubrics of the Breviary into a higher rite, or to extend Offices conceded for one place to another place.[9] - Likewise, proper Offices approved by the Sacred Congregation of Rites for some diocese or for a religious Order obtain the force of law, although they have the character of a privilege. Moreover, particular Offices granted only in a permissive manner become obligatory if they have once been received by use (Sacred Congregation of Rites, 2 May 1801).

(7) Cf. Gury, II, 56; and Bouix, de jure liturg., P. 4, c. 2, § 4. (8) Gardell., n. 4746, to 2. (9) Cf. Gardellini, n. 4501, to 6 (in Corduben., S. C. R., 20 September and 12 November 1806); cf. Carpo, Kalendar. perpetuum, p. 134.

2209. ○ Note. 1. Regulars dwelling outside the monastery are held to the Breviary of their Order; but if they are assigned to choir and are staying in another Convent of their Order, they ought to follow the Office of that Convent; "because everywhere they are held to be present in choir."[10] - 2. Canons and Beneficiaries are held to the Office of their own Church, even if they are absent from it. Likewise Masters and students dwelling in a Seminary are held to the Office of the Church attached to the Seminary, although they celebrate Mass elsewhere.[11] - 3. Clerics who are not beneficiaries, if they are absent from their own diocese, can conform themselves to the Office of the place where they are newcomers; but they are by no means held to this. Indeed, it is also preferable that one's

own Office be retained, lest confusion arise. (Sacred Congregation of Rites, 12 November 1831, Marsorum, to 50.)[12]

(10) Gardell., n. 1575 (S. R. C., 15 December 1646). (11) Ibid., n. 5145 (S. R. C., 7 September 1850). (12) Ibid., n. 4669; Book IV, 161, q. 3.

2210. ○ II. The canonical Hours must be recited both according to the order of OFFICES and according to the order of HOURS.

A) The ORDER OF OFFICES is found either in the Calendar of Feasts of each diocese or Religion, or in the Rubrics for their transfer, where several concur at the same time. He who knowingly and without reasonable cause changes this order, by reciting for the Office of the day another Office, sins, according to the diversity of Offices, either gravely or lightly: he sins gravely if he recites a notably shorter Office, as is established from proposition 34 condemned by Alexander VII: "On Palm Sunday one reciting the paschal Office satisfies the precept"; but he sins lightly if he changes the Office into an equal or almost equal one; because he satisfies the obligation as to substance; provided, St. Alphonsus adds, that this is done rarely.[13]

But the exchange is devoid of every sin if it is made on account of a reasonable cause, for example if someone cannot easily have the proper Office, or if he recites another approved Office with a companion; "because the very association excuses, provided the Office is not notably shorter."[14] And thus Chaplains and table-companions of Cardinals or Bishops can conform themselves to them in the Office. The same must be said of those who undergo spiritual exercises among Religious. But otherwise, concerning the Chaplain of Nuns, from the Decree of the Sacred Congregation of Rites, 21 March 1795.[15]

It is ASKED. What ought he to do who notices that he has ERRED in the Office?

Resp. 1. If he notices the error after the complete recitation, he is not held to repeat; because the Church is not presumed to wish to oblige someone on one day twice to this burden. - Hence the common axiom: Office for Office. Nevertheless, if the Office had been notably shorter, he ought to supply the defect: e.g. if in place of the Office of a Sunday he had recited the Office of a Saint, he ought to add nine Psalms, taking them from the first Nocturn.

Resp. 2. If he notices the error after a recitation not complete, e.g. after Matins has been recited, he can either continue, or recite the rest from the prescribed Office. This latter is to be preferred, according to that: An error is corrected where it is detected.[16]

Resp. 3. He who has erred cannot, on the day on which the Office already recited occurs, say the omitted Office; but he ought to recite again the one recited, so that thus he may conform himself to others. Nor can one who has omitted an Office transfer it to another day, even one not impeded. Thus the Sacred Congregation of Rites, 17 June 1673.[17]

(13) Exam. Ordin., n. 70; Book IV, 161, q. 3, v. Secunda. (14) Elench. qq. ref., n. 59. (15) Exam. Ordin., n. 71; Gardellini, n. 4464, in Conimbricen. (16) Book IV, 161, q. 5. (17) Gard., n. 2634.

2211. ○ B) The ORDER OF HOURS is that which is indicated in the Breviary, prescribing namely that first Matins with Lauds be recited, then the little Hours, that is, Prime,

Terce, Sext, and None, and finally Vespers with Compline. Nor ought Matins of the following day to be recited before the Office of the present day has been completed.

Inversion of this order: 1. OUTSIDE CHOIR and contempt having been set aside, is only venial, even if it is done frequently; because the substance of the precept remains preserved. - Indeed, it is devoid of every fault if it is done from a reasonable cause, e.g. so that you may conform yourself to the choir, or to a friend, etc. 2. IN CHOIR, it is controverted whether it is a grave sin (and the same controversy exists concerning a change of the time of the Hours). The affirmative opinion is probable, but the negative is more probable; because there is no certainty about a grave precept.[18]

(18) Book IV, 170-171.

2212. ○ III. The Hours must be recited at a suitable TIME and PLACE. - For these two complete the order.

A) As regards TIME, thus formerly the Hours were recited: Matins after midnight, Lauds at dawn, Prime after sunrise, Terce in the morning at the ninth hour, Sext at midday, None at the third hour in the afternoon, Vespers at sunset, Compline at the twilight of night.[19]

But according to present discipline: the legitimate TIME, within the limits of which the precept obliges under grave sin, is from midnight of one day until midnight of the following day, so that before the aforesaid first limit no one is held to begin, and after the second no one can satisfy his obligation.[20] But each one is free in this to follow either true time, which a sundial indicates, or mean time, which public clocks signify. Thus from the Response of the Sacred Penitentiary, 18 June 1873.[21] But the suitable TIME, which of itself obliges under light sin, unless a reasonable cause prevents it, is determined in the following manner:

1. The time of Matins, outside choir, from privilege or already prescribed custom, begins from the hour of Vespers of the preceding day (i.e. as soon as the sun becomes nearer to its setting than to midday), and lasts until the following midday. - And this likewise holds for the Office of the Dead outside choir; but not for the Litanies, which must be recited on the very day assigned.[22]

But whether one satisfies by saying Matins at the SECOND HOUR after midday? - Some with the Salmanticenses affirm, saying that an anticipation of this sort, by force of a custom already introduced, is licit; but it must more truly be denied, both because there is no certainty about the aforesaid custom, and the tables which are customarily composed in various places are opposed to it; and because (if northern regions in the month of December are excepted) it is not yet the proper hour of Vespers, and therefore the ecclesiastical day has not yet begun.[23] The Holy See is indeed accustomed frequently to grant the privilege of beginning the recitation of Matins at the second hour after midday, and indeed at every time of the year; but it is accustomed to add this clause: "a reasonable cause being added."[24] Therefore, if a reasonable cause is lacking, if one endowed with the privilege anticipates the Office, he indeed satisfies his obligation, but he sins venially.

2. The time of the little Hours extends from dawn until midday. Yet they are licitly recited already from midnight; but None (and according to many also Sext) can be recited after midday without cause.[25]

3. The time of Vespers and Compline (outside choir) runs from midday to midnight. But on Lenten ferias, from the first Sunday, Vespers (not Compline) can (and in choir must) be recited before the meal: in memory of the ancient discipline according to which the fast was not broken before the recitation of Vespers.[26]

It was said above: unless a reasonable cause prevents it. But what cause must be judged REASONABLE, St. Alphonsus explains thus:[27] "That someone may licitly anticipate or postpone the due time of the Hours, any useful or honorable cause suffices, namely a sermon to be prepared or heard, danger of a supervening occupation or labor, greater devotion or rest, a more suitable time for studying,

and the like. Yet deservedly Concina says that mere greater convenience, without another honorable motive, does not suffice for excusing."

(19) Cf. Ferraris, V. Officium. (20) Book IV, 173, 174, fin. (21) Acta S. Sed., vol. VII, p. 399. (22) Exam. Ordin., n. 74; Book IV, 174, q. 2 and 3. (23) S. R. C., 16 March 1876 (ap. Gardellini, n. 5653). (24) Exam. Ordin., n. 74; Book IV, 174, q. 1, and 1 Elench. qq. ref., n. 51 (cf. Vindic. Alph., tom. 2, p. 586; and Collect. S. Sed., n. 1272-1274). (25) Book IV, 173, v. Tempus. (26) Cf. Carpo, Biblioth. liturg., P. 3, n. 106. (27) Book IV, 173.

2213. ○ B) As regards PLACE, the divine Office in Cathedrals, in Collegiate churches, and in the churches of Regulars assigned to choir, must be recited publicly, in the place destined for this, or in choir. - But privately it can be recited in every place, provided the recitation is made without contempt, and provided the place is not incompatible with attention and intention.[1]

It is ASKED. What concerning the POSTURE OF THE BODY in reciting?

Resp. 1. Not to observe, in choir, the posture prescribed by the Rubrics, e.g. by not standing, not genuflecting, etc., is a light irreverence, which does not exceed venial fault. - 2. Outside choir, to omit it is devoid of every fault, although it is laudable to observe it. - "Yet the Doctors think that he is not excused from venial sin who without cause would recite the Office lying in bed"; for such a posture is not free from irreverence. Otherwise, if someone recited thus because he is kept in bed by infirmity or weariness, or because he passes a sleepless night.[2]

(1) Book IV, 179. (2) Ibid., 179, qu. 4; cf. Konings, n. 1106.

2214. ○ IV. The canonical Hours ought to be recited WORTHILY, i.e. vocally, integrally, and continuously. And indeed by these words is expressed the DUTY OF THE MOUTH which, according to the Fourth Lateran Council, Cap. *Dolentes*, must be carefully fulfilled.

We said: 1. VOCALLY, and indeed distinctly: because the Office is a vocal prayer, and not purely mental. - Hence, it does not suffice to read only with the mind, or to run through with the eyes alone. Nor is it enough to recite in the throat, or between the teeth, or by syncopating, or with a stammering tongue, voluntarily abbreviating, or rushing. Yet according to the more probable opinion, it is not required that the one reciting hear himself; for, as Sylvius teaches, such an obligation is proved by no law.[3]

Therefore, if someone recites the Office with a companion, both ought to use such a voice that one hears the other, and the recitation ought to proceed so distinctly that neither begins his own verse until the other has completed his; for a companion cannot morally make his own what he does not hear, and accordingly he does not recite the Breviary integrally: which nevertheless is required. - Whence a deaf man, who in choir utters the versicles of his own part, but does not hear the versicles of the other part, ought to supply, by reciting softly what the others sing. - On the contrary, those who, while others are reciting, perform certain things necessary for the choir, even through an entire psalm, are not held to supply what was omitted; "for then through the companions that is supplied which perhaps they themselves do not sufficiently perceive, provided the omission is not too prolonged. - The same must be said of the organist, if he himself utters the versicles of his part."[4]

If you recite the Office with a companion who cuts off syllables, but in such a way that the sense is not notably changed: it is probable that you are not held to repeat, unless it is clear to you that the companion omitted a notable part. "Yet I would think," St. Alphonsus adds, "that you are not excused from venial sin if of your own accord you recite with such a mutilating companion, unless some cause is present, namely if you are invited by a Superior or a very grave person, or for a similar cause."[5]

We said 2. INTEGRALLY. Now to integrity belong the *Pater*, *Ave*, and *Credo*, at the beginning and end of the Hours, as is noted in the Rubrics. Outside choir, the antiphon of the Blessed Virgin Mary is not to be added by precept, except at the end of Lauds and Compline. - Likewise, the *Confiteor* and *Misereatur* at Prime and Compline can be recited alternately with a companion, but they ought not to be, except in choir (S. R. C., 12 November 1831 in Marsorum to 42).[6] Nor do the prayers *Aperi* and *Sacrosanctae* belong to the integrity of the Office, though they are laudably and most usefully recited.[7]

We said 3. CONTINUOUSLY, i.e. without interruption in the same Hour, unless a reasonable cause excuses. Yet the common opinion teaches that Lauds can be separated from Matins even without any cause. But when they are separated, Matins having been finished, the *Pater noster* must be said (which moreover ought to be done after any Hour whatever) with the prayer of the Office of the day; but Lauds are to be begun as in the Psalter.[8] The Nocturns can probably be separated from one another, at least for three hours, according to the ancient rite, or even for a longer time, with cause.[9]

It must be noted: 1. Among the JUST CAUSES of interrupting the Office, especially if it is long, as the Office of Sunday, St. Alphonsus counts the following: one's own or another's utility, courtesy, devotion, execution of the commands of Superiors, the hearing of the confession of someone who would not willingly wait. - You can similarly interrupt if something suddenly seems to you to need to be done or noted down, so that you may remove distraction, or so that you may not forget the matter; and *a fortiori* it is licit to interrupt, in order to elicit some pious affection of the heart or some little prayer. We said little prayer; for long prayers would be mixed inopportunely with the recitation of the Office.[10]

2. The interruption of some Hour made without reasonable cause, and prolonged for a notable time, cannot be excused from venial sin. - Yet the whole Hour is not to be repeated, although a great interval, for example a whole night, is interposed; because the individual psalms, indeed the individual verses, have a complete signification, and are sufficiently united either through the intention of continuing, or through the subsequent recitation.[11]

(3) Resolut. variae, verb. Horae canonicae, III; Book IV, 163; Gury, II, 81. (4) Book IV, 143, note 3; and 163, qu. 2 and 3. (5) Book IV, 165. (6) Gardellini, n. 4669. (7) Scavini, II, 207. (8) S. R. C. in one Marianopolit., 18 May 1883, to IV (Vid. Nouv. Rev. theol., XV, p. 498); likewise, 7 February 1886 (Monit. eccles., vol. IV, P. 2, p. 55). (9) Book IV, 167; Exam. Ordin., n. 74. (10) Book IV, 168. (11) Ibid., 168.

2215. ○ V. The canonical Hours ought to be recited with ATTENTION AND DEVOTION: in which two things is contained the duty of the mind and heart.

A) As regards ATTENTION, it is certain that some attention is required in the recitation of the Office. A DOUBLE attention can be had, namely external and internal. 1. EXTERNAL attention consists in this, that nothing be done which is incompatible with the recitation: as it would be to chat, write, attentively listen to others speaking, and other things of this kind; but not to walk, wash oneself, gather herbs, flowers, set the fire, make the bed, comb the head, look at a hill, a river, etc., since such actions, of themselves, do not exclude attention to other things. Thus commonly with Navarro, Suarez, etc. "But Bonacina rightly adverts that some actions, with respect to one person, perhaps are distractive, but with respect to another are not."[12]

2. INTERNAL attention is placed in the application of the mind to that which is being done; and this can be threefold, namely: to the words only, that they may be duly pronounced; to the sense of the words, that they may be rightly understood; and finally to God or to divine things, so that the mind and thought of the one reciting are fixed either upon God himself, or upon his attributes, or upon the mysteries of the Lord's Passion, or upon the deeds of the Virgin Mother of God or of the Saints.[13]

With these things having been premised, THREE things are to be established as certain: 1. He who, while reciting the divine Office, does not have at least external attention, does not satisfy his obligation: whence, a Beneficiary voluntarily distracted in this way is held to restitution; because he certainly does not make his fruits his own. Thus all.[14] - 2. He who cares nothing about internal attention sins at least venially; because he acts irreverently toward God[15] (cf. n. 372, 6). - 3. Attention to the words suffices, with the general intention of worshipping God.[16]

(12) Book IV, 176. (13) Ibid. (14) Book III, 669. (15) Conf. dir., XVI, 22, fin. (16) Book IV, 176, v. fin.

2216. ○ It is ASKED. Whether INTERNAL attention is required under grave obligation?

Resp. 1. Very many indeed deny it with St. Antoninus and St. Thomas, teaching that it is true prayer which is made with the intention of praying and external attention. - The reason is both because prayer, according to St. Damascene, is a petition of fitting things from God: but it is not repugnant that our petitions can be represented by us to God even with an actual wandering of the mind; and because, if internal attention were of the essence of prayer, not even one involuntarily distracted would satisfy his obligation; for once the essence of a thing has been destroyed, although inculpably, the thing itself is destroyed. This opinion appears sufficiently probable, so that a Beneficiary, relying upon it, is not held to restore fruits received in good faith.

Resp. 2. But the more common and more probable opinion affirms it; because without internal attention prayer cannot consist, which is generally defined: the elevation of the mind to God; whence, by the very fact that the Church prescribes prayer, she also prescribes internal attention. And with

this opinion there seem to harmonize both the words of the Lord, complaining about the Jews (Matt. 15:8): "This people honors me with lips: but their heart is far from me"; and the words of Trent, prescribing (sess. 24, cap. 12) that: "All (namely Canons) be compelled to perform the divine Offices... and in choir... reverently, distinctly, and devoutly to praise the name of God with hymns and canticles."[17]

But St. Alphonsus NOTES that even if this latter opinion is held, two things nevertheless are required in order that someone be said not to satisfy the Office: namely, that he distract himself voluntarily, and then that he fully notice his distraction. - It is said that he fully notice it; for the Doctors commonly hold that one reciting does not sin in any way if, when he notices the distraction, he uses moderate diligence for attending to the recitation. But if he half-fully notices the distraction, and does not retract it, he indeed sins venially; but he substantially satisfies the Office, since the first will of attending always perseveres, as long as it has not been revoked with full advertence.[18]

(17) Book IV, 177. (18) Ibid., v. Caeterum; Exam. Ordin., n. 75.

2217. ○ B) As regards PIETY or devotion, at least that is required and prescribed by which the recitation of the Office becomes an act of religion. - Hence he would not satisfy the precept who read the Hours in order to acquire knowledge for himself, to accommodate himself to a friend, etc.; for the intention of praying is necessary, not indeed actual and explicit, but virtual and implicit: which then is already had when, according to custom, the breviary is taken up so that the precept may be fulfilled[19] (cf. n. 213).

The things we have said are valid concerning the bare observation of the PRECEPT. - But St. Alphonsus earnestly commends this to all, that they pay the divine Office with the greatest ardor of piety, extolling its EXCELLENCE with these praises: "A hundred private prayers cannot have so great a price as one prayer of the divine Office includes; because this is offered to the Lord in the name of the whole Church, with the words of God himself.... Let us firmly persuade ourselves that, after the most holy Sacrifice of the Mass, no more precious treasure is found in the Church than the divine Office, from which daily we can draw rivers of graces."[20]

But that this desirable piety, and due attention, may always accompany the recitation of the Office, the COUNSELS which the holy Doctor supplies in these words will help not a little: "1. At the beginning to form the intention of praising God; - 2. to renew the intention at the *Gloria Patri*, or at the beginning of each psalm; - 3. to represent to oneself some mystery of the Passion; - 4. carefully to guard the senses, and other things of this sort."[21]

(19) Book IV, 176. (20) Opusc. L'Officio strapazzato (Opp. ascet., III, 847). (21) Book IV, 177, fin.; cf. Scavini, II, 198 sqq.

III. - On The Causes Excusing From Recitation.

2218. ○ The principal causes which EXCUSE from the recitation of the divine Office are the following THREE: 1. impotence, 2. charity toward the neighbor, 3. dispensation.[22]

I. IMPOTENCE, whether physical or moral, excuses, because no one is held to the impossible. He who can recite a part is held to perform that; indeed, if the part is as great as a little Hour, he is held under grave obligation; for the obligation is divisible, as is established from proposition 54

condemned by Innocent XI (cf. n. 224). - But if the part which you can recite does not reach the matter of a little Hour, "not even under venial sin are you obliged to recite anything; because such a slight part, taken separately, is not judged appreciable for the end intended by the law."[23]

Hence: 1. Those laboring under grave illness are excused; likewise, those convalescing from grave illness (for some days, at the judgment of a prudent man) until their strength is restored; and this must be admitted even if they celebrated Mass, or read some book of recreation. - He who is certain that, on account of infirmity, he cannot recite the whole Office, and doubts whether he can recite a part, is excused from the whole Office, lest namely he be distressed by scruples, not knowing how far he can and is held to recite. The reason is because, in doubts of this sort, the natural law of preserving health prevails, and fear of grave harm is already a grave cause (cf. n. 223).[24]

2. He is excused who in a time of persecution fears lest, from the recitation of the Breviary, he be betrayed.[25]

3. He is not excused who lacks the Roman Breviary, and has another at hand, for example Benedictine or the like; because by either one the substance of the precept can be fulfilled. And this, St. Alphonsus says, is the more pious, reasonable, and to-be-followed opinion. - Likewise, if, having the common Office and not the proper Office of that day, you are held to say the Hours from the common, as Croix with others more truly thinks.[26]

4. A blind man is not excused who knows by memory either the whole Office, or a notable part of it; but he is not held to commit to memory what he does not know, because this would be a means extrinsic to the precept. - On the contrary, one not able to recite alone is held to use a companion, if he can use him without his own grave inconvenience; because the use of a companion, in such a case, is judged an ordinary means of fulfilling the precept. - We said without his own grave inconvenience; because if a companion who would recite with you does not readily occur, or if you ought to pay him a stipend, you are not held to a means of this sort, extraordinary, unless you are a Beneficiary and wish to make your fruits certain.[27]

(22) Cf. Salmant., tr. 16, c. 3, punct. 6. (23) Book IV, 158. (24) Ibid., 154, where there are more things. (25) Ibid., 156. (26) Ibid., 158. (27) Exam. Ordin., n. 76; Book IV, 158.

2219. ○ II. CHARITY excuses, that is, a grave occupation which cannot be omitted without scandal or notable detriment of the neighbor. The reason is because the natural precept of charity prevails over ecclesiastical law (cf. n. 682).

Hence a priest is EXCUSED, either totally or partially: 1. if through the whole day he receives confessions which he cannot defer; - 2. if unexpectedly he is summoned to a dying person, and afterward no time remains which he might spend on recitation; - 3. if he is held to prepare hastily a sacred sermon which he cannot omit without scandal or reproach; - 4. if he is occupied the whole day in settling quarrels or assisting the sick, e.g. in time of plague.[28]

(28) Book IV, 156.

2220. ○ III. DISPENSATION granted by legitimate power excuses. The reason is because what is of ecclesiastical law can be taken away by ecclesiastical power.[29] Furthermore,

dispensation is validly granted: 1. by the Supreme Pontiff in every case, even without cause; 2. by the Bishop

(or by a Regular Prelate, with respect to his own subjects); but only from a just cause, with someone in particular, and for a brief time. But a cause of dispensing exists when there is doubt about moral impotence, when recourse to the Pope is difficult, when dispensation is sought on account of a motive which recurs frequently, e.g. on account of infirmity. And the Vicar General himself can do this, provided he has received a special mandate from the Bishop.[1]

In Germany, and in distant regions, Bishops generally possess a more ample power. For there, by force of quinquennial faculties, they can grant to clerics that, in place of the divine Office, they recite the Rosary or other prayers, in the case in which they would not be able to carry the Breviary with them, or would be impeded by another cause.

(29) Ibid., 159. (1) Book IV, 159.

2221. ○ Questions. ASK 1. Whether he who foresees an impediment is held to ANTICIPATE the recitation?

Resp. 1. If he foresees it on the preceding day, he is not held to anticipate Matins with Lauds; because the obligation of the precept has not yet begun, whence he is not held to use a privilege. - 2. If he foresees it on the day itself of the obligation, and can anticipate without great difficulty, he is held to this; because the precept presses for the whole day, and for any part of it; and therefore, within the latitude of the whole day, it must be fulfilled, namely at the time at which it can be done.[2]

ASK 2. What IN DOUBT, whether the cause of exemption is sufficient or not?

Resp. 1. In doubt whether the recitation will bring grave inconvenience upon you, you are not held to recite, as we have already said (n. 2218. Hence 1). - 2. In doubt whether you are excused in another way, e.g. by reason of labor, journey, charity to be exercised, etc., you are held to recite, unless a uniquely probable reason, or probable judgment, stands in your favor. But in this case it is better to remit the matter to the judgment of a prudent man, and especially to the judgment of the Superior, who can dispense in doubt.

(2) Ibid., 155.

§ 4. On Wearing The Habit And Tonsure

2222. ○ I. All Clerics are held, from canon law, to carry TONSURE and the CLERICAL HABIT. This is established especially from the Council of Trent,[3] which nevertheless left it to the judgment of Bishops to determine what garment is congruent. Therefore in this matter one must stand by the various decrees of places.[4]

Furthermore: 1. Beneficiary Clerics or those constituted in Sacred Orders sin gravely who for a notable time lay aside clerical dress, or who from contempt neglect to carry the crown and shorn hair. But what is to be understood here by a notable time cannot easily be defined. The Authors commonly do not condemn of mortal sin a priest who would go about without tonsure for six or eight weeks; but they say that one going about without clerical dress more easily sins mortally, on account namely of the scandal which, especially in certain regions, would arise from such insolence.[5]

2. Clerics constituted in minor Orders do not sin gravely if they neglect to carry the habit or tonsure. Thus commonly the Doctors. Indeed, from the bull *Pastoralis* of Sixtus V (31 January 1589), he is excused from every fault who receives neither a pension nor other ecclesiastical goods exceeding the value of 60 ducats annually.

(3) Sess. 14, cap. 6, de Ref. (4) Cf. Ferraris, verb. Habitus, n. 51 sqq. and V. Clericus, art. 1, from n. 23; cf. also St. Alph., Notificazione VI (Opp., Edit. Taur., vol. IV, p. 719). (5) Exam. Ordin., n. 49-50; Book VI, 825-826.

2223. ○ II. Clerics, even those constituted in Sacred Orders, are excused who lay aside the habit either FOR A BRIEF TIME, or FROM A JUST CAUSE of concealing themselves, e.g. to avert some grave harm.[6] - And hence it is that in certain regions, as in England and in the federated States of America, clerics, from the prudent concession of Bishops, neither wear the crown nor ever carry the cassock in public.

It is ASKED. What PENALTIES do Clerics not wearing the clerical habit incur?

Resp. 1. If they are in Sacred Orders or beneficed, and after the third admonition of the Bishop they do not amend themselves, they immediately lose the privilege of forum and canon[7] (cf. n. 2234). - Indeed, "if, after they have been warned by their Bishop, they have not carried the habit..., they ought to be coerced through suspension from orders and office, and from benefice and fruits...; and also, if once corrected they offend again in this, even through deprivation of offices and benefices." Thus Trent, sess. 14, cap. 6, de Ref.

Resp. 2. If they are in minor Orders, and neither serve some church by command of the Bishop, nor by his permission are engaged in some school, they lose the privilege of forum even without any admonition.[8] But where a Cleric, from the disposition of law, loses the privilege of forum, he also loses *ipso facto* all other clerical privileges, so that he must be considered as a lay person.[9] Thus from the Declaration of the Sacred Congregation of IMMUNITY, made on 20 September 1860, which nevertheless, according to certain Authors, extends itself only to clerics of the Pontifical Dominion.[10]

(6) Exam. Ordin., n. 49. (7) From cap. Contingit 45, de sent. Excom. (8) Book VI, 827. (9) Cf. Scavini, I, n. 418. (10) Piat, Comment. in Const. AP. SED., p. 124.

Article II: On Those Things Which Are Prohibited To Clerics

2224. ○ To Clerics generally are PROHIBITED the things which are unbecoming to their state, either because they draw the mind away too much from divine things, or because they bring chastity into danger. - Things of this kind are certain secular arts and offices, trading, games of chance, hunting and the bearing of arms, entrance into taverns, dances and comedies, and conversation with suspect women.

1. - Secular Arts And Offices.

2225. ○ I. As regards ARTS, by canon law every art which is judged contrary to the respectability of the clerical state is prohibited to ALL CLERICS, as the art of an innkeeper, butcher, jester, etc. - from Clement. *Dioecesanis*, de vita et honest. Clericorum.[11]

Specifically, to Clerics INITIATED IN SACRED ORDER there is prohibited: 1. The public study of medicine, namely in public schools and Universities.[12] - 2. The exercise of the medical and surgical

art where there is need of incision, amputation, or cautery, and necessity is not present: and indeed under the penalty of irregularity, if mutilation or death follows from this (cf. n. 1940, 3). - Yet if an expert is lacking, and the case urges, the Cleric can without sin, and therefore without danger of penalty or irregularity, perform incision or cautery.[13] Nor is he prohibited from giving his help to others, especially to the poor or relatives, and from aiding them with excellent counsels of the salutary art.[14]

(11) Book IV, 189; H. A., XIII, 60. (12) Book IV, 132, v. fin. (13) Book VII, 384, 385. (14) Scavini, I, 427.

2226. ○ II. As regards OFFICES, it is forbidden to Clerics in sacred Orders, or to beneficiaries: 1. that they act as judge in a cause of blood; likewise that they act as advocate or notary in secular courts: except in the case in which one's own cause had to be defended, or the cause of one's own Church, or the cause of a poor person or of a person joined by nearness (at least in the fourth degree), who would not find another defender; - 2. that they act as tutor or curator of minors, if an account must be rendered for goods administered; except in the case in which the wards or minors were near by consanguinity (or affinity); - 3. that they act as procurator of secular persons, if an account must be given concerning the procuration. The reason for all these things is that saying of the Apostle: "No one serving as a soldier for God entangles himself with secular business" (2 Tim. 2:4).

But although the office of procurator is generally forbidden, "I would nevertheless not dare," says St. Alphonsus,[15] "to condemn of mortal sin a cleric who, on account of such procuration, would not neglect his ministries; especially if he did this not for the cause of avarice, but in order to preserve more fittingly his own state and that of his family." For the law speaks only concerning him "who would so immerse himself in procurations of this kind that therefore he would be forced to neglect his ministries."

(15) Book III, 838.

2. - Trading.

2227. ○ TRADING properly so called, or lucrative, is the purchase of a thing made for this end, that, the thing not having been changed, it be resold with profit. Improperly so called, or artificial, is the purchase of a thing made for this end, that, changed by art or industry, it be resold with profit, e.g. if from purchased wool cloth to be sold is made.

I. Trading PROPERLY SO CALLED is severely prohibited to RELIGIOUS, BENEFICED Clerics, and those who have been INITIATED IN SACRED ORDERS: as is established from innumerable witnesses of canon law, and especially from Trent.[16] Whence they sin gravely, indeed, they incur suspension and excommunication *ferendae sententiae* (and also the penalty of spoliation), if they trade frequently; but if rarely, and not in a great quantity, they are excused (at least from mortal sin) on account of smallness of matter, because the laws speak concerning one exercising it, such as he is not who posits one or another act.

But it does not matter whether the trading is exercised in one's own name, or in another's, or through others; for this is forbidden under the same penalties both by the bull *Apostolicae* of Benedict XIV, 25

February 1741, and by the constitution *Cum primum* of Clement XIII, 17 September 1759. - Whence, if business begun by a layman is transferred to a cleric by any title whatever, it must immediately be laid aside by him, even in the case in which the trading could be exercised through co-heirs or partners. But if they cannot be laid aside without detriment, continuation is indeed permitted by reason of necessity, but only for a time, and through an interposed lay person, and with the permission of the Sacred Congregation of the Council in Italy, or of the Ordinary outside Italy.[17]

(16) Sess. 22, c. 1, de Ref. (17) Book III, 831-837; H. A., X, 192-194.

2228. ○ II. ARTIFICIAL trading is not prohibited to Clerics, nor to Religious, provided they exercise it HONESTLY, and BY THEMSELVES. The reason is because to buy a thing so that, changed for the better, it may be sold more dearly is not properly to trade, but to obtain the reward of one's labor, as St. Thomas teaches[18] with others. And this is clear from the example of St. Paul, who was of the tent-making art.

We said honestly, i.e. without scandal, without disgrace, and without detriment to one's own ministry; by themselves; because if things are changed by hired workers, another's labor is now judged to be bought and sold with profit: which is equated with trading properly so called.

From these things you will resolve: 1. It is LICIT for a Cleric to rent out his estates and animals for a pension; - to cultivate his fields by the work of laymen, and to sell the fruits; - to buy animals, and fatten them with fodder coming from his own lands; indeed probably, with fodder bought for this end, that he may sell them fattened with profit, or that he may make profit from offspring, milk, wool. - Similarly, it is licit for a Cleric to buy several things for the security of his provision, and to sell more dearly what remains; or to sell more dearly that which he had bought for his own use, if an occasion presented itself of buying another similar thing more cheaply; for these things pertain to economy.

2. It is NOT LICIT for a Cleric to lease the fields of another, so that he may cultivate them through workers, and sell their fruits; or so that he may fatten animals, and sell them fattened; nor to buy estates or animals for this end, that he may resell them with profit.[19] - Nor is it licit, either by himself or through others, to contract active exchange, as Clement XIII decreed in the cited Constitution *Cum primum*; - nor to acquire shares of a partnership in commendam (commonly *accomandita*), as is established from the declaration of the Sacred Congregation of Bishops and Regulars made on 30 January 1846[20] (cf. n. 1158). - But otherwise, if it is a question of mere obligations, which have only the character of a loan: such as annual revenues founded in the public treasury, and bonds of industrial companies. Yet it would not be licit to trade in them, i.e. habitually to buy them with the mind of selling more dearly when their price has increased.

To the question: "Whether it is licit for ecclesiastical persons to buy TITLES over railroads and to receive the profit coming from them?" the Congregation of the HOLY OFFICE on 1 April 1857 responded: "The Most Holy One grants faculties to be communicated to Bishops through the Sacred Congregation of Bishops, of permitting ecclesiastics to receive shares of railways, from their own money only."[21]

Whether that Response can be extended to similar cases, with respect to all industrial or mercantile companies, is not outside controversy; but it seems probably to be affirmed.[22]

NB. As regards commerce which is exercised in the Indies, recall what was said n. 1346.

(18) 2\. 2. q. 77, art. 4, ad 1; Book III, 835. (19) Book III, 835, 836. (20) Bizzarri, p. 581; cf. Nouv. rev. theol., t. XVII, p. 589, where there is another Response. (21) Cf. Scavini, I, 576, 120. (22) Cf. Gury-Dumas, II, n. 105, fin.

3. - Hunting And The Bearing Of Arms.

2229. ○ 1. HUNTING is prohibited to Clerics. This is established from various places of Law, but especially from the Fourth Lateran Council, can. 15, and from Trent,[23] which specifically enjoins upon beneficiaries that "they abstain from illicit hunts, fowling, etc."

Furthermore it must be NOTED: - 1) The Doctors commonly understand this prohibition concerning clamorous hunting, or that which is done with a great noise of arms and dogs for killing larger wild animals; but not concerning quiet hunting, which is done without noise for catching birds or smaller wild animals, such as hares, foxes, etc. Fishing is forbidden by no canon. - 2) Clamorous hunting is not a grave sin, unless it is frequent, or is done with scandal, or with great expenses. - Indeed, it is probably devoid of every fault if it is rare and moderate; or is done from necessity, or for the sake of exercise, without the omission of duties.[24] Diocesan Statutes must also be consulted about a matter of this kind.

2. BEARING OF ARMS, necessity having been set aside, is prohibited to clerics, just as hunting is.[25] This is established from cap. 2, de vita et hon. Cler., where it is said: "Clerics bearing arms are to be excommunicated." - The reason is because arms

are instruments of savagery; and therefore most alien from the meekness of Christ the Lord. Wherefore Clerics constituted in sacred Orders sin gravely who take up military service. Yet those are not to be reprehended who cooperate in a just war by counsel, exhortation, or even assistance, provided they do not bear arms, nor perform the office of commander.[1]

Note. Today, in several Kingdoms, clerics are forced to enroll in secular military service. - Concerning this violation of clerical immunity PIUS IX complained bitterly in the Letter *Singularis* given on 29 September 1864 (cf. *Syllabus* n. 32) and in the allocution held on 12 April 1875 to the Catholic international deputation. - Finally, the Congregation of the HOLY OFFICE, 16 September 1875, handed down certain norms to Bishops, that they might provide, as far as they can, for the good both of religion and also of the clerics themselves who are constrained to serve as soldiers.[2]

(23) Sess. 24, c. 12, de Ref. (24) Book III, 606. (25) Book IV, 191. (1) Cf. Book VII, 457-460; Gury, II, 103. (2) Cf. Scavini, II, 247; and Analecta J. P., series 15, p. 1005.

4. - Entrance Into Taverns.

2230. ○ Innocent III in the Fourth Lateran Council, concerning the life and honesty of Clerics, gravely decreed these things: "Let Clerics altogether avoid taverns, unless perhaps constituted on a journey by cause of necessity."[3] And this is the universal law, to which

other decrees in different dioceses have been added, which therefore must be consulted, lest one depart from the rules of decency.

As regards secular banquets, St. Jerome admonishes:[4] "Let us never seek them; when asked, let us rarely accept: a cleric is easily contemned who, often called to dinner, does not refuse."

(3) Cap. 15, de vita et hon. Cler. (4) Epist. ad Nepotianum.

5. - The Game Of Dice.

2231. ○ The GAME OF DICE is prohibited to Clerics in Sacred Orders, as also to Beneficiaries, and especially to Bishops, as is established from the Fourth Lateran Council can. 16[5] and from Trent.[6] Now under games of dice are to be understood games of chance, which depend not on art but on chance: such are games of knucklebones, or dice; but not games of cards, unless they are of mere chance.[7]

Hence St. Alphonsus teaches: - 1. The aforesaid clerics sin gravely if they frequently and for a long time indulge in public games of mere chance, although in a small amount; "because a game of this kind notably disgraces the clerical state. - And the same must be said if they expose a great sum to the game, although rarely: at least when in this there would be grave scandal of others."[8]

2. They do not sin gravely if they play rarely, moderately, and privately, without scandal of others. Indeed, not even venially, as is probable, if this is done for the sake of recreation, in a place where the aforesaid canons are not rigidly observed.[9]

(5) Cap. Clerici 15, de vit. et hon. Cler. (6) Sess. 22, c. 1, de Ref. (7) Book III, 900. (8) H. A., X, 219; Book III, 897. (9) Book III, 890; cf. Selva, P. 2, Instr. 8, n. 12.

6. - Dances And Comedies.

2232. ○ DANCES, COMEDIES, and generally all SPECTACLES are prohibited to Clerics. This is established from Trent.[10] And the reason is because such amusements disgrace the clerical state, and because by them sanctity of life is brought into the utmost danger. - Yet it is not prohibited to Clerics that, for the sake of honorable recreation and exercise, they be present at those spectacles which are customarily represented in Communities. - Indeed, it is not prohibited to them that they act some parts in scenes of this kind, all the rules of modesty and temperance being surely observed.[11]

(10) Sess. 22, c. 1, de Ref. and sess. 24, c. 12, de Ref. (11) Scavini, I, 422.

7. - Conversation With Suspect Women.

2233. ○ I. In the FIRST NICENE Council[12] (can. 3) these things are read: "The great Synod has altogether forbidden that it be licit, not for a Bishop, not for a Presbyter, not for a Deacon, nor for anyone at all who is in the Clergy, to have an introduced woman,[13] unless perhaps a mother, or sister, or aunt, or only those persons who escape suspicion." And TRENT commands that the disobedient be affected by the most severe penalties to be inflicted by the Bishop.[14]

It is permitted, speaking in itself, to live with women who are not suspect, such as commonly are reputed: 1) relatives by blood in the first and second degree; 2) relatives by affinity in the first degree; 3) women rather advanced in age, and commendable by reputation, although they are strangers. - We said speaking in itself, that is, provided every danger and scandal are excluded, and diocesan Statutes are obeyed, which certainly, in this matter, have the force of law.

II. Not only must conversation with women be avoided by Clerics, but also, as far as it can be done, the very ACCESS to their houses, and every useless COLLOQUY with them. Whence Scripture (Ecclus. 42:12): "Do not tarry in the midst of women; for from garments proceeds the moth, and from a woman the iniquity of a man." - And lest anyone trust in past chastity for himself, thus St. Augustine admonishes, apud St. Thomas:[15] "I have found great Prelates of the Church to have fallen under this appearance, concerning whose fall I no more presumed than concerning Jerome and Ambrose."[16] (cf. n. 1791, 3).

Note. Suitably here there come to be transcribed the excellent ADMONITIONS of the provincial Council of Vienna celebrated in the year 1858:[17] "It befits a Priest," says the holy Synod, "to flee not only evil, but also the appearance of evil. Let him utterly abstain from more frequent companionship with women, even those who not undeservedly obtain the praise of piety and modesty. The maidservants whom he needs for managing domestic affairs should be of more mature age and of most entire reputation, chaste, sober, subject, so that he who is on the opposite side may revere, having nothing evil to say; he is not to tolerate that they dress more expensively, or frequent dances. Whatever savors of more familiar commerce, let it be far away. Let him not have a maidservant as a table-companion, nor walk with her, or go to others' houses, or ride in the same vehicle, unless perhaps public. Let him by no means allow her to involve herself in matters which do not pertain to her, or arrogate to herself the role of mistress. It is over with the authority of the Pastor, whom his people suppose to depend upon the imperious will of a woman. - Nor must anything be indulged to female relatives by blood which disgraces the priestly house, or disturbs the order of ecclesiastical affairs."

(12) Cf. Harduini, Coll., tom. 1, col. 323. (13) i.e. an extraneous devout woman, concerning whom cf. Bened. XIV, de Syn., lib. 11, cap. 4, n. 4. (14) Sess. 25, cap. 14, de Ref. (15) Opusc. 64, de modo confitendi, § (23), de periculo familiaritatis, at the end. (16) Cf. also St. Alph., Selva, P. 2, Instr. 3, and Prax. conf., n. 119, 120. (17) Tit. 5, cap. 6 (Collect. Lacen., vol. V, 197).

Scholium.

On The Prerogatives Of Clerics.

2234. ○ The PRIVILEGES of Clerics are restricted to almost THREE, which are: 1. the privilege of competence, by force of which a cleric bound by debt and unequal to paying cannot be constrained to pay unless first the things necessary for honorable support have been deducted; 2. the privilege of canon, by reason of which they incur excommunication who unjustly lay hands upon clerics (or Monks of either sex) (cf. n. 1329); - 3. the privilege of forum, by which it happens that Ecclesiastical persons (under which name Religious men and women equally come) can be summoned only in the ecclesiastical forum.[18]

The conditions necessarily to be observed by Clerics, that they may enjoy the privilege of forum, are thus set forth by Trent:[19] "Let him (a cleric) not enjoy the privilege of forum unless he has an ecclesiastical benefice; or, carrying clerical habit and Tonsure, serves some Church by command of the Bishop; or in a Seminary of Clerics, or in some school or university, with the permission of the Bishop, is engaged as if on the way to receiving major Orders" (cf. n. 201 and 2223).

These privileges have been derogated more or less through various Concordats, which the Holy See wishes to be religiously observed.

"Moreover, in those places in which the privilege of forum has not been derogated by the Supreme Pontiffs, if in them it is not possible to prosecute one's rights except before lay judges, individuals are held first to ask permission from their own Ordinary, that they may be able to summon CLERICS into the forum of laymen; and Ordinaries will never deny it, especially when they themselves have given their labor in vain to reconciling controversies between the parties. - But it is not licit to summon BISHOPS into that forum without the permission of the Apostolic See. And if anyone shall have dared to drag before a lay judge or judges either a cleric without permission of the Ordinary, or a Bishop without permission of the Holy See, it will be in the power of those same Ordinaries to proceed against him, especially if he has been a cleric, by penalties and censures *ferendae sententiae* as against a violator of the privilege of forum, if they shall judge this expedient in the Lord" (Instruction of the HOLY OFFICE, 23 January 1886).[20]

(18) Cf. H. A., XX, 18-24; Piat, Comment., p. 62. (19) Sess. 23, cap. 6, de Ref. (20) Acta S. Sedis, vol. XVIII, p. 416.

Chapter II: On The Obligations Of Clerics By Reason Of Benefice

Although the treatment of Benefices properly pertains to Canonists, nevertheless it is pleasing to hand down here, with St. Alphonsus leading, certain things more necessary to know. Therefore in few words we shall set forth: 1. the nature or notion of benefices; 2. the obligations of one conferring benefices; 3. the obligations of beneficiaries.

Article I: On The Notion Of Benefices

2235. ○ DEFINITION. An ecclesiastical benefice is a perpetual right, constituted by the authority of the Church, of exercising a spiritual office in some church, and of receiving on account of it fruits from the goods of the Church.[21]

It is said 1. a perpetual right, and indeed in a double sense, namely objectively and subjectively: objectively, insofar as a benefice once constituted always remains, and is not taken away by the death or removal of the beneficiary; but only becomes vacant, so that it can be conferred on another; subjectively, however, insofar as a benefice, commonly, is conferred not for a certain time, but for the whole life of the beneficiary. - Yet in favorable matters (not in odious matters) under the name of benefices there also come those things to which subjective perpetuity is lacking, such as are, e.g., manual benefices, which indeed are conferred in title, but revocably, at the pleasure of the one conferring, or of the patron.

It is said 2. constituted by the authority of the Church, namely through a formal decree of erection. Whence it happens that never (unless from Pontifical dispensation) ought it to be conferred upon a

layman, but upon a cleric; and never by a layman, but by an ecclesiastical person, e.g. by the Pope, or by a Bishop, or prelate.

It is said 3. of exercising a spiritual office, at least of reciting the canonical Hours. - Whence, if ecclesiastical revenues are furnished on account of a merely temporal ministry, such as is the office of singer, of sacristan: such a ministry is by no means to be called a benefice, because this spiritual cause is lacking.

It is said 4. and of receiving on account of it fruits: by which words two things are signified, namely: 1) that this temporal right is annexed to a spiritual office, and indeed as something accessory, although among the Authors it may seem to be the principal mark of a benefice; 2) that beneficiaries are only usufructuaries, the dominion itself of benefices always remaining with the Church.

It is said 5. from the goods of the Church, i.e. from goods dedicated to God and irrevocably donated to the Church. "But these goods can be immovable, movable, for example counted money, revenues, and also rights of any kind, or assignments due from one or another, even from moral persons and Governments, since in exacting these the Church has an incontrovertible right."[22] - From which things it is clear that present-day benefices in FRANCE, which obtain revenues from public treasuries, are true benefices, and that such revenues must be held as ecclesiastical, as the Sacred Congregation of the Council has defined several times, and the Sacred Penitentiary declared on 19 January 1819.[23]

"And all these things are so NECESSARY that, if one of the foregoing requisites is lacking, it cannot be called an ecclesiastical benefice; for all these things are substantial in a Benefice. - But if all these things are had, one must not care by what name the Benefice is called, whether it is called a benefice, or office, or prestimony (or prebend); because there is no force in the name, but rather the nature of the thing must be attended to."[24]

(21) H. A., XIII, 31; Book IV, 83. (22) De Angelis, lib. 3, tit. 5, n. 17. (23) Ibid. (24) Ibid., n. 17, v. fin.

2236. ◦ DIVISION. Ecclesiastical benefices are distinguished in many ways,[25] namely:

1. Into greater and lesser. The greater are the Papacy, Cardinalate, Episcopate, and Prelacies with quasi-episcopal jurisdiction, which are conferred in Consistory. - Lesser are the remaining inferior benefices, which lack such jurisdiction, and are comprehended under the name of benefices alone, in odious matter.

2. Into secular and regular, insofar as, from foundation or approved custom, they belong to secular or regular Clerics. In doubt, benefices are presumed to be secular. - If benefices are conceded to regulars at the good pleasure of the Superior, they are not benefices in the strict sense (cf. n. 1335).

3. Into simple and double. Simple are those which have been instituted only for the recitation of the canonical Hours, or for the service of the Altar: such are Canonries (or Prebends), Chaplaincies erected by the authority of the Pontiff or Bishop; and also Prestimonies, which are furnished to Clerics that they may devote themselves to study, and things of this kind. - Double are those which have some special quality annexed to themselves. Here come: 1) In Chapters, Dignities, by reason of jurisdiction over the Clergy, e.g. the archdeaconry (at least in some places), deanery, provostship; Personates, by reason of preeminence in choir or

procession, such as are the primiceriatus, cantorate, dignity of major sacristan; Offices, by reason of administration, as the office of treasurer, steward, custodian, minor sacristan. 2) In Parishes, curative benefices, which have the care of souls annexed to themselves.[26]

4. Into elective, collative, and patronate, insofar as, when they are vacant, provision is made for them either by election of some College, or by free collation of the Prelate, or by presentation of the patron.[27]

5. Into incompatible and compatible, insofar as they require, or do not require, residence.

(25) Book IV, 84. (26) H. A., XIII, 31; cf. De Angelis, lib. 1, tit. 23. (27) Book IV, 85.

2237. ○ Questions. ASK 1. In what way is a benefice ACQUIRED?

Resp. It can be acquired in three ways: 1. by election, by which a Cleric is elected by the whole Chapter, and is confirmed by the Superior; 2. by presentation, by which someone is offered by a Patron to the Superior, and is instituted by him if he is found suitable; 3. by collation, when the benefice is given freely, by the sole right of the Prelate, and is not subject to the right of patronage.[2] - That the institution of a benefice be canonical and valid, there ought to be power in the one instituting, capacity in the one receiving, solemnity in the act. Concerning these things, the Canonists.

ASK 2. What is the right of PATRONAGE, and to what rules is it subject?

Resp. 1. The right of patronage is the power of presenting to a vacant ecclesiastical benefice. If this right belongs to someone from an ecclesiastical title, it is called ecclesiastical; but if it comes from the fact that someone founded and endowed a church from patrimonial goods, it is called lay.[3]

Resp. 2. If the patronage is lay, presentation ought to be made within four months; but if it is ecclesiastical or mixed, within six months: when these have elapsed and presentation has not been made, the benefice becomes of free collation, and must be conferred by him to whom the institution pertains. Except if there is litigation about the patronage between Bishops and patrons, or between those presented; otherwise, if the litigation is between the patrons themselves.[4] - What if several are presented? - R. If a lay patron after one presents another, the Prelate can institute whom he prefers; but if an ecclesiastical patron does the same, the first must be instituted; because in this case, he who is first in time is first in right. - But if several patrons present several, and these equally worthy, let the Prelate institute whom he wills; otherwise the more worthy must be preferred, although presented by the lesser part of the patrons; indeed, with this disagreement of patrons standing, the benefice can be conferred on some third person.[5]

ASK 3. In what way is a Benefice LOST?

Resp. It is lost and is judged to be vacant: 1. by the death of the beneficiary; - 2. through sentence of a judge; - 3. from the disposition of law, namely: on account of marriage, or religious profession; on account of the acceptance of another incompatible benefice; on account of the crimes of heresy, schism, repeated sodomy, simony, etc., this, however, after at least a declaratory sentence; - 4. through free resignation, i.e. through a spontaneous dismissal, made before the legitimate Superior, in favor of someone suitable who accepts, and with the consent of the patron, or of the electors.[6]

(2) H. A., XIII, 32; Book IV, 585. (3) Book IV, 87; cf. Trent, sess. 14, de Ref., cap. 12. (4) Ibid., 88, 89. (5) Book IV, 90; H. A., XIII, 32; cf. Monit. Eccles., vol. IV, P. I, p. 31. Indult of the Sacred Penitentiary (21 July 1884) concerning Patrons of pious causes and alienations of goods. (6) H. A., XIII, 58; cf. Book IV, 133-135.

Article II: On The Obligations Of Those Who Confer Benefices

2238. ○ We note beforehand: 1. The obligations concerning which we are about to speak here do not fall upon the conferring Superior alone, but also, proportion having been observed, upon all who concur in the collation, e.g. examiners, patrons, those resigning, and others exercising the right of nomination or presentation; because generally the same reason runs concerning all these. - 2. The same rules are generally valid for Religious electing or nominating to regular prelacies.[7]

Therefore let the following be held.

(7) H. A., XIII, 35, 39; Book IV, 97-101 and 111.

2239. ○ Principles. I. Upon the collator there is imposed, under penalty of nullity, the obligation of conferring BENEFICES only on those who are CAPABLE BY LAW.[8]

Now, by the sacred canons it is strictly required on the part of the one to be elected, that he be:

1. A Cleric, i.e. at least marked with tonsure. But if the benefice requires a sacred Order, it is necessary that within a year from possession of the benefice, that Order be received. - Whence, he who with a doubtful or conditioned mind of receiving the priesthood receives a curative benefice sins gravely and is held to restitution of the fruits; because he received these fruits fraudulently, against the sacred canons. Nevertheless, if before the end of the year he becomes a priest, he can retain the fruits.[9]
2. Born of legitimate parents; otherwise, the election is null. Yet the Bishop can dispense with an illegitimate man for minor Orders, and for simple benefices which do not require a major Order; as regards a major Order, only the Pope can dispense.[10]
3. Not married; because "the cithara harmonizes badly with the psaltery," as Innocent III speaks;[11] wherefore the collation which is made to a married cleric is invalid. Indeed, if a cleric initiated in minor Orders contracts marriage, he loses by the law itself his benefice.[12]
4. Learned, i.e. that he have suitable knowledge: which knowledge indeed, according to the diverse quality of benefices, is required diversely. To this can be referred Rule 20 of the Apostolic Chancery, which declares the provision of a curative benefice null if the one provided does not know the language of the place, because he cannot have care of a people whose language he does not know. - But certain benefices cannot be conceded except to those distinguished by a degree.[13]
5. That he have the prescribed age; for when age is lacking, even as to one hour, the common opinion holds that the collation of the benefice is null. But there are required for the Episcopate 30 completed years; 25 for a parish; 40 for a Penitentiary; 22 for a Dignity and Personate in a Cathedral; 21 for a canonry, even in a Cathedral; 14 for other Benefices (A year begun is held as completed, unless something else is expressed). - Yet those who are called

restricted, namely those who from foundation are called to a simple Benefice, can, provided they are older than seven years, be marked with tonsure and acquire the benefice; because Trent did not expressly derogate these ancient foundations.[14]

6. That he be entangled in no censure and irregularity. For collation made to an excommunicated person is certainly null, from cap. *Postulasti* 7, de Cler. excom.; made to one suspended, it is indeed not, according to the more probable opinion, void, but it is to be made void from cap. *Cum bonae* 8, de aet. et qualit.; finally made to an irregular person (even if it is a question of a simple benefice, e.g. of a canonry), is similarly null, at least from the more common and more probable opinion, to which Trent seems fully to favor.[15] Whence, it is doubtful whether one thus provided can, before a dispensation has been obtained, gain the fruits of the benefice. But otherwise, if someone already validly instituted a canon afterward falls into irregularity[16] (Recall what was said n. 1928, 3; 1292, 6; 1303, 4).

7. That he be immune from the stain of simony. For the simoniac, whether elected or collator, incurs excommunication reserved to the Roman Pontiff (cf. n. 1335); and the provision of a Benefice simoniacally conferred is of itself null. Indeed, the simoniac, at least after a declaratory sentence, becomes incapable either of retaining other benefices previously acquired, or of acquiring new ones (cf. n. 591).[17]

From these things you will resolve: 1. Since, from the decrees of the sacred canons, the aforesaid CONDITIONS must be altogether observed, it follows that the cleric who, these not having been observed, was provided, was not validly provided, nor acquired any right for himself, and therefore does not make the fruits his own; 2. if he has already received them, he is held to restitution. Except if he has been, for at least three years, in possession with good faith; because then prescription would be had.[18]

(8) H. A., ibid., 42; Scavini, III, n. 628. (9) Book IV, 113-114. (10) Ibid., 112. (11) Cap. 5, de cler. conjug. (12) Book IV, 113; H. A., XIII, 44. (13) Cf. Trent, sess. 22, cap. 2, de Ref. and sess. 24, c. 12, de Ref. (14) Book IV, 112; 1 El. qq. ref., n. 48; Scavini, III, 628; cf. Craisson, n. 467. (15) Sess. 22, c. 4, de Ref. (16) H. A., XIII, 55 and XIX, 75-77; Book IV, 130, Quaer., and VII, 343. (17) Book III, 112, q. 30. (18) Book IV, 112, fin.

2240. ○ II. The collator of a Benefice is held to confer it not only on a Cleric capable by law, but also on one WORTHY, or SUITABLE for fulfilling the office; under the penalty of invalidation to be pronounced by a judge. This is established from Trent sess. 7, cap. 3, de Ref., where it is prescribed that "ecclesiastical Benefices, especially those having care of souls, be conferred on worthy and capable persons...; but otherwise a collation or provision made is altogether to be invalidated." From which precept of Trent, and from another similar to this of the Lateran Council, it is clear that he sins mortally, both the unworthy man who permits himself to be promoted, and the Collator who knowingly takes care to promote an unworthy man; (indeed he who knowingly elects an unworthy man is deprived for a three-year period of the right of election). The reason is because the unworthy, or incapable, is judged at least useless to the Church; but since benefices have been instituted for the good of the Church and the utility of the faithful, it is manifest that the collator is to the grave detriment of the Church and of the faithful by conferring them on the unworthy. And hence it is why he is held to restitution toward the Church.[19]

Two things here come TO BE NOTED, namely: 1. Examiners would be lacking to their office "if they were judges of doctrine only, and did not inquire who, before others, by probity of morals, labors, obedience previously furnished to the Church, and the other endowments necessary for cumulatively undertaking the office of pastor, were suitable and commendable." Thus the Sacred Congregation of the Council has declared several times.[20] - 2. Examiners are to be constrained to an oath, by which they may solemnly promise that they will faithfully perform their office according to the prescription of the Council of Trent; for otherwise the concursus would be null, from the Decree of the Sacred Congregation of the Council, 2 December 1628.[21]

(19) Book IV, 107, v. fin. (20) Bened. XIV, de Syn., L. IV, c. 8, n. 3, fin.; cf. also Richter, Declarationes Conc. Trid., sess. 24, c. 18, n. 17-19 (p. 381). (21) Book IV, 111, fin.; H. A., XIII, 39.

2241. ○ III. The collator of a benefice, even if it is a question of a simple benefice, is held to CONFER it not only on one worthy, but on the MORE WORTHY. But he is to be judged more worthy who, compared to the other candidates, is more suitable for promoting the advantage both of the Church and of the faithful.[22] And indeed,

1. It is certain that for the Cardinalate, Episcopate, and curative benefices, the more worthy must be chosen. - This is established from Trent sess. 24, cap. 1, de Ref., where it is said that collators sin mortally if they do not place over them "those whom they themselves judge more worthy and more useful to the Church, not indeed by human affection, or suggestions of those canvassing, but as their merits require...." And in cap. 18 it is prescribed that the Bishop choose for a curative benefice "him whom he shall judge more suitable than the others." From which it is clear that Patrons, likewise Pontiffs and Kings, and their ministers, sin of themselves gravely if they do not promote the more worthy to the aforesaid dignities.[23]
2. It is more probable that even to simple benefices the more worthy must be promoted. - The reason is, 1. because thus there is cast into each one an incentive to render himself more worthy, and emulation of this sort yields to the greater utility of the Church; - 2. because benefices have been instituted not only for the common good, but also, although secondarily, for the remuneration of merits. Whence, by conferring benefices of this sort upon those less worthy, the Bishop gravely injures both legal justice, on account of neglect of the common good, and distributive justice on account of violation of the right which the more worthy have.[24] Yet the Doctors limit this opinion, and say that it is not a mortal sin if the more worthy is passed over not everywhere, but once or twice; if the excess of worthiness is small; if the benefices are of little importance; if, from the law of foundation, someone must be chosen from a family, college, town, etc.; if the more worthy is foreseen to be about to lay aside the benefice shortly.[25]

Let it be NOTED: 1. Greater worthiness is not to be taken absolutely, but respectively to the utility of the Church and of the faithful. - Hence, other things being equal, he is judged more worthy: 1) the Elder, on account of greater experience; 2) one well deserving, who from his own goods founded a church; 3) a Priest in competition with one not a Priest, since immediately he is able to serve; 4) one native-born with respect to a stranger, since he is presumed more solicitous; 5) one graduated in some science; 6) one endowed with greater sanctity or prudence, with respect to him who is preeminent in knowledge alone; 7) one powerful and noble, because these things are accustomed to

conduce not a little to the good of the church; 8) a poor man with respect to a rich man, that provision also may be made for him. "But if someone is probably more worthy, but doubtfully less worthy than another, who is certainly worthy, this certainly worthy one can be preferred."[26]

2. He who is less worthy, provided he is not unworthy, does not sin by competing with a more worthy man, and accepting the benefice, even a curative one. - Whence St. Thomas,[27] speaking of a Bishop: "It is not required," he says, "that he judge himself better than others; but it suffices that he find nothing in himself by which it would be rendered illicit for him to assume the office of prelacy."[28]

(22) Book IV, 91; cf. proposition 47 condemned by INNOCENT XI. (23) Book IV, 91, 92, 97; H. A., XIII, 34; cf. 1 Elench. qq. ref., n. 45. (24) Book IV, 93; cf. 1 Elench. qq. ref., n. 46. (25) Book IV, 94-96. (26) Ibid., 92. (27) 2\. 2. q. 185, a. 3. (28) Cf. H. A., XIII, 38.

2242. ○ Questions. ASK 1. Whether the election of a LESS WORTHY man is invalid, and induces the burden of restitution?

Resp. 1. The election of a less worthy man even to a curative benefice, although gravely illicit on the part of the collator, nevertheless is not of itself invalid; for, although the more worthy man passed over has the right of appealing, the appeal nevertheless, as is read to have been declared in the Bull *In conferendis* of St. Pius V (18 March 1567), does not prevent the election meanwhile from being put into execution: whence it is held valid, until it has been revoked by a judge.[29]

Resp. 2. It does not induce the burden of restitution, at least outside the case of concursus: because, although the collator has gravely injured both legal justice toward the Church and distributive justice toward the more worthy, nevertheless more probably he has violated the strict right of neither; because, outside the case of concursus, there does not intervene a pact by force of which he would be held from commutative justice to choose the more worthy. We said outside the case of concursus: because, if the election is made through concursus, a pact intervenes between the elector and the competitors; whence the most common and certainly more probable opinion holds that a cleric notably more worthy has a right that the damage be compensated to him by those electing. Moreover the Doctors excuse from restitution if the excess of worthiness were moderate (cf. n. 922).[30]

ASK 2. Whether it is licit to confer SEVERAL benefices upon one cleric?

Resp. 1. Considering positive law, it must be distinguished thus: 1) It is licit, if the benefices are compatible, such as simple ones are customarily, which do not oblige to residence; for concerning these the Council of Trent (sess. 24, cap. 17, de Ref.) thus established: "that only one ecclesiastical benefice be conferred on individuals.

But if this indeed does not suffice for the honorable support of him to whom it is conferred, nevertheless it is licit for another simple sufficient one to be conferred upon the same person, provided both do not require personal residence." But the permission of the Bishop is required. But if even that does not suffice, a dispensation of the Holy See is necessary so that a third can be obtained. - 2) It is not licit if they are incompatible, as certainly are an Episcopate, curative benefices, and others to which some jurisdiction is annexed; wherefore, if someone receives two benefices of this kind, once the second has been accepted, the first is vacant by the law itself; and if he presumes to retain both for himself, he is deprived *ipso facto* of both. Thus from Trent sess. 7, cap. 4, and sess. 24,

cap. 17. And the same, more probably, is valid concerning benefices which indeed lack jurisdiction, but which require residence, as Canonries; although many deny that these become vacant by the law itself, and before the sentence of a judge.

Resp. 2. Considering the law of nature, whether the benefices are compatible or incompatible, when one suffices for support, plurality is, of itself, illicit; both because the mind of the founders is to be presumed to have been this, that several would serve the Church; and because from plurality of benefices several inconveniences flow. Thus the common and to-be-held opinion. We said of itself, because the Pope can dispense from a just cause. But an honesting cause is so absolutely required that, when it is lacking, the benefices cannot be retained, not even with the dispensation itself of the Pontiff. - Among HONESTING CAUSES there are customarily counted: 1) necessity of the Church, namely in the case in which other suitable ministers would be lacking; 2) utility, as if someone alone, although absent, can benefit more by prudence, doctrine, authority, than another present; 3) prerogative of merits, if namely someone benefits the Church by his doctrine, instruction, etc.[1]

(29) Book IV, 102-103. (30) H. A., ibid., 37; Book IV, 109; cf. 1 Elench. qq. ref., n. 47. (1) H. A., XIII, 40, 41; Book IV, 116-118; cf. 1 Elench. qq. ref., n. 49; cf. also De Angelis, lib. 3, tit. 5.

Article III: On The Obligations Of Beneficiaries

2243. ○ Of the obligations of beneficiaries, some have regard to spiritual things, others to temporal things.

I. The obligations having regard to SPIRITUAL things are: 1. the obligation of reciting the canonical Hours, of wearing the habit, etc., as was explained above (n. 984-1004); 2. residence, concerning which in the following chapter n. 2261 and 2266); 3. special service, which either the nature of the Benefice or the tables of foundation require (See also n. 428 and 974).

II. But the obligations having regard to TEMPORAL things can be reduced to the right administration of the benefice and of its fruits. Hence there must be treated: 1. concerning the care and custody of the benefice or of the goods of the Church; 2. concerning the legitimate use of the goods of the Church.

§ 1. On The Care And Custody Of The Goods Of The Church

2244. ○ Principles. I. It is forbidden to CLERICS and RELIGIOUS to ALIENATE ecclesiastical goods of any pious place whatever, without the Pontifical good pleasure and without the due solemnities.[2] Thus it has generally been established by Paul II in the Extravagant *Ambitiosae*, which Pius IX confirmed through the Constitution *Apostolicae Sedis*. - See n. 1353.[3]

II. Clerics, and other ADMINISTRATORS of ecclesiastical goods or of pious places, are held to manage them as good fathers of families, and to provide that they not only suffer no detriment, but also that, insofar as it can be done, they come into a better state. - Therefore it is theirs to take care that if buildings need repair, they be repaired opportunely; that estates be cultivated; that alienated things be vindicated; that things lost be recovered; and that debtors be compelled to payment. - But if by their fault something perishes, or becomes worse, they are held for the damage[4] (cf. n. 975).

Note. What was established in the Clementine *Quia contingit* de Xenodochiis, namely that their administrators "like tutors are held to furnish an oath, - to make an inventory of the goods, - and to render an account of their administration each year to Ordinaries or to others to whom the places are subject": this ought also to be extended to the administrators of Chapters, Collegiate churches, parishes, and all other benefices.[5]

(2) H. A., XIII, 61, 62; Book IV, 187; cf. De Angelis, lib. 3, tit. 13. (3) See among more recent authors Aloys. Trombetta, Praxeos regulae circa contractus rerum ecclesiasticarum rite ineundos, Rome, 1865; whose Synopsis Lucidi reports, cap. VII, § 3, Append. (4) Craisson, n. 5346. (5) Cf. Lucidi, tom. 2, cap. VII, n. 232 sqq.; cf. also St. Alph., Notif. 2, n. 12 (Opp., vol. IV, p. 714).

§ 2. On The Legitimate Use Of The Fruits Or Revenues Of The Church

2245. ○ It is equitable that he who serves the altar should also live from the altar; for the Apostle says (1 Cor. 9:7): Who ever serves as a soldier at his own expense? And hence it is that the faithful, by natural and divine law, are held to assist the necessities of the ministers of God (cf. n. 553, 2). - Yet they are exempted from that obligation if somewhere benefices have been constituted from which Clerics are able to live.

But here it is ASKED: In what way, and in what measure, has this enjoyment of ecclesiastical goods been conceded to Clerics? To understand this well, FOUR species of goods which can be possessed by Clerics MUST BE DISTINGUISHED: - 1. Patrimonial, which come to them from any profane cause whatever. - 2. Quasi-patrimonial, or industrial, which Clerics acquire from Masses, sermons, stole-rights, funerals, choral distributions, offerings of the faithful, pious legacies, pension, whether lay or ecclesiastical.[6] - 3. Merely ecclesiastical, which are had from Benefices (whether directly through legitimate administrators, or indirectly through usurpers in compensation, at least partial, for usurped goods[7]). - 4. Parcimonial, which a Cleric has subtracted for himself from ecclesiastical goods out of his support, by living more sparingly than he could have lived honorably.[8]

These things having been posited, the following are commonly established.

(6) H. A., XIII, 49. (7) Cf. Berardi, Prax. Conf., n. 506, IX. (8) H. A., X, 6; XIII, 49; Book III, 490.

2246. ○ Principles. I. Clerics have FULL DOMINION both in patrimonial goods, and in quasi-patrimonial goods, and also in parcimonial goods. The reason is because these goods are either extraneous, or stipends of labors, or fruits of industry. Therefore they pertain altogether to them and can be expended by them even for profane uses.[9]

(9) Book III, 491.

2247. ○ II. It is licit for Beneficiaries to take from merely ecclesiastical goods SUITABLE SUPPORT, although they are rich from elsewhere; but they are held, under mortal sin, to expend REVENUES SUPERFLUOUS to their support upon the poor, or upon pious uses. - The reason of the first is because a minister of the Church can live honorably from the goods of the Church, since Benefices have been instituted especially for this end; nor is it an obstacle that he is rich; because he has the right to support not by reason of poverty, but by reason of labor.[10] The reason of the second is first of all the precept of the Church, which is found promulgated in innumerable decrees of Councils

and of the sacred Canons. It will suffice to have adduced here the authority of the Council of Trent, which (sess. 25, cap. 1, de Ref.) expressly forbids Bishops and other beneficiaries "to strive to increase their relatives by blood, or their familiars, from the revenues of the Church; since (it says) even the Canons of the Apostles prohibit that ecclesiastical things, which are God's, be given to relatives by blood; but if they are poor, let them be distributed to them as to the poor; but let them not divert or dissipate those things on their account." But

(10) Book III, 491, q. 5.

2248. ○ There is a great QUESTION: Whether a beneficiary is held FROM JUSTICE to distribute superfluous goods to the poor, so that those goods badly expended are liable to RESTITUTION to the poor?

Resp. One opinion, and this the more probable, affirms, because by no reason can it be proved that beneficiaries acquire the very dominion of the fruits of benefices; but if they acquire it (the supporters of this opinion continue), there is conceded to them, according to the mind of the Church and the institution of the founders, only a limited dominion: from which they can take only that which is required for their honorable support, the superfluous things being expended upon the poor, which indeed by the holy Fathers Basil, Augustine, Bernard, and also by many Councils are called the goods of the poor, the patrimonies of the needy.

But the other opinion denies it, and this, according to the judgment of St. Alphonsus, seems sufficiently probable in practice; especially on account of the authority of St. Thomas, who teaches that concerning the goods of benefices the same account is to be held as concerning patrimonial goods, and therefore that a Cleric, if he abuses the fruits of his prebend, "is not held to restitution, but only to performing penance."[11] Nor do the words of the holy Fathers stand in the way: for these do not seem to be taken so rigorously, especially in present times; for since now a division of ecclesiastical things has been made (which the Angelic Doctor holds for certain), his own has been assigned either by the Pontiffs themselves, or step by step through usage itself, to each one; namely, his own to the Bishop, his own to Clerics, his own to the Church, and his own to the poor. And this same thing seems to be confirmed by that common manner of speaking which the sacred Canons everywhere admit: he does not make the fruits his own. Therefore a Cleric satisfying the burden makes the fruits his own; therefore, expending them badly, he does not injure justice, but only religion or charity.[12]

(11) St. Thomas, Quodl. 6, art. 12, ad 3; and 2\. 2. q. 185, a. 7, c. (12) H. A., X, 7; Book III, 492 (from the 6th edition) and 2 Elench. qq. ref., n. 10, according to whose norm there must be held, in the 1st Elench., quest. ref. n. 24; cf. De Angelis, lib. 3, tit. 25, n. 30.

2249. ○ Several things WORTHY OF NOTE seem to be added here, namely: 1. The superfluous is estimated as that which exceeds honorable or suitable support. "Furthermore, the suitable support of a cleric is judged," says St. Alphonsus, "to be that which is necessary for the support of his state and family, according to the condition of state, grade, dignity, quality, and region in which he himself dwells."[13]

2. That superfluous expenses for profane uses reach mortal sin, a quantity greater than in theft is required. St. Thomas[14] requires much excess, i.e. according to the truer opinion, a twentieth part of the superfluous things, if this twentieth part itself reaches a notable sum. Thus a Cleric, expending from twenty thousand superfluous things a thousand for profane uses, sins gravely.[15]

3. Under the name of the poor there come not only those begging door to door, but also those who otherwise cannot preserve their state; also relatives by blood, if they are truly poor: and these can be preferred to the others, even those more gravely in need; "because assistance of needy relatives also pertains to preserving the proper state of the Cleric, since their poverty redounds to his disgrace."[16]

4. Beneficiaries can also reserve superfluous things for the future for pious uses; provided they beware lest such revenues, death supervening, be plundered by relatives by blood.[17]

It is ASKED. Whether Clerics can make a testament concerning revenues of benefices which are superfluous?

Resp. Affirmatively, from custom received in many places, but only for pious causes; for although where the custom has prevailed they validly make testament for profane uses, nevertheless they sin mortally, unless they do this from an Indult of the Pope.[18]

(13) Book III, 491, q. 2; Book IV, 181-182. (14) 2\. 2. q. 185, a. 7. (15) H. A., XIII, 49, fin.; Book IV, 183. (16) Book III, 491, q. 2; H. A., XIII, 48. (17) Book III, 491, q. 4. (18) Cf. De Angelis, lib. 3, tit. 26.

Chapter III: On The Obligations Of Clerics By Reason Of Office

A Benefice is always on account of an office; but an office or duty is not always with a Benefice, as is clear from the example of those who are engaged in the state of mission. There have been constituted, for the diverse grades of the sacred hierarchy, many OFFICES and DUTIES, concerning which the Canonists discuss at length. For our scope it will be enough to have treated concerning the obligations 1) of Bishops, 2) of Canons, 3) of Pastors.

Article I: On The Obligations Of Bishops

2250. ○ Things to be noted beforehand. 1. Bishops are ecclesiastical Prelates who, obtaining the fullness of the priesthood, succeed into the place of the Apostles, and participate in the government of the Church: whether insofar as together with the Roman Pontiff they constitute the teaching or governing Church, or insofar as they are placed over individual dioceses, under the Pontiff, by ordinary office (See the Canonists[19]).

2. The things which were said above (n. 2196 sqq.) concerning the holiness of Clerics, agree especially with Bishops; for they, as being constituted in the state of acquired perfection, ought to be perfect, according to that of the Apostle: Present yourself as an example of good works (Tit. 2:7).[20]

Many are the OFFICES of Bishops; and since knowledge of them greatly benefits even Pastors of an inferior grade, it is useful here to set forth the principal parts of these offices.

(19) Cf. Bouix, de Episcopo, P. I and IV. (20) Trent, sess. 23, cap. 4.

2251. ○ I. A Bishop is held, and indeed by divine law, TO RESIDE formally in his own diocese, unless a JUST CAUSE excuses. This is established from Trent sess. 6, cap. 1, de Ref., and sess. 23, cap. 1, de Ref. Whence St. Alphonsus says:[21]

"the ring is consigned to the Bishop in his Consecration, that by wearing it he may consider that he is no longer of his own right, but of his Church, his spouse, so that perpetually, while he lives, he may assist her." As regards the penalties established by the Council, see n. 1378.

We said 1. to reside formally, that is, laboriously and usefully; for in the bull *Grave* of Benedict XIV it is declared that residence is not true unless it is formal.[1]

We said 2. in his own diocese: for the Council of Trent says that "Bishops are obliged to personal residence in their Church or diocese." Then it exhorts them to reside in their Cathedrals "on the Sundays of Advent, Lent, the Nativity, Resurrection of the Lord, Pentecost, and Corpus Christi, on which days the sheep ought especially to be refreshed and to rejoice in the Lord by the presence of the Pastor."[2]

We said 3. unless a just cause excuses. But from Trent (loc. cit.) FOUR CAUSES are assigned which excuse a Bishop from continuous residence, namely: 1) Christian charity, e.g. if some Church is in great danger of heresy, and he can bring help to it without notable detriment of his own Church; or if his mediation is necessary for composing the enmities of powerful persons, etc. 2) Urgent necessity, e.g. if he is in danger of life on account of sickness, inclemency of the air, personal persecution, etc.; but not on account of a general danger, e.g. in time of contagion, etc. - 3) Due obedience, namely when the Pontiff calls him elsewhere and entrusts to him the care of some business. 4) The evident good of the Church, for defending its rights, e.g. in a provincial or general Council.[3]

By law it is PERMITTED to the same that, from an honorable cause and without detriment of the flock, each year for two or three months, either continuously or interruptedly, they stay outside the diocese. This is established from the same Trent (loc. cit.). But they cannot be absent longer without an APOSTOLIC INDULT. Whence Benedict XIV in the Bull *Ad universae* declared that a Bishop who is absent beyond the three conciliar months, without express permission of the Roman Pontiff, is to be held as a transgressor, and that he does not make the fruits his own, and finally that he incurs the other penalties which have been brought against transgressors.[4]

(21) H. A., VII, 62; cf. Book IV, 120 sqq. (1) Book IV, 127, dub. 3. (2) Sess. 23, cap. 1, de Ref. (3) Book IV, 125; H. A., VII, 19. (4) Book IV, 125-127; cf. Craisson, n. 894.

2252. ○ II. A Bishop is held TO VISIT THE WHOLE DIOCESE in individual years, unless the excessive breadth of the diocese prevents it; in which case, AT LEAST WITHIN A BIENNIUM, he ought to complete the whole visitation. - This is established from Trent (sess. 24, cap. 3, de Ref.), which thus gravely asserts the obligation: "Let Bishops not omit to visit their own diocese by themselves, or, if they have been legitimately impeded, through their Vicar General or Visitor; if because of its breadth they cannot visit the whole each year, let them visit at least the greater part of it, so nevertheless that the whole be completed within a biennium by themselves or their Visitors." And the Council adds: "let them strive as quickly as possible, yet with due diligence, to complete the

visitation itself." But if he wishes to defer it beyond a biennium, he needs an Apostolic Indult.[5]

But in these visitations the Bishop OUGHT: - 1. To preach. For the Apostle says (2 Tim. 4:2): "Preach the word; be instant in season, out of season; reprove, entreat, rebuke, in all patience and doctrine." 2. "To examine the children, that he may see how they have been instructed; and thus he can provide against the negligence of pastors, by correcting them, and even by substituting some steward to teach the children doctrine at the pastor's expense, at least for the example of others." 3. "To examine priests in the ceremonies of Mass, and to suspend from celebration, without any mercy, those who, as they ought, are not skilled in them. - The Bishop can also recall approved confessors to examination, and from a just cause even pastors." 4. "He ought to apply a personal scrutiny concerning all the priests of the region, by secretly questioning each one, first concerning his own duties, that he may suggest to him what will be necessary, and then concerning the defects of others, and especially of the pastor, of confessors, e.g. in what way they apply themselves to their duty, with whom they associate, etc." - 5. "Let him inquire concerning abuses, scandals, and discords which creep through the regions." - 6. "Let him take care to raise to fervor the Congregations of secular persons, and to provide them with opportune helps, by assigning a preacher and confessor, if they lack these." - 7. "Finally, let him not omit to administer the Sacrament of Confirmation," according to what was said n. 1498.[6]

(5) Cf. Vecchiotti, vol. I, lib. 2, § 63, p. 287. (6) H. A., VII, 60; cf. also St. Alph., opusc. Riflessioni utili ai Vescovi, where there are many things full of the spirit of God (Opp. ascet., III, 865).

2253. ○ III. "A Bishop is held TO CHOOSE for ministers of the altar only the WORTHY, and to exclude the unworthy."[7] Indeed, "a Bishop conferring sacred Order on an unworthy man sins by a double title: he sins because he fails in his duty; and he sins because he cooperates in all the sins which that man will commit, and he will be the cause why others also sin. St. Paul intimates this same thing (1 Tim. 5:22) when he said: 'Impose hands hastily on no one, nor communicate in others' sins.'"[8]

"A Bishop ought to EXAMINE two things in those who aspire to Orders, namely spirit and doctrine." 1. Concerning spirit and morals, although that ancient rigor can no longer be brought into practice, by which access to Orders was closed to one who had fallen into one mortal sin, nevertheless it is certain that no one can be admitted to Orders unless he has first been proved in virtues, and especially in lasting continence, which those ordained in sacred Orders will have to profess.[9] 2. But concerning doctrine, "the Bishop ought to take the greatest care to inspect whether the one who asks to be promoted has been well taught, and whether he is eager for study: since he who is not a lover of study will never be suitable for the Church, indeed he will necessarily be depraved: for (as is customarily said) idleness is the father of vices"[10] (cf. n. 1914, 1915).

Wherefore the Bishop must apply himself so that he have a SEMINARY constituted with the best direction (establishing that no one seek Orders who has not stayed there at least three or four years). For from this afterward pastors, confessors, and other priests will be selected, and thus he will be able to render his diocese cultivated.[11]

(7) H. A., VII, 47. (8) Ibid., 51. (9) Ibid., 47-51. (10) H. A., V, 52. (11) H. A., VII, 53, where there are more things; cf. Regolam. per i Seminarii; cf. also Lucidi, cap. 6.

2254. ○ IV. "A Bishop is held TO CHOOSE good PASTORS and good CONFESSORS."[12] For on these depends the whole good of the diocese.

1. As regards PASTORS, it is already established that the more worthy must be preferred, especially those who excel in knowledge and probity of life (cf. n. 2240). - "As regards knowledge, the Bishop can well conform himself to the judgment of the examiners; but his principal diligence ought to aim at this, that he himself know concerning probity of life, by inquiring for information from different persons.... For the Sacred Congregation of the Council decreed thus concerning the election of pastors: 'The less learned man (provided he is suitable) whose morals are approved is to be preferred to the more learned man whose life is unknown.' It is to be held as certain that an upright pastor is more useful to the people in one month than a more learned but less upright pastor in a whole year."[13]

Moreover, "the Bishop is held to inform himself from others whether pastors apply themselves to teaching children Christian doctrine, whether they preach, and whether they preach according to the prescription of Trent. Concerning this the Prelate ought often to admonish pastors, that they break for the little ones the bread of the divine word, also exhorting them that in sermons they strive to suggest matters which conduce to use: e.g. how temptations are to be repelled; what must be said when adverse things occur, or when someone is affected by injuries, and things of this kind. - Likewise, let him inquire with what diligence pastors and confessors apply themselves to hearing confessions.... Let him also commend assistance to the dying, and the Congregations of secular persons, especially of girls.... These congregations (if they are well disposed and directed) afterward cause the highest good; because if those girls afterward marry, they will easily teach their children the things which they themselves practiced, and whole families will be sanctified."[14]

2. As regards CONFESSORS, the diligence of the Bishop should be greatest in forming and selecting them. "For on confessors depends the direction of the consciences of all the subjects, and one confessor who is ignorant, or depraved in morals, can make a whole region lost. Therefore the Bishop ought not approve anyone unless first he becomes certain of his probity and doctrine, by examining him on moral theology (cf. n. 4 and 1786)."[15]

But for promoting piety and knowledge in pastors and confessors, TWO things are necessary:

One is the annual giving of spiritual exercises, in which each priest not legitimately impeded is held to take part at least every second or third year, with some penalty established against the negligent.[16]

The other is at least the monthly celebration of theological Collations or Conferences, which should treat practical matters. All priests having care of souls are held to take part in these conferences, as is established from many declarations of the Sacred Congregation of the Council; but Regular confessors are exempted from them by constituted law, unless perhaps they are pastors. - Yet here there must be recalled what our Most Holy Lord LEO XIII, Pope, in the Constitution *Romanos Pontifices* (15 January 1881), declares thus: "But it has by no means escaped us that the Roman Council held in the year 1725 by the authority of Benedict XIII ordered all Confessors, even from Regular Orders, dwelling within the limits of the province, to celebrate those meetings, provided moral lectures are not held in their convents.... Therefore moved by these reasons we declare that all rectors of Missions ought by office to be present at the collations of the Clergy, and at the same time

we decree and prescribe that Vicars also, and other religious men furnished with the faculties customarily conceded to missionaries, who inhabit hospices and small houses of missions, take part in the same."[17]

(12) H. A., VII, 54. (13) Ibid. (14) H. A., VII, 55 (cf. Selva, P. 3, c. 8, § 2 and 3). (15) Ibid., 56. (16) Cf. Acta S. Sed., vol. XII, p. 609. (17) Acta S. Sed., vol. XIII, p. 486.

2255. ○ V. To the Bishop, SCHOOLS, PIOUS PLACES, and MONASTERIES ought especially to be a care.

1. As regards schools, "let the Bishop move every stone, that some Catholic schools be opened and be at hand, taking care that teachers undergo the examinations required by the Government, and obtain the necessary faculty of teaching"[18] (cf. n. 712).
2. "Let him not forget those who pass their life in hospitals, orphanages, prisons, etc. A Bishop is to be praised if sometimes he visits them; but he is held by strict obligation altogether to provide for their spiritual necessities."[19]
3. As regards monasteries: 1) Let him not omit to explore the will of girls wishing to profess, lest they enter without the vocation of God, and afterward lead a restless life with common damage. 2) Let him not be easy in giving to strangers permission of speaking with cloistered nuns. 3) Let him send extraordinary confessors as is by law; but let him not confirm ordinary confessors beyond three years without necessity. 4) Let him take care that spiritual exercises be given each year by a priest who is exemplary and skilled in religious discipline; otherwise he would bring harm rather than utility.[20]

(18) Berardi, Prax., n. 702, IX; cf. also the Encyclical of LEO XIII to the Bishops of France, 8 February 1884. (19) Berardi, l. c. (20) H. A., VII, 61.

2256. ○ VI. A Bishop is held to CORRECT subjects, and to MEET scandals and abuses; for to this he performs the office of Pastor (Recall what was said n. 492 and 496).

But that he may efficaciously meet scandals, the Bishop ought diligently to inquire, not only from pastors and vicars forane, but also from other zealous priests (whom he should have destined to this in all parts of the diocese), concerning abuses which perhaps have crept elsewhere into other parishes. - And when priests come to him, let him take care that they are received without delay, and that the business on account of which they come is quickly dispatched; for thus it will happen that afterward, whenever they must come, they will return willingly.[21] Similarly, that scandals and the ruin of souls may be prevented, let him resist with all his strength occult Sects, the reading of evil books and journals, the foundation and frequentation of impious schools, concubinages and merely civil marriages, and let him apply a prompt remedy to all growing evils; for medicine is prepared late when evils have grown strong through long delays.

But among subjects to be corrected, let him assign the first place to those Pastors of souls who perform their duty drowsily; to preachers who adulterate the word of God by preaching in which they set before themselves as an end their own glory more than the glory of God and the salvation of souls; to priests who too hastily, without gravity and without observation of the rubrics, celebrate Mass.[22]

But how one must proceed in summary forms, and without the noise of a trial, with undisciplined or criminal clerics: see the Instruction of the Sacred Congregation of BISHOPS AND REGULARS confirmed by our Most Holy Lord LEO XIII, 11 June 1880.[23]

(21) H. A., VII, 63. (22) Cf. Berardi, l. c., n. 702, VIII, IX. (23) Ap. Lucidi, vol. I, p. 530; cf. also Pierantonelli, Praxis Fori eccles., p. 270.

2257. ○ VII. A Bishop is held TO PRAY for the people and to bestow ALMS. As regards prayer, see what was said (n. 1606, q. 1) concerning the obligation of celebrating Mass. As concerns alms, St. Gregory affirms that it is the first work of mercy which a pastor ought to furnish to his flock.

"O how many evils," says St. Alphonsus, "can a Bishop provide against by alms! How many spouses live in sin, because the means of completing marriage is not at hand for them! How many children on account of poverty sleep together with their parents, or males with girls in the same bed, with such great destruction of souls! And therefore good Bishops take care to inquire from pastors concerning the necessities which are present, and enjoin upon them that they make him more certain whenever anything occurs."[24]

(24) Cf. H. A., VII, 64, 95, where there are more things.

2258. ○ VIII. A Bishop is held to render an account to the Holy See concerning the state of his own diocese; and to this end he ought at the established times to perform the VISITATION AD LIMINA.[25] - Concerning this and certain other obligations of Bishops, see the Canonists.[26]

NB. Concerning the RIGHTS and PRIVILEGES of a Bishop, let St. Alphonsus be read, Book I, Appendix on Privileges (or *Homo Ap.*, tr. XX, cap. 3). - See also in the alphabetical Index the various faculties of the Bishop indicated under the word BISHOP; - likewise Appendix I, Quinquennial faculties, and the Forms of the Sacred Penitentiary.

(25) Cf. Acta S. Sed., vol. X, p. 202. (26) Lucidi, de Visitatione SS. Limin.; Bouix, de Episcopo; Craisson, Manuale, n. 919 sqq.; Konings, II, p. 422 to n. 34.

Scholium.

On The Vicar Of The Bishop.

2259. ○ It is ASKED. What CAN the Vicar of the Bishop do?

Resp. The Vicar General, or Official, once constituted by the Bishop, has, speaking in itself, from Law an ORDINARY and free POWER of managing those things which the Prelate himself can, and also of delegating others. - Hence, he dispenses in the banns of matrimony; brings censures, so that those subject to him obey, e.g. that the accused, or a witness, appear; approves for confessions; absolves one who has struck a Cleric; institutes those presented by patrons; judges beneficiary causes concerning the right of patronage and its quasi-possession, etc.[27]

We said speaking in itself: for those things are excepted which require a peculiar mandate. - Hence, without a special mandate, he CANNOT take cognizance of criminal causes in which there must be a

more serious proceeding against the accused, e.g. through deposition or excorporation (commonly *Exeat*); nor can he confer Benefices, nor furnish consent in changing, uniting, or erecting them; nor can he visit the diocese, nor call a synod, nor summon a meeting of Canons. Similarly, without a special commission, he cannot absolve from cases which the Bishop reserved to himself; nor remove irregularities arising from an occult delict; nor grant dimissorial letters, unless the Bishop is staying outside the diocese for a long time; nor dispense in oaths, in vows, in ecclesiastical laws, indeed not even in episcopal and synodal statutes: so that generally in all things which savor of grace he needs a special mandate.[1] - But that he can perform none of those things which are of the episcopal Order is of itself already sufficiently clear.

The Vicar General, if he has offended, can be punished by the Bishop as a private person. If he has offended concerning the jurisdiction or office of Vicar, he must be punished by the Metropolitan or by the Holy See; because the Bishop cannot be judge in the cause of his Vicar, as such; likewise, there is no appeal from the sentence of the Vicar to the Bishop, but to the Metropolitan or to the Holy See; because the tribunal of the Bishop and of the Vicar is one and the same.[2] When the Bishop has died or been removed, the jurisdiction of the Vicar, as such, ceases.

(27) Cf. St. Alph., De Priv., 31, 34, 47; Bened. XIV, de Syn., L. 2, cap. 8. (1) Book III, 288. (2) Cap. Non putamus, de consuetud. in 6; cf. Craisson, n. 1120 sqq.

Article II: On The Obligations Of Canons

2260. ○ CANONS are so called from the Canon or rule which they ought to observe in the service of the Church. Today they are divided into Regulars, who under the care of an Abbot lead a common life bound by vows; and into Seculars, who in the world, separately, under the care of the Bishop, live from a benefice or prebend, and from choral distributions.[3] These pertain either to a Church simply Collegiate, or to a Cathedral; whence they contract special obligations, which the Canonists or particular Statutes hand down.

Here, we shall speak only of the offices annexed to any Canonry whatever: which offices indeed are expressed in the following verse:

Solicitude of choir, residence, perpetual Mass.

(3) Cf. Craisson, 2167 sqq.

2261. ○ I. Canons are held to RESIDENCE. For thus the Council of Trent established (sess. 24, cap. 12, de Ref.): "Let it not be licit for Canons by force of any Statute or custom whatever to be absent beyond three months... in any year, the constitutions of Churches which require a longer time of service nevertheless being preserved." - The same Council decreed (loc. cit.) that Canons who are absent beyond three months in the first year be deprived of half the fruits; but if they have persevered in absence, let them be deprived of all the fruits of that year. "But with contumacy increasing, let proceedings be taken against them according to the constitutions of the sacred Canons," namely to the deprivation of their benefices.[4]

Yet concerning these things it must be NOTED: 1. Since the decree is personal, it demands a sentence, that it may obtain its full effect. But because a Canon illegitimately absent does not make the fruits his own, he cannot exact or retain the fruits corresponding to the time of absence.

2. Since in individual years a vacation of three months from choir is conceded to all Canons, the time of vacations must be so distributed that never more than a third part of the Chapter is on vacation; because vacations are conceded to Canons, but not to the Chapter; for the divine worship to which they are assigned ought not to be vacant.

3. Canons, while they are on vacation, are not held to substitute someone for themselves. Nor do they need the permission of the Chapter or Bishop for departing within the diocese. But if they wish to travel outside the diocese, the permission of the Bishop is necessary for them. Thus the Sacred Congregation of the Council in one Senen., 12 March 1594.[5]

4. It is enough for the violation of the law of residence if the days of absence, although interrupted, exceed the three-month period.[6] But Canons (not Bishops) can well join the three-month period conceded with the three-month period of the following year, unless scandal should occur, or divine worship be diminished.[7]

5. The Bishop can, on account of a legitimate cause, give the faculty that they can be absent for four months, from the decision of the Sacred Congregation of the Council (7 October 1580).[8]

6. A Canon legitimately absent gains the fruits of the prebend, but not the choral distributions, which cannot be remitted even by his associates; and the reason is because distributions are made so that beneficiaries may be enticed to assisting.[9]

(4) H. A., XIII, 51. (5) Apud Lucidi, vol. I, cap. 3, n. 11. (6) Thus the Sacred Congregation of the Council, ap. Bened. XIV, Institut. 107, n. 31. (7) Book IV, 129, v. fin.; H. A., XIII, 50. (8) Fagnanus, in cap. Licet, 35, de Praebend., and others apud Ferraris, V. Canonicus, art. 5, n. 12. (9) H. A., XIII, 50.

2262. ○ II. Canons are held to sing or chant the DIVINE OFFICE in choir. This is established from Trent (sess. 24, c. 12, de Ref.). - Nor are they therefore excused because perhaps they are few; for the Sacred Congregation of the Council on 31 March 1696 declared that Canons, even if few, for example two or three, are held to sing or recite the office in choir.[10]

Hence: 1. It does not suffice if they are only present at the choir or offices; but they are held, insofar as they can, to concur in the singing or recitation, with a high voice and pious affection of heart. Nor do they satisfy, although present, by private recitation, as is established from the Constitution *Cum semper* of Benedict XIV, 19 August 1744.[11]

2. They sin gravely if they are notably absent from choir beyond the time permitted by the Council of Trent; and venially, if for a brief time, e.g. three or four days. Therefore those Canons err who think themselves safe in conscience provided they yield the distributions; for the obligation of choir is altogether independent from the distribution itself.[12]

3. The Bishop cannot order that certain Hours be omitted in choir; but for this, if a just cause is given, an Apostolic Indult is necessary. This is established from the Response of the Sacred Congregation of the COUNCIL to the Chapter of the Church of Moulins in the year 1822.[13]

You will ASK whether Canons can serve the choir through substitutes, or alternately one for another? Resp. Negatively, generally speaking; because it is against the prescription of Trent (loc. cit.), where it is said: "But let all be compelled to perform the divine offices by themselves and not through substitutes"; and against the declaration of the Sacred Congregation of the Council given on 25 July 1570, even if a custom or statute permitting this were present.

It was said generally speaking; because the Sacred Congregation of the Council declared "that the Bishop, where a custom is present, can concede the faculty to Chapter members of substituting themselves mutually in the service both of the church and of choir; provided they are not substituted in those times in which they are bound to the service of the church; and provided the Bishop take care that they not abuse this faculty of substituting; for example if substitutions of this kind are too frequent." But at another time the Sacred Congregation of the Council declared that this decree has place only among those present.[14]

(10) Ap. Ferraris, loc. cit., n. 50. (11) Book VI, 326 and Book III, 675, where there are more things; cf. also Lucidi, cap. 3, n. 5. (12) Scavini, I, 431; cf. Ferraris, l. c., n. 30-32. (13) Ap. Gury, II, 119; cf. also Lucidi, cap. 3, n. 119. (14) Book III, 675, dub. 5 (from the 6th edition); cf. Lucidi, c. 3, n. 21-26, where there are more recent decrees of the Sacred Congregation of the Council.

2263. ○ III. Canons are held, under grave obligation, TO CELEBRATE one MASS DAILY in chant, and to APPLY it for the founders and benefactors of the Church. This is established from the Bull *Cum semper* of Benedict XIV (cf. n. 1617, 4).

Furthermore it must be NOTED: 1. All Canons ought to be present at this Mass in choir. But he upon whom the burden of the Conventual Mass is incumbent, on the day on which the Bishop celebrates pontifically, should apply it as a low Mass (thus the Sacred Congregation of Rites, 12 November 1831, Marsorum).[15] - 2. The obligation of applying Mass for founders can be reduced by the Holy See to feast-days if Canons are so poor that they need Mass stipends for living. From the cited Bull *Cum semper*, § 19.

(15) Gardell., n. 4669, to 20.

2264. ○ It is ASKED. What are the CAUSES EXCUSING from the service of choir?

Resp. 1. The causes TOTALLY excusing (namely, while they stand, Canons are deprived neither of the fruits of the prebend nor of ordinary distributions) are the following: 1) Grave infirmity, or one which can probably become grave. - 2) Necessity of the body, by which is understood fear of any grave harm in life, honor, or goods. - 3) Utility of the Church, which namely is reputed grave by the judgment of the Bishop or Chapter: by which title are excused the Vicar Capitular (not General), the Penitentiary, the curative Canon, the theologian, or preacher, while each of them is actually performing his duty. Likewise the Canon who at Rome performs the Visitation of the Holy Thresholds with the Bishop, or in the name of the Bishop. - 4) Indult of jubilation, by which namely a Canon after 40 years of service laudably performed obtains, through Rescript of the Holy See, exemption from choir and residence; yet so that he can again be called, if the necessity of choir demands it.

Resp. 2. The causes PARTIALLY excusing (namely, so that the absent one gains the fruits of the prebend, but not the choral distributions, unless there were another custom) can be reduced to

THREE: 1) Legitimate absence for three conciliar months, according to what was said n. 2261. 2) Necessity of teaching theology or sacred Scripture in public schools; or permission conceded by the Bishop of studying the same for three years, within the twenty-fifth year of age, from more recent decisions. 3) Any legitimate impediment whatever approved by the Bishop. Thus Canon examiners are excused while they examine during the time of Office; Visitors of the diocese; those two Canons whom the Bishop can choose for himself as secretaries.[16]

Note. Cathedral chapters were instituted chiefly for this end, that each would help its own Bishop, and, with the See vacant, would provide for the government of the diocese.

Hence: 1. With the See FULL, Canons of the Cathedral Church are born Counselors of Bishops; and just as the Bishop, unless a contrary custom flourishes somewhere, is held in all cases determined by Law to consult them concerning mandates to be issued: so equally the Canons are held to help the Bishop with their counsels; nor are they free from fault if, having been consulted, they keep silent about their opinion without just cause, or utter it with little sincerity (cf. n. 140, note 1). - They are also held to assist the Bishop exercising Pontificals and to serve him.

2. With the See VACANT, the whole jurisdiction of the Bishop, whether ordinary or delegated by law, passes to the Chapter (except those things which savor of innovation or alienation) and from the Chapter to the Capitular Vicar, who must be constituted within eight days from the vacancy of the See. - But concerning the Capitular Vicar, see the Canonists[17] (cf. n. 1327).

(16) H. A., XIII, 52-57; Book IV, 130-132; cf. Lucidi, cap. 3, n. 74; cf. also Monitore eccles., vol. 3, P. 3, p. 102. (17) Cf. Bouix, de Capitulis, P. IV and V; Craisson, n. 1212 sqq.

Article III: On The Obligations Of Pastors

2265. ○ Besides the obligations common to clerics and beneficiaries, PASTORS are bound by several others.[18] These can be reduced to SEVEN heads, and are the following: 1. Residence; 2. Preaching and Instruction; 3. Administration of Sacraments; 4. Celebration of Mass for the people; 5. Care of the sick and the poor; 6. Correction of sheep; 7. Solicitude of promoting good.

(18) See Bouix, de Parocho; Lucidi, cap. 3, n. 211 sqq.; Craisson, n. 1287 sqq.; Berengo, Enchiridion parochorum, P. III, cap. 2.

§ 1. On Residence

2266. ○ I. PASTORS, and others having a curative benefice, are held by divine law TO RESIDE both materially and formally in their Churches, unless a legitimate cause excuses. This is established from Trent sess. 6, cap. 1, de Ref., and sess. 23, c. 1, de Ref.

We said 1. pastors and others, etc., i.e. all upon whom the actual care of souls is incumbent: such are coadjutors of a united parish, curative Vicars, parochial Vicars of a vacant parish, or of an absent pastor. This is established from Trent, l. c., sess. 23, c. 1, and from the declaration of the Sacred Congregation of the Council, 6 November 1620.[19]

We said 2. by divine law, according to the common opinion and the express declaration made by Benedict XIV in his Bull *Ubi primum*, published 3 December 1740. And hence it is inferred that "the

Pontiff cannot dispense in this, but only in some case can declare that divine law does not oblige, just causes intervening."[20]

We said 3. both materially, i.e. in the presbyteral house, if such exists, or within the boundaries of the parish, so that thus he can easily be approached; and formally, i.e. usefully, as was said concerning Bishops (n. 2251). "Hence the Doctors commonly say... that a pastor is not reputed to reside if he does not exercise through himself the more principal duties, namely the administration of the divine word, of the Sacraments, etc."[21]

We said 4. unless a legitimate cause excuses, concerning which these things must be said:

(19) Cf. Lucidi, cap. 3, n. 211, 226. (20) Book IV, 121. (21) Ibid., 127, dub. 3; H. A., VII, 15.

2267. ○ II. Three things are required so that a pastor can licitly BE ABSENT, namely: 1. a just cause; 2. substitution of a suitable Vicar; 3. permission of the Bishop (Trent, l. c., sess. 23, c. 1, de Ref.).

There is required 1. a just cause, i.e. a grave cause, if he ought to be absent BEYOND TWO MONTHS, whether continuously or interruptedly; but a reasonable or honorable cause, e.g. of visiting relatives by blood, or of suitably recreating himself, if he wishes to be absent within two months, without any detriment of the flock. But from the Constitution *Ad universae* of Benedict XIV, "levity of spirit, desire for amusements, and other futile causes are utterly excluded."[22]

There is required 2. substitution of a suitable Vicar, even if he is absent only for a few days; nor can the nearer pastor serve (without the permission of the Ordinary). Yet otherwise, if the case were urgent, and a Vicar could not be found.

There is required 3. permission of the Bishop, who approves both the cause of departure and the substitution of the Vicar; and this in writing, if it is a question of absence to be prolonged beyond two months. In a case of urgent necessity, the pastor will be able licitly, without permission, to be absent for a brief time, provided he leaves a suitable Vicar (from the decree of the Sacred Congregation of the Council, 7 October 1604): but unless he is about to return within a brief interval of time,

he ought to make the Bishop more certain concerning his departure and concerning the cause of the departure. "Likewise, from smallness of matter, he can be excused, at least from mortal sin, if he departs for a modest time, as the Doctors commonly say, provided he does not leave sick persons in the article of death."[1]

(22) Book IV, 122. (1) Book IV, 123; cf. Del Vecchio, I, n. 269, where there are various decisions of the Sacred Congregation of the Council.

2268. ○ It is ASKED. What PENALTIES do non-resident Pastors incur?

Resp. From natural law and from Trent, according to the common interpretation, non-resident Pastors (among whom are to be numbered those residing uselessly), in proportion to the time of absence or negligence, do not make their fruits their own, and are held, before every sentence or declaration, to apply them to the fabric of the church, or to expend them upon the poor of the place; nor can this obligation be remitted to them by any composition.

Yet they are not held to restore all the fruits corresponding to the time of absence, but only that part which corresponds to the burdens of residence.... The reason is because according to an absolutely probable opinion, fruits are given to Pastors not only for the burdens of residence, but also for the recitation of the divine Office, application of the Sacrifice, and other duties.[2]

Note. Nor can priests, to whom the removable care of succursal churches has been committed, renounce their duty without the permission of the Bishop, under the pretext that they do not possess benefices properly so called (S. C. C., 9 May 1884).[3]

(2) Book IV, 127, 128. (3) Cf. Acta S. Sed., vol. XVII, p. 288; Monitore eccl., vol. III, P. 3, p. 133.

§ 2. On Preaching And Instruction

2269. ○ I. PASTORS are held to have SACRED SERMONS to the people committed to them, and this on Sundays and more principal Feasts. This is established from Trent, of which (in sess. 5, cap. 2, de Ref.) these are the words: "Whoever obtain the care of souls, by themselves, or by others suitable if they have been legitimately impeded, at least on Sundays and solemn feasts, shall feed the people committed to them, according to their own and the people's capacity, with salutary words; by teaching the things which it is necessary for all to know for salvation, and by announcing to them with brevity and facility of speech the vices which they ought to avoid, and the virtues which they ought to follow." Moreover (from sess. 24, cap. 4, de Ref.) the Bishop can decree that during the time of Lent and Advent, in any parish, daily, or at least on three days in the week, if he shall judge it opportune, preaching be made, and at other times, whenever he shall judge this expedient.

Hence, they commonly teach that pastors are not excused from mortal sin: - 1. who for one continuous month, or for three discontinuous months, have not preached either by themselves or through another;[4] - 2. who are accustomed to make preaching by no means accommodated to the capacity of the hearers, namely by using a kind of eloquence more profane than sacred, arguments empty of Christian doctrine, and that manner of speaking which plainly exceeds the grasp of most hearers. Speaking of preachers of this sort, St. Alphonsus gravely testifies that they are open enemies of the Church of God, for the reason that by preaching thus they are the cause why many souls perish, who certainly, if they heard apostolic preaching, would be saved.[5]

But if profane eloquence must be removed from the sacred pulpit, rusticity and carelessness must no less be removed; for it is not right to announce the word of God without preparation, in a disorderly and inconsiderate manner. Likewise untimely zeal must be warded off, lest the people be offended by the incautious words of the preacher; lest sins which are not certainly lethal be affirmed as lethal; lest matters which pertain to daily, civil, or political events be mixed with sacred doctrines; lest sacred preaching serve for avenging a private injury; lest speech easily be made concerning stipends which are owed to sacred Ministers, etc.[6]

It is expedient that the Pastor in sacred sermons very often inculcate to the people the frequency of prayer and of the Sacraments; flight from taverns and filthy speech; the enormity of sacrilege; the necessity of sorrow and purpose for Confession; the means of overcoming temptations, especially temptations of impurity; devotion toward the Blessed Virgin Mary, etc.[7]

(4) Book III, 269; H. A., VI, 5. (5) H. A., VII, 36; cf. Selva, P. 2, Instr. 4, n. 4; Prax. conf., n. 203; Verita della fede, P. 3, cap. XI, v. fin., n. 9; cf. likewise Istruz. ai predicatori (tom. 3, p. 298); and Notif. 2, n. 3 (tom. 4, p. 712). (6) Cf. Konings, n. 1140. (7) Cf. H. A., VII, 37-44; Praxis, n. 204-216.

2270. ○ II. Pastors are held TO CATECHIZE children and others rude and ignorant in Christian doctrine. - For Trent[8] admonishes Bishops that "at least on Sundays and other festive days, they take care that children, in individual parishes, be diligently taught the rudiments of faith, and obedience toward God and parents, by those to whom it will pertain; and if there is need, let them compel them even through ecclesiastical censures, privileges and customs notwithstanding."

But in a special manner the Pastor is held, and indeed under grave obligation, to teach the people committed to himself the MYSTERIES OF FAITH which must be known and believed, and which are necessary for salvation, according to what was said n. 427. - Hence, when he notices that parents or masters do not take care that children or servants be present at Christian doctrine, he is held to warn them, or to have recourse to the Bishop, that he may be taught the remedies to be applied opportunely. "It is also expedient that he examine male and female teachers, whether they can rightly teach boys and girls Christian doctrine, and the means conducive to living in the fear of God."[9] - As regards midwives, see n. 1459, fin.

Note. "When notable dissolutions of morals are found in a region, which no remedy meets, the Pastor is held to take care that a Mission come to it. That pastor who does not take care of a mission casts suspicion upon his morals; for good pastors do not omit to summon a mission every fourth or fifth year." Thus St. Alphonsus.[10]

(8) Sess. 24, cap. 4, de Ref. (9) H. A., VII, 35. (10) H. A., VII, 31; cf. Opusc. Riflessioni utili ai Vescovi, cap. 2, § 5 (Opp. ascet., IV, 874).

§ 3. On The Administration Of The Sacrament

2271. ○ PASTORS are held THROUGH THEMSELVES TO MINISTER SACRAMENTS to all parishioners needing them, or asking for them, from a reasonable cause. This is clear from what was said concerning Residence (n. 2266).

Hence "the Pastor sins who renders himself morose or difficult to his subjects. And therefore St. Charles Borromeo rightly warned: 'At whatever hour of day or night the pastor will be called for administering the Sacraments to the sick, let him interpose no delay; indeed let him forewarn the people that when there is need of parochial administration, they freely summon him, no account being taken of time or of distance of place, etc.' Yet he will be excused from mortal sin (St. Alphonsus continues) if once, or again, outside necessity, he denies the Sacraments; because he does not seem to have bound himself so strictly."[11]

Recall what was said n. 1415 and sqq., and several other things which were noted in their places, as regards the individual Sacraments: concerning Baptism, n. 1461; concerning the Eucharist, n. 1536, 1538, q. 2; concerning Penance, n. 1802; concerning Extreme Unction, n. 1880; concerning Matrimony, n. 2057 sqq., 2067 sqq. and 2073 sqq.

(11) Book VI, 58.

2272. ○ It is ASKED. Whether Pastors are held to minister Sacraments WITH DANGER OF LIFE, e.g. in time of plague?

Resp. Dist. 1. They are held, even with evident danger of life, to minister by themselves, or through other suitable persons, the necessary Sacraments, namely Baptism and Penance; indeed also the Eucharist or Extreme Unction, if someone dying, probably constituted in the state of sin and deprived of the senses, could not be absolved except under condition: for perhaps afterward, being attrite, he will be saved through this or that Sacrament, without it to be damned (cf. n. 1397, 1873, q. 3). Thus all.

2. Very probably they are held with the same danger to minister the Eucharist and Extreme Unction, even in the case in which these Sacraments were not of extreme necessity; because the dying, although they are not in absolute necessity, must not be deprived of so great a good (especially holy Viaticum); unless otherwise some sick persons would be about to die without confession, or there were danger for the whole parish of remaining without a priest. Thus many grave Authors, whom however others contradict. Whence, such an obligation does not seem to be urged so much, unless otherwise scandal would be given to the people.[12]

Moreover danger of life must not easily, nor immediately, be feared beforehand. For it is established by experience in contagious or epidemic diseases, e.g. in the Asiatic disease called cholera, that physicians, nuns, and priests, who are assigned to the care of the sick, are protected by the special providence of God, and that they, provided they do not omit due precautions, for the most part escape safe and unharmed.[13] But if they should succumb from the exercise of charity, what can be more desirable? For they prepare for themselves in eternity the most splendid crown of martyrdom (cf. n. 1452, q. 2).

(12) Book VI, 233, 729. (13) Cf. Del Vecchio, tom. I, append. VI.

§ 4. On The Obligation Of Praying For The People

2273. ○ The Pastor, not only secular, but also regular, is held by force of divine law TO PRAY and to apply the SACRIFICE OF THE MASS for the people. - This is established from these words of the Apostle (Heb. 5:1): "For every Pontiff is constituted for men in those things which are toward God, that he may offer gifts and sacrifices for sins."[14]

Recall what was said in the Treatise on the Eucharist n. 1604 and following.

(14) H. A., VII, 29; Book III, 359.

§ 5. On The Care Of The Sick And The Poor

2274. ○ I. The Pastor "ought diligently TO ASSIST THE DYING, and especially habituated sinners, who greatly need special assistance. But it is true that the pastor can commit this assistance to other priests; yet he ought not trust any priest whatever; for in this occasion of assisting the dying, scandals of no mediocre harm can happen."[15] - Recall what was said n. 473, 3, 1854, and 1880.[16]

(15) H. A., VII, 45, 2. (16) Cf. Berardi, Prax. conf., n. 788.

2275. ○ II. The Pastor is held, by force of his duty, TO ASSIST THE POOR AND MISERABLE, as the Council of Trent admonishes (sess. 23, cap. 1, de Ref.) - Therefore let him relieve the poverty of the needy according to the condition of the revenues; let him soothe the unfortunate by all offices of kindness, and by opportune consolation. - Let him inquire especially concerning the hidden needy; and let him consider how many souls live in sin because they do not have the means of living honorably, or of educating children (cf. n. 2247 and sqq.).

Note. The Roman Ritual warns that the pastor, besides the books of the baptized, of those joined in matrimony, and of the dead, should compose another book ON THE STATE OF SOULS, in which are consigned the names and condition of the individual inhabitants of the parish.

§ 6. On The Correction Of Sheep

2276. ○ I. The PASTOR is held, both from the office which he bears, and from the stipend which he receives, TO CORRECT, even with danger of life, his SUBJECTS who are in mortal sin, or in its proximate danger; and to this he is held not only in their extreme necessity, but also in their GRAVE necessity, whenever hope of amendment shines forth.[17] - But how gravely this obligation of correction urges can be gathered from the following threat of the Lord (Ezek. 33:8): "If you have not spoken, so that the wicked man may keep himself from his way, that wicked man shall die in his iniquity; but I will require his blood from your hand" (cf. n. 496, 3).

Hence, the Pastor is held to inquire and prudently correct those who live in sin: such as concubinaries, blasphemers, drunkards, those reading forbidden books or evil journals, those eating prohibited foods, those despising feasts, and especially those who do not satisfy the paschal precept. - Likewise, let him inquire concerning enmities and scandals which creep, especially between spouses, so that thus, as far as he can, he may meet them opportunely.[18]

Nor indeed for removing scandals and extirpating abuses do public corrections in church and salutary admonitions in the tribunal of Penance suffice: sometimes it is necessary that the pastor meet those sheep of his who follow a deviant life, and impel them by salutary admonitions to amendment of morals, as zeal and prudence shall suggest. Nor let him ever neglect to perform this office, because of human respect, before magnates; for someday he himself will render an account to the Supreme Judge for all the sheep committed to his care. - Recall what was said (n. 492 and sqq.) concerning fraternal correction.

(17) H. A., VII, 30. (18) Ibid., 31, 32, 34.

2277. ○ II. The Pastor is held not only to take away sins and scandals from the midst, but also TO PREVENT those which afterward are foreseen as easily about to arise. - (Recall what was said n. 451; 824; 2256).

"If, all things having been weighed, both from the character of men, from the custom of the inhabitants, from the frequency of outsiders, and from other circumstances, the pious Pastor has known in the Lord that amendment cannot be hoped for even from repeated correction: rather than by voice, let him correct by his example and by his sufficiently open displeasure; lest at least he

himself be heard badly by the other faithful, when they see the scandal continue, and the pastors, vexed by no trouble, no solicitude, but as if all things were prospering, live cheerfully, rejoicing as if by conniving."[19]

(19) Scavini, I, n. 644, where there are more things.

§ 7. On Solicitude For Promoting Good

2278. ○ The PASTOR ought not only to avert evil, but also TO PROMOTE good. To the point thus St. Alphonsus: "Good pastors," he says, "do not cease to exhort to frequency of the Sacraments and Congregations, to visits of the Most Holy Sacrament and of the divine Mother, to Novenas, to accompanying the Venerable One when Viaticum is carried about," and to other things of this kind.[20]

Now, that the good may be PROMOTED more efficaciously: 1. "Let him very often take care that the people pursue with singular zeal devotion to Most Holy Mary, suggesting how great is her power and mercy toward her devoted ones.... Happy is that

pastor who keeps his sheep fervent toward devotion to Mary! for they, with the Virgin helping, will live rightly, and he himself at the end of life will have a powerful advocate."[1]

2. "Let him especially suggest the use of petition: namely that they often commend themselves to God, especially by asking from him holy perseverance on account of the love of Jesus and Mary; explaining more often that divine graces, and especially the gift of perseverance, are not obtained unless they are asked: Ask and you shall receive. And let him often publish that great promise of Jesus Christ, that whatever we ask the Father in his name, the Father will give us (John 16:23). Let him also insistently suggest the use of mental prayer, and take care that it be made in church together with the people on any day, or at least on any feast-day; also teaching the manner in which it can be done at home."[2]

3. That the people may be enticed to sacred functions, let him especially TAKE CARE of these THREE things, namely: in the church, decency of furnishings; in singing, religious observance; in all ceremonies, diligence. For by these duly performed, as by signs, says Cardinal Bona, "the soul is stirred up to veneration of sacred things, the mind is elevated to heavenly things, piety is nourished, charity is fostered, faith increases, devotion is strengthened, the simpler are instructed."[3]

4. Let him bring much care to the sacred Sodalities of laymen, by stirring up their zeal, fostering their concord, and patiently sustaining them. For through Sodalities the worship of God is wonderfully increased and propagated[4] (cf. n. 2254, 1, fin.).

5. Let him take altogether special care concerning schools, so that they be instituted and governed according to the Catholic norm, as far as can be done. Wherever he detects schools in which the faith or good morals of youth are endangered, he ought to warn parents that these cannot be frequented by their children, and that they themselves are stained with the guilt of true prevarication if they send their offspring into gymnasia infected with a plague of this sort. - Recall what was said n. 712.

6. "Before the rest, let him be of good example to his subjects. For the Pastor is that shining and burning lamp which is described in the Gospel, burning with holy zeal inwardly, and shining by good example outwardly. Otherwise let him preach, and warn others with all his strength, as much as he wishes, to walk through the paths of virtues; unless he himself goes before by example, his subjects will not even furnish faith to the things which he himself says: for men believe more by eyes than by ears."[5]

"Finally, on good pastors depend the good morals and salvation of peoples. If a good pastor is present in regions, there devotion, frequency of the Sacraments, mental prayer, and good example will be seen to flourish; but if the pastor is depraved, the whole region will overflow with vices and scandals."[6]

(20) H. A., Append. IV, § 2, n. 7. (1) H. A., Append. IV, § 2, n. 8. (2) Ibid., n. 8. (3) Scavini, I, 445. (4) Ibid.; cf. Lucidi, vol. II, cap. 7, § 2; Craisson, n. 4654 sqq. (5) H. A., VII, 45. (6) Ibid., n. 46.

2279. ○ It is ASKED. What are the principal RIGHTS of the Pastor?

Resp. They are the following: 1. The right of administering the Sacraments, namely of baptizing, of hearing the confessions of his parishioners everywhere, of giving paschal Communion, of assisting at matrimony, and also of ministering Viaticum and Extreme Unction. - 2. Honorific rights: namely, the pastor in his own church precedes others even constituted in dignity; outside his own church pastors sit after the Clergy of the Cathedral Church; among themselves they precede by priority of assumption, but a perpetual pastor precedes one removable. - 3. Useful rights are the right of burying or of taking part in funerals, stole-rights, the right of receiving offerings.[7] Concerning these, see the Canonists.

(7) Cf. Craisson, n. 1348 sqq.

Scholium.

On Vicars And Vice-Pastors.

2280. ○ Of these some are perpetual curative Vicars, and these are equated with pastors: but others are temporary Vicars.

I. A CURATIVE Vicar is he who is canonically instituted by the Bishop in a parochial church, whose actual care he receives, independent from the primitive and habitual pastor, e.g. from a Chapter. - To him generally belong the very rights and offices of pastors, concerning which we have just spoken.[8]

(8) Cf. ibid., n. 1515.

2281. ○ II. TEMPORARY Vicars, who perform the duties of an absent or deceased pastor, are called stewards, vice-pastors, administrators, or substitutes, and are bound by the same obligations as the pastor himself; but if they help a present pastor, they are called coadjutors or vicars properly so called.[9]

Concerning these we NOTE: - 1. From the law of Trent (sess. 21, cap. 4, de Ref.) the pastor ought to join to himself as many Vicars or Coadjutors as suffice, after they have been approved or confirmed

by the Bishop for this duty. - But at present, on account of the necessities of the times, the deputation and removal of vicars pertain in many places to the Bishop alone.

2. A Vicar, whether constituted by the pastor or by the Bishop, exercises care in the name of the pastor, and after his likeness. But he enjoys those faculties which the express will of the Bishop or pastor, or at least the usage and practice of places, determine.
3. The mutual relations between pastor and vicars ought to be ordered not so much by law as by charity. - There are especially two OFFICES of Vicars. One is diligent help in the care of souls: which is so understood that the pastor can always, if he wishes, perform by himself any ministerial acts whatever. - The other is obedience, by which they exercise the care of souls not separately, but conjointly with the pastor. But let Vicars always remember that they are inferiors and disciples of the pastors.

Note. Concerning Chaplains and Almoners, see the Canonists: e.g. Craisson, n. 1530 and sqq. - Ferraris, v. *Capellanus*.

(9) Cf. ibid., n. 1516 sqq.; cf. also Ferraris, V. Vicar. parochialis; cf. Analecta J. P., series V, col. 838-902 and 970-1015.

Treatise III: On The Lay State

2282. ○ For those living in the lay state, the condition of life is one or the other: either they spend private life in domestic society, or they bear some public duty, for the common good.

From this double condition of life there arises a double species of particular offices. Some bind men who conduct private life, and these are referred to domestic society, whether paternal, conjugal, or masterly (concerning which we have already acted in the Treatise on the Fourth Precept). But others bind men who perform some public duty in civil society. Concerning these there must be disputed in the present Treatise.

The disputation embraces THREE things, namely: 1. The Offices of Princes, legislators, and others who are over the republic; 2. The Offices of those who are engaged in the forum, and in whose hands is the exercise of public justice; 3. The Offices of physicians and pharmacists, who similarly perform their duty for the common good.

Concerning the other secular offices, we have treated abundantly in the various chapters of the Decalogue. - See what was said concerning more frequent scandals (n. 515 sqq.), concerning innkeepers (n. 522), concerning artisans and merchants (n. 523 and 908), concerning printers and booksellers (n. 524), concerning collectors of taxes (n. 968), concerning mandataries (n. 1090), concerning money-changers (n. 1116), etc. etc.

Chapter I: On The Offices Of Those Who Are Over The Republic

2283. ○ Those who are over others, these Divine Wisdom itself gravely admonishes in this manner: "Give ear, you who contain multitudes, and please yourselves in the crowds of nations: because power has been given to you by the Lord, and strength by the Most High, who will interrogate your works, and search out your thoughts: because when you were ministers of his kingdom, you did not judge rightly, nor keep the law of justice, nor walk according to the will of God. Horribly and quickly he will appear to you: because a most hard judgment will be made for those who are over others. For mercy is conceded to the little one: but the powerful shall powerfully suffer torments" (Wis. 6:3-7).

This most grave admonition having been premised, behold what things seem to have to be said summarily both concerning the offices of PRINCES and of those who possess supreme power; and concerning the offices of LEGISLATORS and of those who are over some multitude.[10]

(10) Cf. St. Thom., Op. De regimine principum; cf. also Scavini, vol. IV, append. XVI sqq.

Article I: On The Offices Of Those In Whose Hands Is Supreme Power

2284. ○ A PRINCE and anyone marked with supreme power, according to the doctrine of the Apostle, "is the minister of God unto good." But since the good of human society is

DOUBLE, namely spiritual or moral, and temporal, the following things must be established.

Principles. I. A PRINCE, and anyone ruling, is held TO FOSTER in those subject to him the sense of religion, and good morals. The reason is because, religion and fidelity toward God having been taken away, fidelity itself toward the prince collapses, and supreme power, without which no order in society can subsist, is necessarily brought into contempt. For civil life is defended by religion alone, and no force or human law can efficaciously impel an irreligious multitude to an honorable and truly upright tenor of life.[11]

Therefore the Prince and whoever acts in his PLACE ought:

1. To furnish a good example in all those things which regard religion and honesty of morals; and since "the whole world is formed according to the example of the King," the leader of the people would stain himself with the enormous crime of prevarication if by his own evil example he induced those subject to him into contempt of religion and corruption of morals.
2. He ought to choose suitable counselors and ministers, whom doctrine and goodness of life make truly commendable, and first of all (if he possesses the right of election from the Holy See) good Bishops, and upright instructors of studious youth (cf. n. 2244 and 712).
3. He ought to use his power for the protection of religion and of the Church, not because he boldly arrogates ecclesiastical authority to himself, or decrees those things which regard faith and religion; but because he strives to be a help to the sacred Ministers to whom the care of the Church has been committed by Christ: by taking care that reverence be exhibited to the divine precepts and to men enrolled in the sacred militia, that public violations of divine law be prevented, that sowers of new religions be warded off, as also those evil books and journals by which damage is brought upon holy Faith and good morals. "For evil books," says St. Alphonsus, "plot ruin for kingdoms."[12] (cf. n. 451).

(11) Cf. LEO XIII, Encycl. Diuturnum, 29 June 1881, and Encycl. Immortale Dei, 1 November 1885. (12) Fedelta dei Vassalli, c. 1, n. 9; cf. J. B. Jaugey, Accord de l'Eglise et de l'Etat, Letter 4 and following.

2285. ○ II. A PRINCE and anyone ruling is held TO PROVIDE for public felicity and security by just and opportune means. The reason is because public felicity or prosperity is the end of government, not indeed the primary end, but the secondary, according to that of Matthew: "Seek first the kingdom of God and his justice, and all these things shall be added to you." - Whence, a prince would sin if he placed over the republic ignorant and unskilled ministers, if he burdened subjects more than is equitable, if he did not protect them from enemies or unjust vexations[13] (Recall what was said nn. 138, 147-150, 653, 729, 749, 873, 922, 965, 978, 983, 1188).

Note. Since St. Alphonsus depicts in few words the form of a good prince, it is helpful to transcribe his words here, especially because ALL who PRESIDE over a multitude or community to be ruled can take from it an example for imitating. - Behold the salutary words of the holy Doctor:[14]

1. A good Prince, for the exercise of good government, has God always present to himself, and he sets those things which regard the divine glory before all political reasons.
2. He abhors flatterers, and loves truthful men, and desires that this horror and love of his become known to all.
3. He uses equity toward all, every passion and party-zeal being removed.
4. He does not decree matters of greater moment except after a prior and serious inquiry.
5. In doubtful matters, he has recourse to the counsel of the prudent.
6. He is most cautious in selecting for himself wise and upright counselors.
7. Once counsel has been accepted which he judges to be good, he is wholly intent on this, that he execute the matter strongly, unless clear reasons supervene which persuade the contrary; for to change counsel with a just reason is not weakness of mind, but laudable prudence.
8. If he hears someone praised or accused, he is slow to believe, and weighs whether the reporter, moved by some advantage of his own, is incited to speak thus.

(13) Cf. Tarquini, Instit. jur. eccl. publ., L. 1, c. 2. (14) Fed. de' Vassalli, cap. 2 (Opp. ascet., t. II, p. 506).

Article II: On The Offices Of Those In Whose Hands Is Legislative Power

2286. ○ Besides supreme governors, there concur for making laws or Decrees both Senators and Deputies (or Counselors) elected by the Prince or by the people in a representative Government, and the electors themselves. Wherefore we establish the following:

Principles. I. Those ELECTED to the office of MAKING LAWS are held to attend, not to what here and now pleases the prince or the multitude, but to what is just, and congruous with the common good of all. For civil law is not just because it is a fugitive decree of the will of the prince or of the people (as pleased certain innovators); but because it is a stable prescription, by which the supreme Power reasonably commands, prohibits, or establishes something, for the common temporal good of the citizens without detriment to spiritual good. - And what we say here concerning laws is valid, by a like reason, for Decrees and any Statutes whatsoever. (Recall what was said n. 153 sqq.) - Sometimes, however, Senators, Deputies, and Counselors can admit certain things less right (which are not intrinsically evil) and strengthen them by their vote, that worse things may be excluded; provided that they do this with a protestation of their right intention[1] (cf. n. 202).

Hence: - 1. Participants in legislative power SIN (for the most part gravely), if they do not bring due knowledge and diligence to so great an office; and most gravely indeed, if knowingly they lend their effort or assent to unjust laws or decrees. - Whence, it can happen that they are held to the reparation of damages. Indeed, theological fault and effective influence being supposed, whoever abstains from casting a vote is liable to restitution, when he ought to cast it by reason of the office which he freely accepted by quasi-contract, and by which he bound himself to protecting the public or private good. - Recall what was said n. 983 sqq. - Concerning excommunication, see n. 1320 sqq.

2. Those elected, or to be elected, if they are suitable for so great an office, and no other suitable persons are found, are held to subject themselves to election. And indeed, if someone is

sometimes held to consult the good of private persons, how much more the good and safety of the whole community.[2]

(1) Cf. Lehmkuhl, I, n. 800. (2) Scavini, I, 676.

2287. ○ II. Upon ELECTORS, in a legitimate government, there lies the grave office of ELECTING UPRIGHT Deputies, whether communal, or provincial, or political. - Whence, other circumstances being set aside, not only do positive cooperators sin, namely those who vote for evil men; but also negative cooperators, who by not concurring knowingly are the cause why evil men are elected; for from legal justice each one is held, insofar as he can, to avert evil from the republic, if any hope of averting it shines forth. But no one is ignorant how many and how great evils are brought into both religious and civil society by wicked Deputies, especially by those who are enrolled in the Masonic sect[3] (cf. n. 989).

We have said in a legitimate government; for, if it is asked whether it is lawful, in a usurped kingdom, to vote in elections and to sit in an assembly of legislators, authors disagree. Some indeed affirm, especially if society is in extremities, and ruin threatens religion. - But others deny that it is right, because such concurrence cannot be furnished without scandal, nor without injustice, since to elect DEPUTIES and to exercise PUBLIC OFFICES is the same as to sustain the person of the usurper, to make laws with him, and to share the government. And hence it was that PIUS IX wholly disapproved a concurrence of this kind, especially for the Pontifical Dominion, in a Brief issued 29 January 1877, and already before in a Declaration made on 18 June 1874... Otherwise, however, if the question is only of electing municipal and provincial COUNSELORS; for these protect only the affairs of the Community, or the good of the Province, nor do they make laws, but they undergo them, not otherwise than the other citizens. - Finally others proceed by a middle way and teach more truly that account must be taken of places, persons, times, and circumstances, which, since they can be diverse, can also lead to diverse conclusions. Therefore with these we say: If, with the right of the legitimate prince preserved, grave damages can be averted from society, citizens have the right and the office of electing upright men, who may keep watch over the common good; if probable hope of promoting a greater good is lacking, it will be better to abstain from political concurrence; especially if the right of the legitimate prince would thereby be injured. But to define the matter belongs to the prince himself[4] (cf. n. 150, q. 2).

(3) Scavini, loc. cit.; Gousset, tom. I, n. 627. (4) Cf. Del Vecchio, I, n. 332; cf. Berardi, Prax. conf., n. 66.

2288. ○ IT IS ASKED. Whether it is lawful to elect an UNWORTHY man in order to exclude a MOST UNWORTHY man?

Resp. Some with Hurtado deny; for it is evil to will and to choose evil; and if evils are not to be done that goods may come about, a fortiori evils are not to be done that lesser evils may come about; for that is intrinsically evil, and prohibited by the law of nature. To this belongs that saying: "Let the world perish, but let justice be done." - Others with Lugo affirm; for it is lawful to take counsel for a lesser evil, that a greater may be avoided. And then an evil man is not properly chosen because he is evil or for evil; but he is chosen for this, that he may impede greater damages, which is good. And this cannot be said to be evil intrinsically and per se, since in the present case it has the character of

good; for it is a diminution of evil. - Finally, others readily concede this, if not only is evil diminished by such an election, but some good is intended and hoped from the one to be elected, as if through him Catholics are able to obtain that liberty by which the evil enjoy themselves.[5]

(5) Del Vecchio, ibid. I, 332.

Article III: On The Offices Of Those In Whose Hands Is Executive Power

2289. ○ To the present order chiefly pertain: 1. Ministers of princes, and Prefects of provinces; 2. Leaders of the military; 3. Syndics or rectors of communities. - Concerning each, a few things.

I. Concerning Ministers. - Standing between the prince and the people, MINISTERS owe to the prince truth and service in all things which look to good government; but to the people they owe the faithful and equitable execution of the common law. Whence they make themselves guilty of infidelity: 1) if they conceal from the prince, whose eyes and hands they are, those things the knowledge of which right administration requires for itself; 2) if they bring contempt or hatred of the government upon the people by vicious administration, whether by too great negligence or severity, or by injury to distributive justice in the application of the law, or in the distribution of burdens or favors; 3) if they execute commands certainly unjust. For where the injustice of the command is certain and grave, execution ought to be deferred, until the prince or Superior, having been reverently admonished, corrects the error. But if, admonished, he refuses to correct it, or if admonition is impossible, surely God must be obeyed, and not men.

And these same things, proportion being preserved, are valid concerning Prefects of provinces, concerning delegates to foreign princes, and concerning all other ministers of the executive Power.

2290. ○ II. Concerning leaders of the military. Leaders of the military, besides suitable KNOWLEDGE and SKILL, which they are held to acquire and to have, are bound by several other obligations, both toward the prince and toward the soldiers.[6]

1. Toward the Prince (and the nation), they ought to preserve inviolate FIDELITY and JUSTICE. - Whence, they cannot desert military service, especially in time of war, except by the consent of the prince. They are held to fight strongly; they would be perjured if they fled over to the enemies, or entered clandestine counsels with them. - They would sin against justice by pretending absent soldiers to be present, or by retaining the pay of dead soldiers.
2. Toward soldiers, as good fathers of families they ought to keep watch that nothing be lacking to them, whether as to soul, or as to body: let them impede, as far as it can be done, single combats, drunkennesses, quarrels, impurities, thefts. They sin gravely if, without necessity, they prescribe military exercises on Sundays and feast days, especially at the hour of Mass; for they impede the soldiers from performing the principal duty of religion. - Likewise, they sin gravely if they rashly enter battle, or expose the life of soldiers without a just cause. Recall what was said concerning Duel and War (n. 745 sqq.).

(6) Gousset, I, 627.

2291. ○ III. Concerning Syndics. "The Syndics of Communities, and their assistants, have their obligations, and indeed most grave ones; since they have been deputed by law as rectors and guardians of Communities, namely that they may protect their goods and rights and the observance of laws, if these are just. - Therefore, they sin gravely and are held concerning damages, if, acceptors of persons, they choose unsuitable men for public offices; if they do not restrain the wicked; if, when able, they do not impede scandals; if they squander the goods of the Community; if they hold the things which belong to religion as almost nothing; and coerce its free exercise, pervert rights, or furnish assistance to those who usurp them.

Concerning these things, sometimes, though prudently, public administrators are to be questioned by the confessor; for not rarely such men confess, as it is said, the sins of Charles, and are silent about the sins of Caesar: that is, they confess the things which they committed as private persons, not those which they perpetrated as deputed to public offices.[7] - This the Most Holy Lord, Our Lord Pope LEO XIII specifically reproves, solemnly declaring:[8] "it is not lawful to follow one form of duty privately, another publicly, namely so that the authority of the Church is observed in private life, and rejected in public. For this would be to join honorable and base things, and to make a man fight with himself, whereas, on the contrary, he ought always to be consistent with himself, and in no matter nor in any kind of life to fall away from Christian virtue."

But here the more general question, and one especially useful for practice, comes to be treated:

(7) Del Vecchio, I, 333. (8) Encycl. Immortale Dei, near the end.

2292. ○ QUESTION. WHETHER A PRAETOR, or another PREFECT of the republic, can sometimes commit an UNJUST LAW to execution?

Resp. By reason of obtaining a greater good, or avoiding a greater evil, the execution of an unjust law sometimes becomes lawful. But for this it is required: 1) that the object of the law not be intrinsically evil; 2) that the one injured in his own right, because an unjust law is observed, can and wishes to assent to the injury of his right, or at least that, with the order of charity so commanding, he is not reasonably unwilling.

Wherefore: 1. It is not lawful for the praetor or judge to urge the application of an unjust law, if its execution has been committed to their discretion.

2. If any law is opposed to the rights and liberty of the Church, its execution, when the Church contradicts in the particular case, can in no way whatever be urged, not even under the pretext of obtaining a greater good, or avoiding a greater evil, since the Church alone is judge of those things which are more fitting for herself.

3. If the execution of an unjust law becomes a little harmful to some third party, but its neglected application very harmful to the praetor or judge, the law can be urged: especially if the damage to the third party cannot be avoided, because, one praetor failing, another will not be lacking who will furnish his effort (cf. n. 526).

Chapter II: On The Offices Of Those Who Are Engaged In The Forum

2293. ○ Preliminary Notes. I. Forensic judgment is usually defined: The sentence of a judge concerning a right disputed between plaintiff and defendant, after due discussion has been carried out.

In this definition there are included: 1. The cause, or the disputed right, as the object of the judgment; 2. Three distinct and necessary persons: the plaintiff, the defendant, who litigate concerning the right, and the judge who pronounces; 3. The legitimate discussion and definition of the cause, as the form of the judgment.

(9) Concerning these things cf. Lessius, De justitia, lib. II, c. 29-32; Lugo, De just. et jure, Disp. 37-40.

2294. ○ II. Judgments are OF HUMAN LAW formally and as to solemnities, as is clear from their history; but originally they are OF NATURAL LAW; for, the condition of fallen nature being posited, it is necessary that crimes and lawsuits occur; but since it is repugnant to right reason that anyone be judge in his own cause: thence it is altogether required that judges and judgments be constituted by public authority, by which doubts of right are duly settled. - Yet natural law does not absolutely require that all crimes be restrained, and that all lawsuits be settled by judgments properly so called. For sometimes it is expedient, "when crimes are atrocious, to punish at once those caught in the very act of crime, or in excepted crimes to change the common manner of proceeding." Indeed military discipline has this as proper to itself, that it is right for leaders, every form of forensic judgment having been passed over, to punish the offenses of soldiers. And Bishops similarly can, in certain cases, proceed extra-judicially, e.g. from informed conscience[10] (cf. n. 731).

(10) L. IV, 193; cf. Pierantonelli, Prax. fori eccles., tit. VII.

2295. ○ III. But in no judgment, even a summary one, can those things be omitted which are called the substantial things of judgments: for these are of natural law, against which custom cannot prevail. - Hence, in every judgment properly so called there are found: 1. the petition of the plaintiff and citation of the defendant; 2. proof of the cause, and its defense; 3. decision of the cause, and pronouncement of the sentence. And these THREE pertain to the nature or substance of the judgment; but the other things pertain to solemnity.[11]

Note. Among the legitimate forms of judgments, canon law excels, which first wove together the judicial web in the second book of the Decretals, from which thereafter every civil procedure was derived, as all Doctors testify with one voice.[12]

These things having been premised, there must be treated: 1. concerning the persons who constitute the judgment, namely concerning the judge, the plaintiff, and the defendant; 2. concerning the persons who intervene in the judgment, for helping either the litigants or the judge, i.e. concerning witnesses, advocates, etc. - (Recall what was said n. 1292, 7, and n. 1321.)

(11) Schmalzgrueber, Jus eccles., L. 2, tit. I. (12) Ferrari, Summa Inst. Can., L. 3, n. 735.

Article I: On The Persons Constituting The Judgment

Three persons, the plaintiff, the defendant, and the judge, as we have said, are found in every judgment. Nevertheless it is not always required that the plaintiff, or accuser, be a distinct person; for the judge can, once a rumor has been heard concerning a perpetrated offense, call those who are said to have offended to his tribunal, inquire into the truth, and, this having been certainly ascertained, pronounce sentence: "not as though the same person were accuser and judge," says Innocent III,[13] "but as if, report denouncing, or outcry bringing it forward, (the judge) executes the debt of his office."[14]

(13) Cap. Qualiter 24, de accusat. (14) Lib. IV, 199.

§ 1. Concerning The Judge

2296. DEFINITION. - A JUDGE, so called because he declares the law, is a public person, constituted by legitimate authority, that according to the laws he may vindicate justice, and decree punishments against delinquents. - If he is constituted by the litigants themselves, he is called an ARBITER, to whom thereafter, by new law and with the required conditions observed, jurisdiction over the litigants belongs. We have said by new law; for Roman law imparts no jurisdiction to him.

Among moderns, in criminal matters certain judges of fact alone are constituted, who are called JURORS, from the oath which they make of issuing a vote according to conscience. It belongs to them to pronounce according to the allegations concerning the existence of the fact and the culpability of the accused; afterward, the judges of law decree the penalty according to the law. These are bound by the same obligations as the judges themselves.[1]

(1) Cf. Bouvier, de Decalogo, cap. 7, art. 3, § 1.

2297. ○ Principles. I. In a JUDGE, that he may perform his office rightly and legitimately, THREE things are required, namely jurisdiction, knowledge, and integrity. - 1. JURISDICTION, or competence, failing which the sentence is null, unless there is a colored title and common error; whence, a civil judge sins, and indeed gravely, if he brings ecclesiastical causes before his tribunal, unless by Concordats or the tolerance of the Holy See, or also by special license, this is conceded to him. - 2. Suitable KNOWLEDGE of those things which pertain to his office. Wherefore, if from culpable ignorance he has injured the parties, whether in the substance of the suit, or in superfluous expenses, he is held to restitution; nor can he be absolved, unless he either resigns the office, or tries to acquire sufficient knowledge, with the damage or danger of his neighbor meanwhile removed. - 3. Incorruptible INTEGRITY, so that he constantly preserves justice, and yields neither to love nor to hatred.[2]

Wherefore two things here come to be NOTED: - 1) "If the judge recognizes an error committed by himself (although without grave fault) to the prejudice of a litigant, he is held, if he can do it without infamy, to impede the error, e.g. by secretly warning the injured party, that he may take counsel for himself by appeal or otherwise; because this pertains to the due execution of the office."[3] - 2) "If the judge, in executing the cause and pronouncing sentence, is negligent or unjust, he is held not only to

the injured party, but sometimes also to the fisc: e.g. if he remitted without cause a monetary fine which by custom, or common law, he ought to have imposed upon the defendant." Thus St. Thomas, Sylvester, and others. - Yet, "Lugo, etc., probably hold that the judge is held to nothing if the defendant has not yet been condemned to the fine; because, before sentence, no right to the penalty is acquired for the fisc; hence, if the judge unjustly absolves the defendant, he sins against legal justice, not commutative justice."[4]

NB. Concerning RESTITUTION to be made by judges, recall what was said n. 983 and 988.

(2) L. IV, 192-195. (3) Ibid., 195, 4. (4) L. IV, 196, 3.

2298. ○ II. The judge ought to institute judgment ACCORDING TO THE RULES OF LAW, both natural and positive, whether in the manner of proceeding, or in passing and executing sentence. - For he is not constituted to make laws, but to commit them to execution. But the RULES of natural law, to which he ought to conform himself, are the following:

Rule 1. - As to the MANNER OF PROCEEDING, he ought to take care lest, without a just cause, he inflict damage or infamy upon the litigants. - Hence: 1) He cannot institute a special inquisition concerning a certain crime and its author, unless infamy, half-proof, or something similar has preceded; because he would render the man against whom he proceeded by inquisition suspected and infamous. The sole case must be excepted in which there is question of graver crimes, which turn to the common damage of the republic.[5] - 2) He cannot, without necessity or a grave motive, defer the dispatch of causes; otherwise he is held to compensate the injured party for the damages which have followed from unjust delay.[6]

(5) Cf. ibid., 198-204. (6) Ibid., 200; 196, 1 and 2.

2299. ○ Rule 2. - The judge ought, regularly speaking, in PASSING SENTENCE, to pronounce according to the things alleged and proved, and from knowledge juridically acquired. Thus commonly; and the reason is, because the judge bears a public and legal person. - Hence, he sins and is held to restitution, if he condemns him whom by private knowledge indeed he knows to be guilty, but whom the process declares innocent (see however n. 2302). - Likewise, if he condemns anyone unheard, or without witnesses, or from knowledge unjustly extorted, e.g. by force, fear, or fraud, by interrogations made without competent indications, etc.; because the acquisition of knowledge of this kind participates in the injustice of the means, which are against the necessary order of judgment, and consequently is unjust.[7] The judge also sins, "if he opens to one party what that party could allege for himself; because this would be to perform the office of advocate, which is not lawful for the judge."[8]

(7) L. IV, 205; cf. Bonacina, Disp. 10, Q. 3, P. 4. (8) L. IV, 210, Sed notant.

2300. ○ Rule 3. - The judge ought, in criminal causes, TO FAVOR THE DEFENDANT, until his crime is certainly proved. For thus sounds the 11th rule of law in the Sext: "When the rights of the parties are obscure, the defendant is to be favored rather than the plaintiff." And Roman Law plainly agrees with this rule, prescribing that, for pronouncing a sentence of blood, proofs be brought which are clearer than light.[9] - Hence: 1) The

defendant is always to be absolved (both by jurors and by the judge), if probable reasons are brought for his defense, especially when there is question of capital punishment.[10] - 2) Likewise he is to be absolved, although he has said nothing for his defense, if nothing is proved against him.

(9) Law Sciant 25, C. de Probat., and law Absentem 5, ff. de Poenis. (10) L. IV, 210, q. 1.

2301. ○ Rule 4. - The judge ought, in civil matters, to favor the CERTAIN POSSESSOR, until convincing reasons are given against him. But if there is DOUBT concerning the possession itself, or if neither litigant possesses in good faith, he ought to adjudicate the thing to the one bringing notably more probable reasons; and in equality of reasons, to divide the thing, unless there is question of a privileged cause. Thus commonly, with St. Alphonsus.[11]

It is said 1. he ought to favor the possessor. And this indeed is indubitable, whenever the reasons are equal, as is clear from the 65th rule of Law in the Sext: "In equal offense or cause, the condition of the possessor is the stronger"; and from rule 128 ff. of Roman Law: "In an equal cause, the possessor can be held stronger." Moreover, St. Alphonsus affirms that the same rule must be admitted, according to the most common opinion, even if more probable, or solely probable, reasons militate against the possessor in good faith; because the title of legitimate possession bestows a certain right, which is not destroyed except by another certain and proved right, that is, by convincing reasons (cf. n. 45 and 946). Nor does it stand in the way that the judge is held to judge according to the more probable reasons; for, in favoring the possessor, he judges not only according to the more probable opinion, but according to the most probable opinion founded upon another rule of law cited above: "When the rights of the parties are obscure (as they are, when certainty is not present on the part of the plaintiff), the defendant is to be favored rather than the plaintiff."[12]

It is said 2. if there is doubt concerning the possession itself, i.e. if there is doubt as much concerning possession as concerning ownership: e.g. if the suit is concerning a thing possessed by no one, or if the possessor is of doubtful good faith, or at least if it is not established that he is in good faith (as commonly happens in the external forum): then the one bringing stronger reasons is certainly to be favored, as is had from the 2nd proposition condemned by Innocent XI: "I probably think that a judge can judge according to an opinion even less probable." For deservedly was that proposition proscribed, because the judge is held to render to each one his own right, and that party certainly has the greater right who brings more probable reasons (cf. n. 84, 4; 945, 3).[13]

It is said 3. in equality of reasons, whether of fact, or even of law, as the Salmanticenses more rightly teach with Roncaglia, he ought to DIVIDE equally between the litigants the thing certainly possessed by no one; for the judge ought, from his office, to render to each one his own right according to the merits of the cause; therefore, since an equal right belongs to each from parity of cause, it is clear that the thing is to be divided equally, nor can the judge ever judge at will; because to judge is to declare the law, to declare, not to constitute. - Hence deservedly was this 26th proposition condemned by Alexander VII: "When litigants have opinions equally probable for themselves, the judge can receive money for passing sentence in favor of one before the other" (cf. n. 945, 3).[14]

"Exception is made [in ROMAN and CANON law], if there is question of causes of matrimony, dowry, widow, ward, and of other pious causes; for then judgment must be made for them, when the rights are equal, even if they are plaintiffs (from cap. *Ex litteris* 3 *de Probationibus*, and from cap. final *de sent. et re judicata*). - But otherwise, if the opposite party rather has the right (from law *Si pars* ff. *de inoff. testam.*)." - Recall what was said n. 1027-1028.

(11) H. A. XIII, 65; Lib. 209, 210, q. 2. (12) H. A. XIII, 65, at end. (13) H. A. ibid. 65; L. IV, 210. (14) L. IV, 210, Quoniam.

2302. ○ Questions. - QUAER. 1. Whether a judge can condemn an innocent man who is juridically proved guilty?

Resp. 1. It is certain that the judge is held to do as much as is in him, that he whom by private knowledge he knows to be innocent may not undergo punishment. This will often be possible, e.g. by impeding the accusation, prolonging the judgment, suggesting means of defense, remitting the cause to the Superior, or even by opening the prison, if he can execute this without a greater evil.[15] It is also certain that jurors or judges of fact can never cast a vote against an accused man whom by private knowledge they certainly know to be innocent; for by pronouncing thus, they would sin against their own office and oath.[16]

Resp. 2. It is very much controverted, in the case in which the judge is compelled to pass a sentence of punishment. - Some with St. Thomas[17] say that the innocent man can then be condemned according to the things alleged and proved. Others with Bonacina,[18] Lessius, etc., deny this; because to condemn an innocent man seems intrinsically evil: just as it would be evil to compel a woman to live with him whom the judge privately knows not to be her husband. - St. Alphonsus distinguishes and says: "1) In monetary penalties, and in civil causes, the judge, without doubt, ought to judge according to that which has been proved....; while the republic, for the common utility, which is had while judgment is passed according to public knowledge, can certainly transfer ownerships of goods."[19] 2) But in corporal penalties, in which there is question of death or mutilation, the holy Doctor holds the opposite as very probable; and the reason can be assigned, because the republic neither could nor willed to confer on the judge the power of killing or mutilating an innocent man, since this is intrinsically evil (cf. n. 738).

QUAER. 2. Whether it is lawful for a judge to receive GIFTS from litigants?

Resp. Neg., even if they are offered freely; for it is said in Deut. 16:19: "You shall not accept a person, nor gifts: because gifts blind the eyes of the wise, and change the words of the just." - Foods and drinks spontaneously offered are excepted; both because, in law, under the name of gifts there do not come *xenia*, that is, small gifts; and because it cannot be supposed that the judge, on account of a small gift, will pass an unjust sentence. At least in this, as Lugo says, custom ought not to be reproved, where it is found legitimately prescribed.[20]

QUAER. 3. Whether and when a judge is held TO RESTORE gifts received?

Resp. 1. It is certain that he is held to restitution: - 1) If he has received gifts from a pact, for passing a just sentence, or for furnishing that which he owed from justice (cf. n. 1036, q. 2); - 2) If by force, threats, or unjust vexation he extorted them; - 3) If the law makes an acceptance of this kind invalid, and a declaratory sentence of the crime has already been passed; - 4) If he has received them for

passing an unjust sentence, and the crime (namely of barratry) has not yet been completed (cf. n. 1036, q. 1).

Resp. 2. It is probable that he is not held to restitution, although he has acted illicitly: - 1) if the gifts were offered spontaneously, and he protested that he would nevertheless judge according to justice; 2) if he has already completed the pact concerning an unjust sentence to be passed, and has not been condemned to restitution (cf. 1036, q. 1).[1]

QUAER. 4. Whether he sins who GIVES GIFTS to a judge, or to his ministers?

Resp. Dist. 1. If he gives without a just cause, he indeed sins, by cooperating with unjust reception. Yet simple persons are often excused because of ignorance. - 2. If he gives with a just cause, namely for redeeming unjust vexation, he does not sin; "provided that there is probable danger that otherwise manifest injustice would be inflicted upon him; for then this is not corruption, but caution that his right be rendered to him.... Nor do prohibiting laws stand in the way of this; for laws intend to avoid lest those giving gifts corrupt judges by gifts, but not that they obtain a just sentence (otherwise not to be obtained)."[2]

QUAER. 5. Whether an unjust or doubtfully just sentence of the judge OBLIGES?

Resp. 1. "If the sentence is unjust, or null on account of defect of jurisdiction, or of substantial form, or if it proceeds from false principles and from ignorance of the facts which is opposed to the order of law simply necessary, whether it is passed through things falsely alleged and proved, or from the iniquity of the judge, it has no force in the forum of conscience; and his right remains to the injured party, even if he does not appeal, and it will be lawful for him, if he can do it without scandal, to recover the goods.... We have said in the forum of conscience: because in the external forum, where not so much the truth of the fact as juridical proof is regarded, the sentence passed must be observed, for avoiding scandals and inconveniences; nor, once the term has elapsed (within which it was lawful to appeal), is action granted to him, the law so establishing, both as a punishment for sluggishness and on account of the public good, that there may be an end of lawsuits."[3] (cf. n. 191 and 1272).

Resp. 2. A doubtfully just sentence certainly obliges, in each forum, unless appeal is made. For presumption favors the judge (cf. n. 52).

QUAER. 6. To what is a judge HELD, who has passed an unjust sentence?

Resp. 1. "If he did this by deceit, or great unskillfulness, he made the suit his own, that is, he transferred to himself the damage of the injured party, to whom he is held to make restitution.

2. If otherwise worthy of his office, he erred through forgetfulness, from human frailty, he is not obliged in conscience to restitution from his own goods, since he did not inflict formal injury, nor received any advantage from such a sentence;... nevertheless he ought to revoke the sentence, if he can do so without grave inconvenience"[4] (cf. n. 983, and 988).

NB. But if the law itself applied or to be applied by the judge has been unjust, recall what was said n. 2292. - If there is question specifically of Divorce, see n. 2126, 3.

(15) L. IV, 208. (16) Bouvier, Decalog., cap. 7, art. 3, § 1, sect. 2, at end. (17) 2\. 2. q. 64, a. 6, ad 3. (18) Disp. 10, q. 2, p. 2, n. 2. (19) H. A. XIII, 64; L. IV, 208. (20) H. A. ibid. 66; L. IV, 211 (from the 6th edition). (1) H. A. ibid. 67; L. IV,

216. (2) Ibid. 212, 213. (3) L. IV, 215. (4) Ibid. 214.

§ 2. Concerning The Plaintiff And Denouncer

2303. ○ A PLAINTIFF or Petitioner, in civil causes, is he who proposes an action for obtaining reparation of his own damage, and who first summons to judgment, either by himself, or by a procurator. See n. 2316. - A Plaintiff in criminal matters is called an Accuser, and is he who brings a crime before the judge, and asks from him vindication for the common good in writing, with the burden of proving the crime charged.[5]

Note 1. From ROMAN LAW, accusers, if they are convicted of calumny, incur the penalty of retaliation, or ought to undergo the very penalty which they were seeking for the accused. - This penalty, however, from general custom, is no longer inflicted.

2. From MODERN law, private persons are not permitted to institute an accusation; for this function belongs solely to the magistracy constituted for this, i.e. to the general procurator of the State: who therefore, together with others destined for this office, is called the Public Ministry; for it belongs to them to assume and protect the parts of the Community and of good morals against defendants. - In lower tribunals, e.g. before the judge of the region, in a cause, as they say, correctional, the same office is committed to ministers of public security, or even to the first elected municipal Officials. But the general procurator, in fulfilling the parts of his office, is assisted by another official, who is called the Judge of instruction. To this man it generally belongs to collect arguments and indications of offenses before the suspects are cited, to make investigation of guilty persons, and to take care for their arrest, to inform the cause, and to order the suit in that manner which the laws prescribe or permit. - Let recourse be had to the Code of the respective nation.

(5) Cf. H. A. XIII, 73; L. IV, 234 sqq.

2304. ○ The place of accusation is supplied by denouncement, concerning which a more special discussion must be given.

I. Notion Of Denouncement.

Denouncement in general is defined: the manifestation of someone's crime made to a Superior, with the burden of proving it not assumed. By these last words it is stated in what manner denouncement differs from accusation.

Denouncement is threefold: evangelical, canonical, and judicial. 1. Evangelical or paternal denouncement is the delation of a crime to a Superior as to a father, to the end that the defendant may come to his senses[6] (See what was said n. 494). - 2. Canonical denouncement (which in certain cases is prescribed by the canons) is the delation of a crime to an ecclesiastical Superior, to the end that the crime may be impeded, or that an unworthy man may be removed from office.[7] - 3. Judicial denouncement is the delation of a crime to a judge, whether lay or ecclesiastical, to the end that the defendant may be punished, or that damage may be repaired for the injured party. It is held in place of accusation, and lays the way for the judge to inquire.

(6) Cf. L. IV, 242-245. (7) Cf. Craisson, n. 5839-5849.

II. Obligation Of Denouncing.

2305. ○ The obligation of juridically denouncing arises from a threefold source, namely: from justice, from charity, and from a positive precept.

Principles. I. From LEGAL and COMMUTATIVE justice, those are held to denounce who are deputed to this by office, and are remunerated by the Prince or by masters by an agreed stipend. Of this kind are Fiscals, and other public officials, keepers of fields, of taxes, and of similar things, all of whom, since by office and by quasi-contract they are held to denounce crimes, are also held to repair damages to the Community, or to masters, which have followed from culpable omission of accusation or denouncement. - Recall what was said n. 988.

Gury notes that keepers of woods, fields, etc. sin if they denounce merely accidental damage, and that they are not held to denouncement if the delinquents spontaneously offer themselves to compensate the damage secretly.... But sometimes, he says, they can act more mildly with those causing damage, if the damages, e.g., are of lesser moment, and have not been repeated more often; if it can prudently be presumed that the master does not wish the delinquent to be brought forward; if the delinquent is very poor and not accustomed to offend, etc.; but let keepers carefully beware lest in these things they indulge more than is equitable.[8]

(8) Gury, II, n. 35, 36; cf. L. IV, 237; H. A. XIII, 73.

2306. ○ II. FROM CHARITY, for consulting the good of the Community or of the innocent, private persons are held to denounce certain OFFENSES or CRIMES, namely: 1. a crime turning to the damage of the Faith, or of the Community, as heresy, rebellion, falsification of monies, robbery on the public road, and the like: which each one ought to avert under grave obligation, even with grave inconvenience, because there is question of the common good (cf. n. 442). - 2. A crime from which grave damage threatens an innocent person, whenever no grave inconvenience is prudently to be feared for the denouncer. The reason is, because on the one side the innocent is to be preferred to the voluntarily harmful, but on the other, each one is held from charity to protect the innocent, when he can furnish this without grave inconvenience to himself[9] (cf. n. 483, Reg. I.).

(9) H. A. XIII, 74; L. IV, 236 and 248 at end.

2307. ○ III. FROM THE PRECEPT OF A SUPERIOR, or from a MONITION or PUBLIC EDICT, all persons, for the most part, are held to denounce offenses. - But a precept of this kind does not urge, unless the delinquent is defamed, or at least suspected by grave indication, or when the crime turns to the damage of the Community, or of a third party; yet with this difference, that in the case of damage only inflicted or to be inflicted upon some third party, fraternal correction ought to be premised, nor is there obligation of denouncing with one's own damage; but when the offense turns to common damage, there is an obligation of denouncing, even with one's own damage, although the offense were occult; nor is previous correction to be premised, except in the rare case in which by secret warning the evil can be impeded at once (cf. n. 494 sq.).

We have said all persons for the most part; for: 1. by force of a Monition no one is held to denounce himself; for no one can be bound to brand himself with infamy; 2. he is not held to denounce those joined to himself within the fourth degree, except in the case of formal heresy, or of conspiracy against the Prince. "The reason is, because to denounce one joined to oneself is the same as to undergo grave damage or inconvenience: which reasonably excuses, when danger of common damage is absent."[10]

(10) L. IV, 250; VII, 214.

2308. ○ IT IS ASKED. When is it ILLICIT to denounce a crime?

Resp. You are not held, nor ought you (even supposing the precept of the Superior) to denounce: 1. If the crime is not public, nor harmful to society, and fruit is hoped from private warning; for then fraternal correction ought to be premised (cf. n. 494). - 2. If the delinquent has been amended, without danger of relapsing, and satisfaction has been made to the injured party, nor does danger threaten others; because the infamy of the neighbor would follow without cause. (See however what was said n. 1798 concerning solicitors.) - 3. If you know the crime under a committed secret, as consultant, advocate, etc.; unless however he who committed the secret to you were unjustly vexing an innocent person or the Community, and were unwilling to desist from vexing (cf. n. 1187).

Note. From ECCLESIASTICAL LAW these must be denounced: - 1. Heretics and those suspected of heresy (cf. n. 442); - 2. Confessors who solicit (cf. n. 1354; 1794 sqq.); - 3. Confessors who demand that the name of an accomplice be revealed to themselves (n. 1701); - 4. Masons and others enrolled in secret sects (n. 1331); - 5. The unworthy to be promoted to sacred Orders (cf. n. 1916); - 6. Betrothed persons entangled in a diriment impediment and about to enter matrimony already published (cf. n. 2065).[11]

(11) Cf. Craisson, n. 5839 sqq.

§ 3. Concerning The Defendant

2309. ○ A DEFENDANT (called from the thing or from guilt) is he who is called into law and against whom action is taken in judgment. - In a civil judgment he is also called the defender, and in criminal matters the accused. - But for discerning what is lawful for the defendant, and what is not lawful, whether in confession of the crime, or in defense of his cause, or finally in declining the penalty inflicted upon him, the following things are valid:

Principles. I. The defendant is held TO CONFESS THE TRUTH and TO REVEAL the associates of the crime TO THE JUDGE ALONE, when he legitimately and juridically interrogates. - Thus commonly with St. Alphonsus.[12]

We say 1. when legitimately and juridically interrogating; otherwise, according to St. Thomas,[13] the accused is not held to respond; "but he can elude the judge, either by ambiguous words, or even by denying with some restriction, and in a good sense, so that a lie be absent." The reason is, because the judge does not have authority, except when he interrogates legitimately and juridically (cf. n. 1182). But now: - 1) he does not interrogate legitimately unless he has jurisdiction over the matter or over the person; - 2) he does not interrogate juridically, unless half-full proof has preceded, or unless

infamy exists, or another manifest indication of the crime. - Indeed, in a criminal cause, if the defendant reasonably doubts whether he is interrogated legitimately, he is not held to respond. "The reason is, because he himself possesses life and reputation; whence, in doubt, he has the right of preserving it, until the legitimate interrogation is established."[14] Yet someone could be held from charity, namely on account of the utility of the neighbor, to respond.

We say 2. he is held to confess the truth; for the judge legitimately interrogating has the right of demanding the truth from the defendant: therefore it is repugnant that there should be at the same time in the defendant a right of denying it. - Hence, Benedict XIV in the Constitution *Paterna charitas* issued in the year 1749 teaches that absolution is generally to be denied to defendants who keep back the truth; because it pertains to the common good that guilty persons be known and punished; especially if the penalty which is feared is ecclesiastical, because this is medicinal. - But whether the defendant is held to confess his offense with fear of death, or of another most grave penalty? It is sharply DISPUTED. Suarez, Lugo, and others deny; because the law would then be too hard, and as if impossible for human weakness, unless it is necessary for averting common damage, e.g. by revelation of the associates of rebellion. St. Alphonsus indeed does not reprove this opinion; but he considers the opposite opinion more probable, at least because of the authority of St. Thomas, Sanchez, Lessius, the Salmanticenses, etc., and because the judge has the right of knowing the truth whenever he interrogates legitimately. In practice, if the defendant does not believe himself obligated, and no fruit can prudently be hoped from admonition, he is to be left in his good faith.[15]

We say 3. he is held to reveal associates; namely, if there would be against them indications, or testimonies, or infamy. Otherwise, he is not held nor can he reveal them, because in occult matters they retain the right to their own reputation. But if the offense is of the excepted ones, as heresy, conspiracy, etc., he is held, even when not interrogated, to reveal them, as is clear from what was said concerning denouncement (n. 2306).[16]

It is helpful TO NOTE: - 1) After sentence has been passed, the defendant is not held to confess the crime which before he unjustly denied; because once the judgment is finished, the precept of the judge no longer urges. Except if the defendant by his denial has inflicted damage on the judge, which he ought to repair. - 2) Before sentence it is not necessary that he be interrogated again; because the precept of the judge perseveres, which he is still held to obey.[17]

(12) H. A. XIII, 82; L. IV, 272, 273. (13) 2\. 2. qu. 69, a. 2. (14) L. IV, 273. (15) Conf. dir. XX, 7; H. A. XIII, 83; L. III, 156; IV, 274. (16) H. A. ibid. 85; L. IV, 278. (17) H. A. ibid. 83 at end; L. IV, 274.

2310. ○ II. It is never lawful for a defendant or accused man, even if innocent, FOR HIS OWN DEFENSE, to impose a false crime upon another. This is clear from the 44th proposition condemned by Innocent XI (cf. n. 1196). - Yet he can licitly, for his own defense, set against the accuser or witnesses a true but occult crime, provided that this is absolutely necessary, and that otherwise he himself would suffer grave damage, although through the revelation greater damage may come to the accuser or witness; for no one is held, with his own grave damage, to preserve the reputation of his neighbor (cf. n. 1198). - Likewise, if the defendant had indeed committed the crime, but so occultly that it cannot be proved, he can licitly set calumny against the accuser; because by law he is presumed to calumniate who accuses a defendant of a completely occult crime.[18]

(18) H. A. ibid. 85; L. IV, 277.

2311. ○ III. It is not lawful for the defendant, even if unjustly condemned, TO REPEL FORCE BY FORCE, e.g. by killing, wounding, etc.; as is clear from the 18th proposition condemned by Alexander VII. - Nor can he licitly corrupt the keeper of the prison with money, since this is intrinsically evil (cf. n. 518). - But one unjustly condemned can positively resist, so that he may snatch himself from the hands of the attendants, provided that from this there does not arise public scandal and grave disturbance. He can similarly, by breaking doors, lawfully flee, even if the keeper of the prison is going to suffer damage from this; for he uses his own right, and consequently the damage which he does not directly intend is not imputed to him.[19]

But for him not yet condemned, or already justly condemned to death, or to the galleys, it is not lawful to resist. He can indeed flee from prison, where he is detained in custody; but he is by no means held to this. - But if prison (not very hard) has already been assigned to him as punishment, he can no longer flee; because the sentence justly passed against him obliges in conscience. Thus commonly.[1]

On these things LET IT BE NOTED: - 1. When it is lawful for the defendant to flee, others also (ministers of justice, however, excepted) can supply those things which help or hasten flight, e.g. files, ropes, or other instruments, provided that no damage will come to the republic from this, for example, if the defendant were the head of robbers. - But it is lawful for no one to break into prisons in order to free the condemned: for this is conceded to the defendant from the right of preserving life; but for others it is ruled by the common good, namely lest all security of the prison perish (cf. n. 519).

2. Let the confessor prudently ADMONISH the defendant that he can neither benefit him nor harm him; for, this admonition being omitted, the defendant, led by hope or fear, will try to prove himself innocent. And although his innocence becomes known from confession, nevertheless let the confessor not commit himself to intercede for him before the judge; both because his testimony would not make faith, and because the seal of confession would be broken indirectly, in relation to those for whom the same intercession would not be made, and also because of many other inconveniences[2] (cf. n. 2300, and n. 1546, qu. 2, concerning Communion).

(19) H. A. ibid. 86, 87; L. IV, 279-282. (1) Ibid. 86; IV, 279, 280. (2) Cf. L. IV, 286-290; H. A., Tr. ult., n. 48, 49.

2312. ○ Questions. QUAER. 1. What is lawful for the defendant in a CIVIL cause?

Resp. The defendant, or defender, has the civil action brought against him by the petitioner, either as certainly just, or as certainly unjust, or as doubtful. - In the first case, he ought without delay to satisfy the petitioner, nor can he begin a lawsuit without being held concerning all damages that will come about. In the second case, he can defend his cause by all means and arts not illicit, as a defendant in criminal matters (n. 2310). - In the third case, he can, as long as the doubt persists, licitly contend; unless charity toward himself and the neighbor, and the counsel of the prudent,

advise a transaction, namely lest expenses be multiplied beyond measure (cf. n. 944-947 and n. 1160).

QUAER. 2. Whether it is lawful to interpose an APPEAL?

Resp. 1. Neg., in a civil cause certainly unjust, or certainly less probable; because if a new judge judged for the defendant according to the less probable opinion, he would certainly act unjustly (from n. 2301, rule 4). - "But what if it is doubtful whether the superior judge will justly pass sentence for the defendant? In such a case, it is probable that the defendant can appeal, even in a civil cause; because, since the minds of men are diverse, perhaps the opinion which appeared less probable to the lower judge will appear more probable to the superior; and the defendant, since he already has a probable right for himself, can licitly try this, not without a just cause. And this seems to be the practice of all who appeal." Thus St. Alphonsus.[3]

Resp. 2. If there is question of a criminal and capital cause, the defendant can appeal, even if he has a less probable right, as is clear from what was said n. 2300. He will also be able to do this, although the first sentence has been just according to the things alleged, in the case in which he has found new reasons for himself, so that the opposite can still be proved.[4]

(3) L. IV, 285. (4) Ibid. 285 and 210.

Article II: On Persons Auxiliary In Judgment

There must be treated: 1. concerning auxiliaries of the litigants, 2. concerning auxiliaries of the judges.

§ 1. Concerning Auxiliaries Of The Litigants

To help litigants there intervene witnesses, advocates, procurators.

I. Concerning Witnesses.

2313. ○ WITNESSES in general are suitable persons who are employed for establishing faith in some matter.

Preliminary Notes. For testifying in judgment, some are never assumed, some only in certain causes; nor is the same number of witnesses always required in all causes. - We have said 1. Some never; for several are excluded by the laws. Thus, in canon law,[5] the insane, the immature, the blind, those corrupted by money, infamous persons, criminals, perjurers, the excommunicated, vile persons, parents, spouses against each other, servants, women, an associate in crime, etc. are excluded: all of whom, however, have their own proper exception.[6] - 2. Some only in certain causes; for, from canon law, lay persons are regularly not admitted against clerics in a criminal cause; and from civil law, in some regions, witnesses are regularly not admitted concerning an agreement concerning a thing exceeding the value of 300 francs, but authentic writings are required. - 3. The same number of witnesses is not always required; for sometimes one witness suffices: for example, if there is question of lighter penalties to be inflicted, e.g. in theft from woods; or of an expert in his art, e.g. if a physician testifies that someone's death is natural. Regularly, one witness also suffices in favorable causes: e.g. if it is asked whether someone was baptized, whether a church was consecrated, etc.[7] -

Sometimes more than two or three are required, as happens for a solemn testament in several kingdoms; and from canon law, if there is question of a criminal process against a Bishop.[8] - Yet:

Regularly, TWO suitable WITNESSES are required and suffice for full proof in every judgment, both civil and criminal; provided that they have perceived by external sense what they testify, depose with oath, and agree among themselves, not only in the substance of the fact, but also in the principal circumstances of person, place, time.[9] Hence that saying of Matt. 18:16: In the mouth of two or three let every word stand, and the axiom of Law: One witness, no witness. The reason is, because for proving human actions moral and probable certitude suffices.

(5) Cf. Tit. de Testibus, L. II, Decretal. Tit. 20. (6) Cf. Soglia, § 218. (7) Soglia, § 218 at end; cf. Craisson, n. 5712. (8) L. IV, 255-258; 261-263. (9) Ibid. 259, 260.

2314. ○ Principles. I. Anyone is held TO TESTIFY: 1. from charity, namely when this is necessary for averting a great evil of the neighbor or of the Republic; - 2. from precept, when the judge legitimately interrogates; for a just precept obliges in conscience (n. 2307).

Moreover, the judge legitimately interrogates (as was said above), when either half-full proof of the crime, infamy, evident indications, are present, or also when the accuser offers himself to prove the offense by several witnesses. If these things are at hand, and become known to the witness through the judge, the judge interrogates legitimately, and the witness is held to reveal the truth.[10]

But he is NOT HELD to reveal it: 1. If he knows the matter from sacramental secret, or under natural or committed secret; provided that from observance of the natural or committed secret, there does not threaten the republic or an innocent person great damage, which cannot be averted by another way; - 2. if he cannot testify without grave damage to himself or his own, provided that public damage, or another's private damage, does not prevail; - 3. if he has heard the matter from men worthy of no faith; for then he can hold himself as if he knew nothing; or by an unjust manner, for example by force or fraud, e.g. by opening letters; 4. if he knows that the defendant did not sin in conscience, e.g. because of ignorance; because the mind of the judge is to inquire concerning an offense.[11]

(10) L. IV, 264-267. (11) Ibid. 268; H. A. XIII, 79.

2315. ○ II. A witness legitimately interrogated, and not excused from the obligation of testifying, is held TO SPEAK THE TRUTH integrally, and nothing besides the truth, by responding to the questions simply, according to his conscience. Thus all.

Hence: 1. The witness sins, and is held to restitution: 1) if he receives a price for speaking the truth, since by every law he is held to speak it freely; - 2) if knowingly he affirms what he is ignorant of, or opens things to be hidden, or testifies falsely; and he is obliged to reparation whenever, by acting thus, he has been the effective cause of damage. Whence, he is held to retract himself, even with damage equal to life or goods, provided that the retraction is foreseen to be profitable. - Mark the words knowingly, effective; for if grave fault is lacking, he is indeed held, insofar as lies in him, to impede the damage, but not to repair what he did in ignorance. Likewise, if by his false testimony he effected nothing, he is held to nothing[12] (cf. 948 and 949).

2. He also sins, but without the burden of restitution: 1) if, in a case in which he is held to testify, he hides himself, lest he be cited by the judge; because he injures charity; 2) if he flees after citation; 3) if, legitimately interrogated, he hides the truth: because he injures obedience, indeed also religion, if he has furnished an oath. - In these things, however, since he is only a negative cause, he does not sin against justice: unless he entered into a special pact, with a party, concerning manifesting the truth.[13]

(12) L. IV, 269, 270. (13) Ibid. 270, 271; H. A. ibid. 80, 81.

II. Concerning The Advocate And Procurator.

2316. ○ An ADVOCATE (patron, pleader) is he who is called to assist a litigant in pleading, or defending, a cause.

A PROCURATOR (caretaker for another) is he who by legitimate mandate conducts and administers the affairs of another (cf. n. 1091). - A judicial procurator can be: 1. on the part of the State or republic, and is called fiscal or royal (cf. n. 2303); 2. on the part of the advocate, namely he who is the helper of the advocate in the defense of the suit, or the second advocate; 3. on the part of the litigant, whose place he bears in judicial acts.[14]

(14) Porpora, Tr. 25, n. 330. In canon law the fiscal procurator is called the promoter.

2317. ○ Principles. I. Not all indiscriminately can exercise the office of judicial ADVOCATE or PROCURATOR. - For some are excluded by civil law: such as women, minors, infamous persons, judges in the same cause, etc.; others by canon law, namely: the excommunicated, monks, clerics constituted in Sacred orders, beneficiaries, unless there is question of certain causes which we have designated above, n. 2226. - By natural law itself those lacking necessary knowledge are prohibited, who consequently are held concerning damages that followed from ignorance.[15]

(15) L. IV, 219.

2318. ○ II. An advocate or procurator cannot assume ALL CAUSES; but only those which, after diligent examination, he has judged to be JUST and LAWFUL. This is clear through itself. But now, in an unjust cause, the advocate is held to repair the damages both of the opposing party and of his own client, if he has concealed from the latter the injustice of his own cause. But if the client also is in bad faith, he himself is held, in the first place, to make restitution to the opposing party, as one commanding; but in the second place, the advocate, as executor.

Hence: 1. An advocate questioned by a client is held to examine the cause with diligence proportioned to the gravity of the matter, to preserve fidelity to the same, and finally to declare the quality and state of the cause, lest there be proceeding to vain expenses.[16]

2. If he has assumed the cause in good faith, at least as probable, and notices its injustice in the course of the process, he is held to abandon it, and to advise the client to desist. Nor in this

case can he advise a composition with damage to the other party; because there is no place for composition, except when the matter is doubtful.

(16) L. IV, 223.

2319. ○ Questions. QUAER. 1. Whether an advocate or procurator can defend a LESS PROBABLE cause?

Resp. 1. In a civil cause, according to the more probable and more common opinion, if the doubt is of law, the advocate (or procurator) can assume and defend the slightly less probable parts, whether of the plaintiff or of the defendant, yet with the litigant warned concerning the quality of his right. "The reason is, both because an opinion less probable in the course of time can become more probable; and because many times the opinion which appears less probable to the advocate seems more probable to the judge." But if the doubt is of fact, he cannot, whether in lesser or even equal probability, defend the cause; because in such a cause the defendant, or possessor, is altogether to be favored; and therefore if a suit were brought against him, he would be vexed unjustly, and the plaintiff would be compelled to useless expenses.[17]

2. In a criminal cause the defendant, even truly culpable, can always be defended, provided that it is done without fraud and lying; because he is not held to the penalty unless convicted. But the accuser or denouncer cannot, in a doubtful criminal cause, be helped by the fiscal procurator or by another, because these would sin, just as the accuser himself, by cooperating with his illicit denouncement.[18]

QUAER. 2. To what is an advocate held by reason of HONORARIUM or STIPEND?

Resp. 1. He can receive nothing beyond the just price, namely that taxed, where it exists, or determined by the judgment of the prudent, account being taken of the business, of his own skill, of the labor which he expends, and of approved custom. - Yet if the client, without just cause, abandoned the lawsuit begun, he could contend for the whole salary.[19]

Resp. 2. As to the poor: 1) He is held, even with grave inconvenience to himself, to assist gratuitously those who are in extreme necessity, and have no other recourse; 2) likewise, but short of his own grave inconvenience, those who are in grave necessity; 3) finally, to those who are in common necessity, it suffices if he bestows some of his work.[20]

(17) Ibid. 222; H. A. XIII, 70. (18) Ibid. 220. (19) H. A. ibid. 70; L. IV, 225, note 2. (20) H. A. ibid. 69.

2320. ○ From these things you resolve: - I. An advocate SINS: 1. If he defends or prosecutes a cause certainly unjust as to ownership, although it were just as to possession; for just as the defendant then cannot retain the thing, so neither can the advocate protect him. 2. If he prosecutes a just cause by unjust means, by bringing forward, e.g., false writings, or abrogated laws. 3. If, after the lawsuit has been begun, he makes an agreement concerning stipend; for concerning this an agreement must be made either before or after; because if he were to agree during the course of the suit, the client could easily be compelled to acquiesce in every stipend, however immoderate; and he sins much more gravely by agreeing concerning a proportional part of the suit, e.g. concerning a third

part, if the cause is won; for such a pact casts him into proximate danger of employing every device, that by right and wrong the suit may be obtained. Nevertheless, if the price were certainly just, and deceit were absent, he would not be held to restore what he had received. - 4. If he undertakes more causes than he can conveniently handle, the client not having been warned. - 5. If he patronizes each party; because it is repugnant that he defend each party equally, at least in the same cause. - 6. If he opens the secrets of his client to the opposing party. There are indeed some who except the case in which another, because the secret is observed, would unjustly suffer grave damage; but others with St. Thomas do not admit this limitation, except in the very rare case in which the defendant would be punished capitally, and the accuser proceeded unjustly. - 7. If he uses deceits or delays not making for the matter; finally if by negligence or grave imprudence of his own he loses the cause[1] (cf. n. 974).

(1) H. A. XIII, 71; L. IV, 223-226.

2321. ○ II. The fiscal procurator (or his substitute) SINS AGAINST justice: 1. If from negligence, from precipitation, or prejudice, from hatred or acceptance of persons, etc. he drags an innocent person into detention, into judgment, into an unjust sentence to be undergone. 2. If he sustains an accusation after in the course of the cause he has recognized the innocence of the accused, or has gravely doubted concerning it. 3. If he defers the exercise of his office with injury to citizens. But what he has acquired for himself by arts of this kind, he is held to restore.[2]

(2) Cf. Gury, II, 14, 4.

2322. ○ III. The procurator of the parties SINS against justice: "1. If he procures an unjust suit; 2. if he undertakes more causes than he can dispatch; - 3. if he receives more pay than is just; - 4. if he persuades the defendant or party to deny the truth unjustly; - 5. if by his carelessness, negligence, or other fault, he is the cause that the suit is lost; - 6. if in the name of the party he swears, without particular information from him, with danger of perjury; - 7. if culpably he is not present at the tribunal, from fear of future inconvenience, etc.; - 8. if he brings the parties to an inequitable agreement; - 9. if he defers the cause, or perverts the judge, asks for impertinent terms or superfluous delays; - 10. if he induces false witnesses."[3]

IT IS ASKED. What of him who substitutes or adulterates WRITINGS, for supplying lost acts, or for prosecuting a certain right?

Resp. 1. He sins, at least venially by reason of lying, because, however the matter stands, the note of hand which is exhibited is diverse from that which makes faith in judgment. It can also happen that he sins against prudence, namely if he exposes himself to the danger of incurring most grave penalties.

Resp. 2. He does not sin against justice, since he prosecutes a certain right; and consequently he is not held to restitution. Except, if he conducts the cause of another, as an advocate, and from the discovery of the fraud damage comes to his client or to the opposing party.[4]

NB. What is lawful for an ADVOCATE and PROCURATOR in a cause of Divorce, see n. 2126, 2.

(3) L. IV, 232. (4) Cf. Gury, II, 13.

§ 2. Concerning Auxiliaries Of Judges

2323. ○ Auxiliaries of judges help them in settling causes in a threefold manner: 1. by counseling: in which office auditors or referendaries, and assessors or counselors, function; 2. by writing the acts of the judgment: which notaries do, who are also called scribes, chancellors, actuaries, tabellions, protocolists; 3. by executing what the judge commands: in which business attendants and judicial messengers are occupied, who are also called apparitors, runners, beadles.

Principle. Auxiliaries of judges "are held to exercise their office JUSTLY AND FAITHFULLY, whether from the debt of the office only, or also from oath. - Likewise, they are held TO KNOW those things which pertain to their office, and to employ due DILIGENCE, furnishing all necessary things, asking for just terms, appealing, when it has been necessary."[5]

This general principle having been premised, it remains that the following things be noted separately.

(5) L. IV, 227.

I. Concerning Referendaries And Counselors.

2324. ○ I. Referrers or Ponents are those to whom the examination of the suit or recognition of the cause is committed, that they may refer it to the judges to be defined. Generally such an office is committed to one from the judges themselves, who by this reason is called the commissioner of the cause, or judge-relator.

The Referrer SINS and is held to reparation of the damage that comes about: 1. If by defect of study, or by carelessness, he reports badly, or omits things which pertain to the substance of the suit; - 2. if he favors either party; - 3. if he divulges the sentence before the time.

Note. But from the fact that knowledge of the cause belongs to the Referrer, it by no means follows that the other judges can neglect knowledge of the cause; for if they were to neglect it, the judgment would depend, in great part, upon the report of the Referrer alone, which not rarely totters. - Therefore each judge is held to weigh the cause considerately, and then, from his own knowledge, to cast his vote.

II. Counselors are held to the same things as the judge himself, insofar as they cooperate proximately with him in passing sentence. - Recall what was said concerning the Judge, n. 2296 sqq.; and concerning Counselors, n. 980, 983, 984, and 988.

II. Concerning Scribes And Notaries.

2325. ○ I. A scribe or secretary is said to be one who has been deputed by legitimate authority, that in writing he may report testimonies, the sentences of judges, and the other things which are done in tribunals. From this it is clear how great prudence the office of Secretary requires for itself; for he himself is, as it were, the right hand of the judge.[6]

A SCRIBE can commit various injustices, especially:

1. If he does not use due diligence for reporting into authentic books all things brought forward and done in the tribunal. For defect of this diligence, unless it is altogether involuntary, easily induces grave fault and the obligation of restitution.
2. If from malice he omits something in writing, or if he adulterates the public tablets committed to himself, or keeps them badly; if he does not add the due formalities and signatures, or does not take care that they be added; if he does not faithfully transcribe the testimonies or words of witnesses, whether by exaggerating or diminishing, or by changing or inverting.
3. If he betrays a secret committed to himself; if he manifests a sentence not yet published; if, without the prescription of the judge, he shows the processes completed to the parties; if he hands over to the same parties the acts of the judge before they have been signed according to the legal forms. For then he exhibits a maimed and false instrument, the dispatch of which is of no value.
4. If, for increasing his salary, he amplifies more than is equitable the acts to be distributed; if he demands an unjust price, etc. - Moreover, as to stipend, he is held to stand by the legal or usual tariff, if by the passage of times the legal tariff has become insufficient. - Besides, all commonly say that the scribe cannot receive from the parties anything beyond the just price, even under title of donation; for such largesses are never spontaneous. Yet, if he undertook some extraordinary labor, it would certainly be lawful to receive something more.[7]

(6) Cf. Ferraris, Verb. Cancellaria, Secretarius. (7) H. A. XIII, 68; L. IV, 229; cf. Gury, II, 19.

2326. ○ II. A notary or tabellion is said to be one who has been legitimately instituted for writing and noting acts, or instruments, which make faith either in judgment or outside it. The office of Notary is most grave, since public faith is committed to him. Hence that very well-known verse:

Let the notary be experienced, faithful, diligent.

Therefore he ought to be: 1. Experienced; whence he sins gravely against justice, if from ignorance or negligence of his office he omits those solemnities and necessary conditions which are required for the validity of the act. - 2. Faithful; whence he likewise sins gravely against justice, if he violates an oath, or a secret; if he conceals instruments from the party requesting them, especially those which contain legacies; if he makes a false instrument; if he writes the testament of a man deprived of the use of reason; if he adds to or takes away from the pacts of the contracting parties something of grave moment; if he does not warn them concerning clauses which can harm them, etc. - 3. Diligent; whence he sins gravely, and is held concerning damage, if he prepares acts negligently, e.g. through an unsuitable transcriber, or keeps them badly; if he defers, without just impediment, the dispatch of the cause; or brings it about that judicial acts come to other judges than to those whom the order of the forum designates, etc.[8]

Concerning the Notary, moreover, those things are valid which above (n. 2325) we said concerning the scribe.

(8) L. IV, 230, 231; cf. Gury, II, 21.

2327. ○ IT IS ASKED. Whether a notary is held to restitution toward the FISC, if in preparing an instrument of sale or inventory, at the request of the parties, or even with himself hinting it, he does not inscribe the true price of the thing, but another lesser one, so that the TRIBUTE to be paid may be DIMINISHED?

Resp. It is controverted. - Some affirm, because thus he cooperates with the defrauding of tributes: which is wicked and unjust on the part of the magistrate, to whom the Republic trusts. - Others deny, provided that at least the lowest price is reported in the authentic writing. - Finally others totally excuse him, because from custom generally received even by upright men, the whole price, even the lowest, is not usually declared, but only a little beyond the middle part, or about two thirds of this price, is declared. But if the parties do not sin by dissimulating the true price, neither does the notary sin from cooperation; for he himself is not constituted, like one placed over taxes, for exacting tributes, but for preparing instruments. Thus Gury[9] (cf. n. 967).

(9) II, 22, where however he speaks of the office of notary in France.

III. Concerning Apparitors And Other Ministers Of Judges.

2328. ○ I. An apparitor (elsewhere Commissioner) is he who by office brings the order of appearing in judgment and the mandates of justice, and carries out the executions decreed by the judge.

Apparitors sin and are held to restitution: 1. If they allow themselves to be corrupted by price or favor to the prejudice of the client; - 2. If they do not grant the time prefixed for juridical acts; - 3. If, searching houses, they act more harshly, that they may extort some gift; - 4. If they exceed the mandate of the judge, or the statutes of the law, etc.; - 5. If, under title of donation, they receive a price above the tariff determined by law; for such a donation generally cannot be called spontaneous: as we have already noted concerning the scribe n. 2325, 4.[10]

(10) Gury, II, 15.

2329. ○ IT IS ASKED. Whether an apparitor or commissioner can exact a MULTIPLE SALARY, if at one and the same time he brings diverse summonses?

Resp. St. Alphonsus:[11] It is necessary to distinguish: 1. If a price has been taxed for the apparitor (Executor or Commissioner) for the occupation of each day of his, he cannot exact more, as is clear. - 2. If the commissions are disparate, and a special salary has been assigned for each procuration, Lugo rightly says that the Commissioner can exact several salaries according to the number and quality of the executions, and Lessius holds the same (cf. n. 1036, q. 2).

In FRANCE, Gury testifying,[12] although the law prohibits this, nevertheless the usage has prevailed, the Government knowing and seeing it, that advocates and procurators so arrange the matter that for individual summonses apparitors have almost the same price.

(11) H. A. XIII, 68, at end. (12) II, 18.

2330. ○ II. The other MINISTERS of judges, for example interpreters, attendants, armed horsemen, keepers of prisons, etc., are similarly held to fulfill their own office rightly, faithfully, and justly.

Whence they sin and are held concerning damages: 1. If they exact anything beyond the just stipend; - 2. if they warn defendants whom they have been ordered to seize, that they may take flight; or debtors, that they may hide goods to be assigned to creditors; - 3. if they act more harshly and inhumanly toward them, especially for extorting money or other gifts; - 4. if they do not execute the things commanded at the constituted time.[13]

(13) Porpora, tr. 25, n. 185.

Chapter III: On The Offices Of Physicians And Pharmacists

2331. ◦ A grave and delicate office lies upon PHYSICIANS, and, proportion being preserved, upon SURGEONS and PHARMACISTS, because the life of men, and the safety of their life, are entrusted to them.

Hence they ARE HELD, and indeed under grave obligation: 1. To know those things which pertain to the exercise of their office; - 2. to apply those cares which correspond to the gravity of the disease;

3. to preserve equity in exacting stipend. In these things, if by their own fault they fail, they are liable to reparation of the damage which has followed from this. But in particular:

I. PHYSICIANS (and Surgeons) sin gravely: 1. If without sufficient skill they undertake a grave disease or wound to be cured; or if, when a grave and unusual disease occurs, they do not devote effort to special study of the medication. - 2. If, once the danger of the sick person has been recognized, they are not present to him opportunely. - 3. If they neglect necessary treatment, or do not permit other suitable physicians, where it is fitting, to be called. - 4. If, the nature of the disease not having been well inspected, they rashly apply doubtful or dangerous remedies, especially with risk of life or grave lesion. (See n. 84, 2.) - 5. If easily, and without true necessity, they absolve from fasting, from abstinence from flesh, from hearing Mass. - 6. If they despise a poor sick person constituted in grave danger. - 7. If they exact too great a price; or compel to useless expenses, e.g. by prescribing superfluous medicines, multiplying visits, etc. - 8. If they advise abortion, onanism, or other illicit things. - 9. If they do not preserve the secrets committed to their trust, e.g. by divulging shameful diseases without just cause. - 10. If they do not opportunely warn of grave danger of sickness, that the Sacraments may be conferred. - 11. If in a case of necessity they neglect to baptize. - 12. If in time of plague they abandon the sick without help, for curing whom they have been constituted by the Community with stipend.[1]

(1) L. IV, 291; cf. Porpora, tr. 25, n. 339.

2332. ◦ IT IS ASKED. Whether a physician is held TO WARN the sick concerning confession to be made?

Resp. 1. If there is question of a mortal disease, or one proximately dangerous, he is held by NATURAL LAW to warn the infirm person, by himself or through others; for each one ought, at least from charity, when he can without grave detriment to himself, to remove from his neighbor the danger of eternal damnation. "Oh how miserable it is," exclaims St. Alphonsus,[2] "to see so many sick persons (and especially those who are of distinguished dignity) reduced to the extremities of death, so that they may prepare the accounts of life soon to be rendered to God, at a time when they are

almost lifeless, when they can scarcely then form words, scarcely hear others, scarcely conceive the state of their own conscience, and sorrow for their sins! And all this happens by the fault of those physicians, who, lest they displease the sick or their relatives, do not make them more certain concerning the danger; indeed they continue to flatter them, until they themselves are altogether despaired of concerning life."

2. If there is question at least of a grave disease, namely when it must be feared that it may become mortal, the physician ought by POSITIVE LAW, that is, from the decree of the Fourth Lateran Council, cap. 22, and from the Constitution *Supra gregem* of Pius V (where the law has been received and has not fallen into desuetude), he ought, I say, by himself or through another, to warn the infirm person concerning confession to be made within three days; these having elapsed, he is held to abandon the one not confessed.[3] - The motive of this law is, lest the infirm, if they know that only the despaired-of are warned, be too much disturbed from such warning; by which it would happen that they would more difficultly take counsel for their own conscience, and easily be cast into a grave danger of life. - But Doctors note that the physician is not obligated to warning if he is morally certain that the infirm person is in a good state of conscience; nor is he held to abandon him if graver causes are present for not abandoning him, especially if no hope of helping the soul is present.[4]

(2) Prax. Conf., n. 57. (3) Cf. Rit. Rom., De Cura infirm., Verb. Deinde. (4) L. VI, 664; III, 182; H. A., Tr. ult., n. 33.

2333. ○ II. A PHARMACIST sins: 1. If, rude and ignorant, he exercises the office. - 2. If without due diligence he prepares medicines. - 3. If he supplies one medicine for another (unless it were equally good, and of equal price), against the prescription of the physician, with danger of grave damage. - 4. If he sells useless medicines. - 5. If he furnishes medicines for inducing sterility, or for expelling the fetus (although such medicines were plainly ineffective): both because of the scandal which he furnishes to those requesting; and because the imagination of women, from which abortion is usually produced, is not a little stirred by this; and because he commits himself to the danger of undergoing the penalties which civil laws have established against prevarications of this kind.[5]

(5) L. IV, 291; Prax. Conf., n. 58.

Praise Be To God.

Appendix I: Various Faculties Which The Holy See Is Accustomed To Concede To Bishops Or Confessors

1. Quinquennial Faculties.

The faculties which are accustomed to be conceded by the Sacred Congregation of the PROPAGATION OF THE FAITH to Bishops for five years are contained in TEN FORMULAS of greater or lesser amplitude.

The Congregation of the HOLY OFFICE prepared these, and transmitted them to the Sacred Congregation of the PROPAGATION OF THE FAITH, through which they are communicated to Bishops; but in such a way that those dwelling in more remote regions obtain more ample faculties, namely those which, according to the order of the List, are found enumerated in the 1st and 2nd place.

Behold the Formula (n. X) which is accustomed to be communicated to the Bishops of FRANCE.[6]

1. Of absolving from Heresy, and Apostasy from the Faith, and from Schism any persons whatever, even Ecclesiastics, both seculars and Regulars, but not those who have been from places where the Holy Office is exercised, unless they offended in places of Missions in which Heresies rage with impunity, nor those who have judicially abjured; unless these were born where Heresies rage with impunity, and after judicial abjuration, having returned thither, have relapsed into Heresy, and this in the forum of conscience only.
2. Of keeping and reading, but not however of conceding to others, except, yet for a time, to those priests whom he knows to be especially suitable and honorable, prohibited books, the works of Dupuy, Volney, M. Reghellini, Pigault, le Brun, De Potter, Bontham, J. A. Dulaure, *Fetes et Courtisanes de la Grece*, *Novelle di Casti*, and other works treating professedly of obscene matters and against Religion being excepted.
3. Of dispensing in the 3rd and 4th simple and mixed degree only with the poor in marriages to be contracted; but in contracted marriages with converted Heretics, also in the 2nd simple and mixed degree, provided that it in no way touches the first degree, and in these cases of declaring the offspring received legitimate.
4. Of dispensing over the impediment of public honesty arising from valid betrothals.
5. Of dispensing over the impediment of crime, neither of the Spouses however plotting, and of restoring the lost Right of asking for the debt.
6. Of dispensing in impediments of spiritual kinship, except between the one lifting and the one lifted.
7. But these Matrimonial dispensations, namely the 3rd, 4th, 5th, and 6th, are not to be conceded except with the clause, provided that the woman has not been abducted, and if she has been abducted, she is not in the power of the abductor, and in dispensations of this kind it is to be

declared expressly that they are conceded as by a Delegate of the Apostolic See, to which effect also the tenor of faculties of this kind is to be inserted with expression of the time for which they were conceded.

8. Of dispensing in irregularities arising from occult delict only, with that one excepted which is contracted from voluntary homicide.
9. Of dispensing and commuting simple vows into other pious works, vows of Chastity and Religion being excepted.
10. Of absolving from all censures, even those reserved in a special manner to the Roman Pontiff in the Bull *Apostolicae Sedis moderationi* of 12 October 1869, with the absolution of an accomplice in a base sin excepted; - in places however where heresies rage with impunity.
11. Of delegating to simple Priests the power of blessing Vestments and other utensils necessary for the Sacrifice of the Mass, where sacred Unction does not intervene, and of reconciling polluted Churches with water blessed by the Bishop, and in a case of necessity even with water not blessed by the Bishop.
12. Of communicating these faculties in whole or in part, as he shall judge necessary according to his conscience, to suitable Priests laboring in the conversion of Souls, only in places where the exercise of the Catholic religion is prohibited.
13. And the aforesaid faculties are to be exercised gratis and without any payment, and are to be understood as conceded for five years only.
14. Of using the same faculties only in the places of the Diocese N.

Note. A question having been proposed, what the mutual relation is between the printed faculties customarily conceded to Bishops both by the Sacred Penitentiary and by the Sacred Congregation of the Propagation of the Faith, the response was: "I have this to signify to You, namely that since faculties are given by Our Most Holy Lord either through the Sacred Congregation of the Propagation of the Faith, or through the Sacred Penitentiary, and since He himself, with attention to the adjuncts of places, persons, and times, concedes them broader or narrower, neither of the Congregations is to be said to restrict faculties given by the other, unless this is expressly provided in the rescript." Moy, *Archiv.*, vol. V, p. 471.

(6) From an authentic copy. - For the formulas conceded to Bishops of AMERICA, see Konings, Theol. mor. I, p. lxx; likewise, Commentarium in facult. Apost. (New York, 1884); for GERMANY and AUSTRIA see Aichner, Appendix IV.

2. - Leaflet Of The Sacred Penitentiary Which Is Customarily Conceded To The Bishops Of ITALY.

FR. ANTONIUS MARIA, Cardinal Priest of the Title of the Holy XII Apostles, PANEBIANCO, of the Order of Minors of St. Francis Conventual, Major Penitentiary of Our Most Holy Lord the Pope and of the Holy Apostolic See.

To you, Most Reverend Father in Christ... we communicate the below-written faculties, to last for three years, by which, notwithstanding the Constitution *Apostolicae Sedis*, for the forum of conscience through You, or through Your Vicar General in Spiritualibus, provided that he has been constituted in the Sacred Order of the Presbyterate, even outside sacramental confession for the flock committed to

You, and only within the limits of Your Diocese, and by the special Authority of the Apostolic See delegated to You, to be expressed in each case, you may be able to use them, and may be able to impart them to the Canon Penitentiary and also to Forane Vicars for the forum likewise of conscience and only in the act of sacramental confession, even habitually, if it shall have pleased You, but to other Confessors when they have had recourse to You, or to the aforesaid Vicar General, in particular cases of Penitents, for the case set forth, unless because of peculiar causes you shall judge that they are to be communicated to some Confessors to be specially subdelegated by You, for a time to be established at your discretion.

I. Of absolving from excommunication on account of violent hands laid upon Clerics, or Priests, or upon Regulars, provided that death, or mutilation, or a lethal wound, or fracture of bones has not followed; and provided that the cases have not been brought to the external forum, with the things to be enjoined being enjoined, and especially that competent satisfaction be made to the injured party.

II. Of absolving from censures inflicted against duelists only in cases not brought to the forum of the Ordinary; with a grave salutary penance enjoined, and with other things enjoined which by law will have to be enjoined.

III. Of absolving any penitents whatever, whether men or women (public heretics, or those publicly dogmatizing, excepted), from any sentences, censures, and ecclesiastical penalties incurred on account of heresies externalized either with no one hearing or noticing, or before others, on account of infidelity and abjuration of the Catholic Faith privately admitted, sorceries and heretical malefices perpetrated even with associates, and also on account of invocation of the Demon with a pact of giving the soul, and idolatry furnished to him and heretical superstitions exercised, and finally on account of any false Dogmas whatever insinuated; after, however, the penitent has denounced the accomplices, if he has any; and insofar as, on account of just causes, he cannot denounce before absolution, a serious promise having been made by the penitent of carrying out the denunciation as soon as possible and in the better manner in which it can be done; and after in each case he has secretly abjured the heresies before the absolver, and has expressly revoked the pact entered with the cursed Demon; the bond perhaps written out having been handed over to the same absolver, and other superstitious means, all to be burned or destroyed, with a grave salutary penance enjoined according to the measure of the excesses, with frequency of the Sacraments, and the obligation of retracting himself before the persons before whom he manifested the heresies, and of repairing the scandals inflicted.

IV. Of absolving from censures incurred on account of violation of the enclosure of Regulars of each sex, provided that it was not with intention toward an evil end, even though the effect did not follow, and provided that the cases have not been brought to the Forum of the Ordinary, with a congruous salutary penance. And besides, of absolving women only from censures and ecclesiastical penalties incurred on account of violation, for an evil end, of the enclosure of Religious men, provided however that the cases remain occult; with a grave salutary penance enjoined, with prohibition of approaching the Church and Convent, or Coenobium, of the said Religious, while the occasion of sinning endures.

V. Of absolving from censures incurred on account of retention and reading of prohibited books, with a congruous salutary penance enjoined, and also the firm obligation of handing over, as by law, either by himself or through another without any delay, and insofar as it can be done, before absolution, the prohibited books, if the penitent retains any in his power.

VI. Of absolving from a case reserved to the Apostolic See on account of gifts received from Regulars of each sex: with a salutary penance enjoined, and when there is question of gifts which do not exceed the value of ten scudi, with some alms imposed, to be taxed by the judgment of the absolver, and cautiously distributed as soon as he can, for the benefit of the Religion to which restitution would have to be made: provided however that it is not established that those gifts were from the proper goods of the Religion; but insofar as the gifts received either were beyond the value of ten scudi, or are established to have been from the proper goods of the Religion, restitution having first been made, or, if he cannot fulfill it at present, a serious promise having been issued of making restitution within a term to be predefined by the judgment of the absolver, otherwise under reincidence.

VII. Of absolving from censures and ecclesiastical penalties those who have given their name to forbidden Masonic or Carbonarian sects, and other similar ones, or have furnished favor, yet in such a way that they separate themselves altogether from the respective sect and abjure it; books, manuscripts, and signs regarding the sect, if they retain any, they are to hand over into the hands of the absolver, to be cautiously transmitted as soon as possible to the Ordinary, or at least, if just and grave causes demand this, to be burned, with grave salutary penance enjoined according to the measure of faults, with frequency of sacramental Confession; and also of absolving those who culpably neglected to denounce the occult leaders and masters of such sects, with salutary penance likewise enjoined, and the firm obligation under reincidence of denouncing the same to You, or to others to whom it belongs, as by law.

VIII. Of absolving Religious of any Order whatever (even Nuns, however through Confessors approved by You or to be specially deputed for them) not only from the preceding things, but also from cases and censures reserved in their Religion, provided that the Religious have had legitimate license of making Confession outside their own Order.

IX. Of dispensing for asking the conjugal debt with a transgressor of the vow of chastity, who has contracted Matrimony with the said vow, by warning a penitent of this kind that he is held to observe the same vow, both outside the licit use of Matrimony, and if he shall survive his husband or wife respectively.

X. Of dispensing with an incestuous man, or incestuous woman, for asking the conjugal debt, the right of which he or she has lost from supervening occult affinity through carnal copula had with a female blood-relative, or male blood-relative, whether in the first, or in the first and second, or in the second degree, of his wife, or respectively of her husband, with the occasion of sinning removed; and with a grave salutary penance enjoined, and sacramental Confession once each month for a time to be established at the discretion of the one dispensing.

XI. Of dispensing over the occult impediment of the first, and also of the first and second, and of the second degree only of affinity arising from illicit carnal copula, when there is question of a matrimony already contracted with the said impediment, and insofar as there is question of copula with the mother of his putative wife, provided that it followed after the birth of the same putative wife; and not otherwise: the penitent having been warned concerning the necessary secret renewal of consent with his putative wife, or her putative husband, once he or she has been made certain concerning the nullity of the prior consent, but so cautiously that the offense of the penitent himself is nowhere detected: and insofar as this making certain cannot be done without grave danger, consent having

been renewed according to the rules handed down by approved authors, with the occasion of sinning removed; and with salutary penance enjoined, and sacramental Confession once in the month for a time to be established at the discretion of the one dispensing.

Likewise. Of dispensing over the said occult impediment of affinity from illicit copula also in Matrimonies to be contracted, when however all things have been prepared for the nuptials, and the Matrimony cannot be deferred until a dispensation can be obtained from the Apostolic See without danger of grave scandal: with the occasion of sinning always removed, and the condition remaining firm that copula had with the mother of the woman does not precede the birth of this woman; with salutary penance enjoined in each case.

XII. Of dispensing over the occult impediment of crime, provided that it is without any plotting, and there is question of a Matrimony already contracted; the putative spouses having been warned concerning the necessary secret renewal of consent: and with grave salutary penance enjoined and sacramental Confession once each month for a time to be established at the discretion of the one dispensing.

XIII. Of dispensing over the impediment of the third, or of the third and fourth, or of the fourth simple degree, whether of the degree of consanguinity or affinity, over which or which a dispensation has been obtained from the Apostolic See, and in the letters of such dispensation incestuous copula, which nevertheless remains occult, was kept silent.

And also of dispensing or revalidating letters of this kind rendered void and null from incest, whether perpetrated and repeated after the dispensation had been requested, or after its dispatch and before the respective execution, up to the same execution, in cases always occult, whether there is question of Matrimony to be contracted, or already contracted, the putative spouses, in a contracted Matrimony, having been warned concerning the necessary secret renewal of mutual consent; with congruous salutary penance enjoined in individual cases. (But see n. 2051, Note, as regards marriages entered or to be entered after the Decree of 25 June 1885.)

Given at Rome from Our House on the day 20 May 1874.

A. Pellegrini, Regent of the S. P. - Hip. Cañcus Palombi, Subst. of the S. P.

Note. The Bishops of ITALY are furnished besides by the Sacred Penitentiary with opportune faculties to be renewed annually: for the absolution of haters of the Pontifical Dominion, namely of those who hold public offices in the usurped region; - likewise, as regards Patrons of Benefices, if these are vacant; - as regards purchasers of the goods of the Church, whether movable or immovable, and as regards the leasing of immovables; as regards ecclesiastical immunity; - as regards unhappy Confessors who have absolved an accomplice: - and this under certain clauses (cf. Del Vecchio, tom. I, Appendix XII).

(7) In Berengo, Enchiridion, p. 502.

3. Leaflet Of The Sacred Penitentiary Which Is Communicated To Some Confessors.

FR. ANTONIUS MARIA, Cardinal Priest of the Title of the Holy XII Apostles, PANEBIANCO, of the Order of Minors of St. Francis Conventual, Major Penitentiary of Our Most Holy Lord the Pope and of the Holy Apostolic See.

To you, beloved Confessor in Christ, legitimately approved by the Ordinary of the place for receiving the sacramental confessions of each sex, we concede the below-written faculties, by which, notwithstanding the Constitution *Apostolicae Sedis*, you may be able to use Apostolic Authority for the forum of conscience and in sacramental Confession, and not otherwise, yet in such a way that you ought not to manifest them to anyone, unless necessity or utility shall have required it.

I. Of absolving from Excommunication on account of violent hands laid upon Clerics, or Priests, whether Seculars or Regulars, in cases however not brought, nor easily to be brought, to the forum of the Ordinary; provided that death, or mutilation, or lethal wound, or fracture of bones has not followed, and with congruous salutary penance enjoined with the obligation of cautiously and competently satisfying the injured party.

II. Of absolving from Censures inflicted against duelists, provided that the cases have not been brought to the forum of the Ordinary; with grave salutary penance enjoined, and the other things enjoined which by law will have to be enjoined.

III. Of absolving any Penitents whatever, whether men or women (public heretics or those publicly dogmatizing excepted[2]) from any Sentences, Censures, and Ecclesiastical Penalties incurred on account of heresies externalized either with no one hearing or noticing, or before others, on account of infidelity, and abjuration of the Catholic Faith privately admitted, sorceries, and heretical malefices perpetrated even with associates, and also on account of invocation of the Demon with a pact of giving the soul, and idolatry furnished to him, and heretical superstitions exercised, and finally on account of any false dogmas whatever insinuated; after however the Penitent has denounced the accomplices, if he has any in the aforesaid things, to the Ordinary of the place, or to the Minister of the Sacred Inquisition in places in which the authority of the Sacred Inquisition flourishes, as by law; and insofar as there is question of places in which the authority of the Sacred Inquisition does not flourish, or on account of just causes he cannot denounce before absolution, a serious promise having been made by the Penitent of carrying out the denunciation as soon as possible, and in the better manner in which, by your judgment, it can be done, before the Ordinary of the place; and after in each case he has secretly abjured the heresies before You, and expressly revoked the pact entered with the cursed Demon; the bond perhaps written out having been handed over to You, and other superstitious means, all to be burned; with grave salutary penance enjoined according to the measure of excesses, with frequency of the Sacraments, and the obligation of retracting himself, by your prudent judgment, before the persons before whom he manifested the heresies, and of repairing the scandals inflicted.

IV. Of absolving from Censures incurred on account of violation of the enclosure of Regulars of each sex, provided that it was not with intention toward an evil end, even though the effect did not follow, and provided that the cases have not been brought to the forum of the Ordinary, with congruous salutary penance. And besides, of absolving Women only from Censures and Ecclesiastical Penalties incurred on account of violation, for an evil end, of the enclosure of Religious Men, provided however that the cases remain occult; with grave salutary penance enjoined, with prohibition of approaching the Church, and Convent, or Coenobium, of the said Religious, while the occasion of sinning endures.

V. Of absolving from Censures incurred on account of retention and reading of prohibited books, with congruous salutary penance enjoined, and also the firm obligation of handing over to the

Ordinary of the place, or to whom by law, either by himself or through another without any delay, and, insofar as it can be done, before absolution, the prohibited books, if the penitent retains any in his power.

VI. Of absolving from a case reserved to the Apostolic See on account of gifts received from Regulars of each sex: with salutary penance enjoined, and when there is question of gifts which do not exceed the value of ten scudi, with some alms imposed to be taxed by your judgment, and cautiously distributed, as soon as he can, for the benefit of the Religion to which restitution would have to be made; provided however that it is not established that those gifts were from the proper goods of the Religion; but insofar as the gifts received either were beyond the value of ten scudi, or are established to have been from the proper goods of the Religion, restitution having first been made, or, if he cannot fulfill it at present, a serious promise having been issued of making restitution within a term to be predefined at your discretion, otherwise under reincidence.

VII. Of absolving from Censures and Ecclesiastical Penalties those who have given their name to forbidden Masonic or Carbonarian Sects, and other similar ones, or have furnished favor, yet in such a way that they separate themselves altogether from the respective Sect and abjure it, books, manuscripts, and signs regarding the Sect, if they retain any, they are to hand over into your hands, to be cautiously transmitted as soon as possible to the Ordinary, or at least, if just and grave causes demand this, to be burned; with grave salutary penance enjoined according to the measure of faults, with frequency of sacramental Confession, and other things enjoined to be enjoined by law: and also of absolving those who culpably neglected to denounce the occult leaders and masters of such Sects, with salutary penance likewise enjoined, and the firm obligation under reincidence of denouncing the same to the Ordinary of the Place, or to others to whom it belongs, as by law.

VIII. Of absolving Religious of any Order whatever, provided that they have had legitimate license of making Confession outside their own Order, and also Nuns (provided however that you have been approved and deputed by the Ordinary for them) not only from the preceding things, but also from Cases and Censures reserved in their Religion.

IX. Of commuting, the causes having been considered, all simple Vows into other works of penance or piety: except the five Vows reserved to the Apostolic See, namely of Chastity, and Religion, and of the three Pilgrimages, namely to the sacred Thresholds of the Holy Apostles, to St. James in Compostella, and to Jerusalem, and also penal Vows for restraining oneself from sins; and besides the Vow of not playing games; and vows in which there is question of prejudice or of the right of a Third party.

X. Of dispensing for asking the conjugal debt with a transgressor of the Vow of Chastity, who has contracted matrimony with the said Vow, by warning a penitent of this kind that he is held to observe the same, both outside the licit use of matrimony, and if he shall survive his husband, or respectively wife.

XI. Of dispensing with an incestuous man, or incestuous woman, for asking the conjugal debt, the right of which he or she has lost from supervening occult affinity through carnal copula had with a female blood-relative, or male blood-relative, whether in the first, or in the first and second, or in the second degree of his wife, or respectively of her husband, with the occasion of sinning removed, and

with grave salutary penance enjoined, and sacramental Confession once each month, for a time to be established at your discretion.

XII. Of dispensing over the occult impediment of the first, and also of the first and second, and of the second degree only of affinity arising from illicit copula, when there is question of matrimony already contracted with the said impediment: yet in such a way that if affinity of this kind arises from copula with the mother of the betrothed woman, the birth of the betrothed woman precedes the copula itself:

(1) In Berengo, loc. cit. (2) Those heretics alone are excepted who either publicly or privately but notoriously among many spread false dogmas. From the Resp. of the S. PENIT., 3 March 1880 (Scienza e fede, vol. CXVII, p. 260).

Appendix II: Explanation Of The Sense Of Some Words Which Often Occur In The Responses Of The Holy Roman Congregations

1. *Dilata*, that is, the response is deferred, so that the matter may be subjected to more mature examination, as being of difficult solution.

2. *Affirmative et amplius*, - *Negative et amplius*, i.e. when the matter has been discussed sufficiently and more than sufficiently in the Sacred Congregation, and decided by full votes as it lies, such a question is no longer admitted.

3. *Nihil*, i.e. the petition is not admitted, as incongruous.

4. *Relatum* or *Lectum*, i.e. when the request had been reported or read in the Sacred Congregation, it was not admitted.

5. *Reponatur*, or no response is given, but the petition is deposited in the Archives of the Sacred Congregation.

6. *Detur decretum generale*. It obtains when there is question of a grave matter which is neglected by many.

7. *Non congruere*, - *Non expedire*, i.e. the Sacred Congregation does not think it fitting that what is asked be conceded; therefore it does not will to bestow the grace petitioned, nor does it bestow it.

8. *Orator rem deferat ad Ordinarium et ejus judicio se dirigat*, or that the thing requested is not conceded by the Sacred Penitentiary, but is remitted to the Ordinary, that, if he has the faculty, he may provide for the matter according to his prudence; otherwise either he may obtain the faculty, or, if he shall have judged that this is not expedient, he may enjoin what is to be enjoined.

9. *In decretis*, - *In decisis*, or that prayers not heard and repeated by the petitioner are not to be heard.

10. *Ad mentem*, or that besides the solution of the doubt something else is noted or declared by the Sacred Congregation, which, if it has been secret, is manifested only to those to whom the response will be directed; otherwise it is added to publicly drawn-up writings with these words: the mind is, etc.

11. *Facto verbo cum Sanctissimo*, or: *Ad Dominum Secretarium cum Sanctissimo*, or that the Congregation does not have the faculty of conceding the grace, and therefore the Secretary is enjoined to

refer the Rescript of the Sacred Congregation to the Supreme Pontiff, who is accustomed to approve the judgment of the Congregation and to concede the grace.

12. *Providebitur in casibus particularibus*, or that the case which was proposed generically and indeterminately must be proposed determinately.

13. *Gaudeat impetratis*, or that the petitioner ought to be content with the grace obtained, and that its extension, or another which is newly requested, is not conceded.

14. *Sanctissimus annuit pro gratia, arbitrio et conscientiae Episcopi*, or that the grace has been conceded and nothing is lacking that it may have full effect, except execution, which the delegate cannot deny, unless perhaps there underlies some canonical cause, not exposed to the Holy See, which impedes it by law.[1]

(1) Cf. Konings, n. 174.

Appendix III: Formulae For Requesting Dispensations Or Faculties

NB. In these formulae are indicated, by way of example, the causes which occur more frequently: but in the supplicatory petition those very causes must be alleged which really exist in the particular case; otherwise the dispensation will be invalid (cf. n. 2049).

I. For The External Forum.

Supplicatory letters are sent to the Bishop, who himself (if he has the faculty) will concede the dispensation, or will take care that it be obtained from the Holy See.

1. For Requesting The Dissolution Of Solemn Betrothals.

Most Illustrious and Most Reverend Lord,

James N. and Anna N. of this parish N., on the day 15 May of the year 1886, contracted solemn betrothals between themselves. But now the bridegroom (or bride) desires to rescind them. Wherefore he/she most humbly supplicates Your Most Illustrious Lordship, that you deign to dissolve them (or to obtain their dissolution from the Holy See). The cause of this resolution is the grave quarrels and lawsuits arisen between the parents of the betrothed persons: or the greatest injury or ignominy inflicted by the bridegroom upon the bride, or conversely, etc.

With the highest reverence and devotion, as is fitting, I remain

Most Illustrious and Most Reverend Lord,

Your Most Illustrious Lordship's most submissive

N. N., Pastor of Church N.

Paris, on the day 1 July 1886.

2. For Requesting Dispensation From SIMPLE VOWS Emitted In Some Religious Congregation.

Most Illustrious and Most Reverend Lord,

Clelia N., 27 years of age, most humbly sets forth to Your Most Illustrious Lordship that, on the day 20 January 1880, in the Congregation of Nuns N., she publicly and in perpetuity emitted the three simple vows of obedience, poverty, and chastity. But since, three months ago, the Superioress freely consenting,[2] and, as the petitioner testifies, the confessor advising, she departed from that Congregation, she is now sought in honorable matrimony by a pious man.

Wherefore she most humbly supplicates Your Most Illustrious Lordship, that you deign to dispense with her over the said vows (or to obtain dispensation from the Holy See), that she may be able licitly to enter matrimony and to ask and render the conjugal debt. The causes are, both that the return of the petitioner to the Congregation is altogether impossible, and that, since matters have

already come to this, the disposition of the petitioner and the manner of her life seem sufficiently to demonstrate that the conjugal state will be more salutary for her than religious life or celibate life in the world.

I testify etc. as in the following formula.

3. For Requesting Dispensation Over An Impediment Of KINSHIP, AFFINITY, Etc., For Matrimony To Be Contracted.

Most Illustrious and Most Reverend Lord,

Livius N., 30 years of age, and Clara N., 25 years of age, of the Diocese N., from the Parish N., desire to enter matrimony between themselves. But there stands in the way the impediment of affinity of the first degree of the equal line, because the petitioner intends to marry the brother of her deceased husband; or of consanguinity of the third and second unequal degree, of the collateral line, as is clear from the appended schema;[3] or of spiritual kinship, because the male petitioner received the offspring of the female petitioner in Baptism, or held it in Confirmation.

Wherefore they most humbly supplicate Your Most Illustrious Lordship, that you deign to dispense over these impediments (or to procure a dispensation from the Holy See), since it cannot be that the matrimony not be contracted; or because the female petitioner, burdened with two minor children, needs the help of a man, and the male petitioner is said to be especially suitable for this; or because occult carnal copula was admitted only because of mad lust; or because the petitioners confess that they committed the same copula in hope of more easily obtaining a dispensation, and from which offspring is believed to have been conceived; or for repairing, avoiding, preventing damages; or because so grave and continual a danger of sins is present between them, that this matrimony of theirs must be held as the only (or necessary, very opportune) remedy of salvation; or because attempts to turn them away from this matrimony have become altogether useless; or because there is a founded fear lest, if dispensation is denied, they may complete the civil forms only; or because they are now about to contract, as they say, civil matrimony, etc.

I testify that the petitioners, worshipers of the Catholic faith, are of such wealth that in all they possess about 3000, 4000, 50,000 francs in reality and as many in expectation; or that they are so poor and miserable that, living by the labor of their hands alone, they can pay no tax. Nevertheless they will pay 12, 15, 20 francs for the expenses to be made at Rome, which they have deposited with me.

With the highest, as is fitting, etc.

N. N., Pastor N.

At place N., on the day 25 Feb. 1886.

4. - For Requesting Dispensation Over The Impediment Of MIXED RELIGION.

Most Illustrious and Most Reverend Lord,

Tullia N., Roman Catholic, 30 years of age, of this parish N., desires to enter matrimony with Albert N. from region N., attached to the Lutheran sect, and persevering in his errors at least up to this point.

The non-Catholic party before me, as is clear from the declaration appended to this petition, promised under faith of oath that all infants of either sex to be born from that matrimony are to be baptized and educated in the Roman Catholic faith, and that to them, as also to the other party, the exercise of the Roman Catholic religion will be altogether free. Besides, the Catholic party promised that she will take care according to her powers that, insofar as it will be in her, the man be converted to the true faith. Wherefore she most humbly supplicates Your Most Illustrious Lordship, that for her over this impediment a dispensation of the Holy See be procured because of the following causes: First, the attempts that the Petitioner renounce such matrimony are vain; second, because the civil forms concerning matrimony are certainly soon to be fulfilled; third, because there is a founded hope of the conversion of the non-Catholic party, etc. The Catholic party has already deposited with me 25 francs for the expenses to be made.

With the highest, as is fitting, etc.

Formula Of The Declaration Of The Non-Catholic Party.

"I the undersigned, dwelling in N., declare with oath, first, that the sons of each sex to be born from my matrimony with N. N., a Roman Catholic, will be baptized in the Roman Catholic religion; second, that I will always permit to my said consort and to all my sons and daughters the free exercise of Roman Catholic worship.

"In faith of this I have subscribed this present declaration by my own hand."

N. N.

(2) An attestation of consent in writing must be added. (3) The schema of kinship, or affinity, is to be described at the foot of the sheet (cf. n. 2017).

II. - For The Internal Forum.

Letters are sent to the Most Eminent Cardinal Prefect of the SACRED PENITENTIARY, either directly, or through the diocesan Curia. This intervention of the Curia can be used, if no danger of undue manifestation underlies it. - Nevertheless let the letters be closed and sealed, as the Sacred Penitentiary recently admonished. - But they are to be inscribed:

To the Most Eminent and Most Reverend Lord

Lord Cardinal Major Penitentiary.

Or in French: To His Eminence the Cardinal Grand Penitentiary, Rome.

1. For Requesting The Dissolution Of Occult BETROTHALS.

Most Eminent and Most Reverend Lord,

Peter and Mary inconsiderately contracted occult betrothals. But once it has been discovered that Peter, whom she had not sufficiently known, is ruined in morals, and her mind has been totally alienated from the said Peter, so that in no way does she wish to marry him, and the matrimony would probably be unhappy, Mary requests that dispensation be given to her concerning the occult betrothals, that she may be able freely to enter another matrimony.

May Your Eminence deign to direct the response to me, the undersigned, her confessor, as follows: (let the exact address of the Response be given. - If recourse has been made through the diocesan

Curia, he will say thus: May you deign... to direct, through the agent of the episcopal Curia N... in the City).

Reverently kissing the hands of Your Eminence, with the highest devotion, as is fitting, I remain

Your Eminence's

Most obedient and most devoted

N. N.

Paris, on the day...

2. For Requesting Dispensation From A Vow.

Most Eminent and Most Reverend Lord,

Berta, twenty years old, vowed perpetual chastity (OR entrance into an approved Religion). But since she is in grave danger of incontinence, and because of the immense stimuli of the flesh distrusts that she can conduct a continent life, she most humbly supplicates for commutation or dispensation of the vow, that thence she may be able to enter matrimony, an opportune occasion of which offers itself to her.

May you deign, etc.

3. For Requesting Dispensation Over An OCCULT Impediment, For Matrimony To Be CONTRACTED.

Most Eminent and Most Reverend Lord,

Julius intends to enter matrimony with Titia, and the negotiation concerning this is already known to all. But there stands in the way the impediment of AFFINITY from illicit copula with Caja, sister of Titia, and indeed occult; or: there stands in the way the impediment of CRIME arisen from carnal copula had between them, while the matrimony of Julius with his prior wife stood, with a promise of matrimony given and accepted, neither however plotting; or with the plotting of each against the life of Berta, wife of Julius; or with the plotting of Julius alone against the life of his wife; which promise was the true cause of the spouse-killing: which impediment is altogether occult, nor is it feared that it will be manifested.

Wherefore they most humbly supplicate Your Eminence, that you deign to dispense with them over that impediment, that they may be able to enter matrimony, both because all things have been prepared for matrimony, so that they cannot rescind the negotiation without scandal, and because the civil forms have already been fulfilled, and because now the time of childbirth is at hand, etc.

May you deign, etc.

4. For Requesting Dispensation Over TWO Impediments, One PUBLIC, The Other OCCULT.

Most Eminent and Most Reverend Lord,

Publius and Augusta, consanguineous in the second degree, conquered by mad lust, had intercourse with each other. But since Augusta is now sought in matrimony by Tullius, brother of Publius, she desires to marry him, both because she is of superadult age, namely twenty-six years old, and because from this union harmony of families will probably come about.

Wherefore the female petitioner supplicates that, notwithstanding the said affinity from illicit copula, dispensation over the consanguinity having first been obtained, she may be able licitly and validly to contract matrimony with the same Tullius, and to remain in it once contracted.

May you deign, etc.

5. For Requesting Convalidation Of An INVALID DISPENSATION, On Account Of The Defect Of Subreption Or Obreption.

Most Eminent and Most Reverend Lord,

Sempronius and Tertia intend to enter matrimony with a dispensation of the Holy See obtained and fulminated over the impediment of consanguinity of the second degree of the equal collateral line. But the said dispensation remains null on account of an occult impediment because of illicit copula with Caja, sister of Tertia; or on account of falsely alleged copula, without fault of the petitioners, etc.

Wherefore they most humbly supplicate Your Eminence, that for that dispensation obtained, but invalid, you deign to concede the grace *Perinde valere*. The causes are, both because there is founded fear lest they fulfill the civil forms only, and because otherwise scandals and most grave evils would follow, etc.

May you deign, etc.

6. For Requesting Dispensation Over An Occult Impediment For REVALIDATING A Contracted Matrimony.

Most Eminent and Most Reverend Lord,

Caja, conscious (or ignorant) of the impediment, contracted in the face of the Church with Titius, by whose brother she had already been known. Wherefore, since they cannot be separated without scandal or damage to offspring, and the impediment is occult, she most humbly supplicates for the remedy of absolution and dispensation.

May you deign, etc.

7. For Requesting Dispensation IN RADICE.

Most Eminent and Most Reverend Lord,

Lucretia contracted and consummated matrimony in the face of the Church with the true and sincere consent of Valerius, which is asserted still to persevere. But the matrimony is invalid on account of fornicating copula with the brother of Valerius, of which impediment Valerius is altogether unaware. The impediment is altogether occult, nor is it feared that it will be manifested; and concerning it no dispensation was requested. The petitioner with foundation fears lest, if renewal of consent is asked from the putative spouse in whatever manner, he refuse. Wherefore the petitioner, who desires duly to remain in the marriage, and to legitimate the offspring, humbly supplicates Your Eminence that you deign to procure from the Supreme Pontiff a dispensation in the root of the aforesaid matrimony, or a sanation, but that the response be directed to me the undersigned, etc.

8. For Requesting Absolution From Censures.

Titius, a priest (or pastor), sacrilegiously absolved (or pretended to absolve) one female penitent (or two, three, etc.) an accomplice in a base sin, once (or twice, thrice, etc.). Thereafter, although

knowingly entangled in excommunication, he continued for fifteen days to celebrate Mass and administer the Sacraments. But now, sincerely penitent for his offenses, and the occasion of sin removed, he most humbly supplicates for the remedy of absolution and dispensation. - (NB. If he had already been absolved at another time and had relapsed, this ought to be expressed.)

May you deign, etc.

9. - For Requesting Dispensation Over An Irregularity.

Titius, a priest, has incurred an IRREGULARITY on account of occult homicide (or abortion, or violation of censure, etc.), and since danger of infamy threatens him if he abstains from celebrating, therefore he supplicates, etc. (as above) (*H. A.* XVIII, 87).

NB. The petition is directed either to the Bishop, or to the Sacred Penitentiary according to the diversity of the case; indeed, to the Datary, if the case is public.

10. - For Requesting The Faculty Of Absolving From Reserved Cases.

Most Reverend Vicar General,

Having recently been approved for two years by the Most Reverend Ordinary for receiving the confessions of the faithful, while I was furnishing ears to those confessing, a reserved case occurred to me; and since it seems expedient that the penitent return to me, by these letters I humbly supplicate that the aforesaid faculty be conceded to me, at least for this and a few occasions.

Or in the following manner:

Since on account of the frequent concourse of people the penitents, otherwise duly disposed, can scarcely be dismissed without absolution and approach another confessor, I humbly supplicate, etc.

Or also:

Although I am approved for absolving from cases reserved by the Most Reverend Ordinary, nevertheless a case occurred to me specially excepted in the letters of approbation. Since the penitent otherwise is duly disposed, yet I ought to fear lest he shrink from presenting himself, for the grace of absolution, before one having a faculty of this kind, by these letters I most humbly ask the Most Reverend Vicar General, that he deign to grant to me this special power of absolving for this occasion (or: for a few occasions), etc.

NB. Other FORMULAE are found in Jos. Schneider, *Manuale sacerd.*, Appendix I.

Index of Works and Authors Alleged in This Work

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Of Works And Authors Alleged In This Work.

A. Collective Works.

Acta Concessionis Tituli Doctoris in honorem S. ALPHONSI. (Rome, 1870).

Acta Pii VI, Pontif. Maximi, by which provision was made for the calamities of the Catholic Church in France; 2 vols. (Rome, 1871).

Acta S. Sedis opportunely reduced into a Compendium and illustrated. (From the year 1865 sqq. (Rome, Propaganda).

Analecta Juris Pontificii. (Rome and Paris, 1855 sqq.).

Bullarium, or Collection of very many Apostolic Constitutions of the Roman Pontiffs. By the work and study of Laertius Cherubini; 6 tomes, fol. (Rome, Apostolic Camera, 1617-1672).

Bullarium Pontificium S. Congr. de Propaganda Fide. (Rome, 1839 and sqq.).

Bullarium Romanum magnum. Most ample Collection (from St. Leo I up to Pope Pius VIII). (Rome, 1739 sqq.).

Caeremoniale Episcoporum. (Rome, 1848).

Catechismus Romanus, at Joan. Manfre. (Padua, 1777).

Code civil Francais, commented in its relations with Moral Theology by Th. Gousset; 5th edition. (Tournai, 1850).

Codex Borussicus, i.e. *Preussisches Landrecht*.

Codice civile Austriaco, with practical Annotations by Gioachino Basevi, jurisconsult; 7th edition. (Milan, 1859).

Codice civile del Regno d'Italia. (Milan-Naples, 1877).

Collectanea Constitutionum, Decretorum, Indultorum ac Instructionum Sanctae Sedis ad usum Operariorum Apostolicorum Societatis Missionum ad Exteros. (Paris, 1870) (cited: *Collect. S. Sed.*).

Collectio Lacensis - Acts and Decrees of more recent Councils - by the Priests of the Society of Jesus. (Freiburg im Breisgau, 1870-1884).

Corpus Juris Canonici. (Edited by Ludov. Richter. Leipzig, 1839).

Corpus Juris civilis romani, by the work and study of Simon Van Leeuwen; 2 vols. fol. (Antwerp, 1726).

Correspondance de Rome. (Rome, 1846-1851).

Decreta authentica S. Congregationis Indulgentiis sacrisque Reliquiis praepositae from the year 1668 up to 1882. (Ratisbon, Pustet, 1883).

Decreta authentica S. Rituum Congr. - See Gardellini.

La Scienza e la Fede. (Naples, 1841, sqq.).

Monitore ecclesiastico - Monthly publication for the use of the Clergy. (Conversano, 1877 sqq.).

Nouvelle Revue Theologique. (Tournai, 1869 sqq.).

Pontificale Romanum. (Rome, 1849).

Raccolta delle Indulgenze. (Rome, 1878).

Revue des Sciences Ecclesiastiques. (Paris etc. 1860 sqq.).

Rituale Romanum. (Typical edition, Ratisbon, 1884).

Theologisch-praktische, Quartal-Schrift. (Linz (Austria), 1848 sqq.).

Thesaurus Resolutionum S. Congregationis CONCILII. (Rome, 1718 sqq.).

Vindiciae Alphonsianae; 2 vols., 2nd edition. (Tournai, 1874).

B. Authors And Their Works Alleged.

Joseph Aertnys, C.SS.R. *Fascicul. De Occasionariis et Recidivis et de usu matrimonii*, according to the doctrine of St. Alphonsus; (2nd edition, Tournai and Bois-le-Duc, 1883). - *Theologia moralis*, Tournai, 1886, 2 vols. in-8.

Simon Aichner, Canon (now Bishop) of Brixen. - *Compendium Juris Ecclesiastici ad usum Cleri*; 4th edition. (Brixen, 1874).

Franciscus Albitius, Cardinal. - *De Inconstantia in fide*. (Amsterdam, 1683).

Cajetanus de Alexandris, Cler. Reg. Theatin. - *Confessarius Monialium*, instructed concerning their obligations, privileges, etc., 2nd edition. (Venice, 1713).

WORKS OF ST. ALPHONSUS M. DE LIGUORI, according to the edition of Turin at Marietti, 1846. - Specifically the following are cited:

I. FROM THE MORAL WORKS. - 1. *Theologia moralis* (cited e.g.: L. VI, 20, i.e. Book VI, n. 20).

2. *Homo Apostolicus* (*H. A.* XI, 10, i.e. Treatise XI, n. 10).

3. *Istruzione e pratica per li Confessori* (*Ist. e prat.* or *Instr.* XI, 20, i.e. Cap. XI, n. 20). Namely, it is cited when it differs from the Latin version (*Hom. Apost.*), and more accurately reports the final sense of the holy Doctor.

4. *Il Confessore diretto per le confessioni della gente di campagna*, (cited e.g. *Conf. dir.* XV, 31).

5. *Praxis Confessarii* (cited *Praxis*, or *Prax. Conf.* n. 12).

6. *Examen Ordinandorum* (*Exam Ord.*).

7. *Institutio Catechistica ad populum* (*Inst. catech.*).

8. *Elenchus quaestionum reformatarum*, - I. *Elenchus 99 Quaestionum reform.* (1755) (cited *1 Elench. qq. ref.* n. 40) - II. *Aliae 23 Propositiones reformatae* (1767) (*2 El. qq. ref.* n. 16).

9. Dissertation concerning the celebrated question "Whether the use of a probable opinion is lawful in the concurrence of a more probable one" (year 1755) (cited *Diss. 1755. An liceat*, n. 13).

10. Dissertation concerning the moderate use of a probable opinion (year 1757), inserted in the 3rd Edition (1757), and 4th Ed. (1760), and 5th Ed. (1763) of the *Theologia moralis* (cited e.g. *Diss. 1757*, n. XXXVII).

11. *Breve dissertazione sull'uso moderato dell'opinione probabile*, year 1762 (cited *Diss. 1762*, n. 23). In it St. Alphonsus begins expressly to teach Equiprobabilism.

12. *Apologia contro Adelfo Dositeo* (P. Patuzzi), year 1764 (cited *Apol. 1764* § 5).

13. Dissertation: *Dell'uso moderato (o lecito) dell'opinione probabile* (Opuscule dedicated to Clement XIII), year 1765 (cited e.g. *Diss. 1765*, cap. IV, n. 32).

14. *Dichiarazione del SISTEMA che tiene l'autore intorno alla regola delle azioni morali* (1774) (cited e.g. *Dichiar. del Sist.* n. 49; or: *Apolog. 4a*).

15. Epistle concerning the Cursing of the Dead, 1746. (It is the first moral opuscule of St. Alphonsus).

II. FROM THE DOGMATIC WORKS. - *Storia delle Eresie*. - *Verita della Fede*. - *Condotta ammirabile della divina Provvidenza*. - Work on Trent, i.e. "Dogmatic works against the heretics called Reformed."

III. FROM THE ASCETICAL WORKS. - *Glorie di Maria*. - *Gran mezzo della preghiera*. - *La vera Sposa di Gesu Cristo*. - *Selva di materie predicabili ed istruttive*. - *La Messa e l'Officio strapazzati*. - *Pratica d'amar Gesu Cristo*. - *Riflessioni utili ai Vescovi*. - *Regolamento per li seminarj*. - *La Fedelta dei Vassalli verso Dio*. - *Notificazione al Clero della diocesi di Sant' Agata*.

Jacobus Alvarez de Paz, S.J. *Opera spiritualia*; 3 tomes fol. (Lyon, 1608).

Works of St. Ambrose, Doctor of the Church. - Migne edition.

Eusebius Amort, Canon Regular Lateran. - *Theologia moralis et scholastica*; 4 tomes fol. (Augsburg, 1752).

Philippus de Angelis, Canon and Professor of Canon Law, *Praelectiones Juris Canonici*. - Books 1, 3, and 4. (Rome, 1877-78).

Jos. d'Annibale, Bishop, assessor of the HOLY OFFICE, *Summula Theologiae moralis ad usum Seminarii Reatini*; 2nd edition. (Milan, 1881-83). See also under Reatinus.

St. Antoninus, Order of Preachers, Archbishop of Florence, - *Summa theologica*; 4 vols. fol. (Verona, 1740).

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Joan. Henricus Bangen, *Instructio practica de Sponsalibus et Matrimonio*, for the use of Priests who are curates. (Munster, 1858).

Gioachino Basevi - See *Codice Civile Austriaco*.

Martinus Becanus, S.J. - *Summa Theologiae Scholasticae*, fol. (Lyon, 1690).

Robertus Bellarminus, S.J., Cardinal, Works, 7 vols. fol. (Venice, 1721-28).

Benedict XIV, *Opera omnia*, 17 tomes 4to (Prato, 1842-47).

Michael Benger, C.SS.R. - 1) *Pastoraltheologie*, 3 vols. (Regensburg, 1863). - 2) *Compendium der Pastoraltheologie*. (Regensburg, 1868).

Aemilius Berardi, Pastor of the Faenza Diocese - 1) *De Recidivis et Occasionariis*; 2nd edition, 2 vols. (Faenza, 1877). - 2) *Praxis Confessariorum*, (ibid. 1879). - 3) *Examen Confessarii et Parochi*, 1885.

Joannes Berengo, Doctor of Sacred Theology and of Canon Law (now Bishop of Udine) - *Enchiridion Parochorum seu Institutiones Theol. Pastoralis*; 2nd edition (Venice, 1877).

Works of St. Bernard - Migne edition.

Complete works of St. Bernardinus of Siena, by the work and labor of P. Joannes De la Haye; 5 tomes, 4 vols., fol. (Venice, 1745).

Carolus Renatus Billuart, Order of Preachers. *Summa S. Thomae*, or Course of Theology according to the mind and order of St. Thomas; 3 tomes fol. (Venice, 1778).

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Martinus Bonacina, *Theologia moralis* - 3 vols. fol.

A. Bonal, priest of the Society of St. Sulpice. - *Institutiones Theologicae ad usum Seminariorum*; 13th edition (Toulouse, 1879).

St. Bonaventure, Order of Minors, Works - 7 tomes fol. (Lyon, 1668).

D. Bouix, - 1) *De principiis Juris Canonici*; - 2) *De Curia Romana*; - 3) *De jure liturgico*; - 4) *De Episcopo*; - 5) *De jure Regularium*; - 6) *De Parocho*; - 7) *De Capitulis*. (Paris, 1852-59).

Thomas Bouquillon, Doctor of Theology and Professor in the Seminary of Bruges. - 1) *Institutiones Theologiae moralis fundamentalis*; 2) *De Virtutibus theologicis*; - 3) *De Virtute Religionis*. (Bruges, 1873-80).

J. B. Bouvier, Bishop of Le Mans. - *Institutiones theologicae in usum Seminariorum*; 14th edition. (Paris, 1873).

G. F. I. Bouvry - *Expositio Rubricarum Breviarii, Missalis et Ritualis Romani*; 2 tomes. Another Edition. (Tournai, 1864).

Januarius Bucceroni, S.J., professor of moral theology (in the Roman College), - *Commentarius de Censuris*. (Rome, 1885). *De Constitutione APOSTOLICAE SEDIS*. (Rome, 1886). *Enchiridion morale* (Rome, 1887).

Hermannus Busenbaum, S.J. - *Medulla Theologiae moralis*. First edition (12mo, Munster, 1650).

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Aloysius Maria de Carpo, Order of Minors. - 1) *Kalendarium perpetuum*, or Promptuary for rightly and easily composing any Calendar according to the Roman Rite (Ferrara, 1862). - 2) *Compendiosa Bibliotheca liturgica*, 2nd edition. (Bologna, 1879).

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Petrus Catalanus, S.J., *Universi Juris theologico-moralis Corpus integrum*; 2 tomes, fol. (Venice, 1728).

Joan. Michael Cavalieri, Order of Hermits of St. Augustine. - Commentaries on the authentic Decrees of the Sacred Congregation of Rites; 5 tomes in 1 vol. fol. (Venice, 1758).

Works of St. John Chrysostom - Migne edition.

Alessandro Ciolli, Florentine Priest. - 1) *Commentario pratico delle Censure latae sententiae*; 2nd edition. (Siena, 1877). - 2) *Direttorio pratico del Confessore novello* (Siena, 1883). - 3) *Del Chierico Ordinando* (Florence, 1885).

Petrus Collet, Congregation of the Mission, *Institutiones theologicae*; 2 vols. 4to. (Venice, 1784).

D. Craisson, Vicar General of the Diocese of Valence. - 1) *Manuale Juris Canonici*; 4 tomes, 4th edition (Poitiers, 1875). - 2) *Notiones theolog. circa Sextum*. (Paris, 1870). - 3) *Des Communautes Religieuses a voeux simples, legislation canonique et civile* (Paris, 1869).

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Dionysius Delama, Doctor of Theology and Professor - *Tractatus de Justitia et Jure*. (Trent, 1877).

Joannes Devoti, Bishop. - Four books of Canonical Institutions; (5th Roman edition and first Turin edition, 1855).

Hyacinthus Donatus, Order of Preachers. - *Praxis resolutoria rerum Regularium*; 4 tomes fol. (Cologne, 1675).

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Henricus Dumas, S.J. see Gury.

Benjamin Elbel, Order of Minors. - *Theologia moralis*; 3 tomes 4to. (Augsburg, 1759).

Ludovicus Engel - *Collegium Juris Canonici*; 6th edition. (Venice, 1723).

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A. E., Doctor in Sacred Theology, - *Disputationes physiologico-theologicae*, etc. (Paris, 1884).

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Eugenius Grandclaude, Professor of Sacred Theology and Canon Law in the Seminary of Saint-Die - 1) *Pii Papae IX Constitutio (APOSTOLICAE SEDIS) Commentariis illustrata*; 2nd edition. (Paris, 1877). - 2) *Jus Canonicum, juxta ordinem Decretalium*, etc., 3 tomes. (Paris, 1882-83).

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J. Loiseaux, Professor. - *Traite canonique et pratique DU JUBILE*, for the use of the Clergy. (Tournai, 1859).

Angelus Lucidi. - *De Visitatione Sacrorum Liminum*. Instruction of the Sacred Congregation of the COUNCIL (published by order of Benedict XIII), explained and illustrated; 5th edition under the care of Jos. Schneider, S.J., 3 vols. (Rome, 1883).

Joannes De Lugo, S.J., Cardinal, - *Disputationes scholasticae et morales*; 7 tomes fol. (Lyon, 1642).

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Cardinal de la Luzerne, *Dissertations sur le pret de commerce*; 3 tomes (5 vols.). Dijon, 1823.

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Jos. Mach, S.J. - *Tesoro del Sacerdote* (translated from Spanish); 2 vols. (Turin, 1876).

Scipione Maffei. - *Dell'impiego del denaro*; 2nd edition. (Rome, 1746).

Jos. Mansella, Official of the Sacred Congregation of Propaganda, etc. *De Impedimentis Matrimonium dirimentibus, ac de Processo Judiciali in Causis matrimonialibus*. (Rome, 1881).

P. H. Marres, Professor in the Seminary of Roermond - *De justitia*, according to theological doctrine and principles of more recent law, but specifically Netherlandish law. (Roermond, 1879).

Joan. Petrus Martin, S.J. - *De Matrimonio et potestate ipsum dirimendi Ecclesiae soli exclusive propria*; 2 vols. (Paris, 1844).

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Camillus Mazzella, S.J. - *De Virtutibus infusis*. (Rome, 1879).

Nicolaus Mazzotta, S.J., *Theologia moralis*; 4 tomes. (Naples, 1748).

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Moser - *De impedimentis matrimonii*; 4th edition. (Mechelen, 1831).

A. Moullart, Professor of Law, at Amiens - *Traite de Droit Francais prive et public*. (Paris, 1876).

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ADDENDA

Page 192 at end: Similarly invalid would be absolution given by telephone, because, although by expressed voice, nevertheless it would be directed to an absent person. - (Cf. what Dr. A. Eschbach excellently wrote on this matter, *Nouvelle revue theologique*, tom. XIX, p. 393).

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Fr. Raphael Pierotti, O.P., Master of the Sacred Apostolic Palace.

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